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## Brouhaha over peninsula lawyers practising in Sabah and Sarawak

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SOMETIMES mentioned is that Sarawak is almost as big as Peninsular Malaysia but has a population of only 1.6 million. And we then take note that out of Malaysia's total population of 20 million plus about 1.7 million are foreign workers.

These figures came to mind following a call by Deputy Minister in the Prime Minister's Department Datuk Nazri Abdul Aziz on July 9 to scrap the work permit ruling for lawyers. Speaking to Bernama in an interview he said laws requiring lawyers from the peninsula to seek permission and apply for a work permit before they can appear in courts in Sabah and Sarawak should be scrapped.

The interview was published in Business Times, among others, the next day. After nearly 34 years of Sabah and Sarawak attaining their independence the continued existence of the law is "ridiculous and parochial", he added.

Nazri also dismissed as "totally unfounded" fears among the local Bar associations in Sabah and Sarawak that doing away with the law would lead to a deluge of lawyers from the peninsula practising in the two States.

His statement was later contested by the Sabah Law Association and the Sarawak Advocates Association. Support for the SCA statement came from Sabah Deputy Chief Minister Datuk Joseph Kurup, also a lawyer.

Also on the side of the Sabah-Sarawak lawyers was lawyer Datuk Chong Kah Kiat, Minister in the Prime Minister's Department. There was the reminder that the procedure was entrenched in the 20-point agreement related to the formation of Malaysia in 1963.

Published in the papers later - on July 27 - was a statement by Datuk Osu Haji Sukam, Sabah Umno Chief and Minister for Land and Co-operative Development. He explained that the views expressed by Nazri "were those of an individual and not that of the Federal Government or Umno".

Another response came from Datuk Joseph Pairin Kitingan, lawyer and former Sabah Chief Minister. He disputed Nazri's statement that the 20-point agreement should be reviewed to dismantle the procedure, and that Sabah and Sarawak be given a time-frame for the review.

Pairin contended that dismantling the provision was tantamount to dismantling Malaysia. There was also his submission that the agreement did not have a time-frame.

Supporting Nazri was Karpal Singh, lawyer and Jelutong Member of Parliament, who called for the repeal of Article 161B of the Federal Constitution relating to the restriction on the right to practice before courts in Sabah and Sarawak, on non-residents of both States.

The issue was at last resolved by Prime Minister Datuk Seri Dr Mahathir Mohamad the next day (July 28) when he explained that the Governments of Sabah and Sarawak were still not ready to open their doors to professionals from the peninsula. The two States felt that in allowing lawyers from outside to practice freely, there would be less work for their own lawyers.

The issue was officially put to rest by Nazri in the Dewan Rakyat in a written reply to Karpal who had asked whether the Federal Government would amend the laws to allow peninsula lawyers to practice in Sabah and Sarawak without a permit.

The Federal Government respects all the provisions in the Federal Constitution which provides special protection to Sabah and Sarawak.

"Changes can only be made with the consent of Sabah and Sarawak," Nazri added.

Surely noted is that the two State Governments are in the Barisan Nasional. Both cannot, nevertheless, take 34 years as the cut-off age to abrogate an agreement which had concluded among all concerned after at times, exhaustive and patient negotiations. To nullify part of it could be regarded as the thin end of the wedge.

We take into consideration, for example, the history of Sarawak. Many books have been written about the rule of the "White Rajahs" from 1841 to 1941. It's as if theirs was the golden age of Sarawak. There are not as many books about its history in old Brunei and the plight of the indigenous people, and the Chinese too, during the Japanese military occupation from 1941 till September 1945.

A welcome addition though is the history of British colonial rule in Sarawak from 1846 to 1963 by Vernon Porritt. And so he notes that before 1841, education "comprised reading of the Quran in Arabic (sic) by religious leaders to the Malay chiefs and their families".

How was it then during the rule of the Brookes? The second Rajah allocated the Second Division in Sarawak to the Society for the Propagation of the Gospel and the Third Division to the Roman Catholic Mission.

As for the administration of justice there was the Undang-undang Melayu for the Malays. The sentence of potong tangan (cutting of the hand) for theft was, however, commuted to three dozen lashes. For the Dayaks there was Tusun Tunggu. And also noted by Porritt was that the then Chinese custom of swearing by potong ayam (decapitating a chicken) was viewed with some reserve by judges.

There was a "flexible approach" to English law and adat lama (old customs) during the Brooke rule.

Sarawak was later ceded to Britain in 1946, and thus was born the Anti-Cession movement among the Sarawak Malays, and the assassination of Governor Duncan Stewart on Dec 3 1949 by Rosli Dhobie, who was hanged with his accomplice, Morshide Sidek a year later.

British colonial rule ended in 1963 when Sarawak together with Sabah joined Malaysia. It seems not so very long ago, and the process of national integration continues apace. It is not accomplished by decree or fiat or by statements hectoring and hegemonistic in tone. Nation-building is nurtured through mutuality of interests. Fellow citizens and visitors are welcome, but not carpetbaggers.

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