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B E134 AAE
PARLIAMENT-JUDGES
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88 P
KUALA LUMPUR, MARCH 17 (BERNAMA) -- DATUK SERI DR MAHATHIR
MOHAMAD SAID TODAY THE JUDICIARY SHOULD DEVOTE ITS ATTENTION TO THE
DISPENSATION OF JUSTICE WITHOUT FAVOURING ANY SIDE OR BEING INVOLVED
WITH ANY POLITICAL PARTY.

THE PRIME MINISTER SAID LATELY THERE WERE SOME MEMBERS OF THE
JUDICIARY WHO WERE INVOLVED IN POLITICS AND HAD A +FIERCELY
INDEPENDENT+ ATTITUDE AND WERE INDIRECTLY INVOLVED IN OPPOSITION
POLITICS.

TABLING THE CONSTITUTION (AMENDMENT) ACT 1988 IN THE DEWAN
RAKYAT, HE SAID IN THEIR DETERMINATION TO DEMONSTRATE THEIR
INDEPENDENCE THEY WOULD +BEND OVER BACKWARDS+ TO MAKE DECISIONS IN
FAVOUR OF THOSE CHALLENGING THE GOVERNMENT.

THE PRIME MINISTER SAID TO ENSURE A BALANCE WAS ACHIEVED, THE
JUDICIARY AND THE CIVIL SERVICE MUST NOT BE INVOLVED IN POLITICS.
+IF JUDGES FEEL IT IS NECESSARY TO PROVE THEIR INDEPENDENCE
FIRST, THEN JUSTICE WILL TAKE SECOND PLACE. IN OTHER WORDS, JUSTICE
WILL NOT BE SERVED IF JUDGES ARE MORE CONCERNED WITH SHOWING AN
ATTITUDE THAT IS INDEPENDENT OF THE GOVERNMENT,+ HE SAID. -- MORE
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BECAUSE OF THIS, HE SAID, THERE WERE JUDGES WHO, WHEN PASSING
SENTENCE, MADE STATEMENTS THAT HAD NO BASIS, AS IF GIVING VENT TO
THEIR ANGER.

THESE STATEMENTS FURTHERMORE WERE MADE ON THE BELIEF THAT
COMMENTS OF JUDGES COULD NOT BE CRITICISED, AND IF CRITICISED, THE
JUDGE COULD INSTITUTE +CONTEMPT OF COURT+ PROCEEDINGS, HE ADDED.

+IF THERE IS APPEAL, THE CASE BECOMES SUBJUDICE AND AGAIN ANY
COMMENT ON THE CASE IS CONSIDERED WRONG. A JUDGE CAN DISPARAGE A
PERSON AND THE PERSON DOES NOT HAVE THE RIGHT TO DEFEND HIMSELF.+

THE PRIME MINISTER SAID A JUDGE WAS NOT A PERSON WHO WAS
INFALLIBLE OR WHO COULD NEVER HAVE BAD INTENT AND IT WAS BECAUSE THE
GOVERNMENT REALISED THE IMPORTANCE OF THE PEOPLE HAVING CONFIDENCE
IN THE COUNTRY'S JUDICIAL SYSTEM THAT IT MADE THE AMENDMENT TO THE
CONSTITUTION.

HE SAID IF HE DID NOT EXPLAIN THE WEAKNESSES OF JUDGEMENTS MADE
BY JUDGES, THE PEOPLE WOULD ASK ABOUT THE ACTIONS TAKEN BY THE
GOVERNMENT.

FOR EXAMPLE, MAKING AN ACCUSATION THAT A MINISTER HAD ACTED AS
HE LIKED AND HAD MALA FIDE (BAD FAITH) WAS A SERIOUS REMARK WHICH
TARNISHED THE NAME OF THE MINISTER. -- MORE
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B E142 AAE
PARLIAMENT-JUDGES 3 KUALA LUMPUR

HE SAID THE FOREIGN PRESS AND OPPOSITION PARTIES WOULD DEFINITELY BE GLEEFUL OVER SUCH ACCUSATIONS AND THE IMAGE OF THE NATION WOULD SURELY BE AFFECTED.

+IS THIS ACCUSATION CORRECT?+ HE ASKED.

BUT BECAUSE OF FEAR OF +CONTEMPT OF COURT+, THE PERSON BEING DISPARAGED AGAINST REMAINED SILENT AND THE LOCAL PRESS ALSO DID NOT MAKE ANY COMMENTS, HE ADDED.

+IS THIS FAIR?+ HE WANTS TO KNOW.

REFERRING TO THE CARRIAN CASE IN HONG KONG, HE SAID A JUDGE, JUSTICE BARKER, HAD HANDED DOWN A DECISION THAT APPEARED EXTRAORDINARY IN THE EYES OF THE WORLD.

HOWEVER, THE PRIME MINISTER SAID, THE PUBLIC AND THE HONG KONG BAR COUNCIL HAD THE COURAGE TO CRITICISE THE DECISION, WITH SOME SAYING IT WAS +IRRATIONAL AND BIZAARE.+

JUSTICE BARKER WAS REPORTED TO HAVE RESIGNED FROM HIS POST YESTERDAY, HE ADDED.

+IS IS NOT POSSIBLE THAT IN MALAYSIA TOO THERE COULD BE JUDGMENTS THAT ARE LIKE THAT?+ -- MORE
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B E146 AAE
PARLIAMENT-JUDGES 4 KUALA LUMPUR

DATUK SERI DR MAHATHIR SAID EVERY POWER GIVEN MUST BE USED WITH A FULL SENSE OF RESPONSIBILITY.

+LET US NOT, JUST BECAUSE OF BEING ACCORDED IMMUNITY, HURL ACCUSATIONS INDISCRIMINATELY AND DO AS WE LIKE.+

THE PRIME MINISTER STRESSED THE NEED TO UPHOLD LAWS THAT WERE UNAMBIGUOUS.

HE SAID THE JUDICIARY ALSO COMPRISED ORDINARY HUMAN BEINGS WHO HAD FEELINGS LIKE ANY OTHER HUMAN BEING.

IF THEY WERE SO INDEPENDENT AND THE INDEPENDENCE BROUGHT ABOUT INJUSTICE, THEN THE ASPIRATIONS OF THE JUDICIARY WOULD NOT BE ATTAINED.

DATUK SERI DR MAHATHIR SAID IT WOULD BE FAIRER FOR THE GOVERNMENT TO UPHOLD WRITTEN LAWS MADE IN ACCORDANCE WITH THE WISHES OF THE PEOPLE IN THE SYSTEM OF PARLIAMENTARY DEMOCRACY.

+JUDGES SHOULD EXPLAIN UNDER WHICH LAWS THEY MADE THEIR JUDGMENTS. THE DISCRETION OF JUDGES SHOULD BE SUBJECT TO THE LAWS OF THE NATION, EXCEPT WHERE THERE ARE NO NATIONAL LAWS RELEVANT TO THE CASE,+ HE ADDED. -- BERNAMA
2030MST 17 03 88