

THE CURSE OF BEING AN INDIAN

I write this with a great deal of frustration for the inability of the Malaysian Society to see the true fact in the state of the Malaysian Indians on the basis of humanity. Hundreds of innocent Malaysian Indians who were merely exercising their legitimate rights under Article 10 of the Federal Constitution were arrested in the pre and post November 25th famous HINDRAF rally. They were immediately remanded in police custody under strict instructions by the ruling fascist UMNO led Government. It is an undoubted fact that the Inspector General of Police and the Attorney General took direct instructions from UMNO. Hence the long period of remand for HINDRAF protesters as compared to protesters related to other protests. WHY? The answer is simple. The **Indians** have to be taught a lesson. As far as UMNO is concerned the Indians have successfully been “silenced” for 50 years with the help of their crony the MIC. But what happened! Alas! If these are allowed the Indians would be made conscious of their basic rights – they would develop their courage further to demand for their basic rights - so the best is to hit them and to hit them hard. Place them on protracted remand period! That would do the magic.

However the magic did not materialise. The Indians could not be “contained” any longer. They rose to the call of HINDRAF to articulate their inner feelings of oppression suppression marginalisation and permanent colonization.

Then came the avalanche of criminal charges slapped on them. Illegal assembly, failure to disperse, criminal damage to property, and a range of “offences” allegedly committed.

The instant UMNO were made aware that I had left the country to lobby International support, more “magic formula’s” were formulated. Suddenly the Batu Caves devotees were rearrested and charged with attempted murder. Upon hearing the rearrest many devotees went into hiding which they rightly did for that was the only way to escape this oppressive police force and fascist Government. Those who were unlucky, 31 in total were slapped with another charge of “attempted murder”. WHY? Because UMNO had to satisfy their thirst of EGO to overcome the “insult” to their authority as “super masters of the Malaysian race” by the Indians.

Even then the civil societies and political parties claiming to champion Human Rights didn’t utter a word of objection. For the first time in history the Attorney General of Malaysia made a personal appearance in such a case to send a muscular and vibrant signal to the Indians that “watch out”. We are seriously going against you. WHY did the AG make a personal appearance??? To demonstrate to his UMNO masters he is doing the job for them!!! Everyone knew what was the motive of those Attempted murder charge but none dared speak!!!! WHY?

Lawyers M.Manoharan and P.Uthayakumar had emotional arguments in open court with the Presiding Judge and the Attorney General who objected to the

bail applications of the 31 on flimsy grounds that he had evidence that they had links to terrorist organisations. Those close to hundred who managed to squeeze into the courtroom would bear witness to what happened in the courtroom. Manoharan and Uthayakumar made their most emotional and poignant arguments in open court for they could no longer take the oppression of the state against the particularly targeted innocent Indians. The public who were in courtroom would testify the potency and fervour of those arguments of these two great Lawyers assisted by R.Kenghadaran. Malaysian Indians would never have in their lifetime seen such courageous arguments by Mano and Uthaya. A group of Bar Human Rights committee lawyers hastily walked out in protest of the manner Mano and Uthaya argued for their clients! WHY???? The answer is obvious- because the accused in the dock is not a human by the name of Anwar or Lim . **THEY WERE INDIANS!!!!!!**

Having denied all 31 bails including those sickly and needed medical attention UMNO was still not satisfied with their thirst. The Indians still need to be taught a lesson. What next “magic formula”. Arrest the Lawyers under the ISA and break up this new **freedom movement** from within their lock up in Kamunting. And to justify the arrests under the draconian ISA, bizarre allegations were made that HINDRAF and its leaders were linked to terrorist organisations particularly the LTTE. When challenged to a joint press conference for each party to prove and disprove those allegations the 4 Lawyers were immediately arrested under ISA within days. No need to hold the first 60 days enquiries!! Yes within days there was a break up within them and suddenly the “planted” guy made a startling police report of RM700,000 financial scandal against Uthaya and his family members.

Immediately after the ISA arrest the ferocious Attorney General decided to be magnanimous by withdrawing the attempted murder charge. His words in court was “it was the only fair thing to do- 31 people cant be charged with attempted murder of one policeman”. HOW CONVENIENT? WHY were they treated this way???? **BECAUSE THEY WERE INDIANS.**

Trial was fixed for the KLCC demonstrators (more than 51 persons) for 2 continuous week by the Judge. WHY 2 continuous week??? **Is it a priority case as per the Practise Directions from the Chief Justice???** It has to be- that’s the reason the Presiding Judge even forsaken the remand prisoners and Government Servant cases. So this was a priority case!!! What was the motive of the Presiding Judge???? To satisfy his UMNO masters!!!! Why did he do it so openly? **BECAUSE THEY WERE INDIANS.**

I beg you to imagine the predicament of these innocent human beings. Two weeks off their work? What do they say to their bosses? Many lost their jobs after the initial arrest. How do they justify their absence to their new bosses?

*“Hi boss, I’m terribly sorry. I exercised my fundamental right to assemble peacefully once in my lifetime on NOV 25th and I got my arse burnt. I’m sorry but please give me 2 weeks time off without remuneration to attend court to “defend myself” under the “**due process of Law**” !!!!!.*

What does he tell his wife “ *My darling forgive me, I attended the rally on NOV 25th for our future Indian generation and now you have to excuse my absence from the house for 2 weeks to enable me to attend court. By the way prepare the whole family to slash their meal next month as half my wages will be deducted for my absence from work. By the way from the following month onwards I’m jobless because my boss came to know I’m in trouble with the state for exercising my right under the Constitution!!!.*

To his children he says “*my dear children forgive your appa’s absence from home for the next 2 weeks. Appa have to face the “**due process of Law**” for exercising my right as a good citizen for you and your future generation. Please understand next month we may have to eat only porridge or boiled rice as I would be paid half and we wouldn’t afford normal healthy meal. We may have to survive with this longer as I have lost my job and most likely would end up in prison and we have to respect **the due process of law**”.*

The trial of the more than 50 accused kicked off for 2 continuous weeks. At the end of the 2 weeks, 27 were “compelled” by circumstances to plead guilty. The Judge on Wednesday told all the accused that he would fix the case for 2 continuous month beginning next Tuesday 23rd Sept 08. This sent shockwaves and arrhythmias to all the accused . Another 2 months in court!!!! What are to happen to their families? Jobs? Future? Loan repayments? Instalments? Hence the 27 were successfully stifled into pleading guilty.

So what was the rationale and urgency behind this **oppressive** form of trial!!!! After two continuous week of hearing they are slapped with another 2 months of continued hearing. I wonder was this attempt to “kick their arses” to plead guilty and get lost from the face of JUSTICE. What is the best method to stifle them to plead guilty!!! UMNO works out a “magic formula” again. Slap them with a 2 months trial, which would be “**a trial of their lifetime**”, that they and the whole Indian community would never forget.

27 courageous citizens decided to satisfy the thirst of UMNO by pleading guilty. They were slapped with a RM1000 fine. The remaining determined to fight for their innocence. But don’t you think it is an attempt by the Judge to stifle them into pleading guilty by fixing the trial to continue for 2 continuous month? They are bound to lose their jobs. They and their families are bound to starve countless days. How are they going to pay their monthly Housing loan repayment or house rental. Are their children going to have nourishing food? What would their children respond their friends when questioned about their fathers’ exercising their rights? What about the stigma on children that their father is a criminal that’s why he ended up in court. These are the serious question that not only the presiding judge should ask himself but by the entire judiciary, legal fraternity, civil societies and all those who love and cherish democracy and fairness.

I question myself why none choose to speak? Is it because **THEY ARE INDIANS???** Yes we are a weak society. We are politically weak. We are financially weak. We are economically weak. We are an “insignificant” society.

BUT WE ARE HUMAN BEINGS. WE BELIEVED THE PROVISIONS OF THE FEDERAL CONSTITUTION WOULD PROTECT US. WE BELIEVED MALAYSIANS ARE NOT RACIST AND WOULD COME TO OUR DEFENCE IN THE NAME OF DEMOCRACY.

We too deserve the Protection of the Law. We too deserve protection of the Federal Constitution. We too deserve protection of all civil societies. We too deserve protection of the Judges, legal fraternity. We too deserve the protection and support of all peace loving, democratic, fair and caring society that Malaysians truly are.

One can't keep mum forever as if we are a species that never exist. I beg you - all Judges, Lawyers, Human Rights Organisations, Civil Societies, fair minded citizens please explore the plight and predicament of these neglected community who form part of the democratic Malaysian society. They are human beings too. The entire society spoke when our 3 fellow citizens were arrested under ISA last week. The BAR immediately choose to hold an EGM to discuss the issue. All political parties and leaders spoke up vociferously.

But the 4 HINDRAF lawyers were left "orphaned" post December 13th 2007. Their fellow brothers and sisters did not bother initiating an EGM!!! No legal team was set up to protect their fellow brothers unlike the 50 strong legal team of the Bar announced last week. The great Malaysian who would be the **legal legend** Karpal Singh immediately volunteered to take up the matter pro bono for Mano and Ganapathi Rao for they were his brothers in the DAP. Poor Kenga his habeas corpus application was the last to be filed as it was suddenly realised days after that none acted for him and Karpal undertook the noble task eventually.

The 2 months fixed for continued hearing should be challenged at all costs. The Bar which provided legal aid to those accused should immediately issue a strong statement against these forms of "oppression" by the Court and take up the matter on a revision to the High Court. Nothing prevents any of the numerous High Court Judges sitting in the same precincts to call up the matter for revision in their Courts. The Amnesty International, which has an office in Malaysia, could issue a strong statement. The scores of Human Rights Organisations and Civil Societies could raise concerns. It would be fantastic if Respected individuals who have standing in the society speak up.

I mean no insult or disrespect to any who may be affected by this article. Forgive me for I could have erred. Let us speak up for this particular minority community in the spirit of Malaysians. I dread the thought of the consequence of the 2 months continued trial of these fellow Malaysians on their family and loved ones.

I beg you all Malaysians. **PLEASE SPEAK FOR THIS MINORITY INDIAN COMMUNITY. PLEASE SPEAK AGAINST THE INJUSTICES OF "DUE PROCESS OF LAW". PLEASE SPEAK UP FOR THOSE UNJUSTLY BEING PUT ON TRIAL FOR MORE THAN 2 MONTHS. PLEASE SPEAK UP FOR OUR LAWYERS INCARCERATED UNDER THE ISA. THEY ARE**

**HUMAN BEINGS WHO DESERVE RESPECT, DIGNITY AND EQUAL
PROTECTION OF THE CONSTITUTION.**

**P.WAYTHA MOORTHY
CHAIRMAN
HINDRAF**