

(VERSI BAHASA MALAYSIA DI AKHIR ARTIKEL INI)

1. When the Government gave ex-gratia payments to the judges involved in the Tun Salleh Abas removal as the Lord President of Malaysian courts, the question that needs to be answered is whether it is because of Government regrets over something that happened not during the period this Government was in power or is it because of a desperate attempt to win support after the disastrous results of the election of 2008.
2. Had the present Government felt regret, it should have paid ex-gratia payment (for want of a better term) upon achieving power. But obviously it only felt regret lately, after its brand new de facto Minister of Law, who incidentally was suspended for money politics, suggested the move in order to win the approval of the Bar Council.
3. But what was at the back of this political feeling of guilt by this Government. Was it because of the injustice done? Or was something unfair and unlawful committed by the previous Government.
4. Most people know about Tun Salleh's dismissal but few care to find out what really happened. Some believe that the action against Tun Salleh was because he had proposed a panel of 12 judges to hear the appeal against Judge Harun Hashim's findings that UMNO was an illegal organisation. Others believe it was because he was biased against UMNO in his judgements.
5. None of these is true. Tun Salleh had not been biased against the Government. He dismissed the application by Lim Kit Siang in the case involving UEM and the Government, for an interim injunction made by a lower court in a lengthy judgement made by him as President of the Supreme Court. In numerous other cases his judgement favoured the Government. As to the panel to hear the appeal against Judge Harun Hashim's findings, a bigger panel could actually be good for UMNO, which wanted nothing more than the validation of the election results making me President and Ghafar Baba Deputy President. Whether the panel rejects or approves Judge Harun's decision, UMNO and UMNO Baru would not be affected.
6. The truth is that the case against Tun Salleh was triggered by his letters to the Yang di Pertuan Agong which were considered by the Agong as being highly improper and insulting to him.
7. In his first letter Tun Salleh had written to DYMM YDP Agong complaining about the noise made during some repair work at the Agong's palace near Salleh's house.
8. This alone can be considered as very improper. A man as senior as he was could have asked to see the Agong and verbally informed him about the noise.
9. But to compound the act of les majesté he sent copies of his letter to the other rulers. This implied that he did not have faith in the Agong and wanted the other Rulers to apply pressure on him.

10. This was followed by another letter to DYMM YDP Agong complaining about the behaviour of the executive i.e. the Prime Minister. Copies of this letter were also sent to the other Rulers.

11. In this letter Tun Salleh said inter alia, "All of us (the judges) are disappointed with the various comments and accusations made by the Prime Minister against the judiciary not only outside but inside Parliament."

12. He went on to say in his letter "the accusations and comments have brought shame to all of us and left us mentally disturbed to the extent of being unable to discharge our functions orderly and properly."

13. He asserted that he and all the judges "do not like to reply to the accusations publicly because such action is not compatible with our position as judges under the Constitution And as such it is only proper for us to be patient in the interest of the nation."

14. This statement was obviously untrue as before the letter was sent, in a speech at the University of Malaya when he was receiving his honorary doctorate, he complained about "the judiciary being placed in the social service category" inferring that this was not in keeping with "the rule of law" and that the "priority of the courts should be altered so that freedom is guaranteed and work is not disturbed."

15. He went on to say "the officers of the public service (i.e. judges) do not have a lesser role and function to play than the roles played by the politicians."

16. Further he said, "This matter becomes aggravated if the rights involved in a decision made by an official are related to judicial matters because this will result in a very important question that is interference with the independence of the judiciary."

17. Again when making a speech at the launching of a book "Law, Justice and the Judiciary, Transnational Trends" Tun Salleh had said, among other things, "The vital constitutional principle is so settled that no question should really arise concerning the position of the judiciary under the Constitution. But recently this guardianship has been made an issue and our independence appears to be under some kind of threat." He added, "This is amply borne out by some of the comments made recently which embarrassed the judiciary a great deal. These remarks not only question our neutrality and independence but the very value of it as an institution Our responsibility of deciding the case without fear or favour does not mean that the court decision should be in favour of the Government all the time....."

18. "Apart from this," he continued, "the problem of maintaining judicial independence is further complicated by the fact that the judiciary is the weakest of all the three branches of the Government."

19. "What matters most in order to enable us to save the system from disastrous consequences is that we judges must act with responsibility and dignity and not be drawn or tempted into an impulsive action which could only result in aggravating the situation."

20. These two speeches were delivered on 1st August 1987 and 12th January 1988 respectively. But Tun Salleh's letter to the King was dated 26th March 1988. As I pointed out earlier it is not true that he did not speak about his accusations against the Government in public because he maintains that "such action is not compatible with our position as judges under the Constitution" and that "it is only proper for us to be patient in the interest of the nation."

21. All his statements in these two speeches clearly contain his criticisms of the Prime Minister and the Government long before he wrote his letter to the King.

22. Another point raised in his letter to the Agong is that "the accusations and comments have brought shame to all of us (judges) and left us mentally disturbed to the extent of being unable to discharge our functions orderly and properly."

23. In Section 125 of the Federal Constitution, under clause (3) the grounds for removing a judge, apart from misbehaviour include infirmity of body or mind or any other cause, properly to discharge the functions of his office."

24. By his own admission Tun Salleh was not able "to discharge his functions orderly and properly." He was therefore unfit to continue to be a judge.

25. Section 125, Clause 4 provides for "the Yang di Pertuan Agong to appoint a Tribunal and refer the representations to it, and may on the recommendation of the tribunal remove the judge from office."

26. The two letters from Tun Salleh were regarded by the Agong as being highly improper and insulting particularly the copies sent to the other Rulers.

27. During one of my weekly meetings with the Agong, DYMM expressed his annoyance over the letters and simply requested that I dismiss Tun Salleh Abas from being the Lord President of the Malaysian Courts. He writes in his own handwriting his request on the margin of Tun Salleh's first letter, regarding the noise made by the work on the Agong's residence.

28. To the Agong it was a simple matter. He had appointed the Lord President and therefore he was entitled to remove him. I thought it was best for me to inform Cabinet and seek the advice of the Attorney-General.

29. I must admit that Tun Salleh's complaints against me in his letter annoyed me. It is true that I had criticised the judges for interpreting the laws passed by Government not in accordance with the intention or objective of the laws. I did suggest that if the laws were interpreted differently from what the Government and the legislators intended, then we would amend the laws. During a cabinet meeting I had in jest quoted Shakespeare's words, "The first thing we do we hang the lawyers." Only a nitwit would think that I meant what I said literally. But apparently lawyers and judges took umbrage over what I said and regarded me as their enemy (about to hang them, I suppose).

30. I also criticised judges for making laws themselves through their interpretations

and subsequently citing these as their authority. I believed that the separation of powers meant the Legislators make laws and the judiciary apply them. Of course if the laws made by the legislators breach the provisions of the constitution, the supreme law of the land, then judges can reject them.

31. Again some judges simply refused to hear cases involving the death penalty, pushing these unfairly on to other judges.

32. It is the view of most jurists that “It is not wrong for any member of the public or the administration to criticise the judiciary. “Justice is not a cloistered virtue.” (Peter Aldridge Williams QC).

33. The above writer quoted McKenna J “There is no difference between the judge and the Common Man except that one administers the law and the other endures it.”

34. Yet Tun Salleh took the view that I was subverting the independence of the judiciary when I expressed views on how judges frustrated the objectives of the legislators.

35. Through the grapevine I heard of the judges’ displeasure with me. But I did not take any action, certainly not to remove Tun Salleh. I only acted after the Agong complained about the two letters.

36. The Cabinet agreed that we must adhere strictly to the provisions of the Constitution. I therefore advised the Agong that Tun Salleh could not be removed unless the Agong appoints a Tribunal to hear the complaints against him and make recommendations to the Agong.

37. Upon the Agong agreeing, the Government selected six judges and former judges for His Majesty to consider. The members included foreign judges in the person of the Honourable the Justice K.A.P. Ranasinghe, Chief Justice Democratic Socialist Republic of Sri Lanka and the Honourable Mr Justice T.S. Sinnathuray, Senior Judge of the Supreme Court of Singapore.

38. The Chairman was the Chief Judge (Malaya), Tan Sri Dato Abdul Hamid bin Hj Omar. The other members were Dato Sri Lee Hun Hoe, Chief Justice (Borneo), Tan Sri Abdul Aziz bin Zain, Retired Judge and Tan Sri Mohd Zahir bin Ismail, Retired Judge.

39. The inclusion of foreign judges was to make sure the Tribunal would not be biased.

40. It is unfortunate that Tun Salleh Abas refused to appear before the Tribunal. Instead he depended on his colleagues to try to prevent the findings of the Tribunal from reaching the Yang di Pertuan Agong.

41. What the five judges who were sympathetic to him did was certainly not in keeping with Tun Salleh’s expressed views in his talk during the launching of the book “Law, Justice and the Judiciary. Transnational Trend, “when he said “we as judges must act with responsibility and dignity and not be drawn or tempted into any

impulsive action which could only result in aggravating the situation.”

42. The five judges had ignored rules and procedures and the requirement to get the approval of the (Acting) Lord President, as well as wait for the findings by Mr Justice Ajaib Singh on the same matter. Instead they cancelled courts sittings in Kota Bahru which were scheduled for the judges, and held a sitting of the Supreme Court in Kuala Lumpur to hear an application by Tun Salleh Abbas for prohibition proceedings to determine his position.

43. The Supreme Court of five judges with Tan Sri Wan Sulaiman presiding heard an ex parte oral application by Tun Salleh’s lawyer, retired for a few minutes, returned and unanimously made an order for stay restraining the Tribunal from submitting any recommendations, report or advice respecting the enquiry to His Majesty the Yang di Pertuan Agong until further order.

44. Subsequently the Acting Lord President, set up a Supreme Court of five judges which negated the decision of the Wan Suleiman Court.

45. I would like to repeat that despite public criticisms made against me by Tun Salleh, I did not take any action against him. I only did so after he insulted the Agong and the Agong requested me to have him removed. Of course some would still say I influenced the Agong. But throughout my 22 years I had never involved the rulers in politics or my personal problems. The records are there for all to see.

46. I was very concerned over the forcible removal of Tun Salleh. And so I tried to get Tun Salleh to resign on his own so as to avoid a scandal. He agreed at first but he withdrew the following day.

47. I then went about getting the Tribunal approved and set up. Naturally I had to consult the Attorney-General and others who were familiar with judges. Once the Tribunal was set up my involvement ended.

48. When Tun Salleh and the other judges had their services terminated, they should not be paid their pensions. But following appeals by Attorney-General I agreed that they should be paid their full pensions. They therefore did not suffer any financial loss and their pensions were computed from the time they left.

49. These are the facts relating to the dismissal of Tun Salleh. It was he and his fellow judges who brought disrepute to the judiciary.

50. I write this to record things as they happened. I do not expect my detractors to stop saying that I destroyed the judiciary. They are my prosecutors and they are also my judges. To them I will always be the Idi Amin of Malaysia as claimed in Tun Salleh’s book “May Day for Justice”. Sadly many who so readily condemn me were judges.

KISAH TUN SALLEH

1. Apabila Kerajaan memberi bayaran ex-gratia kepada para hakim yang terlibat di dalam penyingkiran Tun Salleh Abas sebagai Ketua Hakim Mahkamah Malaysia, persoalan yang perlu dijawab ialah adakah ianya kerana Kerajaan kesal terhadap sesuatu yang berlaku di zaman sebelum Kerajaan ini berkuasa atau adakah ianya langkah terdesak untuk mengembalikan sokongan selepas keputusan buruk Pilihanraya Umum 2008.
2. Jika Kerajaan hari ini merasa kesal, bayaran ex-gratia (memandangkan tiada lagi perkataan yang lebih sesuai) sepatutnya dibuat selepas ianya mula berkuasa. Jelas sekali ia hanya merasa kesal baru-baru ini, selepas Menteri baru yang dipertanggungjawabkan ke atas hal-ehwal kehakiman (yang juga pernah digantung kerana penglibatan dalam politik wang) mencadangkannya sebagai langkah untuk memenangi hati Majlis Peguam.
3. Tetapi apakah yang menyebabkan perasaan kesal “politik” di pihak Kerajaan ini? Adakah kerana berlaku ketidakadilan? Atau adakah Kerajaan yang sebelumnya berlaku berat sebelah atau melanggar undang-undang?
4. Kebanyakan orang tahu tentang penyingkiran Tun Salleh tetapi tidak ramai yang mengambil berat tentang apa yang sebenarnya berlaku. Sesetengah pihak percaya yang tindakan terhadap Tun Salleh disebabkan cadangannya membentuk panel 12 hakim untuk mendengar rayuan terhadap keputusan Hakim Harun Hashim yang telah mendapati UMNO sebagai sebuah organisasi haram. Ada pihak lain yang percaya ianya kerana beliau tidak menyebelahi UMNO di dalam penghakimannya.
5. Tidak ada satu pun yang benar. Tun Salleh tidak berat sebelah terhadap Kerajaan. Dia telah menolak permohonan Lim Kit Siang di dalam kes yang melibatkan UEM dan Kerajaan, terhadap injunksi sementara yang dibuat mahkamah rendah di dalam keputusan penghakiman yang panjang yang dibuat olehnya sebagai Presiden Mahkamah Agong (sekarang Mahkamah Persekutuan). Di dalam kes-kes lain penghakiman beliau banyak berpihak kepada Kerajaan. Berkenaan dengan panel untuk mendengar rayuan terhadap keputusan Hakim Harun Hashim, panel yang lebih besar mungkin lebih baik bagi UMNO yang hanya mahukan pengesahan keputusan pemilihan yang akan menjadikan saya Presiden dan (Tun) Ghafar Baba Timbalan Presiden. Samada panel menolak atau menerima keputusan Hakim Harun, ianya tidak akan memberi kesan terhadap UMNO dan UMNO Baru.
6. Sebenarnya kes terhadap Tun Salleh tercetus kerana surat-suratnya kepada Yang di Pertuan Agong yang baginda anggap melanggar tatasusila serta menghina.
7. Di dalam surat pertamanya, Tun Salleh telah menulis kepada DYMM YDP Agong untuk mengadu berkenaan bunyi bising kerana kerja-kerja baikpulih di Istana YDP Agong yang terletak berdekatan dengan rumah Tun Salleh.
8. Ini sahaja boleh dianggap melanggar tatasusila. Seseorang yang begitu kanan kedudukannya boleh meminta izin untuk mengadap YDP Agong dan menyampaikan aduannya secara lisan.
9. Untuk memburukkan lagi perbuatan menghina Istana dia telah menghantar salinan

suratnya kepada Raja-Raja lain. Ini seolah-olah menunjukkan yang dia tidak punyai keyakinan terhadap YDP Agong dan menghendakkan Raja-Raja Melayu lain untuk mengadakan tekanan terhadap YDP Agong.

10. Ini kemudiannya disusuli dengan satu lagi surat kepada YDP Agong yang mengadu berkenaan tindak-tanduk eksekutif iaitu Perdana Menteri. Salinan surat ini juga telah dihantar kepada Raja-Raja.

11. Di dalam surat ini, Tun Salleh telah menyatakan antara lain; “All of us (the judges) are disappointed with the various comments and accusations made by the Prime Minister against the judiciary not only outside but inside Parliament.” [Kami (para hakim) kecewa dengan pelbagai kenyataan dan tuduhan yang dibuat Perdana Menteri terhadap badan kehakiman bukan sahaja di luar malahan di dalam Parlimen]

12. Dia seterusnya berkata di dalam suratnya “the accusations and comments have brought shame to all of us and left us mentally disturbed to the extent of being unable to discharge our functions orderly and properly.” [tuduhan-tuduhan dan kenyataan-kenyataan yang dibuat telah memalukan kami semua dan telah meninggalkan kesan kekacauan mental sehinggakan kami tidak dapat menjalankan tugas kami dengan tertib dan teratur].

13. Dia menegaskan yang dia dan para hakim semua “do not like to reply to the accusations publicly because such action is not compatible with our position as judges under the Constitution And as such it is only proper for us to be patient in the interest of the nation.” [tidak mahu membalas secara terbuka tuduhan kerana tindakan tersebut tidak bersesuaian dengan kedudukan kami sebagai hakim di bawah Perlembagaan... dan oleh itu adalah lebih baik kami bersabar demi kepentingan Negara].

14. Kenyataan ini nyata tidak benar kerana sebelum surat tersebut diutuskan, di dalam satu ucapan di Universiti Malaya di mana dia dianugerah ijazah doktor kehormat, dia telah merungut berkenaan “the judiciary being placed in the social service category” (badan kehakiman ditempatkan di bawah kategori perkhidmatan sosial) dengan membuat kesimpulan bahawa ini tidak bertepatan dengan “the rule of law” (kedaulatan undang-undang) dan oleh itu “priority of the courts should be altered so that freedom is guaranteed and work is not disturbed” (keutamaan mahkamah harus diperbetulkan agar kebebasan dijamin dan kerja tidak terganggu).

15. Dia seterusnya berkata “the officers of the public service (i.e. judges) do not have a lesser role and function to play than the roles played by the politicians” (pegawai perkhidmatan awam iaitu para hakim tidak memainkan peranan yang kurang pentingnya berbanding yang dimainkan ahli politik).

16. Beliau juga berkata, “This matter becomes aggravated if the rights involved in a decision made by an official are related to judicial matters because this will result in a very important question that is interference with the independence of the judiciary” (Keadaan ini diburukkan lagi jika hak yang terlibat dalam keputusan yang dibuat para pegawai adalah berkaitan soal penghakiman kerana ini akan menimbulkan soalan penting iaitu campur tangan dalam kebebasan kehakiman).

17. Sekali lagi apabila berucap semasa melancarkan buku "Law, Justice and the Judiciary, Transnational Trends" Tun Salleh berkata, antara lain, "The vital constitutional principle is so settled that no question should really arise concerning the position of the judiciary under the Constitution. But recently this guardianship has been made an issue and our independence appears to be under some kind of threat." (Prinsip Perlembagaan yang penting sudahpun termaktub oleh itu tidak timbul soal kedudukan kehakiman di bawah Perlembagaan. Tetapi baru-baru ini perlindungan ini telah menjadi satu isu dan kebebasan kita ternampak seolah-olah sedang dicabar) Beliau menambah, "This is amply borne out by some of the comments made recently which embarrassed the judiciary a great deal. These remarks not only question our neutrality and independence but the very value of it as an institution Our responsibility of deciding the case without fear or favour does not mean that the court decision should be in favour of the Government all the time....." (Ini terhasil daripada sesetengah kenyataan yang dibuat baru-baru ini yang telah benar-benar memalukan badan kehakiman. Kenyataan tersebut bukan sahaja mempersoalkan keberkecualian dan kebebasan kita, tetapi juga nilai badan kehakiman sebagai sebuah institusi... tidak semestinya keputusan mahkamah harus sentiasa menyebelahi Kerajaan)

18. Selain itu beliau menyambung, "the problem of maintaining judicial independence is further complicated by the fact that the judiciary is the weakest of all the three branches of the Government." (Masalah mengekalkan kebebasan kehakiman dibuat lebih rumit kerana badan kehakiman adalah yang paling lemah diantara ketiga-tiga cabang Kerajaan).

19. "What matters most in order to enable us to save the system from disastrous consequences is that we judges must act with responsibility and dignity and not be drawn or tempted into an impulsive action which could only result in aggravating the situation." (Apa yang penting untuk menyelamatkan system ini daripada malapetaka ialah kita para hakim mesti bertindak dengan penuh tanggungjawab dan hormat dan tidak dipengaruhi tindakan gelojoh yang mungkin akan memburukkan lagi keadaan)

20. Kedua-dua ucapan tersebut disampaikan pada 1hb Ogos 1987 dan 12hb Januari 1988. Tetapi surat Tun Salleh kepada YDP Agong bertarikh 26hb Mac 1988. Seperti yang saya nyatakan tadi adalah tidak benar beliau tidak bercakap berkenaan tuduhannya terhadap Kerajaan di hadapan khalayak ramai hanya kerana dia mempertahankan yang "tindakan tersebut tidak bersesuaian dengan kedudukan kami sebagai hakim di bawah Perlembagaan" dan "oleh itu adalah lebih baik kami bersabar demi kepentingan Negara".

21. Semua kenyataannya di dalam dua ucapan yang disampaikan jelas mengandungi kecamannya terhadap Perdana Menteri dan Kerajaan, jauh lebih lama sebelum dianya menulis surat kepada YDP Agong.

22. Satu lagi perkara yang dibangkitkan di dalam suratnya kepada YDP Agong ialah "the accusations and comments have brought shame to all of us (judges) and left us mentally disturbed to the extent of being unable to discharge our functions orderly and properly." [tuduhan-tuduhan dan kenyataan-kenyataan yang dibuat telah memalukan kami dan telah meninggalkan kesan kekacauan mental sehinggakan kami tidak dapat menjalankan tugas kami dengan tertib dan teratur].

23. Di bawah Seksyen 125 Perlembagaan Persekutuan, klausa (3) peruntukan untuk memecat hakim, selain daripada salah laku termasuk ketidakupayaan tubuh badan atau pemikiran atau lain lain sebab, untuk menjalankan tugas-tugas jawatan dengan saksama.

24. Tun Salleh sendiri mengakui yang beliau tidak terdaya untuk melakukan tugas-tugasnya dengan teratur dan tertib. Oleh itu beliau tidak layak untuk terus menjadi hakim.

25. Seksyen 125, klausa 4 memperuntukkan kuasa YDP Agong melantik Tribunal dan boleh atas nasihat Tribunal menyingkirkan hakim daripada kedudukannya.

26. Kedua-dua surat daripada Tun Salleh dianggap YDP Agong sebagai tidak sesuai dan menghina terutamanya kerana salinannya dihantar kepada Raja-Raja Melayu lain.

27. Di dalam salah satu daripada mesyuarat mingguan saya dengan YDP Agong, baginda telah menyatakan ketidakpuasan hatinya terhadap surat-surat tersebut dan telah meminta saya menyingkir Tun Salleh Abas daripada jawatan Ketua Hakim Negara. Baginda telah menulis sendiri permintaan baginda di ruangan tepi (margin) surat pertama Tun Salleh berkenaan dengan bunyi bising daripada kerja-kerja yang sedang dijalankan di kediaman YDP Agong.

28. Bagi YDP Agong ianya adalah perkara mudah. Baginda yang melantik Ketua Hakim dan mempunyai hak untuk menyingkirkan beliau. Saya fikir adalah lebih baik bagi saya merujuk perkara ini ke Kabinet dan nasihat Peguam Negara didapati.

29. Saya mengaku rungutan Tun Salleh terhadap saya di dalam suratnya juga menimbulkan ketidakpuasan hati saya. Adalah benar yang saya telah mengkritik hakim-hakim kerana mentafsir undang-undang yang dilulus Kerajaan yang tidak menepati matlamat atau objektif undang-undang itu. Saya ada mencadangkan bahawa jika undang-undang yang ditafsirkan berlainan lain daripada matlamat asal sepertimana yang Kerajaan dan penggubal undang-undang harapkan, maka undang-undang tersebut akan dipinda. Di dalam satu mesyuarat Kabinet saya berseloroh dengan memetik kata-kata Shakespeare, "The first thing we do we hang the lawyers." (Pertama sekali kita gantung semua peguam). Hanya orang yang dungu sahaja akan mengambil bulat-bulat apa yang saya katakan. Tetapi rupa-rupanya para peguam dan hakim telah merasa tersinggung akan apa yang saya kata dan telah menganggap saya sebagai musuh mereka (yang akan menggantung mereka agaknya!).

30. Saya juga telah mengkritik hakim kerana menggubal undang-undang sendiri menerusi tafsiran mereka dan kemudiannya menggubal tafsiran mereka untuk rujukan. Saya percaya pemisahan kuasa bermakna penggubal undang-undang akan menggubal undang-undang manakala hakim akan menggunakan undang-undang tersebut. Sudah tentu jika undang-undang digubal melanggar peruntukan perlembagaan, yang merupakan undang-undang tertinggi Negara, maka hakim bolehlah menolaknya.

31. Didapati juga sesetengah hakim menolak membicarakan kes-kes melibatkan hukuman mati, dan diserahkan secara tidak adil kepada hakim-hakim lain.

32. Kebanyakan pakar undang-undang berpendapat “It is not wrong for any member of the public or the administration to criticise the judiciary. Justice is not a cloistered virtue.” (Tidak salah bagi sesiapa samada dianya orang awam atau ahli pentadbiran untuk mengkritik kehakiman. Keadilan bukan kesucian yang terkurung) - Peter Aldridge Williams QC
33. Penulis di atas juga telah memetik McKenna J “There is no difference between the judge and the Common Man except that one administers the law and the other endures it” (Tidak ada perbezaan di antara hakim dan orang ramai kecuali yang satu mentadbir undang-undang dan yang satu lagi menerima kesannya).
34. Tetapi Tun Salleh berpendapat bahawa saya cuba menghakis kebebasan kehakiman apabila saya menyatakan pandangan saya bagaimana hakim mengecewakan matlamat asal penggubal undang-undang.
35. Menerusi pelbagai sumber saya dengar akan kemarahan hakim-hakim terhadap saya. Tetapi saya tidak mengambil apa-apa tindakan, jauh sekali untuk menyingkir Tun Salleh. Saya hanya bertindak apabila YDP Agong menyatakan rasa tidak puas hati berkenaan dua surat tersebut.
36. Kabinet bersetuju yang peruntukan perlembagaan haruslah dipatuhi. Oleh itu saya telahpun menasihatkan YDP Agong bahawa Tun Salleh hanya boleh disingkir jika YDP Agong melantik Tribunal untuk mendengar segala rungutan terhadapnya (Tun Salleh) dan membuat cadangan kepada YDP Agong.
37. Selepas YDP Agong bersetuju, Kerajaan memilih enam hakim dan bekas hakim untuk pertimbangan YDP Agong. Ahlinya termasuk hakim Negara asing yang diwakili Yang Arif Hakim K.A.P. Ranasinghe, Ketua Hakim Sri Lanka dan Yang Arif Hakim T.S. Sinnathuray, Hakim Kanan Mahkamah Agong Singapura.
38. Pengerusi tribunal ialah Hakim Besar (Malaya), Tan Sri Dato Abdul Hamid bin Hj Omar. Lain-lain ahli terdiri daripada Dato Sri Lee Hun Hoe, Hakim Besar (Borneo) dan dua orang bekas hakim iaitu Tan Sri Abdul Aziz bin Zain dan Tan Sri Mohd Zahir bin Ismail.
39. Penyertaan hakim asing adalah untuk memastikan yang tribunal tidak mengambil sikap berat sebelah.
40. Malangnya Tun Salleh Abas enggan hadir di hadapan Tribunal. Sebaliknya dia mengharapakan yang rakan-rakannya akan cuba untuk menghalang keputusan Tribunal daripada disampaikan kepada YDP Agong.
41. Apa yang dilakukan kelima-lima hakim yang bersimpati kepadanya sudah tentu melanggar apa yang Tun Salleh utarakan semasa berucap di majlis pelancaran “Law, Justice and the Judiciary. Transnational Trend” apabila dia berkata; “we as judges must act with responsibility and dignity and not be drawn or tempted into any impulsive action which could only result in aggravating the situation” (kita para hakim mesti bertindak dengan penuh tanggungjawab dan terhormat dan tidak dipengaruhi tindakan gelojoh yang mungkin akan memburukkan lagi keadaan).

42. Kelima-lima hakim tersebut telah mengenyepikan peraturan dan prosidur dan keperluan untuk mendapat kelulusan Pemangku Ketua Hakim, disamping menunggu keputusan Hakim Ajaib Singh di atas perkara yang sama. Sebaliknya mereka membatalkan persidangan mahkamah di Kota Bahru yang telah dijadualkan untuk mereka dan telah mengadakan persidangan Mahkamah Agong di Kuala Lumpur untuk mendengar aplikasi Tun Salleh Abbas untuk mengenyepikan prosiding bagi menentukan kedudukannya.

43. Lima hakim Mahkamah Agong yang diketuai Tan Sri Wan Sulaiman mendengar aplikasi ex-parte oleh peguam Tun Salleh, berehat seketika, dan kemudiannya kembali dan sebulat suara mengeluarkan arahan menghentikan Tribunal daripada menyerahkan apa-apa cadangan, laporan atau nasihat berkenaan siasatan kepada YDP Agong.

44. Berikutan itu, pemangku Ketua Hakim telah menubuhkan satu panel lima hakim Mahkamah Agong untuk mengenyepikan keputusan Mahkamah Wan Suleiman.

45. Saya ingin ulangi yang walaupun Tun Salleh mengkritik saya secara terbuka, saya tidak mengambil sebarang tindakan terhadapnya. Saya hanya berbuat demikian setelah dia menghina YDP Agong dan baginda meminta supaya dia disingkirkan. Tentulah akan ada yang berkata bahawa saya telah mempengaruhi YDP Agong. Tetapi selama 22 tahun saya tidak pernah melibatkan Raja-Raja di dalam politik atau masalah peribadi. Rekod tertera untuk sesiapa menelitinya.

46. Saya amat mengambil berat terhadap penyingkiran Tun Salleh secara paksa. Saya telah cuba dapatkan Tun Salleh untuk meletak jawatan bagi mengelak sebarang skandal. Pada mulanya dia bersetuju, tetapi telah menarik balik keesokan harinya.

47. Saya telah mendapatkan kelulusan keahlian Tribunal. Saya telah mendapat nasihat Peguam Negara dan pihak lain yang rapat dengan hakim-hakim. Setelah Tribunal ditubuhkan, penglibatan saya berakhir.

48. Apabila Tun Salleh dan hakim-hakim yang lain diberhentikan perkhidmatan mereka, mereka tidak sepatutnya menerima pencen. Tetapi selepas menerima rayuan Peguam Negara, saya bersetuju yang mereka dibayar pencen penuh. Mereka tidak mengalami apa-apa kerugian wang ringgit dan pencen mereka dikira daripada tarikh mereka meninggalkan jawatan.

49. Inilah fakta berkaitan penyingkiran Tun Salleh. Beliau dan rakan-rakan hakimnyalah yang telah membawa penghinaan kepada badan kehakiman.

50. Saya menulis untuk merekodkan peristiwa sebagaimana ianya berlaku. Saya tidak harap pengkritik saya akan berhenti menuduh saya menghancurkan badan kehakiman. Mereka pendakwa saya dan mereka juga adalah hakim saya. Bagi mereka saya tetap Idi Amin Malaysia sebagaimana yang di dakwa Tun Salleh di dalam bukunya "May Day for Justice". Malangnya ramai yang begitu tersedia mengutuk saya terdiri daripada hakim-hakim.

10 Comments

1. *Nyailing Of Borneo*

December 21, 2010 at 8:04 pm | [Permalink](#)

Ini sangat menarik, walaupun saya agak ketinggalan membaca artikel ini. Tiada siapa pun yang boleh berkata begini, melainkan Tun Dr. Mahathir Mohamad. Saya banyak baca tentang topik ini dari sumber lain. Now i know.. I do know. Understood.

2. *leviathan80*

February 21, 2010 at 1:57 pm | [Permalink](#)

semasa saya mula-mula mengunjungi blog ini saya mendapati komen-komen pada penghujung setiap artikel adalah dalam nada positif dan konstruktif. malangnya pada hari komen saya ini ditulis, nada positif dan konstruktif itu sudah berubah menjadi mengampu dan bias. komen saya ini saya tujukan kepada pengomen-pengomen yang sedemikian.

3. *rakyat malaysia prihatin*

November 10, 2008 at 11:53 am | [Permalink](#)

tun sepatutnya mereka2 ini bersyukur kerana masih lagi mendapat pencen penuh atas ihsan tun. manusia tamak selalu rugi, duit banyak pun takkan dapat mengembalikan maruah yg telah tercalar dengan perbuatan sendiri. macamana agaknya perasaan mereka semasa menadah tangan menerima bayaran ex gratia???

manusia bila berkuasa mudah lupa diri, jangan ingat kita paling digeruni, hormat dan takut pada yg lebih berkuasa...dunia hanya sementara.

4. [budak raja](#)

October 24, 2008 at 9:06 am | [Permalink](#)

agaknya baru sekarang baru Tun salleh tersedar pendirian Majlis Peguam terhadapnya. agaknya baru sekarang dia tercongak-congak apakah perjuangan Majlis Peguam menyokongnya dahulu adalah kerana merasakan bahawa dia

benar, ataupun semata-mata untuk kepentingan Majlis Peguam itu sendiri. agak-agaknyalah..

http://www.utusan.com.my/utusan/info.asp?y=2008&dt=1024&pub=Utusan_Malaysia&sec=Muka_Hadapan&pg=mh_11.htm

5. *DaraLara*

October 7, 2008 at 1:25 pm | [Permalink](#)

I've read the angelfire articles. I dislike the manner in which the writer wrote. Too much hatred and emotion, questionable facts and one-sided references doesn't help the writer's credibility at all. Too bad if anyone out there would be too shallow-minded to believe the article. A wise man should be well-said, present the ideas or cases in a very well manner and courteous languages, otherwise unkind and harsh words might as well be dismissed as a bark at a mountain. Empty threat!!

6. *[hayy_abidin](#)*

August 8, 2008 at 12:49 am | [Permalink](#)

Assalamualaikum Tun,
saya semak `angelfire`
ternyata orang ini begitu benci kat Tun
nyata sekali kata2nya seperti orang tak bermalu, kerana orang bermalu
tidak samasekali menghina maruah orang orang, binatang dihutan pun ada
tertibnya, dia tak tahu Tun masuk kerja lebih awal dari budak pejabat, balik
rumah pukul berapa, masuk library pukul berapa, tidur pukul berapa, bangun
pukul berapa, bercuti keluar negara bawa apa, yang dia tahu menghina dan
mencaci
tuduhan tetap kekal dengan tuduhan sehingga ianya terbukti
fakta tetap kekal dengan fakta sehingga ada fakta lain menafikannya
kalau fakta Tun bukan fakta, bolih saja hakim yang terbabib termasuk yang
dah arwah(kalau bolih) dakwa Tun kemahkamah pulak untuk membuktikan
kebenaran mereka. saya tengok kebanyakan pengamal undang2 sombong2
belaka, mereka merasakan diri mereka lebih mulia dari orang lain orang,
macam brahmin dalam kasta india. dia orang tak tahu orang sombong mati
terkencing ditempat tidur dada naik biru sebab memakai pakaian Allah
SWT(orang kampung kata kena buatan orang, sebab takde ilmu)
apa yang susah sangat, saman saja Tun balik, saya takut makin jadi teruk lagi,
kerana mungkin masih ada lagi fakta yang Tun tertinggal
saya lebih percaya dengan fakta Tun, sebab dengan usia Tun sesenja ini apa
untungnya Tun nak menipu, berseloroh ada tapi belum sekali saya dapati Tun
merapu macam kaki merapu
lebih dekatkan lagi kepada Allah adalah lebih baik lagi untuk Tun, tugas Tun

untuk malaysia sudah selesai dengan jayanya dan Tun telah meletakkan tanda arasnya, kalau ada yang nak merosakkannya bukanlah tanggungjawab Tun lagi.

Wasallam, sayangilah diri Tun sendiri

7. *wmr5439*

August 1, 2008 at 5:56 am | [Permalink](#)

assalamualaikum Tun,
saya amat menghormati tun
cuma mahu kepastian dan kebenaran
sila baca
dan komen
<http://www.angelfire.com/biz2/REFORMASI/SIRI.html>

8. *che yus*

July 8, 2008 at 3:00 am | [Permalink](#)

with Tun brain we can see how many judges lose to only 1 doctor.i think it is a better idea to vote a medical doctor as a leader bcoz in medical all things must be balance like what Tun did haha...

9. *Seti*

July 1, 2008 at 3:43 pm | [Permalink](#)

Assalamualaikum, Tun dan keluarga!
Saya sekeluarga merupakan penyokong Tun.
Saya amat berminat artikel berkenaan Tun Salleh Abas, baru saya faham krisis yang selama ini tidak dijawab oleh orang yang betul-betul faham dan bukannya dari orang cakap-cakap 'kopi kedai'
Sekian.

10. *Sepupu AntiMamak*

June 23, 2008 at 1:56 am | [Permalink](#)

Yg berbahagia Tun,

I am quite disgusted with the way the former judges so emotionally bad mouth you during the ex gratia payment by Zaid. The scenario is just like the old man from the old folk home getting duit raya and cursing their sons for neglecting them .

Tun salam sejahtera dan minta kirim salam kepada Tun Dr Siti Hasmah.

Terima kasih.

Source: <http://chedet.cc/blog/?p=32>