

ALIRAN

MONTHLY

Election Courts UNJUST



Election Courts are worse than the Election Commission!

Justice is not served when petitions are dismissed on technical grounds.

by *P Ramakrishnan*

Yes, the Election Courts are worse than the Election Commission! The recent disappointing decisions of the Election Courts have proved that there is no hope for parliamentary democracy even in the judiciary.

If the Barisan Nasional is a great let-down for democracy, the Election Commission is an even greater let-down for the electoral process. But shockingly, the Election Courts comparatively are far worse in that they cannot dispense justice to the aggrieved party even if there was a glaring injustice.

It is clear as daylight that the BN abused the electoral process by openly bribing voters through its many projects launched especially during the period leading up to the GE 13 (including the campaign period itself) by dishing out goodies and cash inducements to win over the voters. Billions of ringgit in cash or projects were dispensed freely giving an unfair disadvantage to the Oppo-



People lining up for post-election payouts off Jalan Sungai Dua (below) and in Pulau Betong (above) in Penang.



In our cover story, P Ramakrishnan says that Election Courts are worse than the Election Commission – they are not serving the cause of justice when petitions are dismissed on technical grounds. Charles Hector finds these case dismissals shocking – if cases are struck out on technicalities, then it just creates disaffection amongst those seeking justice, he says.

Victims of domestic violence are also crying out for justice and protection from further violence. Must they wait for someone to be beaten to death or set on fire before action is taken, asks Prema Devaraj. They are not the only ones. Migrant workers too are often denied justice when they complain about their working conditions. Rani Rasiah looks at how one employer presented evidence with ‘blanko’ at a Labour Department hearing!

The issue of trade justice looms large as negotiations for the Trans Pacific Partnership Agreement draw to a close. Ordinary Malaysians should take the TPPA seriously as it appears to be heavily weighted in favour of multinational corporations. Jeyakumar Devaraj analyses what’s at stake. At the international level, the coups and junta rule in Egypt must be condemned, says Tommy Thomas. Bonojit Hussain looks at another nation under military rule – Burma – and says it is time for the country’s pro-democracy movement to speak out against targeted attacks on Muslims there.

Finally, Francis Loh notes that Mahathir’s advice that laws should not be easily amended sounds a bit rich coming from someone with his undemocratic track record.

Aliran is an organisation for ‘social democratic reform’. We advocate freedom, justice and solidarity; comment critically on social issues, offer analysis and alternative ideas keeping in mind the national and global picture based on universal human rights and spiritual values. We are listed on the roster of the Economic and Social Council of the United Nations. Founded in 1977, Aliran welcomes all Malaysians above 21 to be members. Contact the Hon. Secretary or visit our webpage.

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candidates and supporters filed petitions in the specially set up Election Courts seeking the courts' assistance for justice. In an environment where everything is stacked against the ordinary citizens, courts are looked upon as dispensers of justice, the only hope for some remedy.

However, this hope was so cruelly dashed.

These litigants went to court fully believing that there were triable issues involved for the courts to take a serious look into the matter. But their petitions were dismissed - by what the lay person may perceive to be on flimsy procedural grounds.

Petitions dismissed on technical grounds

They were dismissed because they had failed to comply with several regulations in accordance with Rule 9 of the Election Petition Rules 1954 and for failing to satisfy regulation 15 of the Election Petition Rules 1954. In one instance, it was quoted that the petitioner had failed to serve the documents personally!

Justice is not served when the petitions are dismissed on technical grounds. It is preposterous that a litigant's right to justice should be dismissed because of the failings of his or her counsel. The lawyer concerned ought to know how to file a petition but if for some reason that petition is defective, why deprive the litigant from having the case heard?

Is it too difficult - isn't it in the inherent power of the court? - to order the petition to be put right

sition who were cash-strapped.

Electoral process perverted

Voters were given bonus slips with the promise of cash payments if their respective BN candidates were elected. In this manner, those aligned with the BN perverted the electoral process. And there was evidence that this was so because the Aliran team has evidence to prove that this happened. On 10-12 May, people who had queued up for payments at a shoplot off Jalan Sungai Dua in Penang told Aliran that cash was given out to those who came with the bonus slips. Payments ranged from RM120 to RM200. What was surprising was that this took place barely 100 metres from a police beat station. Conveniently, the police personnel were out on their 'ronda' at that time!

By all accounts, this was the dirtiest election ever. State apparatus was fully utilised to promote the BN cause. Money from the national coffers was lavishly used to influence voting patterns in favour of the BN.

The Election Commission, tasked with the duty to conduct free and fair elections, did not live up to that responsibility. It failed to maintain a clean and honest electoral roll to ensure fairness in the voting process. The indelible ink that was meant to be used to prevent fraudulent voting turned out to be a farce and a fiasco, thanks to the EC.

The EC never commented on the one-sided media coverage or the twisted lies and false propaganda trotted out by the electronic media. It maintained its incredible silence over the BN's excessive expenditure, sumptuous feasts with free-flowing beer, and cash hand-outs.

The election corruption was so rampant that it was not possible to overlook or entirely ignore this electoral offence. It is a fact that that this kind of inducement must have swung votes in favour of the BN, especially in rural and remote constituencies where poverty-stricken residents gratefully cast their votes for the BN.

It is because of these many wrongs that the losing Pakatan Rakyat

so that the substantive issues in the petition could be addressed by the court? Justice is not hinged on technicalities but on the question of right and wrong.

Forfeiting the litigants' right to be heard is a grave injustice. In doing so, isn't the court perpetuating a wrong and upholding an injustice? This is morally repulsive!

It is incredulous that the petitions for Machang and Selising constituencies were struck off apparently on grounds that could not be sustained. It is patently wrong to observe that the petitions were not personally served on the respondents by the petitioner himself. It is without merit.

Any judge before elevation to the bench must have been a practising lawyer. Surely, the judge must know that the filing of the case and the serving of documents to the respondents are entirely the responsibility of the lawyer's firm - not that of the petitioner.

In such a case where justice has



to be done to the litigant, the High Court should use its discretion by referring the matter to the Federal Court. This would allow real justice to be done to the petitioner and would be fair to the public.

Apart from this, the Election Courts have also awarded exorbitant costs to the respondents. The costs awarded ranged from RM30,000 to RM200,000! Many litigants who went to court in good faith would find these awards rather excessive.

Genuine concerns for free and fair elections

Ordinary voters who go to court out of a genuine concern for free and fair elections are not rich individuals. They are not in a position to fork out this kind of money for acting in the interest of society at large. In any case why award costs to the returning officer and the Election Commission?

Election corruption and fraudulent voting are serious issues that undermine free and fair elections. This must be addressed soberly, sincerely and honestly so that

such abuses can be curbed. For this, senior judges from the bench should be specially appointed to hear these petitions so that they can differentiate the chaff from the grain.

So far, the Election Court rulings have left many frustrated and disillusioned with the courts.

Let us be reminded by this observation that can only come through wisdom:

“The good judge will always endeavour to maintain that justice in his court must not only be done but must be seen to be done. The judge can be as impartial or unbiased as can be but if any party, especially the losing party, should leave his court with the impression that the trial was one-sided then justice has failed.” (Justice C H Chan, ‘Judging the judges’). ☐

P Ramakrishnan, a past president of Aliran, currently serves on the executive committee of Aliran.

Shocking dismissals of election petitions

If cases are struck out on technicalities, then it just creates disaffection amongst those trying to access justice

by Charles Hector

The manner in which the Malaysian judiciary is dealing with election petitions is shocking and disappointing. Election petitions, or any applications in court, should never be dismissed on technicalities.

If there are procedural non-compliance or other irregularities, courts must make the necessary orders/directions so that these may be remedied as soon as possible - and the courts can then hear the election petitions on the merits.

2) SUMMARY DISMISSALS OF ELECTION PETITIONS

We are greatly concerned with the spate of summary dismissals of the election petitions filed by Pakatan Rakyat candidates with regard to electoral fraud in the 13th general election.

To summarily dismiss these petitions purely on the so-called technical grounds and ignoring the fact that the issues raised in the petitions are matters of public interest which have a direct bearing on the conduct of free and fair elec-

tions.

Some of the technicalities raised can be considered frivolous. For example: the petitions for Machang and Selising were struck off on the basis purportedly that the petition was not served personally by the petitioner himself on the respondents. This is quite ridiculous when everyone understands that parties in court act through lawyers and do not go around trying to serve court documents themselves!

Judges are also saying that the facts stated in the petitions are not sufficient. However I am advised that provisions also exist in the election law for any party to apply for particulars and for the court to direct provision of such details. Surely this would be a better way to handle disputes when such important issues of election abuses are raised regardless by whom whether BN or PR."

- extract from press statement issued by Anwar Ibrahim on 29 July 2013

High costs

Are the Malaysian courts trying to deter Malaysians, especially

poorer Malaysians, from coming to court to seek justice, in this case through the filing of election petitions.

Remember, the ordinary citizen, who is a voter, also has the right to file an election petition - not just the losing candidates. See section 34 of the Election Offences Act 1954 - Who may present petition.

"An election petition may be presented to the High Court by any one or more of the following persons:

- (a) some person who voted or had a right to vote at the election to which the petition relates;
- (b) some person claiming to have had a right to be returned or elected at such election; or
- (c) some person alleging himself to have been a candidate at such election."

So when the petitioner is ordered to pay a very high cost, here not even after the full trial on the merits, but based on technical or procedural non-compliance, would that not deter people from coming to court for justice and thus resort to extrajudicial means?

Remember that, in 2009, a government study revealed that more than 30 per cent of Malaysian workers earned less than the poverty line income, and remember also that the minimum wage in Malaysia is only RM900 (RM800 for Sabah and Sarawak). Hence, these high cost orders are in effect shutting access to Malaysian courts for millions of Malaysians who are low- and middle-income earners.

I feel that when it comes to election petitions and public interest cases, *there should be no orders to pay cost, or even if cost is to be paid, it should not exceed a minimal sum of RM500.*

Remember, any petitioner would have already expended money in engaging a lawyer and in filing the case. We want people, everyone, including the poor, to have the real right to be able to access justice through the courts. So please stop ordering payment of excessive cost. *[Likewise, bail amounts should also be much lower taking into consideration the financial income of the accused person - it really should never exceed one month's income of the accused person]*

"The Election Court here today dismissed petitions by Pakatan Rakyat to challenge the results of a parliamentary seat and two state seats which were won by Barisan Nasional (BN) in the 13th General Election. They are Air Lanas and Kok Lanas state seats and Ketereh parliamentary seat. Judge Datuk John Louis O'hara also ordered the petitioners to pay a total of RM200,000 in cost to all the re-

spondents including to the Air Lanas assemblyman Datuk Seri Mustapa Mohamed. At the same court, O'hara also rejected BN's petitions against two Pas state seats - Mengkebang and Manik Urai and ordered the petitioners to pay RM60,000 in costs."

-New Starits Times, 23 July 2013, Six election petitions dismissed

"Meanwhile, in the capital, the High Court struck out an election petition for Setiawangsa filed by PKR candidate Ibrahim Yaacob on grounds that the petition was defective. Justice Zabariah Mohd Yusof, in her decision, said the petitioner failed to fulfil the mandatory requirements of the election law in filing the petition. She ordered costs of RM50,000 to be paid to the returning officer (RO) of the Setiawangsa constituency and the Election Commission (EC). Zabariah also ordered costs of RM20,000 to be paid to the first respondent, Ahmad Fauzi, who was also the Barisan Nasional candidate, reports Bernama."

- theSun Daily, 24 July 2013, Election petitions by PR, BN dismissed

"In PENANG, the High Court dismissed two petitions filed by PKR's Mohd Baktiar Wan Chik and Datuk Abdul Halim Hussain for both the Balik Pulau parliamentary and Teluk Bahang state seats respectively. Justice Hadariah Syed Ismail dismissed the petitions as both failed to comply with provisions under the Election Petition Rules 1954. Hadariah ordered Mohd Baktiar to pay costs of RM40,000 each to three respondents. The respondents are Balik Pulau MP Datuk Seri Dr Hilmi

Yahaya, the constituency RO and EC. She also ordered Abdul Halim to pay RM10,000 each in costs to BN Teluk Bahang assemblyman Datuk Shah Headan Ayoob Hussain Shah, the constituency RO and EC."

-_theSun Daily, 24 July 2013, Election petitions by PR, BN dismissed

"...The second trend is awarding high costs on the petitioners when their petitions are struck off. Petitioners have been ordered to pay as much as RM120,000 in the case of Balik Pulau.

I am informed by lawyers that such costs are not in line at all with the trend of costs awarded for similar civil litigation. For example, similar preliminary objections in the High Court will probably be awarded RM5,000 to RM10,000. Full appeals in the Court of Appeal are awarded RM15,000 to RM 20,000.

Such high costs are oppressive bearing in mind the public interest nature of the litigation and invites the inference that there is a decided policy to inflict punitive costs to discourage petitions. Judge Hadariah Syed Ismail handling Balik Pulau was heard to say that the RM30,000 costs that were awarded for the DUN Telok Bahang petition against the KEADILAN petitioner were not high enough and proceeded to award RM120,000..."

- extract from press statement issued by Anwar Ibrahim on 29 July 2013

Are the courts forgetting that their main duty is "to prevent injustice", and that "the court or a judge

shall have regard to the justice of the particular case and not only to the technical non-compliance of any of the rules...". Remember **section 42 Procedure and practice on election petitions of the Election Offences Act.**

(2) *When any matter is not expressly provided for in the Election Petition Rules 1954, the High Court Rules 1980 [P.U.(A) 50/1980] shall apply.*

Well, I believe that important matters like the inherent powers of the court, and how to deal with technical and procedural non-compliance may not be "expressly provided for in the Election Petition Rules", and hence the courts need to consider the Rules of the High Court 1980 - where clearly the principle is not to deny the applicant their day in court because of technical/procedural mistakes. Let the case be tried on the merits. The only time the court dismisses a case (in this an election petition) is when there is a 'substantial miscarriage of justice' - an extremely high standard which almost never will happen.

Order 92 Inherent powers of the Court. (O. 92 r. 4 Rules of the High Court 1980)

For the removal of doubts, it is hereby declared that nothing in these rules shall be deemed to limit or affect the inherent powers of the Court to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

Order 1A Court or judge shall have regard to justice. (Rules of the High Court 1980)

In administering any of the rules

herein the court or a judge shall have regard to the justice of the particular case and not only to the technical non-compliance of any of the rules herein.

Order 2 Effect of Non-Compliance.(Rules of the High Court 1980)

Rule 3. Preliminary objection for non-compliance of rules not allowed (O 2 r 3).

A court or judge shall not allow any preliminary objection by any party to any cause or matter or proceedings only on the ground of noncompliance of any of these Rules unless the court or judge is of the opinion that such non-compliance has occasioned a substantial miscarriage of justice.

Remember that these principles must be the guiding principles of all courts and judges, irrespective of whether there are rules or not.

People go to court so that their cases are heard on their merits. If cases are struck out on technicalities, then it just creates disaffection amongst those trying to access justice through the Malaysian courts.

Worse, these cases of procedural non-compliance are not the fault of the applicant/litigant but of lawyers and/or lack of clarity in the rules/procedures/format. In fact, courts should assist the people by reviewing applications filed, etc to see if there are any mistakes or non-compliance and by advising on what has to be done so that when the case is called up before the judge for hearing, it can promptly be heard on the merits and be decided.

Judicial commissioners?

Another concern is that whether it is judges or judicial commissioners hearing these election petitions.

It should not be judicial commissioners, who really are 'contract judges' or judges on probation, uncertain whether they will be even appointed as judges, who have the necessary protection to ensure independence.

The Prime Minister, a BN man and recently elected MP, plays a significant role still in determining whether a judicial commissioner is at a later date appointed as a judge or not. Hence 'independence' when it comes to election petitions is questionable. If they decide against the PM's party, would they be elevated or appointed as judges?

Whether they decide against the PM, his party, his BN coalition members, or their cronies may not be a factor even considered by the PM when it comes to appointing Judges - but still, reasonably, would it not operate in the mind of judicial commissioners when it comes to handling and deciding an election petition?

I have always felt we should get rid of judicial commissioners - and people should straight away be appointed as judges as was the practice before the Judicial Crisis of 1988. ☐

Charles Hector, an Aliran member, is a human rights lawyer based in Temerloh.

Protection from domestic violence: When will it be taken seriously?

Must we wait for someone else to be beaten to death or set on fire before action is taken, asks Prema Devaraj.

Lai Siew Fong, a 36-year-old mother of two, lies in the intensive care unit at Hospital Pulau Pinang, suffering 60 per cent burns on her body. She was set on fire allegedly by her husband who is now being sought by the police.

Apparently she had previously made several police reports about the violence in the marriage ('Peniaga kuih cedera parah dibakar suami', *mstar.com.my*, 25 June 2013).

Several weeks ago, 28-year-old Nurhidayah A Ghani, a mother of four, who was in the process of divorcing her husband after 11 years in a violent marriage, ended up a domestic violence fatality ('Mati dibelasah suami', *Mingguan Malaysia*, 18 June 2013). She too had made several police reports over the violence she faced in her marriage. Her husband and three others have since been charged with murder.

One has to ask what is the duty of government agencies and personnel tasked in the prevention of domestic violence and the protec-

tion of victims when police reports regarding the violence are made? Could Nurhidayah or Siew Fong have been better protected?

Malaysian law

In Malaysia, under the Domestic Violence Act 1994 (DVA) victims of domestic violence are meant to be able to get some form of protection under the law.

When abuse takes place, victims can lodge a police report and apply for an interim protection order (IPO). The alleged perpetrator is served with a copy of the IPO while investigations into the claims of domestic violence are carried out.

After the investigation, the IPO lapses and the alleged perpetrator is either charged or released. If



Outside the Penang police headquarters: Protest at poor protection against domestic violence



Activist handing over a memorandum to the police.

he is charged (with an offence under the Penal Code) and convicted, he may have to serve some jail time or pay a fine or he could be released on a bond of good behaviour.

The woman can then apply for a Protection Order (PO) with conditions attached to ensure her safety from further abuse. If the abuser breaches either the IPO or PO, he can be charged with a crime and put behind bars. Technically speaking, that is.

Reality on the ground

The Women's Centre for Change, Penang (WCC) works with victims of domestic violence on a regular basis. A current case involves a mother of two children who has to date made 14 police reports over a period of almost 10 years against her violent husband.

Despite two convictions (the first conviction resulted in the perpetrator being released on a two-year bond of good behaviour and the second conviction resulted in him paying a fine), this man is still free to stalk, harass and abuse his wife, who incidentally is trying to

divorce him. His latest threat is to splash acid on her. How will her story end?

The reality on the ground is that it is difficult to get protection despite the law in place. It would seem that many service providers tasked to help victims of domestic violence often do not seem to understand what domestic violence is about or the recurrent nature of the crime. It would appear that

- the difficulty of the victim in lodging report after report due to repeated incidents of violence
- the different forms of abuse of power and control exerted by the perpetrator
- the terror the victim lives under
- the impact on the children
- the protection needed by the victim which is available under the law
- the seriousness of the crime and so on, often go unrecognised or are not understood by many service providers including the courts, which have the power to lock a perpetrator up!

It is even harder for women who are poor or who have children or

elderly people who are dependent on them or who are financially dependent on their perpetrators or who live in rural areas where resources for such help are limited.

It is unclear whether agencies or their personnel involved in the protection of domestic violence victims are

- overwhelmed with their workload or
- are not sufficiently trained or
- are not interested in their area of work or worse,
- have little regard for victims of domestic violence.

Lack of enforcement a common problem

In an article in the UK Independent ('IoS Christmas Appeal: Silent shame of domestic violence in Britain', *The Independent*, 25 November 2012), the issue of poor enforcement of the law and the role of service providers in not providing adequate protection to victims of domestic violence was brought up when a victim was murdered by her husband.

It said, Earlier this month, a coroner ruled that "serious and significant failings" by the police, social services and the Crown Prosecution Service (CPS) "possibly contributed" to Ms Akhtar's death in September 2008 (see below for story). Every year, the Independent Police Complaints Commission (IPCC) investigations show forces making the same mistakes, repeating failings in the most basic police duties. Amerdeep Somal, the IPCC's commissioner in charge of gender abuse and domestic violence, apparently said: "Sadly, I have seen through my work that

[police] protection is not always provided. It is a great scar on our collective conscience when a woman's fears are not taken seriously and she is not given the protection that she deserves.

Sabina Akhtar's story:

Sabina a 26-year-old woman had warned the police that her husband, Malik Mannan, 36, was planning to kill her two months before he burst into their Manchester home and stabbed her through the heart. She explained to officers in graphic detail how Mannan had assaulted her 25 times, throttling her and saying: "One day I will kill you." But he was arrested and released without charge. After he repeatedly breached his bail conditions to threaten Ms Akhtar, she made a second terrified call to the police and he was re-arrested. Again he was questioned and released without charge. Four days later Ms Akhtar was dead..... *The Independent*, 25 November 2012

The frank appraisal of the IPCC police commissioner is something our local police, welfare officers and courts would do well to reflect upon. Time and again, complaints are made regarding poor enforcement of the law ('Concern over effective implementation of Domestic Violence Act', *The Star*, 27 December 2011).

So, what will it take for our coun-



try to have sufficient numbers of sensitised and trained service providers nationwide who are not only informed but also proactive about the domestic violence victims' safety and rights?

State duty to exercise due diligence in protecting women against violence

According to the police, about 3,488 cases of domestic violence were reported last year (apparently only the tip of the iceberg), but how many reports resulted in perpetrators being charged and convicted?

What happened to all those women whose reports did not result in action being taken against the perpetrator? What recourse to safety do they have? Must we wait for someone else to be beaten to

death or set on fire before action is taken?

It is the duty of the Malaysian government especially given national, regional and international commitments against violence against women, to exercise due diligence in the prevention of violence against women (VAW) including domestic violence, the protection of the victims, the punishment of perpetrators and the provision of just reparations to victims.

We ask simply this: if not now, then when? ♀

Dr Prema Devaraj, an executive committee member of Aliran, is also programme consultant with the Women's Centre for Change, Penang.

We are not afraid to entrust the people with unpleasant facts, foreign ideas, alien philosophies and competitive values. For a nation that is afraid to let the people judge the truth and falsehood in an open market is a nation that is afraid of the people.

~President Kennedy

A perverse understanding of human rights

Dr Ahmad Farouk Musa calls upon the government to stop the intimidation and persecution of Shias and to allow them to practise their faith.

We, at the Islamic Renaissance Front, were dismayed and horrified by the statement made by a Minister in the Prime Minister Department, Datuk Seri Jamil Khir Baharom that there was no violation of human rights in the banning of Shia teaching.

Coming from a minister of a government that holds a chair at the United Nation Human Rights Council, this statement is clearly inept and inane. It depicts a clear blunder in understanding the language of human rights.

Human rights are inalienable fundamental rights to which any human being is inherently entitled. And a very important value of our society is that all people have certain rights that are so important that they cannot be taken away.

For it is the duty of the government of the day to protect these rights and not to abuse it. Fundamental of these rights are freedom of thought, conscience and religion. As the preamble to the Universal Declaration of Human Rights clearly states, recognition of the

inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in this world.

Whereas disregard and contempt for human rights have resulted in barbarous acts, which have outraged the conscience of human-kind and the advent of a world in which human beings shall enjoy freedom of speech and belief, and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

From the perspective of the Qur'an, these rights came into existence when we did; they were created, as we were, by God in order that human potential could be actualised. No ruler or government could abolish the rights created and given by God. Eternal and immutable, they ought to be exercised since everything that God does is for a just purpose.

Hence the greatest guarantee of personal freedom for a Muslim lies in the Qur'anic decree that no one other than God can limit human freedom and that judgment as to what is right and what is

wrong rests with God alone.

The state has no business to dictate what people should believe in and which denomination they choose to subscribe to. Shias have lived side by side with Sunnis for thousand of years. Banning and outlawing a denomination that has been in existence since the early years of Islam only gives credence to the prevailing perception of the authoritarian nature of this government.

A substantial part of the Quran's message is towards freeing human beings from the bondage of authoritarianism, racism, sexism or anything else that inhibits human beings from actualising the Qur'anic vision of human destiny as embodied in the proclamation: "Towards Allah is thy limit". [An-Najm, 53: 42]

In the context of human rights to exercise religious freedom, it is pertinent to note that the Qur'anic dictum "There shall be no coercion in matters of faith" [Al Baqarah, 2: 256] applies not only to non-Muslims but also to Muslims. Therefore no Muslim should be coerced to embrace a mazhab



or denomination he or she does not believe in. This right to exercise free choice in matters of faith is unambiguously endorsed by the Qur'an.

Forcing Muslims to adhere to the teaching of Sunni Islam under the Shafii school basically negates the co-existence of other schools of thought in Islam that have been practised for ages. This is a clear assault on the percept of freedom of religion and an aggression against fundamental liberty.

It must be reiterated here that the Qur'an upholds the right of the human being not only to life but also to the good life of harmony and the development of his or her human capacities. The good life is only possible when a human being is living in a just society. And according to Qur'anic teach-

ing, justice is a prerequisite for peace, and peace is a prerequisite for human development.

A just society is a society that protects the basic fundamental rights including the right to the protection of one's holy places and spiritual centres. The repeated harassments of Shias in this country and the desecration of their hawzahs were uncivilised acts of state-sanctioned marauders that brazenly trampled on the dignity of other human beings.

The Islamic Renaissance Front therefore calls upon the government to stop such intimidation and persecution against the Shias, to allow them to practise their faith and to treat them as equals based on fundamental percepts of human rights.

We call upon the government of Malaysia as a member of the United Nations Human Rights Council that has pledged to uphold the highest standards in the promotion and protection of human rights to keep true to the supposed commitments. For we – Sunni and Shii – are all equally entitled to our human rights without any discrimination.

“A person is either your brother in faith, or your equal in humanity.” [Imam Ali Ibn Abi Talib] Q

Dr Ahmad Farouk Musa is chairman and director of the Islamic Renaissance Front.

Source: irfront.org

What holy month?

The voices of reason and compassion were given short shrift while shrill, hateful rhetoric was given free rein, laments Zaharom Nain.

E Every year we are told, certainly incessantly reminded, that it's a "*bulan mulia*", a holy month of reflection, much prayer, of being patient, and a month of respect and forgiveness.

Ramadan indeed is the month when Muslims flock to the mosques and *suraus*, especially at night, to bow their heads, prostrate even, in prayer and to seek forgiveness from the Almighty.

But, as we end this year's month of Ramadan, really, much of what we've seen around us these past four weeks has run contrary to all that.

It has been a hate-filled month, bringing to shame whatever claims we may have to being spiritual or god-fearing.

Forgiveness? Well, there certainly was very little of that. Sure, the two silly twerps, that attention-seeking couple, Alvin and Vivian, pulled yet another stupid caper that, at worst, was insensitive and probably insulted some thin-skinned Malaysian Muslims.

But looking back, surely it's the

height of obscenity for these thin-skinned creatures who claim to be *alim* (pious) and God-loving to then threaten them with violence, death even? And to have the full, repressive force of the state come crashing down on them – and Alvin's family – must smack of



gross overreaction?

But, no, instead of seeing their prank as a pathetic cry for attention, those of us who should know better went straight for their jugulars. All in the name of protecting a religion that has survived and grown all these centuries and, really, isn't in much need of 'protection' by a group of thugs and tyrants.

Little reflection

Reflection? Where was the reflection when the headmistress of the

secondary school in Taman Alam Megah, Shah Alam, told her students, in anger, to go back to China and India? And, when questioned, felt she was justified in doing so because she had apparently also told her Malay students to go back to Indonesia.

And where, indeed, was the reflection when, after he had directed the school's canteen to be relocated, however temporarily, to the school's changing room, another HM, this time the headmaster of SK Seri Pristana, Sungai Buloh, then tried to make it look all right by having a '*buka puasa*' PR session

there?

And there certainly was very little reflection on his part when he followed up his actions by taking photographs of his school kids, some say to intimidate them, and having his staff reportedly ostracising the poor kid whose mother had brought the case to light.

These are supposed to be our educators, for God's sake, people who are given the noble task, the responsibility, of educating our children. One shudders, wondering

where they picked up these nasty, vindictive and vicious traits – in school, in college, in one of our *menara gading*? Perhaps even, in their homes and wider community?

Well, there has certainly been no shortage of members and groups in the wider community seemingly egging them on.

Indeed, instead of providing sane suggestions to resolve the situation, some quarters, led by that loopy, loony group Perkasa, then urged the government to charge the person who had taken the photographs of the poor kids in the changing room with sedition.

That stupid, ugly word appears to have taken on a life of its own this past Ramadan. It's been sedition this, seditious that – one threat after another, principally from equally *bangang* politicians (one or two with local PhDs, mind you) indicating an inability to think and reflect and, perhaps, even more failure on the part of our public tertiary education system.

Punishment threatened

But, of course it hasn't ended there. The appointed (certainly not by us) authorities evidently were on something akin to a 'seek and destroy' mission. So, like brave religious warriors hell-bent on punishing 'sinners' in this month, they, wait for it, found four young women to vent their self-righteous fury on.

To prevent the women from participating in a silly beauty contest is one thing. But to then, as re-

ported widely, threaten them with punishment should they even attend the function, surely is the height of tyranny?

If the reports are indeed true – and there have been no rebuttal of these reports – what about the Muslim men who may have attended the function? Why were they not warned?

And, more importantly, under what law were they working on in issuing the warning, nay threat, to the four women not to attend the function even, as best as we can gather, as members of the audience?

And, sadly, the pattern continued until the end of the month, with some jerk uploading a three-year-old YouTube video of a caring animal lover and putting a nasty religious twist to it.

As a consequence, the dog trainer, Chetz/Maznah, has been slandered, threatened, vilified and certainly condemned by, presumably, God-loving Muslim Malaysians.

How God-loving creatures can, in turn, be absolute cretins, quick to judge and condemn, still escapes me.

That esteemed department, Jakim, has gone on to say that what she did is 'wrong' without seemingly seeing the need to explain to us all what is exactly wrong about her actions.

More, Jakim reportedly has threatened (there's that nasty word again) to order her to "explain the video or present herself before the authority".

If yours is a 'Department of Islamic Development' entrusted with the task of developing the religion, surely, in this day and age, you would need to provide information, advice and, perhaps most importantly, space and avenues for discussion?

Developing something requires exchanging ideas and opinions, wouldn't you say, rather than arrogantly issuing strictures and, yes, threats?

And it's not as though those ideas, different though they may be, have not been forthcoming. Indeed, one of the most interesting ripostes to the dogs-are-haram-and-unIslamic tirade was a truly lucid piece by Rusalina Idrus (*The Malaysian Insider*, 4 August 2013).

As far as I can gather, the authorities have not bothered to respond to her in an intelligent manner.

Indeed, what's been given short shrift in all this by the mainstream media have been the voices of reason and the voices of compassion. And what we've been presented with have been the shrill, hateful rhetoric of the loonies led by the likes of Perkasa.

And we call this the holy month? ☹

This piece was first published in Malaysiakini.

Prof Zaharom Nain, a long-time Aliran member, is a media analyst based in Kuala Lumpur.

Once we were beautiful

Art Harun recalls an age of innocence in the 1960s – but since then, years of political posturing using religion and race have now begun to show its ugly consequences.

I am blessed.

So are many of my friends who are of or around my age.

So are many who are older than me.

As a child of the 60s, I went through my formative years in an English-stream school. It was a big school in town.

And there were hundreds of us Malays, Chinese and Indian boys (it wasn't co-ed).

Our first headmaster was a Chinese gentleman who was as fierce as they came those days. When he left, he was replaced by an Indian gentleman, who also was as fierce.

My first class teacher was Ms Leong, all long haired and short skirted. And yes, armed with a wooden ruler, she would knock my knuckles for failing to properly write the number 8.

My first English sentence, learnt on the first day at school was to be uttered after raising my right hand, "Please, teacher, may I go out?"

That was to be said if any of us



had to go to the toilet to do the normal stuff we all do in the toilet (and not to eat).

Then there were Mr Linggam, Cikgu Aziz and wife, Sharom, Mr Lee the karate guy, Mr Khor, Cikgu Mutalib and various others.

We were a happy bunch. We played together, ate together, learned together and of course, at times, were punished together.

And we were equal. In Standard Five, I began fasting.

The school canteen stayed open for the whole month. No renovation. No closure. Muslim and non-Muslim kids, who did not fast, ate as usual.

If they bought a proper meal, such as nasi lemak or mee goreng, they would eat at the canteen.

If it was some kind of snack, they would just eat while walking around, in the class or wherever.

No fuss. No issue. No problem.

My impressionable years were spent in a boarding school. It was the same scenario.

All of us, regardless of race or religion studied together, ate together, played together and at times, got one or two 'rotan' together.

Visiting a non-Malay house was not a problem. Eating there was not a problem too. Sharing food

with non-Muslims was not an issue.

Things have, however, sadly changed. And changed for the worse. Nowadays, non-Muslims don't send their kids to national schools anymore.

They prefer to send the kids to the vernacular schools.

The ones who can afford would send their kids to private schools.

National schools are almost invariably filled with Muslim/Malay students.

National schools would recite prayers before class begins in the morning.

Quranic verses and hadith would adorn walls in the canteen, the school office and even classes.

Ustaz and ustazah would even ask school kids to raise their hands if their parents do not pray five times a day.

In secondary schools, the tudung is not compulsory for girls – according to the Ministry of Education's circular, if I am not mistaken – but girls without tudung would be viewed askance by schoolmates and teachers alike.

Due to the small number of non-Muslim/Malay kids in national schools, the Malay kids do not have the opportunity to mix around and integrate with non-Malays in their formative and impressionable years.

The small number of non-Malay kids also gives a sense of false

superiority complex to the Malay kids as well as the teachers.

Thus, my race and my religion are more important than you, your religion and everything else.

Hence the closure of the school canteen during Ramadhan.

This situation prevails in many national schools. Apparently, this is done to “respect” the Muslim students who are fasting.

Forget the fact that non-Muslims do not fast and they, like any other human beings or animals, have to eat and drink.

Forget the fact that there are Muslim kids who do not fast.

Anybody who just about mentions the word “food” would have been taken as insulting Islam.

On Facebook last week, there were two guys admonishing a hotel which advertised its breakfast package on its page.

They viewed it as disrespectful.

But to be fair, the two were widely condemned by other Muslim facebookers.

The eating-in-the-changing-room debacle yesterday is just the surface of a far healthier trend in Malaysia.

Beneath that surface is a society which is fractious, intolerant, selfish and uncompromising.

The obvious question is how did we, as a nation, become like this? As a nation we started so well.

The Federal Constitution was

agreed upon by consensus between three major races anchored to a give-and-take and win-win camaraderie.

There was a blemish in 1969 but that was quickly nipped in the bud and we soldiered on.

In football, we were in the Olympic final in 1972 and 1980.

By the law of progression, we should be in the World Cup by now. By contrast, Japan and Korea, whom we used to beat, were already in the quarter-finals of the World Cup.

We now struggle to beat the likes of Vietnam and even Singapore.

Like our football team, the state of our racial integration and inter-faith relationship has moved in reverse gear.

Years of political posturing using religion and race have now begun to show its ugly consequences.

The so-called Islamisation that we embark upon, which is shorn of any meaningful spiritual understanding of the religion but rather borne out of political necessities, convenience and mired in political one-upmanship, has now produced a nation which is unsure of itself and a people who are fractious, angry, suspicious and at odds with one another.

We need to take a real good look at ourselves and examine our ways. And we need to reboot our operating system if we want to avoid a total crash. And we need to reboot fast.

Source: *themalaysianinsider.com*

Shocker in court: Evidence with 'blanco'

Observers in court were stunned when an employer in a labour dispute with a migrant worker produced evidence with liquid paper marks on it. Rani Rasiah reports.

On 29 July 2013, the hearing continued in the Aye Cho versus New Zonic Enterprise labour case.

S Somahsundram of MTUC appeared for the worker and Yang Berhormat Thomas Su, lawyer and MP for Ipoh Timur, represented the boss.

Aye Cho had filed a case in early 2012 at the Labour Department in Ipoh against his employer for non-payment of overtime work, denial of annual leave and unlawful levy deductions. He and four other Myanmar workers had tried to raise these with the employer, who responded by sacking two of them on the spot.

On the 29th morning, Chan Lark Sye, the employer, his face expressionless as usual, sat in the dock. It was Soma's turn to cross-examine him.

Soma: How many days of annual leave did Aye Cho take in 2011?

Aye Cho had complained that he had been denied annual leave (AL) for his entire four and a half years of employment at New Zonic Enterprise, a printing com-

pany.

Boss: 14 days.

At an earlier hearing, Thomas Su had tendered photocopies of the clock cards for 2011 as exhibits to show that the company had indeed granted Aye Cho annual leave. Fourteen dates had been mentioned as Aye Cho's annual leave days in 2011, and these had been shown by Su to correspond with 14 blanks on the clock card copies.

For the 29th hearing, the original clock cards for 2011 were produced.

Soma: (referring to the original clock cards for 2011): Why has 'blanco' (liquid paper) been used for 16 and 17 April 2011?

Boss: I think, some other worker mistakenly punched the card.

Soma: What about 25 April 2011? Has blanco been used?

Boss: Yes.

Soma: Why?

Boss: I think same reason as on 16

and 17 April.

Soma: June 2011, 11 and 12 June. Was blanco used?

Boss: Yes.

Soma continued in the same manner, for the remainder of the 14 days, including 1 September 2011, where there were ink marks as well over the blanco. Fourteen days of annual leave appeared to have been created on paper by blanking out machine print marks with liquid paper.

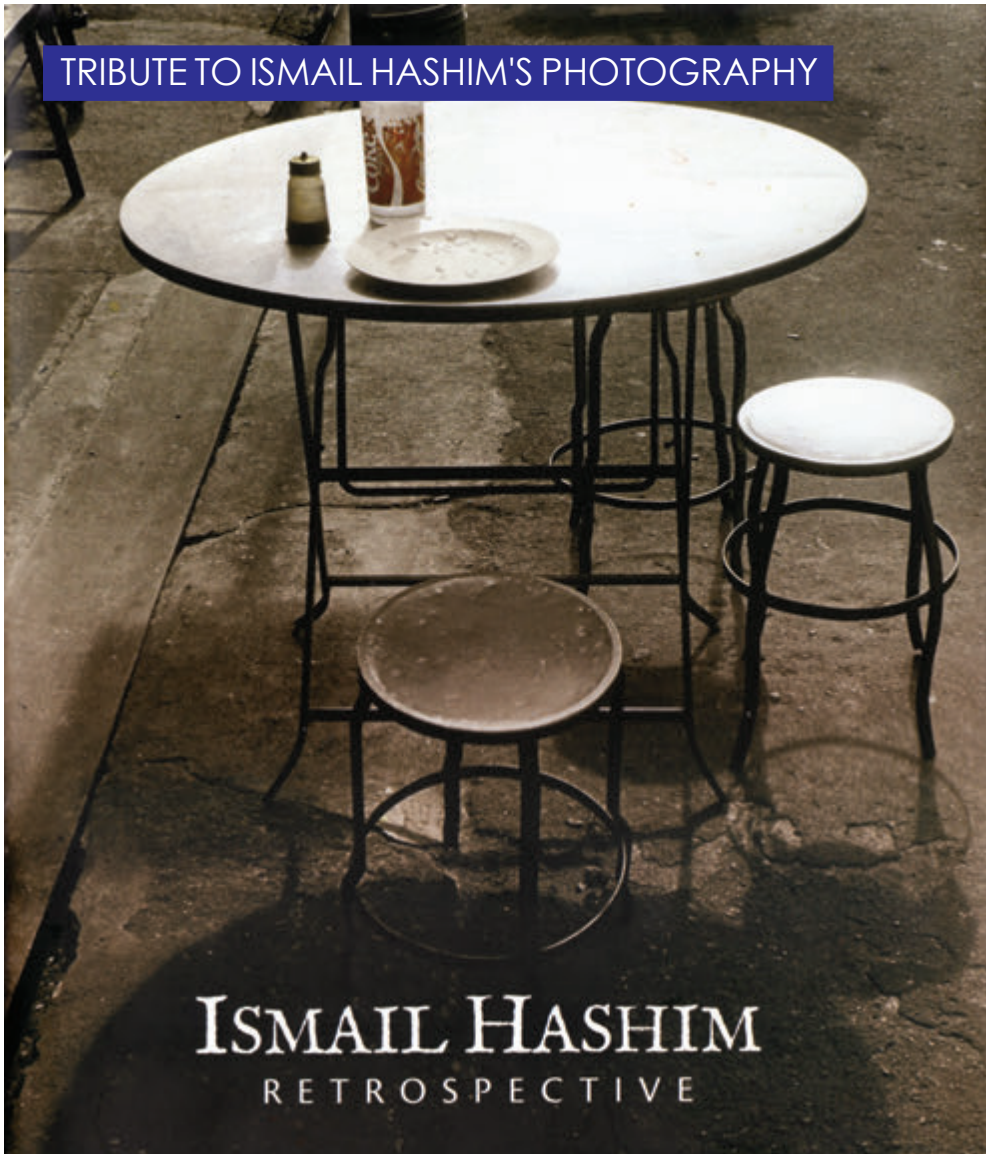
What a bold piece, I thought, of the employer to coolly produce such evidence before the court. No register of records of annual leave etc was produced to back up his claim.

Also, the cards had apparently been tampered to reflect two and a half hours less overtime every day to justify paying two and a half hours less than the actual overtime hours worked.

How should the various actors in this hearing react when faced with such evidence? We leave it

Continued on page 23

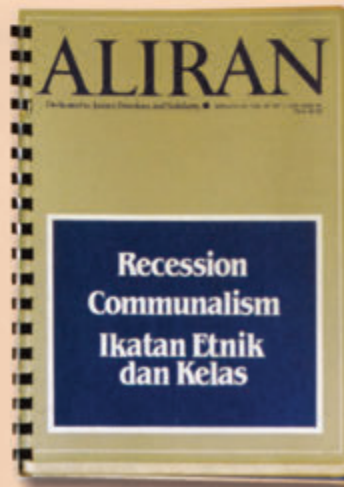
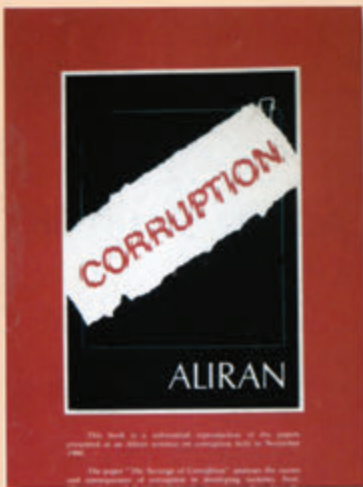
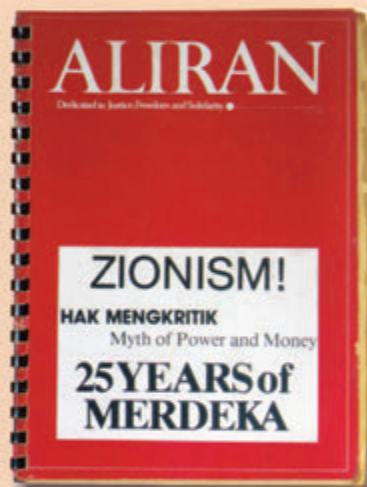
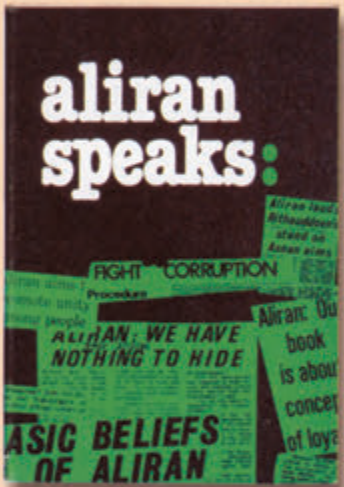
TRIBUTE TO ISMAIL HASHIM'S PHOTOGRAPHY



ISMAIL HASHIM
RETROSPECTIVE









to the wisdom of the court to decide.

Seeking justice in this instance is a desperate migrant worker, unexpectedly dismissed and unable to return home empty-handed to his family of six young children, wife and aged mother. With our help, Aye Cho had filed complaints in March 2012 at the labour department for monetary claims and the industrial relations department for reinstatement. The boss went on to unilaterally cancel his work permit, making the worker illegal and exposed to all the risks entailed.

It took five months before the cases were heard at the labour and industrial courts. During this entire period, Aye Cho remained 'illegal' not because he was naturally inclined to flout rules, but because the Immigration Department re-

fused to entertain his application for a pass to remain in the country. Their stand was that the dismissed worker should return to his home country and come back after the court dates were fixed. Clearly, the Immigration Department did not recognise the right to redress provided by the Employment Act, and was free to invalidate it.

Once court dates were given, Immigration issued the Special Pass for Aye Cho. It was not the end of his woes though. The Special Pass is issued at a charge of RM100 for a maximum of 30 days each time, and generally it is renewable only for three months.

The worst and most cruel thing about the Special Pass for people like Aye Cho is that it forbids the holder from working. The pass holder can remain in the country

to attend court hearings but he is not allowed to earn.

But there are essential expenses to meet – upkeep, legal fees and interpreter charges. In essence then, the sacked migrant worker has no choice but to return home without his grouses being heard and dealt with.

Malaysian laws related to redress belong to the era of slavery and all migrant workers are potential victims. Aye Cho is already victimised by such bad immigration policies. He shouldn't be doubly victimised by evidence with blanco. □

Rani Rasiah is an Aliran member based in Sungai Siput. She is also coordinator of the Oppressed People's Network (Jerit).



duce new laws like the National Harmony Act to replace the Emergency Ordinance and the Sedition Act. The government should think through more carefully its plan to change or replace the laws, he cautioned. It was because of such laws, he argued, that there prevailed harmony previously, that is, when he was still in charge.

Mahathir mudah lupa

Wow! The former PM does have a warped sense of harmonious living. But he, who once exclaimed 'Melayu mudah lupa', must now be accused of being very forgetful too! For it was under his charge that our Constitution and various Acts of Parliament were, time and again, amended. Worse, on almost all occasions, the amendments to the existing laws sought to make them even more coercive, closing up whatever loopholes there might have previously existed.

Consider for instance Dr Mahathir's assault on our laws in the aftermath of Operation Lalang in October 1987. The ISA was amended to deny habeas corpus. A new Printing Presses and Publications Act was introduced requiring that publications apply for new licences every year (instead of renewals of existing licences). A new Broadcasting Act was also introduced.

Earlier that decade, he had amended the Societies Act and the Official Secrets Act, on both occasions, obstructing our path to democracy.

The Federal Constitution was also not spared. Significantly, it was under his charge that the inher-

ent powers of the Judiciary were lost as a result of an amendment. Remember, Tun Salleh Abbas and several other judges were also removed in 1988.

Article 121.1A was amended. As a result of that amendment, the high courts have no jurisdiction "in respect of any matter within the jurisdiction of the syariah courts". And since there is no authoritative and impartial machinery for determining questions of conflict of jurisdiction, this move opened the floodgates – evident some 20 years later – to the ongoing disputes over the competing jurisdictions of the civil and syariah courts and the problems of custody of children after conversion, body-snatching, etc.

Election laws also changed

As well, it was under Dr Mahathir's watch that a set of amendments to our election laws were made in 2002. Following [Sec 9(A) of the Election (Amendment) Bill 2002], the electoral roll, once gazetted, is deemed final and can no longer be questioned or appealed against or reviewed, quashed or set aside by any court.

Yet another amendment to the same Election Act increased the compensation payable to any person aggrieved as a result of an objection made to the inclusion of his name on the electoral roll if it cannot be proven that the voter is a phantom one.

A third amendment increased the deposit required of contesting candidates, who also have to stump out an additional deposit

to ensure prompt removal of posters and other paraphernalia.

Apart from the above, Section 19 of the Election Offences Act was also amended to allow for higher spending limits.

A final amendment introduced a new Section 4A that makes it an offence to act or to make a statement that promotes feelings of ill-will, discontent or hostility in order to induce any elector or voter to vote or refrain from voting at an election or to procure the election of any person.

Apart from these, some sections of the Election Offences Act were also amended to put them in tandem with the amendments to the Election Act.

Earlier, also under Mahathir's watch, the Constitution (Amendment) (No 2) Act of 1984 removed the upper 10-year limit for constituency reviews. Consequently, reviews do not need to be conducted even after 10 years.

Instead, a new clause to Article 113 provides for the review of any affected area by the SPR whenever there is a change in the number of seats in parliament or any state assembly.

Significantly, the above clause absolves all such reviews from strict compliance with the principles of constituency delineation contained in the 13th Schedule of the Constitution. So, the clause provided Dr Mahathir's BN ruling coalition much flexibility in reviewing constituencies.

For apart from the SPR initiating

a review after, say, five years, the government of the day, if it has a two thirds majority, can change the number of seats in Parliament or the State and then require the SPR to conduct a review. And this can be done without adhering to the rules binding normal reviews. No doubt, this clause also allowed for the wide disparity in the population size of the constituencies that we see today.

Changes – for better or for worse?

Actually, the issue is not whether the Constitution and the laws are being amended or repealed arbitrarily by the Najib government. The forgetful former prime minister was always tampering with the law too, but perhaps with one difference.

Whereas the Najib government which claims itself to be a moderate one on the global stage has been forced to repeal some of the more repressive laws like the ISA in this era of Arab Spring, the Mahathir regime was always tampering with existing laws – to tighten the law and to roll back democracy. Not for no reason was he regarded as Mahafiraun!

A friend who sent me the Utusan Malaysia news item about Mahathir's criticism of the Najib government was not wrong when he observed that the former prime minister was probably cracking one of the greatest jokes of the decade!

Maybe Mahathir should not be mixing with Ibrahim Ali so much. q

Dr Francis Loh is president of Aliran.

When questioning becomes a crime

When questioning becomes a crime
What will our future be?
Will we be truly conscious?
What will we really see?

When questioning becomes a crime
Oppression is legitimised
The corrupt and overly righteous rejoice
Reason and morality skewed

When questioning becomes a crime
Compliance is demanded
Different opinions turned into insults
All discussions become one-sided

When questioning becomes a crime
Women's bodies are primary targets
Tightly controlled by regulations
Moving like puppets in confined spaces

When questioning becomes a crime
We suffocate slowly but surely
Creativity smothered by a forced silence
Thoughts ushered into cold storage

When questioning becomes a crime
The ground beneath us sinks
Our thoughts no longer ours to form
Our lives no longer ours to live

I will struggle against this captivity
The shutting down of the mind
The railroading of obedience and conformity
The narrowing of our spaces

I will struggle and resist as others do
For if we are to truly live,
Breathe, feel and believe
Learn, stumble and rise up again
Then question we must
And think, think, THINK!

*Prema Devaraj
5 August 2013*

TPPA: No use crying over spilt milk!

Ordinary Malaysians should take the Trans Pacific Partnership Agreement seriously – before it is signed, warns Jeyakumar Devaraj.

Malaysians from all walks of life should really take a close look at the TPPA (Trans Pacific Partnership Agreement) that is now close to completion.

The final round of multilateral negotiations is slated for 20 August in Brunei, and the word is out that it will be signed early next year.

The TPPA is a wide-reaching Trade and Investment agreement that touches almost the whole spectrum of economic life in the participating countries – 12 at the latest count, including the United States, Canada, Mexico, Australia, New Zealand, Chile, Japan, Brunei and Vietnam.

Let me point out some of the problems that would arise if we sign on to this Agreement.

Loss of food security

The US is pushing for the abolition of all import tariffs. At present we have import tariffs on certain foodstuffs – for example, under the WTO regime, we have the right to impose a 40 per cent tax on rice imports. This is important

to us as US rice can be sold at below the price of production of rice in Malaysia because the US gives generous subsidies to all its farmers including rice farmers. If cheap US rice floods the Malaysian market, many of the 300,000 rice farmers will go bust.

What is even more serious is that their paddy fields may be converted to housing projects and perhaps golf courses! We now produce 70 per cent of the rice we consume. This may go down if US rice imports are allowed in without tariffs. But when there is a shortage in the world supply of rice as occurred in 2007, then we will be in serious problems. This is why the US heavily subsidises its food producers – to maintain food security.

Price of medicines

FTAs between the US and other countries (there have been 21 signed so far) have driven up the price of medicines in these countries through a combination of measures including:

- lengthening the patent period from the present 20 years to 25 or even 30 years

- “evergreening”, whereby a second patent for 20 years is granted to a medicine because a new use of that medicine has been documented. If this second patent is issued on the 15th year of the first, then the effective patent period would go onto 35 years. As you know, the importation of a generic version of that medicine is illegal until the period of the patent expires.
- Measures to make the registration of generic medicine more difficult. The firms importing generic medicines are prohibited (by the TPPA) from using any information regarding that drug that has been published by the maker of the patented product. All that information is deemed to be the “property” of the patent holder. The term used is “data exclusivity”. That information can be only used if the patent holder gives permission – i.e. on payment of a huge royalty.
- Measures to limit the practice of “compulsory licensing” and “parallel imports”, which are measures allowed under the GATT Agreement to bring in patented drugs cheaply if there is an emergency need for those

medicines in the country.

Loss of regulatory powers and the right of companies to sue governments

The US is also pushing for “investor rights”, specifically something called the “expropriation clause”. The basic argument is that if the host country (Malaysia) expropriates the property of the foreign investor, the latter should have a right to receive reasonable compensation. This sounds fair doesn't it? The problem is that what actually constitutes “expropriation” is very loosely defined – even regulations that might reduce future profits can be termed “expropriation” and the government concerned can be sued.

There are provisions in the investments chapter that create the right for foreign companies to take the host government to an international court for “expropriating” them – Investor State Dispute Settlement (ISDS).

When Uruguay asked all the cigarette firms in the country to put pictures of cancers on their cigarette boxes, Philip Morris used an FTA provision to sue the government for hurting its cigarette sales and thus profits! Now Australia is being sued for a similar regulation regarding cigarette packs. There are several such cases in a number of countries. The argument that the regulation was passed to protect the health of the population does not seem to be strong enough!

Several countries have had to pay compensation of millions of dollars for passing regulations that have affected the profits of com-

panies that were having an adverse effect on the health of the people or on the environment of the host nation.

Liberalisation of the service sectors

The US is asking for 100 per cent liberalisation of all the services sub-sectors including health care, retail trade, accounting and education.

The US proposal, and one that they are lobbying hard for, is that any economic activities permitted for Malaysian companies should be allowed of US companies. This is termed “national treatment”.

This would mean, for example, that since Malaysia allows Managed Care Organisations (MCOs) to operate, US MCOs should be allowed to set up branches or even chains here. Since Malaysia allows privately owned supermarkets to operate, there should be no barriers for Walmart to come and set up branches here. There is specifically a provision that states that there should be no restriction on the volume of business permitted for the foreign service provider.

Sure, Walmart might be able to provide certain goods at a 10–20 per cent lower price. But that benefit would be greatly outweighed by damage done to small retail shops and to the pasar malam vendors. Many of them will suffer a loss in volume of sales and they might close up and join the under-employed.

The other negative impact is the amount of money in circulation in our local communities would be reduced by firms such as Walmart. The small grocery shop owner

and the pasar malam vendors live in the same community in which they sell their products. Most of the profit they make is ploughed back into the local economy through their consumption and their investment in their businesses. Not so with Walmart! Walmart's profits will be siphoned out of that locality, thus reducing the money circulating in that locality.

Up till now, all negotiations have been kept top secret. Even parliamentarians do not have a clue of the actual deals being made on our behalf. The US knows that the people would kick up a fuss if the details were known; so they have insisted on complete secrecy.

But given that the deal has almost been made isn't it time we the people start asking how these issues are being handled, what compromises have been made and exactly which of our rights have been traded away?

The TPPA has 29 chapters and there are several other issues that aren't quite beneficial to Malaysians. As Idris Jala said in his piece in The Star on 7 August 2013, in a negotiation you have to give in on certain issues. Are we prepared to be the group whose interests had to be sacrificed so that the interest of a more politically important group is preserved?

Ordinary Malaysians should take the TPPA seriously – and before it is signed. No use crying over spilt milk! q

Dr Jeyakumar Devaraj, an Aliran member, is the MP for Sungai Siput.

Coups and junta rule must be condemned

The Egyptian army is wholly responsible for causing the crisis in Egypt, and any junta rule, whether by puppets or directly, is doomed to fail, warns Tommy Thomas.

One of the fundamental principles which the participants in the Arab Spring fought for was the retreat of armies from political power, and their replacement by properly elected civilian leaders.

Egypt is a prime illustration. Since the coup d'état in 1952, which resulted in the overthrow of King Farouk by Colonel Nasser, the army has been in power for over 50 years until Mubarak resigned in March 2011.

Morsi was elected as the first non-military president in modern Egyptian history in June 2012, receiving 52 per cent of the popular vote. His was a four-year term, with the next elections scheduled under their new constitution in 2016.

However unpopular Morsi temporarily was — even the most popular president or prime minister suffers temporary periods of unpopularity, but often are re-elected — there is absolutely no justification for the army to carry out a coup d'état and replace him by force. The army's true role is in the barracks, and they should remain there permanently.

Post-World War II history is replete with nations securing independence from their colonial masters very quickly falling into the hands of their military. Asian countries emerging from British rule like Pakistan, Burma and Bangladesh have had lengthy spells of army rule.

Among our neighbours, the October 1965 coup which removed President Sukarno from office resulted in at least half a million deaths under General Suharto. Coups are so frequent in Thailand that the military has probably governed longer than civilian politicians.

Corruptly and plundered and misruled

Africa perhaps has the saddest tale. Whether it is Nigeria, Uganda, Congo, Ivory Coast or Libya, the “man on horseback” (to quote the title of a seminal book by a political scientist, Samuel Finer) has brutally and corruptly plundered and misruled. A new term “kleptocracy” was coined to describe the scale and magnitude of a typical African general's looting of his nation and the transfer of wealth to Swiss accounts.



Central and South America were not spared either. Almost every nation in these two regions was under brutal military rule, including the leading nations of Brazil and Argentina; in the latter, a “dirty war” conducted by the military included the throwing of thousands of dissidents who were still alive from planes and helicopters into the high seas.

The consequences of General Pinochet's murderous regime continue to haunt Chile, which, even after 40 years, has not fully recovered from the scars of army rule. Nixon, Kissinger and the CIA were all involved in the conspiracy to eliminate the democratically elected Chilean head, President Allende in 1973. Thereafter, the CIA organized “Operation Con-

dor” in the mid-1970s with right-wing national security agencies in Brazil, Argentina, Chile, Uruguay and Paraguay (the southern cone of South America) – which resulted in the death of some 60,000 civilians.

Military coups have also occurred in “civilised” Western Europe, which claimed it had proper democracies superior to Soviet-controlled satellite states in Eastern Europe. Yet, in 1966 the Army grabbed power in Greece — the cradle of democracy — and brutally repressed thousands of their citizenry.

Don't understand democracy

Hence, the universal record of military rule in the second half of the 20th century has been dismal: ultimately, the army just cannot govern.

This is hardly surprising: it is in the nature of the military, built on command, hierarchy and discipline. Generals and colonels do not understand democracy, the right to opposing views and civil liberty. One has to obey army command; refusal invites being shot at. It is as simple as that.

Further, the military has never come to grips with managing an economy and other pressing requirements of modern state governance. Once in power, they are most reluctant to depart. And even when they leave the political scene, they continue to play the role of ultimate arbiter.

Military rule inevitably breeds massive corruption, and the common person is always bullied and

intimidated. It has never proved to be for the public good.

One of the greatest blessings that Malaysia has enjoyed as a nation is civilian supremacy and control over our military. This is a hardly appreciated fact. Never once in our post-Merdeka history was there a real threat that the army would take over.

Even after May 13 (1969), the country was temporarily under the rule of the National Operations Council (NOC), which was always under the control of its director, Tun Razak and his civilian colleagues from the Alliance coalition. The army chief was just one member in the NOC, but in a clear minority.

Malaysians must count their blessings that the army knows its place in national life. Our military forces also seem to take seriously the fact that their Commander-in-Chief is the Yang diPertuan Agong, the Supreme Head of the nation.

Hand of the US?

Returning to Egypt, one can see the hand of the US military behind the army coup; after all, the two armies have enjoyed close relations for over 40 years under Sadat and Mubarak.

Ever since the Muslim Brotherhood formed the majority in Egypt, wider US geopolitical and strategic interests dictate, particularly with their paranoia of Islam after the Iranian Revolution of 1979 and the 9/11 attack in New York, that Egypt was no longer in “safe hands”. Hence, the lack of criticism by the US on the downfall of

Morsi.

Indeed, their media has characterised the change of regime as not being a coup or perhaps a “soft coup”. This is intellectual dishonesty and adds insult to injury. From Morsi’s perspective, he has been removed violently from an office to which he was democratically elected; that is a coup, by any definition.

Functioning or participatory democracy caters for both majority and minority interests. A true democracy accommodates wide divergence of interests in national life, and changes take place peacefully, and by consensus.

The great danger in Egypt is that the 52 per cent majority who have seen their democratically elected leader forcibly driven out of office may resort to violence. Civil war may be the outcome.

Parallels exist with Algeria, where an Islamic party had been victorious at the polls in 1992, only for the army to intervene, nullify the elections and take over the government. The result was civilian deaths by the thousands, with the nation still fractured.

Whenever peaceful change is impossible in a society, violent change becomes inevitable. The Egyptian army is wholly responsible for causing this crisis, and any junta rule, whether by puppets or directly, is doomed to fail. □

Tommy Thomas, a leading constitutional lawyer, is a long-time contributor to Aliran.

Burma: Lest we don't see, a genocide is in the making

It is time for Burma's pro-democracy movement to speak out against the targeted attacks on the Muslims in that country

by *Bonojit Hussain*

"We have to ask ourselves whether we may have over-romanticized its battles against the junta as a broader quest to bring pure, universal human rights to Burma, when in fact we had little evidence of a wholesale commitment to the principle of tolerance." - Francis Wade (Thailand based Journalist and a keen observer of developments in Burma) in the context of Burmese pro-democracy movement within and outside of Burma.

Since the summer of 2012 Burma has seen pogroms, massacres, riots of unprecedented scale against religious minorities, the latest being on the 30th April. A few hundreds have been killed and a few hundred thousands have been rendered homeless.

Much has been talked about how it is a ploy by the hardliners in the army and the post-reform government to stall further reforms. It might be true to a large extent, but the silence of the pro-democracy opposition is intriguing. While many from the "pro-democracy" camp has remained either silent

or ambivalent; many others have shown that they actually belong to the ranks of fundamentalist who, in the pretext of unfounded "sense of self-victimisation," are fomenting a near genocidal situation in the country.

The non-sectarian democratic forces within Burma would do a service to the country and to the world, if they can use their hard-earned moral authority to put a stop to the riots from turning into a full blown genocide. It is high time that all of us understand and recognise religious fundamentalism as a social reaction with fascist potentials and it must be un-

equivocally opposed and confronted.

Everyday incidents turn into riots

On 30 April, in a small town called Okkan, 100 kms away from Rangoon, a Muslim woman on a bicycle bumped into an 11 year old Buddhist monk who dropped his alms-bowl, damaging it. Soon a Buddhist mob gathered and went on a rampage killing at least one person and destroying several mosques and torching Muslim owned poultry farms and houses.

The authorities later detained 18 people allegedly involved in the riot, including the woman who was involved in the accident with the young monk, accusing her of deliberate and malicious acts that insult religion. Rangoon's Deputy Police Commissioner, Thet Lwin, while admitting that she had bumped on to monk by accident, told Reuters that "According to our practices, we need to send her for trial since she was involved in the root cause of the incident" and that it was up to court to decide her fate.

Since this latest incident of anti-Muslim riots, it has been reported that Muslim villages have erected bamboo fences around their villages and armed themselves with clubs and swords to protect themselves from possible attacks from the neighbouring Buddhist villages.

On 20 March, a Buddhist woman got into an altercation with the Muslim owner of a gold shop over the price of a gold hairpin in Meikhtila town of Mandalay Division. According to reports, during the altercation, the Buddhist woman was slapped by the shop owner and her husband thrashed by the staff working in the shop. Soon a mob gathered and started attacking Muslim-owned businesses nearly destroying most of them. That very evening four Muslim youth killed a Buddhist monk in an alleged act of revenge.

From the late evening of 20 March, much of the Muslim dominated wards of the town were engulfed in flames. In the following 5 days, a Buddhist mob led systematic pogrom against Muslims which spread to 15 other smaller towns resulting in numerous charred bodies, buildings and mosques. According to official report at least 43 people were killed and several hundreds injured. 13,000 people, in Meikhtila alone, have been forced into refugee camps guarded by paramilitary troopers.

This round of anti-Muslim riots in March and April are a bloody reprise of last year's massacre of Rohingya and Kaman Muslims in the western State of Rakhine

where, according to official estimates, 110 people were killed and 125,000 people were forced to flee to refugee camps.

State complicity

In the last week of April, the BBC released a video footage of Meikhtila riots in Central Burma where Buddhist monks in saffron robe can be seen leading the murderous mob while police stood by as onlookers. Various reports have also appeared that hints at State complicity, if not direct involvement, in the recent rounds of anti-Muslim riots.

In a report released on 22nd April, Human Rights Watch alleged that the security forces not only collaborated with Buddhist monks but also actively took part in killing Rohingya and Kaman Muslims in Rakhine State last summer. Further, the report pointed out that the massacre was well planned. And even before it started, for months the:



“... Political parties, monks' associations, and community groups issued numerous anti-Rohingya pamphlets and public statements. Most of the public

statements and pamphlets explicitly or implicitly deny the existence of the Rohingya ethnicity, demonise them, and call for their removal from the country, even sometimes using the phrase “ethnic cleansing.” The statements frequently were released in connection with organized meetings and in full view of local, state, and national authorities who raised no concerns.”

The government has denied that security forces indulged in killing Rohingyas and Kamans in Rakhine in 2012, it has also denied that security forces stood by while people were being butchered and buildings were being torched in the Meikhtila riots. Official communiqué has claimed that security forces were overpowered by mobs in terms of their sheer numbers. As has been questioned by various close observers, these claims defy logic that a security apparatus that has so ‘efficiently’ and brutally suppressed various widespread uprisings during the 40-year military dictatorship, suddenly lost their nerve to be able to control riots. Even though several dozens of people have been arrested for the Central Burma anti-Muslims riots of March and April, they have failed to convict the perpetrators, citing lack of evidence - except for three Muslims.

If the State machinery had the will they could have brought the violence under control without much loss of life and material. In fact senior army officers and government officials have been quoted on various occasions since last year expressing un-

founded fears that Muslims would force their religion on Buddhists and try to “steal” Buddhist women.

In reference to Rakhine, a senior minister is believed to have said that if “they” are not deterred, the western gate will break (an obvious reference to the border with Bangladesh), and that human rights don’t apply to Muslims. In an infamous episode, drawing comparison between the “dark brown” complexions of the Rohingyas with the “fair and soft” skin colour of the majority of Burmese population, the Burmese Consul General in Hong Kong, U Ye Myint Aung, wrote a letter to local newspapers and other Diplomatic Missions in which he described Rohingyas as “ugly as Ogres”.

Many liberal commentators from among the Burmese Diaspora have located the roots of the anti-Muslim riots in the challenges that the ruling elite face in the post-reform era. A US-based Burmese political scientist argues that “supporting anti-Muslim extremism could help encourage a multi-ethnic conservative alliance among Buddhists and establishment forces. The state media’s embrace of anti-Rohingya propaganda bolsters this idea, and has helped the violence to spread beyond its origin in Rakhine state”.

He elucidates, that in post-reform era where the army has lost some of its power, it faces a big challenge of re-consolidating by integrating former insurgent fighters from the Chin, Karen, Mon and Shan minorities into the forces, all of whom are mostly Buddhist but hold bitter grievances towards the

country’s majority ethnic Burmans.

Similarly, he opines, Burma’s top politicians (with ties to the older dictatorial regime) need to assemble a ruling coalition in the Parliament. But “unfortunately” for them, Aung San Suu Kyi’s NLD has stronghold in the Burman dominated area. So, creating a common Buddhist enemy, ie; the Muslims, is in the interest of both the army and the politicians (ex-military officers).

These explanations stand some ground, but remain unconvincing on many accounts. It doesn’t take into cognisance the fact that the history of post colonial Burma coincides with the history of the systematic persecution of Muslims. It fails to even mention the indirect and direct role played by various Buddhist monastic associations in the riots. And it absolves Aung San Suu Kyi, other pro-democracy activists and rights activists in Burma of any ethical responsibility.

A history of anti-Muslim riots

The history of anti-Muslim riots in modern Burma goes back to the colonial period, when, out of economic resentment, anti-Muslim (and largely anti-Indian) riots broke out in Rangoon in 1930 and 1938.

However, it was after the coup of 1962 that State-sponsored persecution of Muslims started. General Ne Win and the military junta that replaced him played the religious ultra-nationalist and racist card to manipulate the masses for the entirety of the dictatorial re-

gime. Muslims and other non-Buddhists were barred from the upper echelons of the army and, almost immediately after Ne Win’s coup, he expelled hundreds of thousands of Indians from the country. He also fostered a sense of a Burmese identity strongly linked to Buddhism, which has been the breeding ground for waves of anti-Muslim violence.

The military regime in Burma, since the early days of General Ne Win, has used xenophobic violence as a tool to bolster its own interests and legitimacy, apart from the 1967 anti-Chinese, it has mostly been anti-religious minority in character.

In 1978 Operation Dragon King was launched which resulted in more than 200,000 Rohingyas crossing over to Bangladesh as refugees; in 1982 Rohingyas were disenfranchised under the amended Citizenship Law.

In 1997, the regime, allegedly, used rising anti-Muslim sentiments and incited riots to deflect criticisms of the regime’s pro-China policy (and “State complicit” influx of Chinese nationals into upper Burma).

In 2001, the regime’s own mass front Union Solidarity and Mass Association was accused of inciting anti-Muslim riots in Taungoo.

Worsening situation in post-reform era

However, the authoritarian regime in Burma, was also capable of preventing and controlling riots if it was not necessary for its own advantage. A case in point is the 2003 riots which was brought

under control rather swiftly, and U Wirathu (by now an infamous hate spitting Buddhist abbot) was sentenced for 25 years and put behind bars for inciting anti-Muslim riots. (He was released in 2010 in the general amnesty that was granted to prisoners.)

Even though the recent anti-Muslim riots, as has been pointed out by liberal Burmese commentators, indicate a post-reform power struggle within the ruling elite – the hard-line and moderate forces in the Government, nobody has been able to convincingly establish that the riots were directly orchestrated by the government.

However, what is clear is that the recent riots started at a convenient time for the government. After the reforms undertaken by “reformist” President Thein Sein, public protests and strike action at factories have increased many fold. Under Myanmar’s previous military regime, public gatherings were forbidden, unions were outlawed and protesters were imprisoned.

In late 2012, Letpadaung region saw an eruption of massive protest against a controversial expansion of a copper mining project. More than 3,100 hectares of land had been confiscated to make way for the US\$1bn expansion of the copper mine run by Myanmar Wanbao Mining, a joint venture between the Myanmar military and a subsidiary of a weapons manufacturer, China North Industries (Norinco).

In November, 2012, security forces resorted to tear gas and smoke bombs to disperse the determined protesters who had surrounded the mines for months. For those

(in the corridors of power) who wanted to divert attention from the Letpadaung episode, the recent riots were a blessing.

But, what is new about the post-reform riots?

It is no longer simply a state-sponsored project. The State might still try to reap a harvest out of the riots, and its soldiers might even help the mob to kill the “enemy”, but the security forces is no longer in a position to dictate when, where and against whom the riots should take place.

Once the restrictions and censorship loosened in the post-reform period, the progeny of the seeds of xenophobia that was sown into the monasteries, schools and society at large for the benefit of the military regime has turned out to be beyond any authority’s control. The xenophobic campaign now is out in the public and is transnational in character, orchestrated openly on social media websites.

U Wirathu and the 969 campaign

The Human Rights Watch report gives detailed accounts of the role played by Buddhist monastic association in last year’s pogrom in Rakhine state. Various reports from affected areas in this year’s riots in Central Burma have detailed the leading role that monks are playing in the riot (which is



corroborated by the video released by BCC in late April).

Burma’s Buddhist monastic order, the Sangha, drew wide spread admiration from the international community for the peaceful democracy uprising against the military regime in 2007. But the same Sangha now finds its reputation put to question by reports of saffron-robed monks playing a lead role in the riots.

While the Sangha vouches by peace as a central tenet of Buddhism, their approaches to the recent riots have been less than consistent. Thitagu, a prominent abbot, in an interview with a Burmese magazine *Voice weekly* said that “In ethnically diverse Burma, members of different religions should live together like water flowing together”

But in the same interview Thitagu warned that “just like the Buddhist host has warmly welcomed other faiths into the country, the guests should strive to get along with the host. They should not trespass on the host’s goodwill and take over the home”.

However, in the centre of attention is U Wirathu, the abbot of Ma Soe Yein monastery in Mandalay, who

heads 25,000 monks in his monastery. U Wirathu, with much pride, has called himself the Bin Laden of Burma.

Early this year he launch the 969 campaign; and claims that the movement draws upon the nine attributes of Buddha, the six attributes of Buddha's teaching and nine attributes of the Sangha; hence 969. The campaign urges Buddhist not to transact with Muslims economically or socially and to demarcate their houses and properties from Muslims by putting up the emblem of "969". "969" stickers have made its way to numerous shops, taxis, buses and houses in several towns and cities.

Since the launch of the campaign, in U Wirathu's own words, the movement has reached far and wide with its formidable stronghold being in Rangoon, Mandalay, Moulmein and Sittwe. DVDs of U Wirathu's anti-Muslims vitriol are in widespread circulation, his anti-Muslim sermons on Youtube have been watched tens of thousands of times and there are thousands of followers on Facebook.

U Wirathu denies any direct involvement in the recent anti-Muslim riots. However, as for the case of the anti-Rohingya Muslim pogrom, various observers strongly believe that U Wirathu's anti-Muslim vitriol did play an important role in the recent riots.

Whither the pro-democracy Opposition?

One of the disappointing facts that has emerged during the Rakhine pogrom and recent riots in Cen-

tral Burma has been the clouded reaction of the pro-democracy opposition. Many, including Aung San Suu Kyi, has remained either silent or ambivalent.

Some other pro-democracy activists have even openly sided the fundamentalist elements responsible for the mayhem. Ko Ko Gyi, a prominent pro-democracy activist who spent years in jail for his lead role in 1988 student uprising, says that Rohingyas are terrorists and is infringing upon Burma's sovereignty.

Another pro-democracy activist and former political prisoner is quoted as stating that "if western nations really believed in human rights, they would take the Rohingyas from us".

Thousands of others from the Burmese diaspora in Australia, US, Canada, the UK and other European countries have jumped on to the bandwagon of hatemongering. Yet, many among them, are pro-democracy and human rights activists who escaped during the military regime as refugees to seek asylum in these countries.

Whither Aung San Suu Kyi

Aung San Suu Kyi, who is seen as an icon of peace and of the quest for democracy the world over, has maintained utmost silence on the anti-Muslim campaigns and killings. Instead of forthrightly condemning the pogrom against Rohingyas last summer, she commented on *Radio Free Asia* that people should restrain themselves and should not fight among themselves. This, by any standard, is a gross insult to the 110 dead and

125,000 displaced people. In regards to the recent riots in Central Burma, she has called for rule of law.

Talking to *The Week*, Veteran Swedish journalist and author of several books on Burma, Bertil Lintner points out that "If she condemned the attacks on Muslims many Buddhists - her main constituency - would turn against her. But if she says nothing, she'll lose credibility in the international community. She appears to have chosen the latter, and, consequently, criticism against her is growing among international human rights organisations and activists. From her point of view, that may be preferable to having domestic opinion, which is fiercely anti-Rohingya, turn against her."

U Wirathu, the hate-spitting Sayadaw (venerable teacher), in one of his anti-Muslim sermons, urges his followers to be patriotic and to think about long term outcomes and not be lured by shortterm gains.

The non-sectarian democratic voices within Burma urgently need to urge Aung San Suu Kyi to do the same and use her moral authority to put a stop to the riots from turning into a fullblown genocide, lest the country slides back into history by another 50 years. ☐

Bonojit Hussain is a New Delhi-based independent researcher, and an activist with New Socialist Initiative (NSI).



A record of Aliran's stand on current affairs.

**Alvivi, Ibrahim Ali and
Zulkifli Noordin:
forgiveness during
R a m a d a n**

Bloggers Alvin Tan and Vivian Lee are now being charged for publishing a 'seditious' photograph on Facebook of themselves eating *bak kut teh* with a Ramadan greeting and posting content that could possibly stir religious hostility.

People who hadn't heard of this couple before have also learned that they had also published obscene photographs of themselves in their blog – which has led to another charge against them, even though at the time of the posting of these photographs, no action was deemed necessary. If action had been taken then, it would not have led to this second escapade.

Their stupid and insensitive behaviour has been rightly condemned by both Muslims and others. The couple promptly published an apology as soon as the furore erupted. Whether they are

genuinely contrite or not, these recent developments have given them much publicity and attention – even if it is not the kind they might have been seeking.

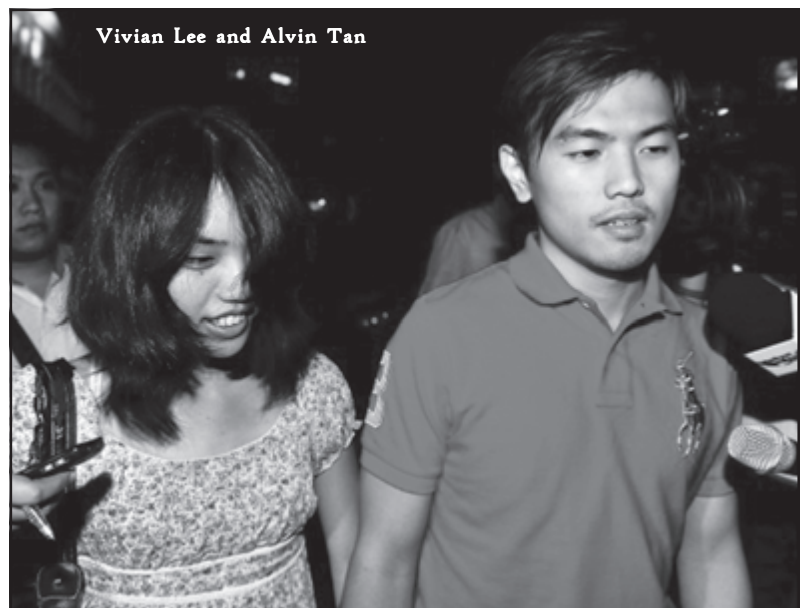
Unfortunately, the response from certain quarters went overboard, particularly the prosecutor's insistence that the couple be denied bail and sent to jail while waiting for trial – in stark contrast to other

cases of a serious nature where bail was allowed. They were only allowed bail today, eight days after they were jailed – and the injustice of it all was glaring.

While not condoning what the couple have done, we are appalled at the disproportionate response from some quarters – especially since the couple had apologised.

Considering that so many others who have denigrated other faiths – like Perkasa leader Ibrahim Ali who threatened to burn Bibles and Zulkifli Noordin who belittled Hinduism, for example – have not been charged for their belligerence, disrespect and utter lack of sensitivity, the guardians of our law have acted most unjustly and inconsistently. We note that Zulkifli apologised and no action was taken; his hurtful words were not held against him and he was fielded as a candidate for the general election – to the indignation of many.

In the spirit of the holy month of



Vivian Lee and Alvin Tan

Ramadan, we call upon all Malaysians especially those in power, to show compassion and forgiveness to this misguided couple as well as Ibrahim and Zulkifli and all others who have knowingly or unknowingly hurt the feelings of their fellow Malaysians, regardless of race and religion.

Let us learn to accept our plural society as Allah's gift. We should therefore learn to celebrate our differences and continue to live in and peace harmony. In the final analysis, we are all God's children after all.

*Aliran executive committee
25 July 2013*

Dictatorial and Arrogant

The Registrar of Societies is a civil servant. He is expected to be civil in the discharge of his duties and humble in his conduct. This is how rapport is cultivated with the people whom he is there to serve.

These virtues are totally lacking in the Registrar of Societies in addressing the issue involving the Democratic Action Party. He is

clearly acting as a dictator. His conduct is rather arrogant.

Why is it so difficult for him to be rational in this dispute? Why is he reluctant to be courteous in providing details that are expected of him?

When he ordered the re-election of the CEC, he is obliged to state under which rule he is acting. He is obliged to point out the rule that empowers him to take the action that he has.

He is obliged to state why he is rejecting the DAP's reply to his show cause letter. He has to explain why the DAP's clarification is not acceptable to him.

It is ludicrous for him to order a fresh election when he has been communicating with the Secretary-General of the party as a legitimate elected official of the DAP. He had even given his consent for the Secretary-General to sign the forms in that capacity authorising the DAP candidates to contest in the GE13. He had even written to the Secretary-General of the DAP consenting to the use of the party symbol, the Rocket, in the 13 GE.

His communication and dealings with the DAP had clearly established the fact that the ROS had indeed recognised the officials elected on 15 December 2012.

The DAP leaders had acted and taken decisions as duly elected officials of the party right up to this day. They were indeed permitted to do so simply because they have not been suspended as officials of the party.

Why can't the ROS accept the clarification provided by the DAP in good faith? They have explained that there was no intention to cheat in the party election and that there was a technical glitch which caused the problem. This had been verified by the findings of a firm of internationally recognised auditors the party commissioned to review the process. Is the ROS doubting the findings of this internationally recognised auditors?

Thinking Malaysians seem to be of the opinion that the ROS is under orders to go after the DAP. After GE13, the DAP has emerged as the second biggest political party in parliament. This is viewed as a great threat to the powers-that-be. And therefore it has to be targeted for destruction.

To dispel that there is no truth whatsoever to this notion, the ROS must desist from acting and harassing the DAP any further. He should in good faith and in good conscience accept their clarification and bring to a close this unhappy episode.

*P Ramakrishnan
Aliran Executive Committee
3 August 2013*



Election Courts not interested in justice

Malaysians are justifiably disappointed and disillusioned with the election courts. They are horrified with the decisions of the courts, which have failed to address the substantive issues in the litigation.

The litigants went to court to seek redress because the election was not free and fair. They were convinced that they were robbed of their victory through manipulation, cheating and fraud. These are the issues that should have been investigated by the Election Courts in order to arrive at a just decision. This is why they took their grievance to the Election Courts.

But the courts chose to turn a

blind eye to justice and perpetuated a wrong that was crying for a remedy. The courts have thus undermined the voters' confidence in these courts.

It is grossly unfair that the courts should dismiss these cases on technical grounds. They seem to be oblivious to the fact that justice is all about fairness – not technicalities. This important element in redressing a wrong cannot – and should not – be sacrificed on flimsy and unconvincing grounds.

All 19 cases thus far have been dismissed on procedural grounds. The petitions were rejected on the basis that the petitions had failed to comply with several regulations in accordance with Rule 9 of the Election Petition Rules 1954 and for failing to

satisfy regulation 15 of the Election Petition Rules 1954.

This is ridiculous. What about the substantive issues which caused these petitions to be filed in the first place?

Couldn't the Election Courts grant leave for the petitioners to rectify the procedural defects so that the court is able to render justice to these litigants? This is expected of a court that is concerned with justice and nothing else.

By dismissing their petitions outright on technical grounds, the Election Courts have unjustly sanctified these fraudulent election results. A wrong is strangely permitted to exist without remedy – with the sanction of the court. This is totally unacceptable.

To compound this issue, the courts have granted exorbitant costs. It appears these courts are punishing the petitioners for filing their cases. Aren't the courts supposed to be arbitrators in issues involving right and wrong? Then, why are these courts punishing these litigants?

There is a rumour in circulation that the courts have been instructed to dismiss all election petitions on technical grounds. Is there any truth to this rumour? Time will either confirm or debunk this rumour when all the petitions have been heard.

But, in the meantime, Malaysians are thoroughly appalled at the turn of events in our Election Courts.

*P Ramakrishnan
Aliran executive committee
1 August 2013*



Have you signed up for our new e-newsletter?

A sample of our weekly e-newsletter

Don't be influenced by those who want to divide-and-rule

Dear friends and members,

It is really sad that news making the headlines tends to be sensationalised and bent on creating greater division and animosity between Muslims and non-Muslims. For example, a video about a Muslim dog trainer (Maznah Yusuf) celebrating Hari Raya with her dogs was very quickly labelled as “a non-Muslim” insulting Islam. Although the video was uploaded three years ago it went viral very recently and the initial assumption foisted on the public was that the dog trainer featured in the video was a non-Muslim.

Then no less than the Deputy Prime Minister was quoted by *Bernama News* as having asked wondered aloud, why are “non-Muslims insulting our religion?” We are made to understand that *Bernama* has since removed the post but the damage has already been done. The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST) has come up with a statement denouncing the unwarranted accusations against all non-Muslims (see *Chronicle*, 2 August 2013).

Upon identifying the dog trainer, the police acted very swiftly and detained her for further investigations. Thankfully, she has since been released on a police bond. Meanwhile, several NGOs have come out to attack the video and interpreted it as being insulting to Islam. The President of the Malaysian Animal Welfare Society, however, thinks differently and commends Maznah for being a caring animal lover. Sheenaz urges the authorities to be clear and make a distinction between Islamic principles and Islamic prejudices (see Sheenaz Khan, 4 August 2013). Readers should read her article and then decide on the reasonableness of her arguments.

For a nostalgic look at what it was like growing up in the 1960s and going through the national school system, then we should read what Art Harun, 1 August 2013 wrote in “Once we were beautiful”. Many of us who are now in our 40s, 50s and older can relate to those wonderful times when religion and ethnicity hardly ever mattered in the development of social relationships. It has deteriorated significantly, and collectively, we need to examine just where we have gone wrong.

As you may be aware, Aliran Monthly will be reaching the end of its 33-year-long journey. We have six more issues left after which we will be going fully digital via our website and e-newsletters.

To continue being updated and informed via analyses and commentaries, do sign up for our e-newsletters, which will be sent to you via email.

We have a weekly e-newsletter that features commentaries and links to selected articles for the week. These free weekly e-newsletters are already being emailed to over 3000 subscribers and have received encouraging feedback. You can see a sample on the right.

In addition, we also have free daily updates informing our online subscribers about the latest posts on our website.

Do keep in touch! You can sign up for these e-newsletters by visiting our website aliran.com and submitting your email address.

Freedom of religion is a basic and fundamental human right. The Islamic Renaissance Front was shocked and horrified that a Minister in the Prime Minister's department could announce that there was no violation of human rights in the banning of Shia teaching. Dr Farouk points out that Shias and Sunnis have lived side by side for thousands of years. He also points out that the "greatest guarantee of personal freedom for a Muslim lies in the Quranic decree that no one other than God can limit human freedom and that judgment as to what is right and what is wrong rests with God alone" (see Dr Ahmad Farouk, 28 July 2013). Hence the

Shias may be a minority in Malaysia but their fundamental human right to practise their religion should be duly respected.

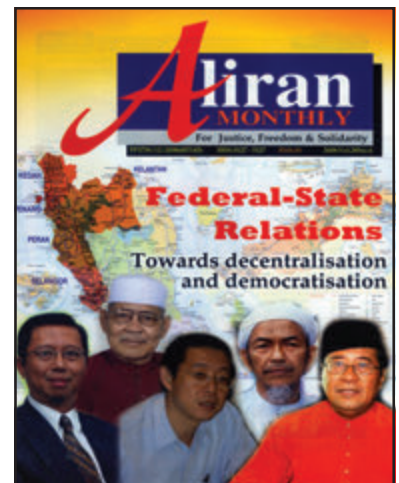
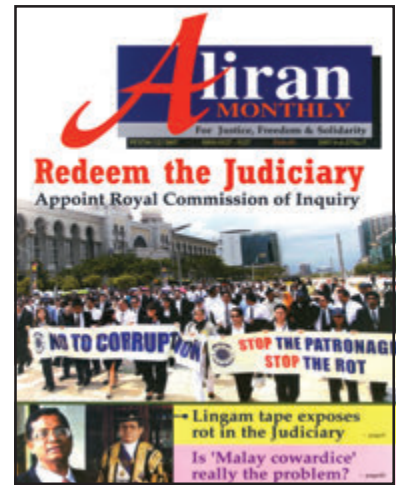
The Registrar of Societies has been taken to task for ordering the DAP to conduct fresh elections for the central executive committee (CEC) without giving any explanation as to why the reply of the DAP to the show-cause letter of the ROS was deemed unsatisfactory. He has also been urged to clarify under which rule he is ordering the re-election (see P Ramakrishnan, 3 August 2013) .

Social relations among members of different religions and ethnic groups in Malaysia today are far

from idyllic. Nonetheless, we can be optimistic that Malaysians are in general peace loving and respectful of each other's beliefs and value systems. Let us build on that strength. We really mustn't allow ourselves to be influenced by prejudicial and myopic views that tend to divide rather than unite us as Malaysians.

Aliran would like to take this opportunity to wish all Muslim readers, "Selamat Hari Raya Aidilfitri, Maaf Zahir dan Batin."

*Salam sejahtera,
Henry Loh
Co-editor,
Aliran E-newsletter*



'Jangan pinda undang-undang sesuka hati'!

Mahathir's advice that laws should not be easily amended sounds a bit rich coming from someone who did not hesitate to amend laws when he was in charge, observes Francis Loh.

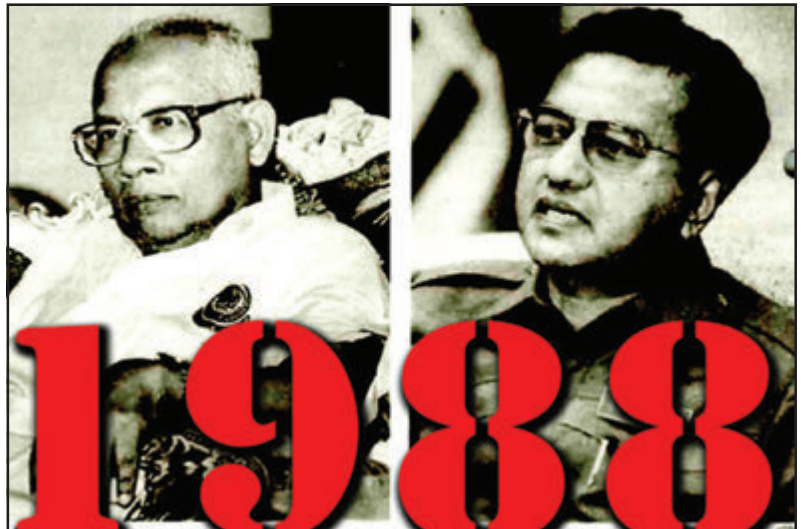
Former prime minister Tun Dr Mahathir advised the Najib government a few days ago that laws and acts which have been formulated and implemented should not be changed sewenang-wenangnya.

Doing so, because of pressure from one or another group, would only create trouble for the nation (*Utusan Malaysia*, 17 July 2013), he said.

Living in harmony?

The former prime minister opines that the rakyat were living peacefully and harmoniously, mutually respecting one another, because of the existence of these laws which also served as guidelines to good behaviour. However, things have changed because laws like the ISA have been repealed. Nowadays there are even groups, he claimed, that are prepared to insult Islam. This happens when there are no more laws, he stated.

The former PM was of course referring to the recent case of Alvivi, two young Chinese non-Muslims who had uploaded onto their website 'Selamat berbuka puasa' greetings to Muslims while they



were enjoying a meal of *bah kut teh*! Although they have posted their apologies for their stunt, theirs was a silly and insensitive posting which was rightly condemned.

But charging them with sedition and denying bail? That's a different matter altogether. Considering that so many others who have denigrated other non-Muslim religions – like Perkasa leader Ibrahim Ali's threat to burn bibles and Zulkifli Noordin's belittling of Hinduism, for example – have not been charged for their belligerence, disrespect and utter lack of sensitivity, the guardians of our

law have acted most unfairly and unjustly.

Did the former prime minister speak out on those occasions? Of course not. After all, isn't he the advisor to Perkasa? In fact, *Utusan Malaysia* reported that he had made the earlier mentioned remarks after he had had a closed door meeting with Perkasa president Ibrahim Ali.

In fact, the former PM also expressed concern over the Najib government's intention to intro-

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