

# ALIRAN

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## ELECTIONS: CAT & MOUSE GAME



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- DEMOCRACY & ELECTIONS
- KLABANG ESTATE ARRESTS
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# ELECTIONS: CAT & MOUSE GAME

When will the general elections be held? It looks like a cat and mouse game is being played with the Malaysian public. The date of the general election is a serious matter. ANIL NETTO says it should be predetermined and the official campaign period lengthened to eliminate unnecessary politicking.



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**I**t's that time of the year again when many Malaysians indulge in their favourite guessing game - predicting the date of the next general election.

No, this is not going to be another one of those articles speculating on possible election dates. Instead, let's take a look at why a simple thing like fixing the date for the general election should turn into such a convoluted process, dragging on for months without end.

Last year, some felt that the elections would be in April 1994. When that failed to materialise, the general sentiment shifted to August this year. Well, April and August have come and gone and we still haven't a clue about the date.

The political pundits haven't given up though. Now, many of them are saying it will be in November in view of the uncertainty over what will happen when the Acting Malacca Chief Minister's one-month term is up. Meanwhile, other analysts believe it will most likely be early next year. All of them have been proven wrong so many times that nobody takes these 'experts' seriously anymore. Still, at this rate, one thing is certain - sooner or later, some of these crystal ball gazers will get it right!

Of course, all indications point to an election within the next six months. The Election Commission has started organising briefings for election workers. What is more surprising is that it has even made some welcome democratic noises, calling on the Government to lift the ban on public rallies and to provide equal access to the media for all political parties. But the frosty reception it got from those with vested interests was so chilling that the Commission probable thought it wise to stick to what it felt was safest - counting votes.

Party workers have also been scampering from kampung to town to new village in search of elusive votes - while making promises which they know they'll find hard to fulfil.



**The PM delights in keeping the nation guessing.**

But this game is getting to be a little tiresome, frustrating and irritating for those involved in the electoral process. Grassroots party workers waste a lot of time and energy in gearing up prematurely for polls. No one wants to be caught unprepared, and as a result, hundreds of thousands of man-hours and ringgit are lost. Ever noticed how the days seem to be getting warmer and warmer? It could be the 'greenhouse' effect and ozone depletion and all that ...and then again, it could be the hot air from the endless series of election *ceramahs*...

Sure, the Prime Minister has the prerogative to decide when to dissolve Parliament; this is one peculiar British legacy he is not about to chuck out of the window. He seems to delight in keeping the nation waiting with bated breath, hanging on to his every word for clues of the election date. At the same time, he appears to enjoy confounding political analysts while testing the stamina of opposition politicians who are forced to embark on marathon campaigns lest they be caught napping when he finally decides to dissolve Parliament.

Being a shrewd tactician, he also appears to be keeping his options open, waiting for

precisely the right moment for the political and economic odds to be stacked in his favour.

And he cannot be too careful.

Of course, the economy is expanding at a breathtaking pace. With an annual growth rate of more than eight per cent, the Malaysian economy is one of the marauding tigers of East Asia alongside China and Singapore. That in itself is a tremendous advantage for the ruling Barisan Nasional coalition going into the polls.

So why does Dr Mahathir appear to be hesitating? Leaving aside the euphoria over the economy, the Prime Minister

has to grapple with some potentially damaging issues: the banning of Al-Arqam; the fall-out from Bank Negara's massive forex losses; the blow to the Barisan's image after the scandal in Malacca; the simmering mood of the voters in Sabah following the recent state election fiasco; the environmental threat and dislocation of the indigenous people posed as a result of the massive Bakun Dam project in Sarawak; the emotional response towards the proposed 'development' of wakaf land in Penang; the heated debate over the implementation of hudud laws in



**Lim Kit Siang: The guessing game tests the stamina of opposition politicians**

Kelantan; the government's embarrassing record on low-cost housing; and, of course, the ever-widening gap between the rich and the poor.

But Mahathir can take comfort in the notoriously short memories of Malaysian voters which have succeeded in turning many of these subjects into non-issues. The average materialistic Malaysian, with the let-

test. While the ruling coalition can conserve its resources and plan a long-term campaign strategy designed to peak just before polling day, the opposition has to campaign at full throttle throughout the year just in case Parliament is dissolved at any time.

Every time the Prime Minister coyly drops a hint about elections - opposition politicians bite the bait.

term. This way, every one knows when the general election will be held; no one has an unfair advantage; and little time, money and energy is wasted.

As things stand, the Barisan has the edge as it is able to plan well in advance. To even the odds a little, the Election Commission should allow for a longer campaign period after nomination day instead of curtailing it to the legal minimum of nine days. Unlike its apparently helpless posturing over the ban on public rallies and the unequal access to the mass media, the Commission can do something about this as the length of the campaign period is entirely up to its discretion.

It has the power to lengthen the campaign period to at least a month - that is, if it is sincere about democratising our electoral process. This will allow all parties ample time to publicise their manifestos and meet the voters.

All eyes will be trained on the Election Commission to see if it will once again stick to the minimum period permissible, giving the Barisan, with its overwhelming control of the mass media, an un-

fair advantage. Or will it be bold enough to prove that its independence is beyond question, its commitment to democratic principles goes beyond lip service and provide for a longer campaign period? The Election Commission's decision will show us as to how sincere it is about democratising our electoral process.

By having predetermined polling days and a longer campaign period, our elections will be truly free and fair for all parties concerned. It would inject some new life into our system of parliamentary democracy besides proving to the rest of the world that our observance of democracy goes beyond mere form. ■



Many grassroots man-hours are lost preparing for an election which may be a long way off.

ters RM etched on his eyeballs, seems contented as long as he has a wad of ringgit notes in his pocket and even more stashed in the bank or in the share market. Who cares about issues? That's why, some cynics say, a bull run on the KLSE will figure prominently in the PM's mind when he pencils the all-important date in his diary.

Given the way the economy is cruising along and the lack of interest in issues on the part of Malaysian voters, Mahathir may feel that the time is ripe to seek another mandate.

The very fact the Prime Minister knows the election date while opposition parties are in the dark, makes the election an unequal con-

Ceramahs are hastily organised ... and up go the streamers, banners and posters - only for the Council to pull them down again. Sometimes even the Barisan's grassroots workers are fooled by all this activity into thinking that the election is just around the corner and so they jump headlong into the act... after all, you never know, this time it could be for real... And so, the cat and mouse game continues.

To eliminate all this uncertainty over the election date, the law should be changed to introduce predetermined election dates from now on. This would mean that the elections would have to be held within, say, the last two months of each five-year

# DEMOCRACY AND ELECTIONS

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*The Prime Minister's vision is for Malaysia to be a fully developed nation by the year 2020, not just economically but also politically, morally and spiritually. The country's economic progress since the mid-eighties has been remarkable. However, there has been little progress in making Malaysia a more developed political entity.*

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What constitutes free and fair elections? What should be the role of the media in a democracy during elections? How should a caretaker government conduct itself in the interim period? When an election abuse takes place, what could a voter do? With the threat of the communist insurgency over, should anti-democracy laws such as the ISA, OSA and the Printing Presses and Publications Act continue to exist?

RAM takes a look at these issues and suggests some ways to improve the conditions under which elections are held in our country.

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## Man's capacity for evil makes democracy necessary, and man's capacity for good makes democracy possible - R. Niebuhr

Democracy originated in the classical Greek city states. It meant the rule of the *demos*, the citizen body. Everyone had the right to decide on matters of general concern. The size of modern nation states, however, has meant that democracy is no longer direct but indirect (apart from occasional referendums). Elections are held to determine the representatives of the people who will discuss and decide matters of public interest in the respective parliaments.

The essential criteria of a representative democracy are:

- Free and fair elections.
- An effective choice being provided to the electorate during elections.
- The elected body of representatives, viz. Parliament, has the right publicly to question, discuss, criticize, and oppose government measures as well as enact new laws, without being subject to threats of interference or arrest.

In a democratic system, there are three branches of government. The Legislative branch, i.e. Parliament, debates issues and enacts laws that citizens have to respect and follow. The Executive, effectively the Cabinet headed by the Prime Minister, implements public policies. And the Judiciary ensures that the laws are implemented with justice.

Representatives of the people who are voted to Parliament are there to ensure that policies of the Executive and the laws which are interpreted by the courts, represent the will of the people. Elections are thus essential in a democracy so that those who make up Parliament and thereafter determine the laws of the land are truly the choice of the people.

With general elections around the corner, it is timely to reflect on the

importance of elections and how they should be held. This article will focus on why there should be an effective choice for the electorate, and what it means for elections to be free and fair.

### EFFECTIVE CHOICE

Elections would be meaningless if voters are restricted to choosing from one party. The opportunity for voters to choose from among the different policies of various parties would then be absent. Without choice, elections are pointless.

Periodical elections are in a sense, a report card on the government. If the government has introduced policies favoured by the people, and has been effective in implementing these policies, they are likely to get continued support from voters.

Occasionally, however, the people may feel that the government has done a reasonable job in the past few years, but given different challenges to come, or a change in priorities among the citizens (e.g. from economic development to spiritual development), another party may be voted in which is believed to be better suited for the future.

For a nation to be a true democracy, voters should have the right to kick out a government if the majority opt for another party. The possibility of a new government coming in peacefully through the ballot box must always exist. If a new party wins a majority of seats in Parliament, then the previous party should graciously step down. In a democracy, it is the majority, not politicians, who are ultimately the boss.

### FREE ELECTIONS

Although, the phrase "free and fair elections" is frequently used, the criteria for elections being free are

quite distinct from what it takes for elections to be fair. The key features of a free election are:

- All parties and individuals must be free to contest unless disqualified for certain reasons, e.g. the potential candidate is unfit because he has a criminal record.
- Political parties are not prevented from fielding their candidates.
- Voters are not in any way prevented from casting their ballots.
- The voting system ensures the secrecy of a person's vote.

If secrecy is not guaranteed, a person may not vote for the candidate he prefers because he is worried about possible consequences should the other candidate win. He may be denied promotion in his job if it is known that he voted against the party that came to power; his bank loan may be recalled or he might be excluded from government subsidy schemes. Secrecy is thus a crucial element of free elections.

In Malaysia, the Election Act makes it a criminal offence for any officer to check how a particular person voted, thus assuring secrecy for voters and protecting the right to vote without fear of possible reprisal.

### FAIR ELECTIONS

For an election to be fair:

- All political parties should have equitable access to public facilities, for example, public halls, police protection and government owned transport. Equitable access means that the opportunity of parties to use such facilities should be commensurate with the size of the party and the number of candidates it is fielding.
- All candidates should have equitable access to the media.

- Voters should not be prevented from voting, nor forced to vote.
- The votes should be counted in front of representatives of the contesting candidates.
- Election laws should be enforced without any discrimination.

Generally, in elections around the world, the process is free but not always fair. The party in power usually has a tremendous advantage. Some are less bashful about using the privileges of office for political ends. But this is not right. On dissolution of Parliament (or the State Assembly), the party in power rules only as a caretaker government - one which holds office for the short period between the end of the government and the appointment of a new one. From then on, no party has the right to monopolise public facilities.

A distinction must be made between the party that has been in power and the government. A certain party may have constituted the government. But this does not mean that what belongs to the government also belongs to that party (or vice versa). Certainly it would be wrong for the party in power to use government funds for its own campaigning.

Resources of the government belong to the people. The party that comes to power can use those resources only for the benefit of the people, not for the party. The government may decide that based on socio-economic factors, a new university should be built in a certain state. Thus taxpayers money could go to this purpose. The decision should be based on what is good for the people, not on what is good for the party that forms the government. Thus, it would be wrong for the party in power to build a university, or provide whatever other sort of development, only if the people of that area vote for the existing government.

Similarly, the party in power must not use government facilities for its campaigning. Government helicopters, cars, government-owned media etc. belong to the people, not

to the party in power. Political leaders who happen to hold government positions, should not use these government facilities for campaigning unless the opposition is also given equitable access to such facilities.

### **ROLE OF THE MEDIA**

The influence of the media in determining our opinions cannot be over-exaggerated. Through reading newspapers, listening to the radio and watching television, our view of the world is formed. In presenting the news, the media has the power to slant and colour the facts in a way that makes it seem favourable to one party while another party, or its policies, may be shown in an unfavourable light.

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***Although not peculiar to Malaysia, the discretion of the party in power to call elections when it is suitable for that party would seem manifestly unfair to opposition parties.***

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During elections, by giving limited access to certain parties, the activities, views and responses of those parties may not be fully understood by the electorate. The media would have done a great disservice to democracy if it allows itself to give distorted views of the facts, such that electors vote one party because they did not fully understand the policies of other party.

Although the media has a duty to be objective in its reporting, this is not to say it must also be neutral in its views. Most papers will have an editorial page where views of senior editors are presented. It would be absurd to insist that editorials must always be neutral. If editors are not allowed to print their opinions, such

columns would be pointless. But being allowed to present certain opinions is quite distinct from a licence to distort reporting of events and to blackout reports on activities of parties not favoured.

In Malaysia, because all publications have to apply yearly for a new licence to continue publishing, many editors are careful in their reporting. The last thing an editor wishes is to print articles or opinions that annoy the Minister of Home Affairs and thus put the paper's licence in jeopardy. The yearly application for fresh licences is inimical to the existence of a genuinely free press.

Another threat to neutrality of the media arises when influential papers or radio/television stations are under the control of certain political leaders. In 1992, the New Straits Times group and TV3 were bought over by the respective management and then injected into Malaysian Resources Corporation Bhd (MRCB). MRCB is widely believed to be under the control of individuals aligned to the Deputy Prime Minister. This would explain not only why certain camps within UMNO Baru are given more prominence in reports by the New Straits Times group and TV3, but also why these media mostly present opposition leaders as despots and show their supporters crossing over to Barisan.

It is not an offence for business leaders who are close to certain political leaders to have controlling stakes in media companies. A mature citizenry should realise that when this is so, the reports and columns of these media are likely to be heavily slanted. But given the laws that make it difficult for any editor to be impartial in the coverage of national politics, citizens have a problem trying to get a fair picture of the political situation.

### **TIMING OF ELECTIONS**

Elections need only be held once in five years in Malaysia. After Parliament has been dissolved, general elections must be called within 2 months. Once general elections are

announced, the campaigning period may be as short as two weeks after nominations.

The decision on when to dissolve Parliament and call for elections is in the hands of the Prime Minister. This discretionary power being vested with the PM is a British legacy. In other countries like the United States, there are fixed dates when elections are to be held. In these countries, the Executive cannot choose to have elections when it is suitable for their party.

Although not peculiar to Malaysia, the discretion of the party in power to call elections when it is suitable for that party would seem manifestly unfair to opposition parties. The advantage given to the party in power is even greater given the short minimum period between announcing elections and polling. If general elections are announced as a surprise, a short campaigning period could well mean that opposition parties have little time to prepare their campaign themes and effectively execute their campaign. The party in power, which may have been aware in advance that a snap election was imminent, may have quietly got itself in gear so that it could campaign effectively during the short campaign period.

### **A MATURE DEMOCRAT?**

The Prime Minister's vision is for Malaysia to be a fully developed nation by the year 2020, not just economically but also politically, morally and spiritually. The country's economic progress since the mid-eighties has been remarkable. However, there has been little progress in making Malaysia a more developed political entity.

The threat of communist insurgency has disappeared but the Internal Security Act (ISA), which was enacted to deal with this threat, is still on our statute books. The Official Secrets Act (OSA) makes public accountability more difficult as it deters government officials who may want to disclose the mistakes of those in

power. The laws on licencing of the media results in a self-censorship that prevents fair coverage of all political parties. Parliament is given little notice to study bills that the government wishes to enact as law. The independence of the Judiciary has been put to question following the sacking of the Lord President in 1988 after a tribunal was formed on the advice of the Prime Minister, which was chaired by the Chief Justice who got a promotion after recommending the dismissal of his boss.

The removal of certain Royal privileges has been viewed apprehensively by certain quarters who feel that there are now few real checks on the increasingly powerful Executive. General Elections are an effective check on the party in power only if elections are free and fair. Much can be done to improve the conditions under which elections are held in our country so that the electorate is given a fair representation of the policies of all parties and thus has an effective choice in determining who should govern the country. This would be one way for the present leaders to demonstrate their commitment to making Malaysia politically developed.

### **ELECTION OFFENCES**

In our statute books, certain ways of influencing voters are unlawful. For instance, it is an offence to provide or arrange to provide free food, drink or provisions in order to influence a voter. No voter may be given treats before, during or after voting hours in order to influence his voting. A voter who accepts these treats is himself committing an offence.

Certainly, it is illegal to bribe a voter with money, gifts, loans or any other valuable consideration; the voter who accepts is also committing an offence. Similarly, it is against the law for gifts or financial inducements to be given to someone to persuade a voter to vote in a certain way. Neither does the law allow anyone to offer, or promise to try to get, any office, place

or employment for a voter in order to persuade him to vote for any candidate or not to vote.

Threats or force may not be used to get a person to vote or not to vote. Causing spiritual injury, for example by persuading a voter that he will be punished by God if he does not vote for a particular party, is also an offence.

On polling day, no unauthorised person is allowed within 50 yards of a polling station to prevent them from finding out who are the people entering or leaving the polling station. Neither are candidates allowed to establish booths or offices within 50 yards of a polling station. No one may remain in this area except those queueing up to vote.

Anyone who attempts to influence a voter by paying for the cost of his transport to or from the polling station is also committing an offence. No vehicle which is ordinarily rented out may be used to ferry voters to polling stations. A candidate may, however, arrange transport for voters to cross rivers in order to vote, but such transport must be made available to all voters in the area.

A person would also be breaking the law if he makes false statements about the personal character or conduct of a candidate to reduce the candidate's chances of winning. It is also an offence to make a false statement that another candidate has withdrawn from the election in order to assist a preferred candidate.

The punishment for these offences is imprisonment of up to 12 months and a fine ranging from RM250 to RM1,000. A person convicted of any of these offences may be prohibited from voting; if he was a successful candidate, he is likely to lose his seat.

Citizens who are concerned that an election is fair should be on the watch out for any of these electoral offences. If they are committed, a witness should report the offence to the police and the Election Commission. ■

# AL ARQAM BANNED

The National Fatwa Council's ruling on August 5, 1994 outlawing Arqam did not come as a surprise. For about a month before that, government ministers and Pusat Islam officials had been utilizing their virtual monopoly of the mass media to criticise the movement and to declare the various moves that they would be taking against Al-Arqam.

Throughout all this Al-Arqam was not given an opportunity whatsoever to defend itself and to clarify its position. The same is true since the August 5 ruling.

In this issue, *Aliran Monthly* carries several articles to redress the gross imbalance. The first article by the Aliran Executive Committee probes the politics surrounding the controversy.

This is followed by an interview with Ustaz Ashaari that was carried in *THE NATION*, Bangkok, 3 Sept 1994. It is one of many interviews that the regional and international press carried, none of which was carried by the local press. To a certain extent Ustaz Ashaari replies to some of the accusations levelled against him and his movement here.

The third article, an academic piece throws light on Arqam's worldview and its approach to development. Any criticism of the movement should take into consideration the issues raised in the extract.

The fourth and fifth articles, taken together, give us an idea of Arqam's origin and especially its growth since the late 1980s.

In concluding we want to stress that we remain critical of many aspects of Al-Arqam's teachings and practices. But we also believe that in keeping with the principles of natural justice it must be given a chance to defend itself. It is with such an intention that these various articles are carried in this issue.

We regret that owing to space constraints necessitated by the urgency to give priority to certain articles, we are unable to carry our regular features:

- (a) CURRENT CONCERNS
- (b) HEART TO HEART
- (c) LETTERS

all of which will make a comeback in the next issue.

# DOES POLITICS SURROUND THE CURRENT CONTROVERSY?

**T**he National Fatwa Council's proclamation on 5 Aug 1994 outlawing the Al Arqam movement was expected. The teachings and beliefs of the movement were declared to be "against true Islamic practice and teachings and could mislead Muslims".

All Muslims, therefore, have been requested not to associate themselves with any Arqam activities.

## ***POLITICIANS PRE-EMPT FATWA RULING***

For about a month prior to the Council's recent ruling, various Pusat Islam officials and government ministers had declared that various forms of actions would be taken to restrict the movement and its activities as soon as the ruling was made public.

The deputy Home Affairs Minister had declared on July 17 that all publishers and printers will be barred from publishing materials praising the movement and its activities.

The deputy Minister in the Prime Minister's department stated on July 28 that seven different Acts and religious enactments in the States would be used to curb the movement. Under the Secret Society Act they could be charged for illegal gathering, under the Education Act for running religious and primary schools without permits, etc.

He further stated: "Once the National Fatwa Council announces its stand on the Al Arqam activities, the exemption given to the movement will become null and void as it will be singled out as a deviationist group".

These remarks were made prior to the Council's Aug 5 ruling. Indeed, a local daily headlined "Curbs on Arqam: Movement's activities to be banned after Aug 5" in the front page of its July 29 issue. The same daily headlined "Arqam's Schools First To Go" the following day.



**An Arqam woman receiving her degree from the University of Malaya: Arqam activities have been banned from Government bodies since 1991.**



**TOP - Teacher with young pupils:  
LEFT - Arqam gathering;**

**The Secret Society Act and the Education Act among others will be used to curb future Arqam movements.**





TOP - Arqam household products;  
RIGHT - A fleet of Arqam taxis:

A firm economic base dispenses  
with the need to associate with  
UMNO



**“Banning Arqam  
is not the way to  
resolve the problem.  
Ideas must be  
confronted with  
ideas.  
And the first  
step in this direction  
is allowing Arqam  
the opportunity  
to defend itself  
against the  
accusations”**

On Aug 1, the Prime Minister himself announced that he was convinced that action would be taken against Al Arqam and its leader prosecuted for spreading deviant teachings if he returns to Malaysia.

### **RIGHT TO BE HEARD**

Deviationism, and accusations of deviationism are serious matters. They must be addressed. Since Sept 11, 1991 all Arqam activities except for its economic activities had already been banned from government departments, statutory bodies, local authorities, and government educational institutions.

Then, as well as now, however, Al Arqam has not been given a chance to explain itself and to respond to these charges. Arqam leaders made an official request to the Government for a dialogue to discuss the accusations shortly before the Council ruled on the matter, but were denied the opportunity.

This rebuff is contrary to the notion of natural justice and is in violation of the principles of human rights. This is especially important since Pusat Islam officials had also earlier alleged that Arqam had set up an armed unit called *Tentera Badar* in Thailand. But as the Inspector General of Police, Malaysia, and the Thai authorities have confirmed, no such army exists.

Furthermore, in interviews with Thai newspapers and regional magazines, Ustaz Ashaari has denied that he has ever claimed himself to be the *Imam Mahdi*, one of the Pusat Islam's allegations against him.

### **FROM FRIEND TO FOE**

In the early half of 1980s, Arqam's relation with the Pusat Islam was cordial. Dr Mahathir who was then deputy Premier had also praised it.

Arqam's quarrels with the Pusat's officials only started in 1987 or so. Apart from the accusations of deviationism, some of the past quarrels were petty and personal.

In response to the Pusat's attempts to curb the movement, Arqam had accused the officials of inefficiency and had asked that it be allowed to run the activities of the Pusat instead.

However in 1991, and again in 1993, various Pusat Islam officials and other politicians began to claim that the movement was not only deviant but becoming militant as well.

### **POLITICS SURROUNDING THE CURRENT CONTROVERSY?**

Significantly, as one of the following articles indicates, Al Arqam also began to expand rather rapidly during this time in Malaysia as well as overseas.

(See article *Growth of Al Arqam*). Despite not receiving direct aid from the government and without partaking in UMNO Baru's money politics, it has been able to establish a strong economic base for the movement. In turn, this autonomous economic base has allowed Arqam to become increasingly independent of UMNO Baru leaders.

More than that, Arqam has done all this while rejecting the government's worldview and its approach to development. Its "alternative development strategy" is discussed in the article entitled *The Arqam*

*Worldview*. In fact, it does not appear that they are attracted to the Prime Minister's Vision 2020 whatsoever.

Moreover, when Arqam restructured its administrative organisation in 1991 (discussed in the article *Growth of Al-Arqam*) so that its lowest geographical unit coincided with parliamentary constituencies, speculations mounted that the movement was planning to enter the electoral fray.

It appears, therefore, that much politics surrounds the current controversy on *aqidah* (faith) as well.

The government has dealt with Al Arqam rather arbitrarily and in high-handed fashion. Arqam leaders have not been given the chance to defend themselves against these accusations, some of which have been denied by Ustaz Ashaari in foreign publications. Instead, the government has used its monopoly over the mass media to paint them guilty without calling for their defence.

Politicians and Pusat Islam officials had announced actions to be taken against Arqam even before the National Fatwa Council had deliberated on the matter. Likening Arqam to the destructive Jim Jones and David Koresh cults is completely unfair.

There are many aspects of Arqam's teachings and practices that we should be critical of. But we do not need to agree with its teachings on *Aurad Muhammadiyah* (coming of the Messiah), its extreme obsession with its leader, its encouragement of polygamy and patriarchy, or its restrictions on personal attire in order to support Arqam's right to defend itself. This is especially so since it is a non-violent organisation, which through its economic activities has also brought benefits to many rural poor people.

Finally, there is yet another dimension to the problem that we should address. Arqam counts among its members highly educated young as well as not so young Muslims. They include engineers, doctors, academics, businessmen, civil servants and even a sessions court judge and a lieutenant commander in the armed forces.

Participation in Arqam, apparently, provides them with a sense of community and spiritual fulfilment which they find missing in our Malaysian society. Many Malaysians can empathise with this Arqam sentiment. This calls for a re-think on the development path that we are pursuing.

Banning Arqam is not the way to resolve the problem. Ideas must be confronted with ideas. And the first step in this direction is allowing Arqam the opportunity to defend itself against the accusations. ■



TOP - Life in an Arqam village;  
BELOW - At a food processing  
factory owned and run by Al Arqam



## Sect leader sees political paranoia as base for harassment

In recent years the veiled, black-clad women and turbaned, green-robed men of the Islamic al-Arqam movement have become a familiar sight in many parts of Thailand. Distinguishable by their clothing, sporting badges of their spiritual leader Abuya Al Ashaari Muhammad, and often driving smart Pajero cars, they have aroused curiosity among Thais and foreign visitors alike. Last week, al-Arqam and its estimated 100,000 followers were banned in their native Malaysia. Yesterday, Ashaari and six other sect members were arrested in Thailand and handed over to the Malaysian Embassy. Why? What had they done? Are they truly dangerous fundamentalists and a threat to Thailand? *Crescent Press Agency/The Nation* talked to Abuya Ashaari on August 28 to find out al-Arqam's side of the story.

**Can you please begin by giving your version of the origins of the present crisis between al-Arqam and the Malaysian authorities?**

If we seriously consider the present crisis between al-Arqam and the Malaysian authorities, we can see that it is not based on differences of beliefs or theology. The authorities claim that the present misunderstanding is based on our beliefs, but they have never discussed these with us, and there has never been a dialogue.

The Malaysian government and the Malaysian Islamic Centre claim that they have invited us to a dialogue, but we refused. But if this

is the case where is the letter of invitation? Let them produce the letter of invitation. On the contrary, we have offered a dialogue with them, but they have refused to accept our offer.

The Malaysian authorities accuse us of heretical beliefs, but in fact our beliefs are part of Islam, detailed in the holy books of Muslim scholars. We did not create these ideas. They are more than 1,000 years old and derive from the indisputable *ulama* (Muslim scholars). The differences between us and the Malaysian authorities are therefore not based on questions of belief.

Nor are these differences based on our economic activities. Al-

Arqam complies, and will continue to comply absolutely, with the Malaysian law and constitution. All our economic activities are in line with government efforts to build up the nation. In fact, Dr Mahathir (the Malaysian prime minister) himself wants the nation to be developed, so what we are doing is in line with Dr Mahathir's desire to build the nation. Al-Arqam's economic activities are actually beneficial to the community, both directly and indirectly, and they reduce unemployment.

So the real reason for the crisis is that our success represents a challenge to the Malaysian leadership, a challenge to their influence, because al-Arqam has been accepted by the

community from all walks of life and all racial backgrounds. In fact, people feel proud that through al-Arqam, Malays can build something on their own without government support. This may be contrasted with other Malays who enjoy government support and subsidies and yet fail to succeed. Al-Arqam proves that it is possible to build something concrete without government subsidies, and this is a source of pride for some Malaysians.

So, when Dr Mahathir sees that al-Arqam has been accepted by people regardless of race, religion, belief, and from various walks of life, Dr Mahathir feels challenged. This is because a general election is just round the corner. Perhaps the government is worried that al-Arqam might turn into a political party with wide popular appeal, and for this reason they have postponed the election, which was due this year, until early next year.

Based on this, it seems probable that the Malaysian government wishes to limit the growth of al-Arqam's influence and popularity. Their first step has been to raise the issue of *aqida*, or religious belief, because this is a very sensitive topic in Malay society. They are trying to convince the Malay people that we have deviated from the teachings of Islam.

Their second step has been to raise the issue of national security. They falsely accuse us of militancy and aggressiveness, of training murder squads in Thailand, of promoting communalism, and they say we are a greater threat than the communists. But they are unable to prove these claims, or to convince the community of them. In addition, the Thai government has investigated these claims and discounted them. By making such false claims, the Malaysian government has simply increased popular sympathy for al-Arqam and strengthened the movement.

Accordingly, the Malaysian government has now taken its last

step, using its last weapon, the Ministry of Home Affairs. By invoking the Societies Act and the Internal Security Act, by banning al-Arqam, it has by-passed religious bodies and turned the matter over to its security apparatus. But in using this last weapon it has already lost the war. It may detain us without charge under the ISA, but it cannot win popular support or discredit al-Arqam in this

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way.

They can use these powers to arrest us and to detain us, but can they win the hearts of the people in this way? Can they win the hearts of the Malaysian people by violating the Malaysian Constitution and denying human rights? On the contrary, we see that NGOs, lawyers, civil servants, even the police, do not cooperate in banning al-Arqam, because they cannot see any reason for it. The government's actions have backfired. They can take whatever steps they like against us, but still they cannot win, because now everyone can clearly see the nature of the Malaysian government, and the true nature of al-Arqam.

**What is the present position of al-Arqam in Thailand?**

We have been in Thailand for almost 10 years. I personally have visited nearly every province in Thailand, some several times. The Thais have come to know our character, our attitude, our identity. The Thai government and the Thai people already know us very well.

We have developed several projects in Thailand. We have a school in Phuket, we have a livestock project in Bangkok, and we have several economic projects in Phrae and Chiang Mai provinces. We are presently building a mini-market in Chiang Mai. Al-Arqam has purchased a two-storey house in Chanthaburi, valued at about Bt1 million. We also own a double-decker luxury coach worth about Bt5 million in Thailand.

Because the Thai government and people know us very well, they simply cannot accept the current slander against us. The Thai authorities have already made several official statements to the effect that al-Arqam is not training murder or suicide groups in Thailand as charged by the Malaysian government, and has stated that we may freely carry on our economic and religious activities here.

We have observed that around 95 per cent of the Thai press is giving fair and accurate reporting of al-Arqam's activities in this country. Therefore I do not think Thailand will react to pressures from the Malaysian government. Every country has its own policy, its own dignity. I do not think the Thai government wishes to lie to itself or to its own people.

In fact, the Thai government understands very well that what is happening is a challenge between two figures, a competition for leadership. Even though I do not participate in any elections whatsoever, it seems that Dr Mahathir is haunted by his own shadow. And even though we are not a political party, it seems he is afraid we could support other parties or individuals who might cause him to lose power.

**Is the Malaysian government worried by al-Arqam's apparent independence and self-sufficiency?**

It could be. Perhaps we embarrass him by achieving success without government sponsorship. This may be very embarrassing for him.

**The Malaysian authorities practise a policy of positive discrimination in favour of Bumiputras [ethnic Malays and other indigenous peoples] which al-Arqam rejects. Is this a cause for tension?**

It could be because the friends of al-Arqam are of all races and all religions. Even in Chiang Mai, Buddhists come to see me as well as local Muslims. Representatives of the governor of Chiang Mai come to see me. In Malaysia, a Chinese Buddhist has been sacked from his job at the University of Malaysia for supporting al-Arqam. One reason Dr Mahathir feels threatened might be because people of other races and religions, and not only Malay Muslims, support me.

**Does al-Arqam believe Malaysia should be a multi-racial, multi-ethnic society with complete freedom of religion?**

You can ask anyone. We have never asked anyone to become a Muslim. We are friends with Christians, with Buddhists - you can ask him [indicating a Chinese Christian from Singapore]. We never impose Islam on anybody.

**Does al-Arqam support violence, terrorism or acts of war? Do you maintain suicide squads?**

Islam is salvation. Islam is peace. Islam means love and care. We have no interest at all in militancy, radicalism, harshness, aggressiveness - the militancy and aggressiveness that may be found in other Islamic movements. We have no interest in militancy at all. That is why wherever we go in the world, we never encounter any objections, because we believe in peace, love and care. We have been active in

Malaysia for 26 years and have never demonstrated an act of aggression or an act of harshness.

**Does al-Arqam keep sex slaves as charged by the Malaysian government?**

Nothing which is permitted in Islam is disgraceful. Polygamy - having up to four wives - is permitted in Islam and is not disgraceful. What is disgraceful is to have more than four wives, or to live with one woman outside marriage. So Dr Mahathir's claims about sex slavery are inappropriate, not proper, not true, a disgrace to Islam, a disgrace to Muslim women. In fact a lot of people, even his own people, even people in UMNO [the ruling government group], disagree with him. It is a very disgusting, embarrassing and disgraceful claim. For this reason alone we wish to sue him, in addition to other matters.

It is strange. We wish to challenge the government through the due process of the law. Yet they say we are against the law. Two days ago, five of our members went to the police to lodge a complaint about a report made by the Inspector General of Police, but they were arrested. We wish to lodge our complaint through the police, but we were arrested for following the correct procedure. It is very strange.

**Does al-Arqam wish to see hudud (Islamic legal penalties) instituted in Malaysia?**

Islamic law cannot be implemented swiftly. The reasons for committing evil must be eliminated. Firstly, the government must provide food, security and employment for everyone. Secondly, the people must receive a proper explanation about government policy. Thirdly, the people must be educated to do good and avoid evil. Only then, when there is no longer any excuse for committing crimes, those who are really hard-core criminals and refuse to mend their ways should face punishment. Islamic law cannot be implemented straight away.

**Can you comment on Dr Mahathir's recent proposal that female illegal immigrants should face corporal punishment?**

At the moment I cannot make any comment on this matter. At present Dr Mahathir and I are struggling publicly with each other, and it would not be correct to comment.

**Can you comment on the growing number of regional governments which have banned al-Arqam in Indonesia?**

These bans only relate to the current misunderstanding over *aqida*, or our beliefs - not to our other social and economic activities.

**Can you comment on Dr Mahathir's suggestion that al-Arqam's teaching are heretical?**

He has suggested this, and we have given our answers based on the holy books of Islam. But they didn't want to listen to our answers. They never listen to us. In Islam there are things which are debatable, things on which there is no definite line. The scholars do not always agree, and we must agree to differ. But they are trying to force us to accept their viewpoint. This is not right.

In fact we have offered a dialogue with the Islamic Centre [the Malaysian religious authority], but they have refused to talk with us or to listen to our view. Yet they have made a decision against us without listening to our defence. So they have violated our Islamic right to defend our positions, and they have violated our human rights to have freedom of choice and freedom of opinion. We act according to the law, but they say we are outlaws. What can we do?

**You have recently returned from Jordan. Are the Malaysian authorities seeking to limit al-Arqam activities in the Middle East as well as in Asean countries?**

It is possible ■

Source: *THE NATION*, Bangkok, 3 Sept 1994

# The Arqam Worldview and its Approach to Development

**A**n editorial in *Al-Arqam*, the movement's monthly newspaper, declared in March 1984:

"Our *jihād* (struggle) is to develop our own way of life based on the Qu'ran and Sunnah. We have to develop our own economy, our own education, our own politics, our own community, our own way of socializing, our own way of organizing feasts, our own personality, our own mass-media, et cetera."

## **Realizing Islamic Independence**

Essentially, these tasks are viewed as involving the realization of Islamic independence by means of the achievement of sound 'vertical' relationship between God and man and the achievement dependent upon that of sound 'horizontal' relationship between man and man. Darul Arqam refers to the first relationship as *hablum-minallah* and to the second as *hablum-minannas*. The revitalization of the *hablum-minallah* involves inward purification, perceived as an essential prerequisite and central determinant of harmonious, successful development. It is embodied by two fundamental elements, namely the elevation of Islamic faith (*iman*) and improvement in Islamic piety (*taqwa*). Both necessitate the obliteration in oneself of unworthy attitudes (*mazmumah*) and their replacement by good attributes (*mahmudah*) defined according to Islamic doctrines, through a particular and systematic discipline. To this end, Darul Arqam has, from the very beginning, adopted the sufi method of the *tariqat* Aurad Muhammadiyah, an Islamic sufi order founded in Makkah in the twentieth century by Sayyidi Ash-Sheikh Muhammad Abdullah As-Suhaimi. Darul Arqam's founder-leader, Ustaz Ashaari Muhammad is himself a *Sheikhul-Tariqat*, or an Emir, of the Aurad Muhammadiyah, moulding the Darul Arqam movement not merely as an Islamic organization, but as an Islamic sufi revivalist movement.

The revitalization of the second domain, the *hablum-minannas*, aims at development in the outward affairs of human existence, according to Islamic methods and rules of organizing socio-economic and political systems. It ranges from such matters as dressing, eating and drinking to more major matters such as family organization, social administration, operation of educational and economic systems, national government and international relations. The legitimacy of these activities, from Darul Arqam's perspective, is determined by the fulfilment of five basic guidelines: first, the intention behind the affair is for the sake of God alone; second, the aim of the activity complies with the *Shari'ah* (Islamic law); third, the carrying out of it is also within the *Shari'ah*; fourth, its consequences are positive from the Islamic viewpoint; and fifth, the basic tenets of Islam as expressed in the *hablum-minallah* are not neglected.

It is observance of the *hablum-minallah* and *hablum-minannas*, that, Darul Arqam believes, must become the basis for the establishment of an Islamic society, and for bringing up a new generation within an indigenous cultural framework rather than the prevailing exogenous one. The *hablum-minallah* nurtures the purification of the inward person; the *hablum-minannas* builds and shapes the Islamic systems within which the individual develops. Both domains are perceived as the fountain of Islamic culture, and as the motive power for the establishment of an Islamic civilization.



TOP - Al-Arqam Centre in Johor Bahru;  
MIDDLE - A nurse at the Al-Arqam Clinic in Desa Minang;  
BELOW - Travelling in comfort:

Al-Arqam aims at development in all spheres of human life.





TOP - Followers at prayer;  
BELOW - A child studies the Quran;  
Spiritual and material development  
are interrelated and interdependent.



(This extract is from  
Muhammed Syukri Salleh "A  
Grassroot Approach to Rural  
Development: The Case of  
Darul Arqam in Malaysia",  
Oxford University D. Phil  
Thesis, 1991)

### ***Development and Worship***

To Darul Arqam, development should be viewed as a process which involves the simultaneous pursuit of inward, individual purification and the collective development of the outward socio-economic and political organization. Thus development should strive to be, Darul Arqam maintains, an act and an outcome of worship. In this sense, the notion of worship is what shapes the movement's concept of development and motivates its members' commitment and efforts. Ustaz Ashaari Muhammad, elaborated the notion as follows:

"To talk about Islamic development is indeed to talk about worship in Islam. The materialization of development means the realization of worship as advocated by Islam. If we understand, practice and propagate this to the wider society, it is actually the method of Islamic development. This is what Darul Arqam attempts to practice. Development is divided into two forms: first, the spiritual development, and second, the physical/material development. Worship is divided into four: first, basic worship, second, paramount practices, third, intermediate worship, and fourth, general worship. The spiritual development can be attained by observing the basic worship and paramount practices. The physical/material development can be achieved by observing the intermediate and general worship. That is how Islam relates development with the need to observe worship. In other words, development is the result of worship."

### ***Material and Spiritual Development***

Evidently, in Darul Arqam's approach, there is an added dimension to development, namely the inward development of the agents of potential development. Ashaari explains:

"The advancement of material, technology and modern science is undeniably important. [But] this advancement alone is not the tool to rescue the decay and destruction of a society. It has to be balanced with spiritual development, for without this, the society will be carried away by materialist waves and ultimately cause a chaotic situation ... [That is why] Islam insists that both material and spiritual development must be developed simultaneously. From refined spiritual development, there will emerge a healthy material development, and from the healthy material development, there will emerge a refined spiritual development. They are interrelated and interdependent."

It is within this total approach that Darul Arqam's development concepts are rooted. In the view of the movement, development problems such as structural and distributive inequalities, the waste and excesses of consumerism, and ecological indifference, are the products of negative views from within the inner-selves of the agents of development. This unworthy attitude - or *mazmuumah*, as Darul Arqam calls it - in the domain of *hablum-minallah* is what must be first directly addressed. This is the purpose of Darul Arqam's sufi practice. Therefore, neither the capitalist advocacy of private ownership and the maximization of productivity and income nor the socialist insistence on public ownership and the 'equal' distribution of means of production are accepted as comprehensive solutions. The solutions of these conventional development theories are perceived as materialist 'pseudo-solutions' for their emphasis is restricted to material matters in the domain of *hablum-minannas* alone, leaving the inner human problems (*hablum-minallah*) untouched and hence unhealed. It is this inadequacy, from Darul Arqam's viewpoint, that culminates in the dependent and unmotivated character of the Muslims in Malaysia. ■

## The Darul Arqam: Its Origin and Growth

**D**arul Arqam was founded in 1968 by Ustaz (Religious Teacher) Ashaari Muhammad, previously a religious teacher in a government school in Selangor and a PAS activist.

Darul Arqam means 'Abode of Arqam', Arqam being the companion of the Prophet in Mecca when his followers gathered clandestinely before the flight to Medina. It is also believed that prior to the Prophet's migration from Mecca to Medina, the basis for the spread of Islam had already been laid in Medina. Thus, followers of Arqam believe that any life based on genuine Islam must involve migration (*hijrah*), as practised by the Prophet. Arqam's most important migration took place in 1972, when many Arqam followers moved to a settlement on the outskirts of Kuala Lumpur, the village of Sungei Penchala. Here, the followers of Ustaz Ashaari cleared eight acres of land, and set up homes, a mosque and a school for the use of the Arqam community.

### *Creating the Model Islamic Community*

Ustaz Ashaari has been a vocal critic of other Islamic movements, which - according to him - merely theorise, shout slogans and conduct seminar on the struggle to establish an Islamic state - a critical allusion to PAS and ABIM. According to him, to establish an Islamic state, it is imperative that an Islamic society be first established, by creating a community of families and individuals who practise true Islam. Hence, the Islamic settlement in Sungei Penchala was developed into a model Islamic community, in a communal mode. It contains Arqam families leading their daily lives according to Islamic teachings, and trying to emulate the Prophet and his disciples. Arqam has expanded in part by setting up similar communities and centres elsewhere in Peninsular Malaysia, especially in Pahang.

From the outset, Darul Arqam has reflected the ideas of Ustaz Ashaari himself, whom Arqam claims to be their most learned, charismatic and pious leader. In the initial stages of the development of the Sungei Penchala settlement, Darul Arqam succeeded in attracting many Malay youths, particularly students from private upper secondary schools and institutions of higher learning, to participate in their activities such as talks and courses. In these courses, Arqam leaders claim that Islamic practices in Malaysia are vastly different from true Islamic practice. For this, they blame the secular system of government which separates politics from religion, allegedly due to Jewish and Christian influence. Hence, according to Arqam, Malaysia is not truly Islamic. The existing Western-based political and economic systems must be replaced by Islamic systems.

### *Everyday Life for the Individual*

Similarly, individuals must renounce Western styles of dress and behaviour, including free association with the opposite sex, music, etc. Arqam members are encouraged to dress in Arabic garb, with turbans and *jubbah* (robes) for men and *purdah* (veils) for women, since such clothes were also worn or approved of by the Prophet. They are also encouraged to eat from a common tray, and to observe other eating customs ostensibly practised by Prophet Muhammad. Arqam has attempted to produce *halal* (religiously acceptable) food as an alternative to food produced by non-Muslims, such as soya sauce and noodles. Arqam members are expected to participate in communal prayer five times a day, hold supplementary devotional sessions



Arqam families lead their daily lives in a communal mode.

*Continued on page 24...*



### **MAY GOD SAVE US FROM POLITICIANS!**

Many newspapers carried the picture on their front page - Dr Mahathir holding high a Thai tabloid as proof that the banned Al- Arqam movement is training up an army. The tabloid, which is also known as the *Islamic Guidance Daily*, was entirely in Thai and had on its front cover, a picture of a group of jubah-cum-turban-clad men marching in line as well as an inset of the Al-Arqam leader Ashaari Mohamed who claims to chit-chats with God.

It is unlikely that any of the Umno supreme council members could read the article since none of them are known to be fluent in the Thai language (a number have trouble trying to speak passable English). Nevertheless, the PM quite blithely proclaimed the tabloid as a possible basis for the Pusat Islam's accusation that the movement was preparing for a "Peperangan Badar".

To quote a latest English daily on the streets, the PM said: "I do not know if the drill is part of military training or not, but accusations that it (Arqam) has intentions to set up the Badar army may have basis. Pusat Islam did not make any wild allegation. They in fact have proof of this."

For weeks now, we have been made to understand that Pusat Islam has in its hands a load of evidence against these strange men and women in dark colours. Apart from "proof" of an Al-Arqam military unit, Pusat Islam is also said to have "irrefutable evidence" against Ashaari. Most of us are thus mystified why this "proof" and "evidence" is not being used by the government to prosecute them in an open court of law.

Why are so many of them being detained under the detestable ISA, including most unfairly of all, the movement's lawyer? Unless they are tried before an open court, the government cannot blame many Malaysians for thinking that the motives involved are anything but political. Moreover, the absence of any resistance on the part of Al-Arqam leaders and members to their arrests does not point to a group that is preparing to fight a physical war.

Some groups think the arrests have less to do with Ashaari's deviationist teachings (which he has been doing all along) than the cult leader's recent prediction that

Mahathir and Anwar would lose power within two years. That must have really rubbed them up the wrong side.

In fact the only "proof" so far of the government's allegations has been that particular Thai tabloid which for all we know may have been an article about how members keep fit with morning exercises and drills. For a man who is usually so dubious of the media, the PM seems to have unusual faith in a Thai tabloid that few people south of the Thai border has heard of. The supreme irony though was that at the very same press conference, the PM lambasted the British media, generally labelling them as "full of lies" and incapable of telling the truth.

This man, who was recently proclaimed in Kedah as the "Warrior of World Justice", apparently prefers to believe a little heard-of tabloid that carries a story which suits his political agenda while writing off an entire spectrum of the British media because their reports are not what he would prefer to read or hear. Well, I guess that what is freedom of the press to one man is an eyesore or earache to another.

In fact, the man has been caught in a number of embarrassing contradictions of late. For instance, shortly after he openly accused Al-Arqam leaders of being sex-crazed and of using their women members as sex slaves, a Malay newspaper broke the news of the randy Umno chief minister. It would seem that sex-crazed leaders were not only confined to religious movements. And if Ashaari is partial to the title *Abuya*, then Rahim surely deserves the title of *Ah-Buaya*.

As accounts regarding Rahim and his 15-year-old school-going girlfriend grew wilder and more absurd, other stories of sexual exploits involving both Umno and non-Umno Ministers began to emerge. A sample of them: the Minister who kept his singer mistress in a high-rise apartment that eventually collapsed; two Ministers who shared an actress; a Minister who visited his mistress in his official car and during office hours; another Minister who was caught in khalwat with a popular local singer in Port Dickson. And this is only a tiny portion of the BN rouges gallery.

To make matters worse, certain Umno Youth members decided to show their blind loyalty to the Malaccan Casanova. One Umno Youth exco member defended his boss with the argument that, to quote a Malay paper, went roughly as follows: "Surely Rahim would not be so stupid as to play around with a 15-year-old. If he wants to womanise, he could easily go overseas with any beauty queen of his choice. Besides, 15-year-olds are not that good."

The mentality behind such crude and sexist remarks is surely the most damning indictment of the Umno Youth leadership. Many ethical, thinking and idealistic Malays must have cringed in shame at the sort of leadership to be found in a body that was once the conscience of the party.

Meanwhile, the Minister of National Unity and Social Development, in her well-meaning but somewhat off-beat way, has offered to help the Al-Arqam sex slaves free themselves of their robed masters.

Given the way things have developed it would seem that she ought to also extend her offer of help to women exploited by unrobed men in her own ruling coalition.

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## SMELLS BAD

Over a billion ringgit worth of breath-analysers are collecting dust in the stores of the traffic police, according to the papers recently. Apparently, the equipment cannot be used because the legislation is not there for enforcement purposes. This looks very bad. In fact, it looks like a decision was made by some who was either in an intoxicated state of mind or just plain dumb.

Whoever authorised the purchase must answer because the deputy prime minister himself has only recently warned government departments against any wild spending or overspending of public money. In fact, we would go as far as to suggest that the ACA do some breathing down the necks of those who put their okay on the purchase.

## HOLY SMOKE!

It was with considerable glee and pride that the director-general of the National Tobacco Board announced that the government's anti-smoking campaign has had little impact on cigarette sales in the country. This high-ranking government servant advised a dinner gathering of tobacco curers in Kedah to ignore the anti-smoking programmes of the Health Ministry because these "campaigns were only effective on a short-term basis. Once the heat died down, smokers will go back to their old habits." In fact, the director-general's main concern was the impact of kretek smuggling on the local cigarette industry.

His statement is shocking to say the least. Taking the black-and-white line that is always so popular with the powers-that-be, we would like to say that this chap is clearly critical of government policy, anti-government, even subversive. He is obviously trying to sabotage the government. To make matters worse, he is a senior government servant. Such dissent should not be tolerated. The chap must be smoked out without further delay.

Jokes aside, the director-general's comment is yet another classic instance of the left hand doing exactly the opposite of what the right hand is up to. While the Health Ministry is pushing hard to ban smoking in as many places as possible and while cigarette advertisements have been reduced to thinly disguised ads for vacations and fashion attire, another government department is reducing these efforts to ash.

## WHEN?

It's the RM30 million ringgit question. Will the elections be this year or next year? The "serious rumour-mongers" (if there is such a category) think it will take place before the end of the year now that Al-Arqam has been banned to kingdom come and the government is seen to be doing something about Rahim. They say that if the government calls for elections soon, they can drop unsavoury candidates like Rahim. Moreover, the PM has cast the die by saying



Ghafar: Anwar supported Rahim only to embarrass him.

that BN leaders and members who commit "unforgivable mistakes" will be dropped.

If Rahim does not stand, then he would be without an electoral mandate and would have to relinquish his chief minister's post. And without his chief ministership, he would be back to being a nobody and who wants a nobody as Umno Youth chairman? Then Anwar could have someone he really wants.

Anwar backed Rahim for the Youth post for strategic reasons. He desperately needed a resounding endorsement from Umno Malacca to embarrass Ghafar Baba. Rahim did deliver the goods with the exception of one division - Ghafar's. It is clear now that it was the goods that was coveted, not the messenger. In fact, when Rahim, in his maiden speech as Youth chief, announced that he would visit each state as the new chairman, the joke reportedly even then was that people in the audience had apparently nudged one another meaningfully with reminders to keep their wives, daughters and sisters indoors.

## TIGER WITH DENTURES



Kota Melaka MP: 10 reports

The MP for Kota Melaka had to lodge 10 police reports against Rahim Thamby Chik for corruption before the Attorney-General woke up to the fact that there may be a case against the notorious Don Juan. The AG, who has remained largely unremarkable apart from distinguishing himself as an ardent defender of the besieged Tun Hamid Omar, was reported to have asked the ACA for "further clarifications before I can fairly make a decision on the case." (Read that as: "I am waiting for an okay from my bosses".)

Is it any wonder then if the public thinks that the ACA is fitted with dentures rather than real teeth or a paper tiger that is waved about only when it suits the powers-that-be? Meanwhile, if the Kota Melaka MP claims that Rahim had once deposited RM7.7 million in a local bank, then he must surely be one of the richest men in the country. Or is this another of those political funds?

If it is, then Rahim had better be careful because it was such a political piggy bank that had once sealed the fate of the former Umno Youth leader Harun Idris.

### FLY FAR, FAR AWAY

The general election must be nearer than thought given the new heights of silliness to which politicians are prepared to go just to make the news. Hence, Tok Mat donned a fez and like a modern-day Aladdin, clambered onto a "magic carpet" that took him on a ride over the city of KL, thanks to the electronic wizardry of National/Panasonic.

Given all the talk that the man-on-the-hill may not be around after the next election, it is quite likely that our rather tubby Aladdin also wished he had a magic lamp to rub for three wonder wishes. But hard as he did wish for a genie to appear all that he saw while zooming over KL was the terrible haze that had descended on the city like a grey drape. Those of us reading of Tok Mat's magic carpet exploits just wished that he would fly away forever.

Talking of Aladdin and new lamps for old, the IGP was reported to have reminded his men not to let position go to their heads. It seems that there were police officers who after being promoted, abandoned their wives for new wives or as the Muslim law allowed, took on second (and third and fourth?) wives. This is wise and timely advice but perhaps the police officers were merely adhering to the policy of "Leadership by Example".

I am talking about the example set by our political leaders, of how Ministers have cast off their wives like old clothes for younger and more attractive women once in comfy positions of power and wealth. Several years ago, the abandoned wife of a particular Minister took the betrayal so badly that she sent copies of letters telling her side of the story to newspapers and scores of individuals. Can we blame our policemen then?

### MORE TOOTHLESS TIGERS

The responses to the Election Commission's desire to have the clout to ensure fair and balanced elections especially this general election are very revealing of the sentiments of certain personalities and politicians on the point of democracy. One of the commission's suggestions was fair media coverage to all political parties including the opposition who always not only get a lousy deal but are maligned, insulted and slandered by the BN-controlled newspapers and TV stations.

As expected, many opposition politicians and NGOs welcomed the call. Even a few BN politicians thought the move would inculcate a healthy democratic system. But the MP for Pasir Mas, also known as the grasshopper, objected vehemently. He did not see why the opposition should enjoy the same coverage as the ruling coalition.

Some of the reasons that he offered seem to indicate that his nickname may have as much to do with his hopping tendencies as probably with the size of his brain.

He claimed the DAP already had the *Rocket* although he knows very well that the *Rocket* is only allowed circulation among party members. As for why PAS ought not to be allowed the same media privileges as the BN, he said that in Kelantan, PAS had refused to allow UMNO to use the community centres. And this is the sort of people who are entrusted with our country's legislation! And if we wish Tok Mat would fly away forever, similarly we wish that this chap would just hop away forever.

Actually, it is truly a pathetic fact that the Election Commission has to ask the government for permission to carry out its constitutional duty and function. After all, this is not like school where we have to ask the teacher for permission even to go to the toilet.

Equally disturbing is the way the Election Commission has so passively allowed bodies like Kemas, the Information Department and a host of other government departments and agencies to be used by the ruling parties during an election. This is an abuse of public facilities. It is a deplorable practice. And that the commission has done nothing about it all these years shows that it is a party to the abuse of democratic principles.

### GIANT YAWN

The biggest mooncake ... yes, another one of those largest, longest, tallest sort of things. Anyway, this team of bakers had spent days and tonnes of ingredients baking a gigantic mooncake that could feed up to 10,000 people as part of a grand food carving contest. One would think that given the creative nature of the competition, the bakers would come up with something really original and clever for this giant mooncake.

But what do we get? A boringly unremarkable round blob that apart from some scallops and traditional patterning, had as its central attraction, the national day logo and the slogan Malaysia 2020. This is either a case of *ampu-bodek* or zero imagination. Vision 2020 may be a fine ideal to aspire to but surely we get more than enough of it from the TV and newspapers? If only it would be put to practice in the way it is constantly mouthed. Really, it's enough to make us choke on our mooncake.

### DON'T DISAPPOINT US MR A-G

The Attorney-General seems a trifle defensive when warning the press about the limits of reporting on persons under investigation. He said that the public might believe the authorities were covering up if a person being investigated was subsequently not prosecuted because the reports would have influenced them into believing that the person was guilty.

He seems to hold a dim view of the public. The best way to convince the public that a person - whether the highest judge in the country or a common politician - is not guilty of an allegation is to offer plausible explanations. In fact, we would dearly love to hear from his office why the corruption

charges against Jeffrey Kitingan were dropped midway through the trial. How about it Mr AG?

### "SHARING SOCIETY"

Well, well, well. A minister's son-in-law was allegedly allocated 1.5 million shares under the Bumi shares allocation scheme in the ministry in which mummy-in-law is minister. This little fact slipped out in the course of a court case in Kuala Lumpur. To make matters worse, mummy-in-law is the chairman of the shares allocation committee which had approved the application from sonny-in-law although it is not supposed to consider applications from individual Bumiputeras.

This looks very, very bad. For the sake of mummy-in-law, who is one of our more competent ministers, let's hope that subsequent evidence as the case goes along will be able to exonerate her from what to date appears to be more than nepotism. In the meantime, the Inland Revenue Department should start probing more diligently into the income of sonny boy.

### SUNSTROKE

Paya Keladi, a Seberang Prai village had rarely seen so many political bigshots in a day. There, along a long line of Umno bigwigs was the prime-minister-to-be himself flanked by two men who have never been known to be particularly close to him - Abdullah Badawi and Shariff Omar. It was supposed to be a massive show of support for an anak Pulau Pinang who would soon be prime minister.

It was also supposed to demonstrate to the simple village folks that all was now well between the former Team A and Team B members of Umno. The organisers had promised their bosses a 10,000-strong crowd. Unfortunately, barely 3,000 people turned up, most of them party hacks from outside.

The village folks may be simple, but they're not dumb. It was clear as daylight to each of them that this was an orchestrated show of unity-for-the-sake-of-the-general-election and these folks had better things to do than to bake in the afternoon heat listening to the politicians pleading for unity on the one hand and berating the opposition on the other.

Most of those sweating in the sun that day would have much preferred to know for sure whether Randy Rahim did bed that sweet young thing and was it true that he kept her in style in a hill-top bungalow or whether he did indeed bite off a vital part of her anatomy. Besides, they were up to their eyeballs with all this opposition-slanging from the newspapers, radio and TV, with loads more to come in the nearing general election. But the toadying media, as expected, inflated the crowd size to 5,000 and above.

Perhaps the pressmen suffered from sunstroke?

### A DIME A DOZEN

Yet another conman has been detected among the ranks of the political community. An illegal Indonesian, armed with a fake blue identity card, had been happily going about his business as a Tawau Municipal Councillor for three years before he was exposed as a fraud. The man had been appointed councillor in 1992 under the PBS government. When things grew choppy for PBS, he very shrewdly hopped over to Umno who reappointed him this year.

As a councillor, he even chaired the Fun Fair committee (he certainly had fun, no doubt about that) as well as the Open Market and Market committee. Our bogus politician is now taking a break from his councillor duty by spending some time in jail but should he be wanting a job when he is released, he should perhaps consider an acting career. He certainly seems to have potential for he managed to fool quite a number of people for quite a number of years.

It's time that we take the Sabahans seriously when they complain about illegal immigrants from the Philippines and Indonesia who have made immense headway in their local economy. This particular incident seems to suggest that some of these illegals may have infiltrated to rather high cases. Perhaps the identity cards of all political office-holders in the state government ought to be scrutinised for frauds. And while we are at that why don't we scrutinise their bank accounts as well.

### CUCKOO CASE

The birds, Koreans in the communist north are told, are still mourning for the recently deceased president of North Korea. The country's official news agency reported that swallows flocked to one of Kim Il Sung's statues and twittered sadly. According to the agency, scientists and people (looks as if more than One Flew Over The Cuckoo's Nest) have said that the swallows are expressing their condolences on the death of the "Great Leader" before flying south (or was it their last call-of-nature stop?).

The news agency also claimed this as a sign that Kim Il Sung "was a legendary man who descended from the heaven". Another report said that the Great Papa's favourite flower, the magnolia, miraculously bloomed in late summer on the anniversary of his second month of death (sounds like a case of very good fertiliser to me).

It's truly pathetic how the communists who had advocated the materialist view of history should now be trying to elevate their former leader (who could not be anything more than a man otherwise he would not be dead) to the level of a demi-God. And it is ironic that a system which started off on the lofty ideal of freeing the common people from oppression and poverty of both mind and body, is now among the most deprived of quite basic freedoms.

Dictatorship does not seem very much different whichever side of the ideological stage it occurs. Still, it is unlikely that many North Koreans will swallow the story of weeping swallows, miraculous blooms and legendary descents without a good giggle.

- by NNP -

An Appeal: **Aliran's Building Fund**  
**ALIRAN needs a home**

**I**n three more years ALIRAN will be twenty years old. For the first seven years Aliran functioned from members' homes. Since 1984 Aliran has been leading a nomadic existence moving from one rented premise to another. In fact, during the last four years Aliran has moved three times!

Besides being very disruptive, it has also been expensive as the rent kept increasing from RM400 in 1989 to RM580 in 1991 and to RM850 presently.

Aliran has decided that we need a place of our own where we will be permanently based. Aliran has finally decided to buy and build our very own place.

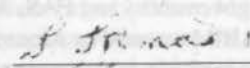
To do this Aliran needs your generous support. Aliran has sufficient funds to buy a small piece of land but not enough to put up the building. We need approximately RM150,000 over the next two years to cover the building cost.

Aliran would be very grateful if you could donate towards our building fund. We depend entirely on people like you, concerned citizens and well-wishers who cherish and champion the same ideals and aspirations as Aliran's.

Help us to serve you better.

Please make a contribution.

A friend of ALIRAN is a friend of truth and justice.

  
P. Ramakrishnan  
President, ALIRAN



I wish to donate to Aliran RM \_\_\_\_\_  
by cash/cheque/draft/mo/po No. \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please send your donation to:

**The Treasurer  
ALIRAN  
P O BOX 1049  
10830 PENANG  
MALAYSIA**



TOP - Arqam spreads to Yunnan...  
BELOW - ...and to Jordan also

and attend religious lectures. They are discouraged from watching television or other entertainment as these are said to distract them from religious devotion and to expose them to dangerous Western influences.

Arqam maintains that the existing official education system is unIslamic, and runs its own schools as alternatives for Muslims who do not wish to send their children to government schools. Special clinics have been set up for Muslims who do not wish to be treated in government clinics, which are also said to be un-Islamic, e.g. because women patients are treated by male doctors, and medicines may contain non-halal material.

### ***Growth of Arqam***

The period between 1972 and 1978 witnessed Arqam's fastest development. They succeeded in attracting tens of thousands of followers by offering a new approach to Islam in Malaysia and maintaining that the struggle to uphold an Islamic state must be preceded by creating an Islamic society, such as that pioneered by the Arqam settlement in Sungei Penchala. Arqam's initial approach - popularly viewed as anti-establishment 'in its own way' - succeeded in attracting many educated youths, including those educated in Islam.

Arqam's rapid growth in the mid-seventies coincided with the period when PAS was in the Barisan Nasional ruling coalition. The void left by PAS's co-option provided opportunities for other Islamic movements, especially those considered anti-establishment. Arqam leaders portrayed PAS as weak because it did not sufficiently emphasise genuine Islamic education, causing PAS members and supporters to be spiritually weak. Thus, according to Arqam, it was not surprising that PAS was unable to establish a truly Islamic state while it ran the government in Kelantan state (1959-77), and eventually joined non-Islamic parties in the Barisan in 1973.

Almost from the outset, Arqam's closest rival has been ABIM (Angkatan Belia Islam Malaysia), mainly because the main target of their missionary work has been fairly similar, namely young anti-establishment students. Not surprisingly therefore, apart from the government and PAS, ABIM was the object of much of Arqam's criticisms. ABIM was said by Arqam to have failed for not employing Arqam's missionary methods, which were supposed to be those of the Prophet. ABIM's emphasis on organisation - including membership and meetings for discussion - was portrayed as being Western, and not a method practised by the Prophet. ABIM's activities often took the form of seminars and working papers, which Arqam denounced as frivolous, noting that in ABIM, only papers - not people - were working (a pun on the 'working papers' presented at ABIM functions). According to Arqam, seminars and conferences were a waste of time and energy, and ineffective in strengthening one's faith in Islam. Arqam emphasised that without faith, Islamic movements would weaken and fail. Arqam leaders held similar views on Islamic movements abroad. The failures of Jamaat Islami in Pakistan and Ikhwan-ul-Muslimin in the Middle East were all attributed to weak faith and failure to emulate the Prophet.

### ***Controversy and Challenges***

The end of the 1970s witnessed the first major challenges to Arqam's growth. Though Arqam still had substantial influence around Kuala Lumpur, it began losing many of its original followers. In 1977 a number of leaders left the movement after disagreement with the leadership's decision to encourage polygamy. In 1979, several senior Arqam members deserted Sungei Penchala over Ustaz Ashaari's unorthodox beliefs and teachings about Sufi orders.

By the late 1970s, Arqam had begun to change its strategy by reducing its attacks on the government and UMNO's leadership. They concentrated instead on developing internal programmes and projects, and conducting talks



On the way to school: Arqam schools enjoy an enrolment of 10,000 pupils

and seminars with little criticism of the government. Nevertheless, the criticisms of other Islamic movements, such as PAS and ABIM continued. This was especially the case in the late 1970s and early 1980s, when both PAS and ABIM were greatly influenced by the Iranian Islamic Revolution - dismissed by Arqam as merely a Shiah uprising. Arqam also initiated several dialogue sessions and meetings with government leaders, such as Dr Mahathir Mohamad (then Deputy Prime Minister) and state-level religious leaders. Such friendly ties eased pressure on Arqam from government efforts to control the Islamic resurgence. At one point, when one of its schools caught fire in 1980, Arqam even received financial aid from the Social Welfare Department. In 1981, Dr Mahathir publicly lauded Arqam as a genuinely Islamic movement, and in so doing cast doubt on the legitimacy of movements such as ABIM, Tabligh and PAS. Meanwhile, Arqam's new approach undermined its earlier role as Islamic critic, particularly for those seeking Islamic alternatives to the status quo. This enabled ABIM and PAS to capture the Islamic opposition, particularly after the virtual expulsion of PAS from the Barisan Nasional government in 1977.

In 1986, new charges of heresy emerged against the Arqam leadership over Ashaari's belief that a certain local Muslim personage (Suhaimi) would soon return as the Imam Mahdi to save the Muslim ummah on the eve of Doomsday (*Hari Kiamat*). Those who stayed with Ashaari sought to protect their position by publicly supporting Mahathir's political leadership and increasingly attacking PAS on ostensibly Islamic grounds. By late 1988, it became clear that this respite was only temporary as one state religious department after another banned Ashaari's latest publication on the subject. ■

(This extract is from K S Jomo and Ahmad Shabery Chik "Malaysia's Islamic Movements" in J S Kahn and Francis Loh (eds) *Fragmented Vision, Culture and Politics in Contemporary Malaysia*, Sydney, 1992:81-85)

GROWTH

## AL-ARQAM BLUES

"Those souls in green  
They must come clean"

(The ones at the centre  
proclaim as they enter)

"Devotion or  
Deviation?"

(They exclaim)

"We are the truth"

(They proclaim)

"We are the centre  
for God is our anchor"

"Those souls in green  
They are so mean ...."

*Latif Kamaluddin*

# GROWTH OF AL ARQAM SINCE THE LATE-1980S

***“Despite its alleged deviant Islamic teachings and bad publicity in the local Malaysian press, its membership also grew rapidly from an estimated 5,000-6,000 in 1987 to an estimated 10,000 members, most of them full-time activists.”***

**F**rom its base in Kampung Sungai Penchala, the Darul Arqam movement has continued to grow. By 1993, Arqam centres, branches and villages had been established in all the thirteen states of Malaysia.

## ***Expansion overseas***

Darul Arqam centres have also been established overseas especially after 1988 when Ustaz Ashaari himself moved abroad. These centres are now found in 16 countries: the United States, United Kingdom, France, Germany, Japan, Australia, New Zealand, Pakistan, Egypt, Jordan, the Philippines, Singapore, Thailand, Indonesia, Uzbekistan and Malaysia.

Among other things, they operate a university in Pekan Baru (Indonesia), soya sauce and shoe factories (Indonesia), a hairdressing saloon, a number of grocery and tailor shops in Jakarta, Medan and other parts of Indonesia, an animal husbandry project in Ningxia (China), a food supplier company in Singapore, and a restaurant and tailor shop in Tashkent (Uzbekistan). In 1992, Ustaz Ashaari also declared open an Al Arqam International Trade Centre in Tashkent.

In a significant move in August 1993, the *Al Arqam Group of Companies* (AGC) was launched in Chiangmai, Thailand (where Ustaz Ashaari was based) to coordinate these various business activities in Malaysia and abroad.

The AGC's 20-odd subsidiary companies deal with groceries, mini-markets, foodstuffs and drinks, clothes and tailoring, animal husbandry, restaurants, marketing and distribution, export and import, small businesses, public transportation, medical services (a Medical Centre in Taman Desa Minang, Kuala Lumpur, two polyclinics and numerous other clinics), skills and training, land and development, electronic media, tourism and finance, and high technology consultancies and training programmes (through two companies, Spectral Technology and MAQRA Consultancy).

Apparently, these companies own assets totalling some RM 300 million.

## ***Expansion in Malaysia***

Despite its alleged deviant Islamic teachings and bad publicity in the local Malaysian press, its membership also grew rapidly from an estimated 5,000-6,000 in 1987 to an estimated 10,000 members, most of them full-time activists.

Its self-contained villages increased from 32 in 1988 to 48 in 1993, covering a total area of approximately 300 acres valued at RM 4.6 million, and with RM 4.3 million worth of assets on them. These lands had been acquired either through purchase or donation by wealthier members, in accordance with *waqf*, the Islamic principle of endowment.

In 1993, Darul Arqam boasted production of 45 types of food stuffs, cosmetics and toiletries in Malaysia alone. It claimed 417 economic projects to be in operation, including 56 industrial factories, 15 mini markets, 52 grocery shops, 36 bookstores, 21 tailor shops, 12 workshops, 18 restaurants, 10 taxis and 30 express coaches.

Arqam's women members also operated their own company, *Solehah Enterprise*, which had 15 branches throughout the country.

Apart from these businesses and economic activities, Darul Arqam also ran 257 kindergartens, primary and secondary schools with a total of almost 10,000 students and nearly 700 teachers, many of whom are self-trained.

A very impressive desk-top publishing service has also been developed. Apart from its books, cassette tapes and video cassettes containing Islamic lectures especially by Ustaz Ashaari, it has also produced various serial publications.

Prior to the withdrawal of its publishing permits in late 1988 and 1989, it regularly produced a weekly and three monthly newspapers, as well as three

other monthly magazines (one for women, another for children and yet another for the general public). Subsequently, with new permits obtained, it began publication of eight new monthlies.

Moreover, it also conducted type-setting jobs on behalf of other publishers including *Dewan Bahasa dan Pustaka* and local university publishers.

Following the formation of its *nasheed* groups and the establishment of its School of Islamic Culture and Arts (*MAKSI*), it also began organising Islamic stage shows entitled *Malam Puisi/Kebudayaan Islam* regularly attracting large audiences.

Its Islamic exhibitions had also been a regular feature including one held in the Putra World Trade Centre in Kuala Lumpur in December 1987.

Its Annual Islamic Courses have also grown in popularity attracting participants from throughout the country as well as overseas.

To facilitate its rural development and villagization programme, an Agricultural Complex and Agricultural Training Centre located on a 20-acre plot of land has been set up. It provides training and advice to those involved in rural development projects throughout its 48 villages. These projects own lands and assets estimated at RM 8.9 million, some 86 vehicles of various types valued at RM 1.2 million, and machines and equipment estimated at RM 2.5 million.

### **Organizational restructuring**

Finally, a major restructuring of the Darul Arqam's organisational structure was undertaken almost immediately after the 1990 General Elections. A *Majlis Syuyukh* headed by Ustaz Ashaari himself as the *Amir*, and including eighteen other leaders was established.

Likened to the Prime Minister's department of a nation, the *Majlis* administers the movement and determines its policies and strategies worldwide.

In April 1992, in addition to the existing headquarters in Sungei Penchala, two other *Majlis Syuyukh* headquarters were opened in Singapore and Islamabad (Pakistan). Another five branches of the *Majlis* have also been opened in Phuket (Thailand), Palembang (Sumatera), and in the towns of Johor Bahru, Kota Bharu and Langkawi in Malaysia.

There was also restructuring of the movement at the "ministerial" level: there now exist 15 *Shukbah* (ministries), instead of the previous twelve.

Perhaps most significant are the changes that occurred vis-a-vis Arqam's geographical administrative units. Administratively, Malaysia has been divided into 52 *wilayah* (regions), each headed by an *Amir*. In turn, each region is divided into "parliamentary constituencies", headed by a *Naqib*. In all, 179 parliamentary constituencies were created.

Apart from the above, there are another 15 overseas *wilayah*, with more than ten parliamentary constituencies.

The fact that the lowest administrative unit is now a parliamentary constituency, and that this occurred almost immediately after the 1990 General Elections, has been interpreted to suggest that the movement has plans to participate in electoral politics more directly in the near future. This could come about either through creating a separate political party, or entering *en masse* into UMNO or PAS.

Whichever the case, the entry of such an extensive, efficient, financially-autonomous and disciplined group into electoral politics, should it occur, would have important implications. However, these speculations that Al Arqam plans to engage in electoral politics in the near future have been dismissed by its local leaders. ■



**Chinese followers at prayer: Darul Arqam Centres overseas were quickly established when Ustaz Ashaari moved abroad in 1988.**

AEC

## JOINT STATEMENT

# VIOLATIONS OF HUMAN RIGHTS SURROUNDING THE AL ARQAM AFFAIR

We, the undersigned Malaysian Non-Governmental Organisations, are deeply concerned with the violations of human rights surrounding the Al Arqam affair.

**1** On Saturday, 3 September 1994, Ashaari Muhammad, leader of the Al Arqam movement was arrested under the Internal Security Act (ISA) at the border town of Bukit Kayu Hitam, Kedah.

Subsequently, it was made known that 3 others in Ashaari's group who were in Thailand with him, were also arrested and detained under the ISA. They are Khadija Aam (Ashaari's wife), Jailani Jasmani (Al Arqam Press Secretary) and Soad Sulayman (Al Arqam Spokesperson). Ashaari's six-month old daughter, Mubarakah, was also taken into custody with the mother.

On 6 September, Zabidi Mohamad, the Al Arqam Legal Adviser, was also detained under the ISA. And on 8 September, another Al Arqam member, Ibrahim Mohammad was arrested and detained; we believe that he too is detained under the ISA.

The ISA, which allows for preventive detention, empowers the police to detain a person for a period of sixty days, after which the Minister of Home Affairs is empowered to issue two-year detention orders renewable for an indefinite period. There is no trial in an open court. This Act goes against the basic principles of natural justice.

We are also concerned with the conditions of detention. It is well known that the detainees are subject to physical and psychological torture. They are kept in solitary confinement and undergo prolonged periods of interrogation.

In addition to the detainees, we are particularly disturbed about the ill effects of detention on Ashaari's and Khadija's six month old baby. We are also concerned whether the baby will be used as a "tool of torture" against Ashaari and the others.

Those detained also do not have access to visits from members of their family, friends, lawyers and doctors. We urge the authorities to allow these visits, for denial of contact, especially with family and friends for sixty days is inhumane. Denial of access to lawyers is a breach of the fundamental right to legal representation.

We call for the immediate and unconditional release of Ashaari and all others who are currently being detained under laws like the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance 1969 and the Dangerous Drugs (Preventive Measures) Act 1985, that allow for preventive detention.

We reiterate our call for the repeal of all these Acts that allow for the violation of human rights.

**2** We are concerned over the arbitrary revocation of the Malaysian International passports of Ashaari and some of his followers. In Thailand, this cancellation resulted in the forced 'deportation' of Ashaari and six others from Thailand to Malaysia, where they were subsequently arrested and detained.

It is a violation of a person's right if his or her passport is revoked without being given the opportunity to be heard on the question. It is particularly oppressive if a person's passport is revoked when he or she is outside the country which renders him liable to arrest for not having a valid travel document.

It is also a recognised international practice that if a person is to be deported, he has the right to determine the place he wishes to be deported to. If it is to a third country, the only condition is that this country is willing to accept the deportee. This basic human right was violated in the case of Ashaari and his group. He and his group were forcefully deported.

We are also disturbed by the action of the Thai government (and police) who deported these persons, knowing that they would be persecuted when they returned to Malaysia. According to international standards and practice, these persons who belong to a group that is facing religious persecution in their own country, would very easily qualify as refugees. This is stated clearly in the United Nation's Convention Relating to the Status of Refugees.

**3** We are also perturbed with the close cooperation between the Malaysian and Thai governments that was evident in the quick, speedy and forced deportation of Ashaari and his group. This is not a new thing, because a similar thing happened during Operation Lallang in 1987, when two persons were arrested in Singapore and handed over to the Malaysian police supposedly at the causeway. Today, we are doubtful about this because in the present case, the handover took place in Hadyai, Thailand. Malaysian police do not have jurisdiction in Thailand, and therefore one is concerned whether the act of the Malaysian police would amount to kidnapping, which is a criminal offence.

Similarly, Malaysia also has been practising repatriation of Acehnese refugees back to Indonesia. Many of these Acehnese had fled from Indonesia to escape persecution, and thus repatriation in this case, as well as in the present case is an inhumane action by these Asean governments.

**4** We are also concerned with the ongoing persecution of Al Arqam. Arqam members are being continuously picked up by the police under the Societies Act, the Printing Presses and Publications Act; and other legislations. To date, about 320 people have been arrested under these laws. Arqam members who went to police stations to make police reports were also arrested. Furthermore, between 2.30 am and 4.00 am on 9 September, the police and the Negeri Sembilan Religious Department officials raided homes in Taman NZ, Seremban and arrested 10 men, 22 women and 89 children.

We are concerned that such continuous harassment, intimidation and persecution of Arqam members, who have to date maintained a peaceful posture and sought redress through legal means, may drive the movement to other forms of protest.

**5** Although we may not agree with the beliefs held by the Al Arqam movement, and some of their practices, we cannot condone the violations of human rights committed upon the movement and its members. We believe that religious differences should not be resolved through violence but rather through a process of dialogue.

19 Sept 1994

**Sivarasa Rasiah**  
on behalf of the following  
Malaysian Non-Governmental Organisations

Aliran Kesedaran Negara (ALIRAN)  
All Womens Action Society (AWAM)  
ASA Media Centre  
Centre for Orang Asli Concerns (COAC)  
Environmental Protection Society of  
Malaysia (EPSM)  
Institut Pengajaran Komuniti, Sarawak  
(IPK)  
Malaysian Trade Union Congress (MTUC)  
Partners of Community Organisations  
(PACOS), Sabah  
People's Service Organisation (PSO)  
Persatuan Hak Asasi Manusia (HAKAM)  
Persatuan Sahabat Wanita Selangor (SAH-  
WAN)  
Selangor Chinese Assembly Hall (Youth  
Section)  
Selangor Graduates Society (SGS)  
Society for Christian Reflection (SCR)  
Suara Rakyat Malaysia (SUARAM)

# ETHICS AND DEVELOPMENT: The story of Klabang

For the Caring Society concept to be meaningful, the laws of the country should provide protection for the poor and helpless. Just laws should be formulated to combat against the greed of speculators for whom 60 years of service and sacrifice by 3 generations of estate workers for the nation mean nothing whatsoever.

ALAIGAL, highlights the plight of the Klabang estate workers who have fallen prey to greed and exploitation and cry for help.

**W**hat does a plantation worker whose parents and grandparents had worked 60 years for an estate get, when that estate is sold for development? About RM4000, going by the law! That seems to be the value that our society puts on the sacrifice of 3 generations of plantation workers whose labour helped build this country.

Malaysians seem to have short memories! Rubber was the Number One export earner for the country from 1913 right up to 1979. Palm Oil

took over in 1979 and remained Number One till the mid 1980s.

The wealth generated from the plantation sector underwrote much of the infrastructural development of Malaysia. Even today, the plantation sector is a major source of foreign exchange earnings. (Though electronic exports is the largest single

export item, actual foreign exchange earned by this industry is much less because of the costs of importing the components, the royalty payments and the transfer of profits abroad.)

The 1980 Regulations of the Employment Act which specifies that a retrenched worker is entitled to 20 days of wages for each year of

## AMZ CORPORATION SDN BHD

Co. number 58562 - M

|  |  |
|--|--|
| <b>OFFICE:</b>                                 | 1 Jln Tambun<br>30350 Ipoh<br>PERAK  |
| <b>NOMINAL SHARE CAPITAL:</b><br>As of Nov 93: | 50,000,000<br>15,000,000 taken up<br>(9,060,000 paid)  |
| <b>DIRECTORS</b>                               | <b>Managing Director</b><br>Yong Su Hian   |
| <b>OTHER DIRECTORS</b>                         | Dato Haji Jalaludin bin<br>Abdul Rahim<br>9 Jln Pantai<br>46000 PJ<br><br>Dato Lim Keng Kay<br>29 Lorong Tun Dr Ismail<br>30350 Ipoh |
| <b>ALTERNATE DIRECTORS</b>                     | Lim Kheng Loy<br>92 Jln Terasek Satu<br>Bangsar Baru,<br>59100 KL<br><br>Yong Shim Hian<br>8 Megat Mansion<br>30250 Ipoh             |



This man has lived all his life in Klabang.

work, is the only law "protecting" the rights of estate workers when their estate is sold for development. Given their paltry wages, this translates into about RM4000 for a worker who has worked 20 years on that estate.

There are no laws regarding loss of accommodation, loss of place of worship or for the dislocation and disruption of an entire community. A rather strange omission, if you think about it, in a nation where the largest single group of wage-earners are the estate workers! The case of Klabang is a typical example.

### **THE KLABANG ESTATE SCANDAL - A CHRONOLOGY OF EVENTS**

\* 1930 - Barlow Boustead acquires 1800 acres of jungle land cheaply from the Colonial Government. Labourers toil to clear the land and plant rubber under exacting conditions.

Many die from malaria and malnutrition. Klabang estate is born.

\* 1930 - 1980: Barlow company reaps handsome profits from its plantation activities.

\* mid-1970s: Barlow sells 540 acres.

## **Major Shareholders of AMZ Corporation Sdn Bhd as of Nov 1993**

| SHAREHOLDER  | SHARES    | NOTES   |
|--|-----------|---|
| 1. Sri Senggang Sdn Bhd (Malay Co.)                          | 3,750,000 | Dato Hj Jalaludin owns half the shares in this \$2/ company.  |
| 2. Dato Hj Jalaludin b Abdul Rahim<br>9 Jln Pantai, 46000 PJ | 3,000,000 |   |
| 3. Omni Holding Sdn Bhd (Chinese Co.)                        | 1,489,000 | Linked to Yong Su Hian  |
| 4. Dato Alex Y.L.Lee   | 1,470,000 | At some point Chairman of the Board of Directors of AMZ   |
| 5. Irex Sdn Bhd (Chinese Co.)                                | 925,497   | Linked to Dato Alex Lee   |
| 6. Etika Inovatif Sdn Bhd                                    | 900,000   |   |
| 7. R.A.S. Sdn Bhd (Malay Co.)                                | 750,000   |   |
| 8. Superniaga Sdn Bhd (Malay Co.)                            | 750,000   |   |
| 9. Dato Lim Keng Kay   | 750,000   | This is through his holdings in other companies. K.K.Lim is also a member of the Board of Directors of AMZ and the brother of Dato Lim Keng Yaik. |
| 10. Syarikat Majuperak Bhd (Malay Co.)                       | 750,000   |   |
| 11. Sri Timah Sdn Bhd  | 750,000   | Y.B. Fadzil the UMNO State Assemblyman for Lintang Sg Siput holds 40% of the shares.  |

\* 1980 - Barlow sells the remaining 1260 acres to AMZ Corporation for a price of RM23 million. This represents the profit that Barlow would have made from plantation activities for the next 46

years! AMZ, a company with RM15 million paid-up capital borrows RM23 million from Bank Bumiputra to effect this purchase. (See Box for a list of AMZ's main shareholders.)

## Some aspects of the Financial Situation of AMZ

**F**or a company that has been registering losses every year since its formation in 1980 (losses sustained in 1993 itself was over RM7 million!), AMZ has rewarded its major shareholders well as the figures below show.

- 1980 - 1993: More than RM300,000 paid to the directors who included Dato Alex Lee, Dato K.K.Lim (Dato Lim Keng Yaik's brother) and Dato Hj Jalaluddin.
- In 1981 and 1982 alone, RM2.4 million paid to Fai Yin Management Sdn Bhd, a company linked to some of the Directors. Fai Yin Management was supposed to clear an area of land for development purposes. The sale of rubber logs itself would have fetched quite handsome profits!
- From 1990 to 1993 alone, RM41,000 for travelling and entertainment.
- In 1986, 326 acres were sold for RM17.4 million to another company which has since put up a middle- and low-cost housing scheme there. AMZ actually arranged a RM2 million credit facility for this other company with the Chartered Bank.



Her poster reads, "We may be poor but we are not cowards."

\* 1980 - At a joint meeting of Barlow and AMZ with the workers, people are assured that their rights will be taken care of by AMZ. At this same meeting AMZ promises to build low-cost houses for all the workers. Euphoria!

Later AMZ actually collects RM1000 per family for this hous-

ing scheme. Money later returned.

\* 1988 - Dato Alexander Lee, Chairman of AMZ's Board of Directors calls a meeting with all the workers - The company does not have enough money to build houses for everyone, but is prepared to give lots to all workers. Will the workers agree?

Again jubilation! Again signatures are solicited from the workers.

\* August 1989 - Retrenchment letters arrive. Only retrenchment benefits specified. No mention of houses or lots. The people try frantically to appeal for houses or lots through political as well as union leaders.

\* March 1990 - Electricity and water supply to the labour lines are cut.

\* 1989 - 1991: Y.B. Dato Alexander Lee is suddenly very busy attending to his duties as Deputy Minister for Human Development. Not contactable.

Dato Seri Samy Vellu, other politicians and union leaders make numerous promises. Urge people to be patient.

Management buys over key union leader on the estate.

\* 1990 - 1994: Unable to cope with the squalid living conditions, many families move out.

\* July 1994 - 24 families still remain, without water or electricity, relying on well water and rain water for drinking and other purposes, and candles for light. Both drawing and drinking well water have taken their toll on the health and well-being of the children as well as adults. Diarrhoea, vomiting, skin diseases and chest pain are common. This is not surprising as a recent Health Department study in June 1994 revealed that the well water was contaminated and unfit for human consumption.

\* - 33 families have not yet received their retrenchment benefits. In another few months

the Statute of Limitations can be evoked by AMZ to avoid paying any compensation at all. State NUPW Executive still urging patience. Have not yet filed a formal case with the department of Labour.

\* - Political leaders also urge patience. Apparently AMZ's speculation in land went sour. They had gambled on subdividing the property and disposing it off quickly. But the recession of the mid-1980s scuttled their plans. The company is now in debt of over RM70 million. (See Box for some information on AMZ's financial status.)

\* - A local lawyer contacted by the people cautions - Be careful, there are big giants behind this company. You cannot fight them. Do not rock the boat!

### DEMANDS OF THE RESIDENTS OF KLABANG

- 1) Settle the retrenchment benefits that were promised in 1989.
- 2) Give interest of 8% per annum on that figure for the 5 year delay.
- 3) Award a lot for each of the 24 families still residing on the estate. (Klabang still has 860 acres.)
- 4) Award 1 acre of land and RM100,000 to relocate and rebuild the 2 Temples.

It is instructive that the laws of our "Caring Society" only provide specifically for demand (1). There are no specific provisions regarding (2), (3) and (4). I suppose it is fair play to allow a group of lowly educated, retrenched, dispirited workers to take on a group of industrialists represented by a Deputy Minister, the brother of a Cabinet Minister, a



This lady was brought to Klabang when she was one year old. Her parents worked and died in Klabang. She herself worked in there. Now, her two daughters have been terminated by AMZ.

couple of State Assemblymen and if rumours are correct the Royalty as well. How very "caring" and fair-minded we all are!

### THE LARGER ISSUES

Malaysia is rapidly industrialising and urbanising. State governments have taken the decision to avoid dislocating traditional kampongs but to instead convert existing plantation land for industries and housing. Many more estates are going to be sold over the next few years. Several thousands of workers who were born on those estates and who have worked all their lives there are going to be displaced. At present they only have two options - either take the pittance that they are being given under the present laws, or, fight the issue through the press, by picketing, launching signature campaigns and perhaps taking the case to the courts.

Even though the social consciousness and personal integrity of the politicians *cum* businessmen who run the show are beyond reproach, there is we believe, an urgent need for specific legal provisions protecting the rights of workers who are dislocated by the sale of their estate. These provisions should include -

1. Retrenchment benefits of 100 days pay per year of work. The present 20 days pay per year of work

covers all situations including those where the business closes because of bankruptcy. When an estate is sold for development the plantation company makes a tidy profit. Klabang's selling price was equivalent to 46 years of profits from plantation activity!

2. A provision of a lot and RM20000 for house construction for each worker who has worked for more than 10 years for that estate

- if that estate has not implemented a low-cost housing scheme for its workers yet.

3. Financial compensation and provision of alternative sites for the existing community facilities on that estate such as Temples, Community Halls, Cemeteries etc which will be lost as a result of the conversion of that estate for industrial purposes.

4. The setting up of a special fund like SOCSO with mandatory contributions from workers and their employers that will give scholarships for retrenched workers to attend vocational courses for a year to pick up new skills for jobs in other sectors.

These provisions should specify that the plantation company selling the estate at such colossal profits should put aside a portion of their profits for the provision of items (1), (2) and (3) above. The fate of entire communities should not be tied to that of companies like AMZ that are speculating on land. These ventures sometimes end up with losses as has happened in AMZ's case.

Malaysians in general and politicians in particular should wake up to the realisation that claiming to be a caring society is not quite enough. We need to act decisively to ensure that the rights of the marginalised and relatively powerless sectors of our society are not trampled upon further by our scramble for quick profits! ■

# THE KLABANG ESTATE ARRESTS

## *The Warped Vision of the Law*

**33** squatter families in Kampung Chepor realised to their dismay that they are going to be excluded from the balloting list drawn up by the Land Office in Ipoh. The mining land they have lived on for 20 years is going to be given away as lots to over 30 people who have never resided there. The squatter families who moved out of the area to facilitate infrastructural development, on the promise of getting lots, appealed to all relevant parties to intercede on their behalf. These parties included the ADO, the DO, the State Assemblyman, the Menteri Besar himself, the police... When every possible avenue was exhausted, they staged a peaceful demonstration outside the Ipoh Land Office. This took place in August 1994.

On Sunday 11 September 1994 another demonstration was staged, this time by former workers of Klabang Estate, Chemor, outside the estate along Jalan Kuala Kangsar. (The story of Klabang Estate is carried in the preceding article). Once again, letters, memoranda and reminders were sent to the shareholders, management and directors of AMZ Corp, the Labour Office, the Health Department, the JBA, the State Assemblyman, the police, Datuk Mahalingam, Datuk Seri Anwar Ibrahim ... before a demonstration was resorted to.

In the Klabang Estate demonstration against the company, after over 2 hours, when the people were dispersing, the police closed in without warning and detained 22 out of about

100 picketers. At the main police station in Ipoh, the OCPD jumps upon those arrested and yells, "The same people again! Just because we let you get away the last time, don't think we'll let you do it every time."

The objects of his fury, "the same people", were 6 people, non-residents of Klabang and sympathisers from a registered social organisation. These people also participated in the Kampung Chepor demonstration. His implication: these people who have nothing better to do on a Sunday, go around creating problems.

This is acute astigmatism or the 'refusal to acknowledge the truth' syndrome. Who created the problems in the first place?

In the Kampung Chepor case, irregularities in the Land Office over allocation of lots was the cause of the problem. They were promised lots and many had paid up the costs (RM5,800) for developing the land for housing.

As for Klabang Estate, 5 years after terminating the workers, the company, AMZ Corp, hasn't fulfilled its obligations to its workers i.e. the retrenchment benefit of 20 days wages per year of service as provided for by the law, and the management's promise of housing lots for the families. Thus an irresponsible employer linked to prominent politicians, is the cause of the problems in Klabang Estate.

Clearly, in both Kampung Chepor and Klabang Estate, real problems exist. The so-called "outside instigators" or troublemakers are not the cause of the problems.

It must be noted that the people of Chepor and Klabang undertook

various courses of action before deciding to stage the demonstrations. Each group sent out about 40 to 60 appeal letters. No response was received. Police reports were made regarding irregularities but we do not know whether they acted against the wrongdoers as rigorously as they did vis-a-vis the wronged. The authorities who did meet the Chepor people were rude and didn't make an attempt to discuss the matter in a serious and civil manner. As for Klabang, no one in authority tried to see the workers and work towards a solution of any sort. But on the other hand, the affected parties tried all avenues but to no avail. Those in power could have met the people or at least responded to their letters; their inaction drove the people to demonstrate.

The victims of injustice are generally the poor and ignorant. While the need for justice is often felt by them, the avenues through which to articulate their grievances are often unknown to them. Often too disunity among them can render individual actions worthless. These are the areas where caring individuals have a role. But it's simplistic thinking to conclude that action taken by the deprived is the work of "educated" outsiders. It's arrogant and indeed ignorant to believe that the poor and 'uneducated' cannot possibly imagine and undertake a course of action by themselves and for themselves.

The concept of a caring society must be translated into action. The government must lend credence to that concept by supporting citizens who help uncover injustices. ■

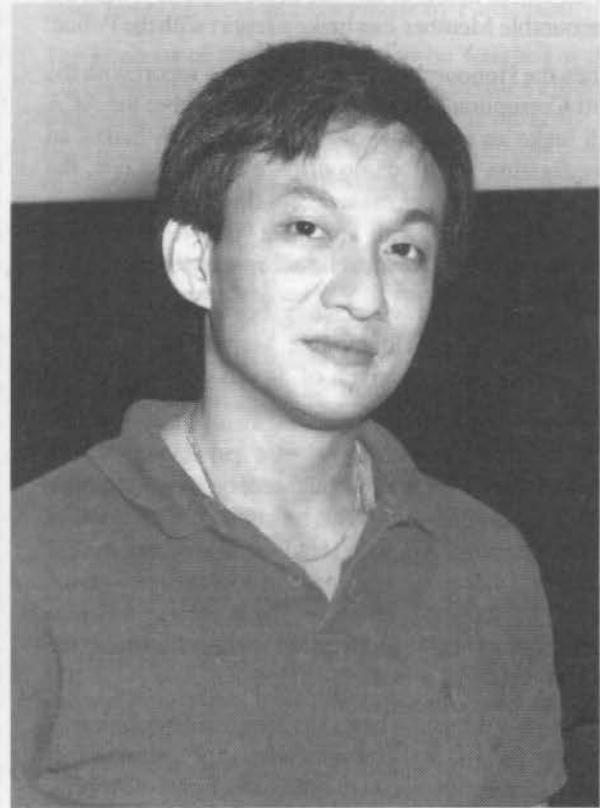
# A DAY IN PARLIAMENT ...

## during the debate on the Bill to amend the Judges' Remuneration Act, 1991

(cont'd from AM 1994:14(7))



Law Minister Syed Hamid



Bukit Bintang MP Wee Choo Keong

### 7.55 p.m. 18 July 1994

**Dato' Syed Hamid bin Syed Jaafar Albar:** Mr Speaker, I would like to thank the Honourable Members for Nilam Puri and Bukit Bintang. Both of them have raised several issues connected to the Judiciary without touching specifically on the remuneration of judges.

The Honourable Member for Nilam Puri has warned us about the collapse of the legal system and the Judiciary in our country. But the Government feels that we are practising the system of separation of powers; so the Legislative and the Executive have their own fields and the Judiciary has its own field.

It's very easy for us to bring charges against groups who are not present in this august House and make accusations without any basis; as if the wealth or assets gained by those who are in the Judiciary must necessarily be assets obtained through illegal acts or bribery.

This is the way they try to politicise the issue of the Judiciary. I feel the Opposition must be responsible so that the issue of the Judiciary will not be politicised.

**Tuan Wee Choo Keong:** Mr Speaker, I wish to seek clarification from the Honourable Minister of Law...whether he is aware or not...I obtained a statement from the Honourable Minister of Finance who

stated that Tun Hamid Omar and his wife owned 3.7 million shares in Eu Finance Bhd; and this is not a wild accusation. If this is a wild accusation, it means the Minister of Finance is lying or providing incorrect figures. Thank you.

**Syed Hamid:** Mr Speaker, it looks as if every word and sentence we are using is being distorted - because the message does not get through.

If the Member from Bukit Bintang is uneasy with the ownership of assets of anyone in the Judiciary, then the Honourable Member can make a report with the Police.

When the Honourable Member makes a report with the Anti-Corruption Agency, he must remember the ACA will make an investigation. When the ACA makes an investigation and finds no offence under the law, the Honourable Member must accept this. It doesn't mean that every word and argument put forth by the Honourable Member must be accepted as valid.

I see in the case which has been dragged in or scrutinised by the Honourable Member from Nilam Puri, the example is given of Saidina Ali and a Jew where finally the decision went against Saidina Ali and favoured the Jew.

But when this case was highlighted, he forgot that Tun Salleh Abas did not want to come before justice, whereas Saidina Ali, as a Head of State, came before justice and a decision was made in accordance with the process of justice. Hence, we have to take this into consideration in the real situation without distorting the facts or historical material.

This is what I mean when I say that this Opposition...I consider the Judges' Remuneration Act a straightforward Act; a technical Act to establish a Court of Appeal. I see the Honourable Member has not read the Act; that's why he is so obsessed with his case; providing quotations and arguments connected with his case. This case has nothing whatsoever to do with...

**Wee:** (rises)

**Speaker:** Honourable Member, do you wish to give way?

**Syed Hamid:** Mr Speaker, not yet...

**Speaker:** Honourable Member, he has not given way...

**Syed Hamid:** ...it involves...he says he agrees with all the salary increments and the salary scale except for the Chief Justice. This Act has nothing to do with the remuneration of the Chief Justice. So, I feel that the Honourable Member, in his efforts to formulate an opinion, must be courageous in facing up to the problem he is confronted with. In fact, the Honourable Member

has considerable interest when he was discussing the cases mentioned earlier.

Mr Speaker, I can...

**Wee:** (Rises)

**Syed Hamid:** I'm giving way.

**Wee:** Mr Speaker, I take it that the Honourable Minister is saying that I do not understand this matter... whether he is aware or not... we are making an amendment to the parent Act, the **Judges' Remuneration Act 1971**, which stipulates the remuneration of Federal Judges and also the allowances given to the Lord President and so on.

Secondly, he said that Tun Salleh Abas had to appear before a tribunal. From what I know, he did not face the tribunal because he did not want Chief Justice Tun Hamid Omar to be a member of the tribunal; hence, that is why he objected to this. I refer to Section 7. This shows that we have amended by substituting for paragraph D, the following paragraph: a Judge of the Federal Court, of the Court of Appeal or President or a Chief Judge. 'Chief Judge' has been changed to 'President.' So, what I've said is very relevant.

**Syed Hamid:** Mr Speaker, when I listen to the Honourable Member explaining, I know he doesn't understand what he's read in the Act. So, never mind. The parent Act remains unchanged. What we're doing is merely adding to it. So, its status is the same.

As for the Saidina Ali story, since the Honourable Member is a non-Muslim and perhaps being unfamiliar with the historical facts, he had requested the Honourable Member for Nilam Puri to speak. And he's given information to Nilam Puri who eventually spoke on this matter using Islamic facts. For the information of the Honourable Member, Saidina Ali at first saw himself as the head of government - this is just to brief the Honourable Member.

**Wee:** (Rises)

**Syed Hamid:** Please remain seated first; I'm not giving way. Sit down first and listen. Earlier, I'd listened patiently.

So, if Saidina Ali saw himself as the Head of State, why did he allow the judge to hear his case; he was greater than the judge. But according to the principles and rules of Islam, he had to appear before the judge so that justice could be dispensed. This is what justice in Islam is about. In the case of Tun Salleh Abas - I don't like to scrutinise this case, but I'm forced to - we cannot consider that we're higher than other people; so, we don't want to appear because others are of lower status and position than us. What is important in this case is

whether legal provisions and procedural customs were observed. They were observed; whether we like it or not is another question.

**Wee:** Thank you, Mr Speaker. I said earlier that I know this but the book says that Tun Salleh Abas didn't attend or face the Tribunal because he objected to Tun Hamid Omar being a member of the Tribunal as he was next in line for Tun Salleh's post. As we know, Tun Hamid succeeded Tun Salleh. So, it surely wasn't proper for Tun Hamid Omar to be a Tribunal member. That is what he objected to. That's why justice must not only be done, but must be seen to be done.

And it was also a case of conflict of interest which was consistent with the Chief Justice's understanding of conflict of interest. In this case, he met the litigant; in Tun Salleh Abas' case he also had vested interest as he would succeed him. So, we can say there's been consistency; he's been consistent in this matter of conflict of interest.

**Syed Hamid:** Mr Speaker, I do not want to be involved anymore in discussing this matter. The Government's stand is clear - if someone considers himself wronged, he has the opportunity to face justice. No matter how much we do not like the person who will be dispensing justice, at the very least we should face the Tribunal to put on record the reasons for our objections; and not do so outside the Tribunal or judicial field.

So, from a tactical and strategic angle, I do not quite agree with the opinion of the Honourable Member for Bukit Bintang; and I hope this case need not be scrutinised to slander the judiciary now.

Although there may be defects in the Judiciary - perhaps it has its shortcomings as a human institution - on the whole, it is a body which can provide justice to the people; it provides confidence that the legal system and judiciary in our country is functioning smoothly and can be trusted by the people.

I feel sad when the Honourable Member tried to ask me who was greater: the Chief Justice or I, as the Law Minister. If that is the Honourable Member's question, it means he isn't well-versed with the system of separation of powers.

I represent the Executive and the Chief Justice represents the Judiciary. If I were to control the Chief Justice, the Government would be accused of restricting the judges' freedom to carry out justice in the courts. So, Honourable Member...unfortunately, you are very confused.

Mr Speaker, I would like to consider several specific matters brought up by the Honourable Member for

Nilam Puri; and I would like to give my reply - because the Honourable Member for Nilam Puri said that he was not a lawyer; but we witnessed him very convincingly putting forward arguments in total disregard of the truth. So, allow me to reply to the matters brought up.

First, judges do not consider the interests of the people and give different decisions on similar cases. The tactics and methods used by the Honourable Member for Nilam Puri - his warnings of chaos - is a tactic which will endanger the peace of the country. Judges decide cases based on facts and laws made by Parliament.

The interests of the people have to be weighed at the stage when laws are made. We do want the time to come when judges make laws which are outside the scope of laws passed by Parliament. That is not within the scope of responsibility of the judges; that is the responsibility of the Legislative.

Mr Speaker, a case which is considered similar could well be different. As the Honourable Member said just now, justice must not only be done, but must be seen to be done. I think that, in this matter, what is important is that a judgement must be made without bias and a person must be given the right to present his arguments and after that, when a decision is made, we must accept it although it may not satisfy us or it may have hurt our feelings. That is the principle and legal maxim which is of utmost importance.

Mr Speaker, I think it is already late, so I'll continue.

So, these cases have been used to express the feelings of the Honourable Member. Although nobody can challenge the legal principles or maxims involved, we have to apply or use them according to the facts of the case; and not use them casually as if what has happened in England can be used here without any adaptation to suit the situation and the facts of a case.

Hence, although the facts may appear to be the same, the decisions could be different based on the occasional distinguishing facts.

Mr Speaker, judges decide cases without taking into account the parties involved and in accordance with the authority conferred by the law. Many cases brought up by the Government have been rejected; it's not true that the Government wins all its cases and that judges have been instructed to decide in favour of the Government.

If the Government commits a wrongdoing, violating the law or administrative regulations, the Judiciary has the right to decide against the interests of the Government, especially in criminal cases. As the Honourable Members knows, there are many criminal cases where the

Government public prosecutor has lost. This shows that the judicial system in our country is a system which truly reflects the separation of powers and the Judiciary has the right to decide in accordance with the law.

**Wee:** Mr Speaker, I wish to ask whether the Honourable Minister of Law is aware that in my case, although I had the right to file my notice of appeal within 30 days under the Rules of the High Court, the judge concerned shortened it to only three days; where is the principle of the court in this case?

I've never heard of this before and also many lawyers have never heard of someone who had a right under the law - 30 days to file a notice of appeal - but the judge, Dato' Annuar Zainal Abidin issued an order that I had to file it within three days - they've never abridged the time; extended the time, yes, but not abridged or shortened the time.

**Syed Hamid:** Mr Speaker, if the Honourable Member, is asking me to make a ruling or interpretation, it means the Honourable Member is asking Parliament to be an arbitrator to a case outside Parliament. And I do not think this is appropriate; I do not wish to be involved in this matter just because the Honourable Member has dragged it up.

Let the case be decided in accordance with legal principles. Don't drag it up and, in doing so, create the impression of injustice; the Honourable Member, I think, is extremely obsessed with what has happened; I can understand this. But let the legal process take its course, so that we can achieve justice. The Honourable Member shouldn't pre-empt the situation out of personal interests. Mr Speaker, I don't agree.

**Wee:** Mr Speaker, is the Honourable Member conscious (*sedar*) or not?

**Syed Hamid:** Mr Speaker, if I'm not conscious (*sedar*), I wouldn't be speaking now!

Mr Speaker, I would like ... here on touch the judge's meeting with the litigant; I think I've been frequently quoted. I hold firmly to the principle of justice.

The Honourable Member has exaggerated this case to make it seem as if there is a great conspiracy against him. That is why I firmly stand by what I've said; in certain circumstances, a judge should not meet litigants, to prevent people like the Honourable Member from arriving at all kinds of perceptions or assumptions. This is what we have to avoid so that justice is not affected.

Mr Speaker, no point prolonging this matter. I wish to move on to the matter raised regarding the recommendation that the tribunal should only be dependent on the decision of the Attorney-General. If we take provision

145 of the Constitution, the A-G has the discretion to initiate criminal proceedings or, on the other hand, institute proceedings based on the result of investigations.

The A-G on his own cannot take action based on his whims and fancies; he has to follow the due process of law which ensures that when he has made a decision, it can be backed with arguments. This is very clear and in the matter raised, investigations revealed that the Chief Justice had not committed any criminal acts. With that, the question of a tribunal does not arise at all.

**Wee:** (*Rises*)

**Syed Hamid:** Mr Speaker, I'm finishing.

**Speaker:** He's not giving way, Honourable Member! Not giving way?

**Syed Hamid:** Mr Speaker, no need! Because he's only going to say the same thing! No new points. I know that whatever point it is, it'll go back to the same old matter.

**Wee:** Scared!

**Syed Hamid:** Not scared! Because if I'm scared, if we want to argue this out in court, let's look for a quorum in court. I do not wish to argue here and substitute this place for a court. So, Honourable Member, you must be patient and listen to what I have to say!

Up to this point, I see that we sometimes forget there is no law in this country which restricts a judge from owning assets. Judges are free to own or hold shares; nevertheless they are not allowed to hear or decide on cases in which they have personal interests or financial interests.

Mr Speaker, I think I've covered all the points raised and perhaps there are others I may have left out; but they have been recorded and will receive attention. I wish to thank the Honourable Members for Nilam Puri and Bukit Bintang.

**Speaker:** Honourable Members, I now put forward this matter for the House to decide; the matter being the second reading of the Bill now.

The matter is put forward for decision, and is agreed upon.

The Bill is being read for the second time and handed over to the House Committee. ■

*Extracts from the Malaysian Hansard*

**JALAN BANDAR POLICE STATION REPORT NO:  
16942/94**

During the last session of Parliament, Members of Parliament were informed that Tun Hamid Omar, the Chief Justice of the Federal Court, owned extra-ordinary assets. They are as follows:

1. Two bungalow houses in Bukit Tunku worth more than RM1 million.
2. Two units of condominium at Genting Highland.
3. Two units of condominium at Selesa Hill Home in his wife's name.
4. Free memberships for Saujana Golf Club, Kelab Sultan Abdul Aziz Shah, Tropicana Golf Club and Country Club, Bukit Kiara Resort, Kelab Darul Ehsan, Peransang Golf and Country Club, KLGCC (Kuala Lumpur Golf & Country Club) and Bukit Tunggal Golf and Country Club.

It has been reported in Parliament that Tun Hamid has been given free memberships to Tropicana Golf Club and he saw it fit to sit as a judge to hear the appeal cases in the Supreme Court involving Tropicana Golf and Country Club under Supreme Court Appeal No: 02-45-93, No: 02-46-93 and No: 02-47-93 and decided in favour of Tropicana Golf Club's directors, who have been cited for contempt.

On 28th July, 1994, I have lodged the 4th report with the ACA under Jalan H S Lee Police Station Report number: 12902/94, against Tun Hamid Omar, wherein I have stated that Tun Hamid and members of his family total shareholding in Eu Finance Bhd and First Allied Corporation Bhd (FACB) amounted to RM7,360,252-00 at par value and his gross salaries as a judge since 20th September, 1968, until his retirement based on 1992 salary scale is RM6,775,640-00. There is a discrepancy between his total gross income until his retirement in the sum of RM584,612-00 (RM7,360,252 - RM6,775,640 = RM584,612). Until this date, Tun Hamid did not clarify this matter.

**SERI AZHA SDN BHD (SASB)**

As at 13 September 1994, the company search with the Registrar of Companies revealed the following information:

The shareholders are:

1. Toh Puan Datin Azian bte Aiyub Ghazali holds 500,000 shares of RM1 each.
2. Hanizah bte Abdul Hamid holds 118,002 shares of RM1 each.
3. Hanizan bte Abdul Hamid holds 172,000 shares of RM1 each.

Total number of shares is 790,002 amounting to RM790,002.

(Toh Puan Datin Azian is the wife of Tun Hamid. Hanizah and Hanizan are the daughters of Tun Hamid).

The Directors are:

1. Tun Dato Abdul Hamid bin Hj Omar
2. Toh Puan Azian bte Aiyub Ghazali

It is beyond question that SASB is Tun Hamid Omar's family company.

SASB's audited accounts for the year ending 30 June 1993, which was filed with the Registrar of Companies on 31 January 1994, shows that SASB has the following assets:

1. Land and building worth RM2,493,496.
2. Shares in quoted corporation at cost is RM129,120.
3. Shares in unquoted corporation at cost is RM108,479.

The total sum for the above three items of SASB's assets is RM2,731,095.

From Tun Hamid's known income, it was not possible for him and members of his family to possess so many assets i.e. shares in Eu Finance Bhd, FACB, SASB and the assets in SASB. From the above it appears that Tun Hamid has extra-ordinary assets. Therefore, he should be ordered to declare his assets by the ACA, which I believe had not been done throughout the ACA investigations.

It has been said by the Honourable Attorney-General on 2 July 1994, that En Hisham Harun Hashim, who is the son-in-law of Tun Hamid Omar, has no business connection with Tun Hamid.

The record of SASB shows that on 9 June 1988, SASB executed a Third Party charge on its property known as Lot 15076, Geran 1001, Mukim of Kuala Lumpur, in favour of Wah Tat Bank Bhd to secure a RM300,000 overdraft facility for Sun Swee Corporation Sdn Bhd (Sun Swee). Sun Swee has two shareholders and directors namely En Hisham Harun Hashim and Goh Swee Ngee each holding 500,000 shares. From this fact, it appears that Hisham Harun Hashim had a business relationship with Tun Hamid since 1988.

It is hoped that the ACA will investigate this report with regard to Tun Hamid and members of his family ownership of extra-ordinary assets without fear or favour.

This is my report.

**Wee Choo Keong**

*(This is the 5th report lodged with the Anti-Corruption Agency (ACA) by the MP for Bukit Bintang, Wee Choo Keong, on 16 September 1994.*

# A DAY IN PARLIAMENT

.... Cont'd from AM 1994: 14(7)



**C**hief Justice Hamid Omar retires on 24 September 1994. During his tenure, he worked hard to oil the creaking wheels of the Judiciary, arguably improving the administrative efficiency of the Judiciary. He introduced Bahasa Malaysia in the courts, prodded judges to clear the backlog of cases and set up a Court of Appeal to ease the burden of the Federal Court (formerly Supreme Court).

Yet many Malaysians will remember the outgoing Chief Justice more for his role in the sordid Salleh Abas affair. Who can forget the ignominious circumstances under which Hamid Omar became the Head of the Judiciary after the tribunal he chaired recommended the sacking of Salleh, his predecessor, on rather dubious grounds, for alleged 'misbehaviour'?

It was a dark period in Malaysian history, indeed. With the independence of the Malaysian Judiciary seemingly compromised following the watershed events of 1988, Hamid Omar never gained the recognition of the Malaysian Bar, much less the respect of concerned Malaysians.

Ironically, towards the end of his term of office, Hamid Omar himself was dogged by allegations of impropriety, conflict of interest and the accumulation of excessive assets. The MP for Bukit Bintang, Wee Choo Keong, lodged three reports with the Anti-Corruption Agency, only for the Attorney-General to clear the Chief Justice of any wrongdoing on 2 July. Wee has since lodged two more reports with the ACA. (See page 39)

In last month's issue of *Aliran Monthly*, we took a look at the scathing criticism directed at the Judiciary, and Hamid in particular, by the Opposition in Parliament. In this issue, Law Minister Syed Hamid rallies to Hamid Omar's defence when replying to the points raised by the Opposition. (See page 35)