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Not open and shut

AS evidenced from the scope and contents of its annual report on the state of human rights in the country, it is clear that the Human Rights Commission of Malaysia (Suhakam) is not a child of gesture politics.

It has, without fear or favour, stated its views based on the complaints it received and the dialogues it held with various parties within the first eight months of its operation. It is immaterial whether Suhakam confined its report to details of its activities or expanded it to include specific recommendations on the review, repeal or abolition of laws, and ratification of international statutes. Whether it used the wrong channel or not is also irrelevant. Let us not engage in semantics or rules of statutory interpretation.

What is important is that it has discharged its duty by submitting its report - observation and recommendations - and, in our view, the proper forum for it is the Parliament and not the Foreign Ministry or any other ministry. Needless to say, Suhakam should be accountable to the people through the Parliament. Its accountability is not only on utilisation of funds and activities, but also on its discharge of functions, which include its intellectual engagement with the people on human rights awareness and with the Government on the protection and promotion of human rights.

Clearly, the issue of whether the Government can act on an annual report does not arise. Suhakam is not a creature born with extra-constitutional notions of judicial duty. Nor is it an extension of the Government that must be consistent with the latter's views.

That said, the Government is not duty bound to agree with and accept all the recommendations made by Suhakam. This should not be construed as a negation of Suhakam's import in the overall scheme to improve the nation's state of human rights. Nor is it a repudiation of the report. More importantly, the report is not an open and shut case.

We agree that parliamentary democracy and the rule of law make sense only when annexed to an underlying theory of individual liberty. But political and civil liberties should not reign supreme to the point of compromising national good. Surely, invocation of human rights to invalidate a swathe of measures designed for public interest would be as intolerable as a narrow adherence to equality.

Competing aspects of public interest and fundamental freedoms in contemporary societal conditions must be balanced by the Government, not an easy task given the various demands of freedom. As put by Prime Minister Datuk Seri Dr Mahathir Mohamad, the responsibility of the national security does not lie with Suhakam but with the Government. Political morality, which should not be confused with political expediency, justifies some restrictions. Still, any Government action that allegedly restrict citizens' freedoms must be justified in terms of the public good whereby it is the task of the judiciary to examine the Government's claim to action in the light of public interest.

The birth of Suhakam in itself signifies the Government's recognition of the need for a vigilance on the protection of human rights and thus, subject itself to a scrutiny of its actions by an independent body. Suhakam's report should be seen as an honest - and it should be earnestly objective - external audit to help the nation, including the Government, along the path of self-discovery. This is not without growing-up pains.

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