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Overlapping emergencies legal and constitutional

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THIS year's Merdeka celebration was unique in many ways. It was the first time in years that the people actually celebrated on their own like they do for their respective religious holidays. There were private parties with fireworks everywhere on the eve of Merdeka Day. For the first time ever there was even an exchange of greeting cards.

On Merdeka Day itself the usual parade at Dataran Merdeka in Kuala Lumpur took on a festive air with the participants really enjoying themselves beating the drums of every ethnic group in the country. The schoolchildren performing on the padang were cheerful. There was much singing of patriotic songs with everybody joining in including the spectators. The day belonged to all Malaysians.

But amidst the festivities, the Prime Minister, Datuk Seri Dr Mahathir Mohamad in his Merdeka Day message to the nation sounded a warning that the peace and harmony we are enjoying can be disrupted by certain forces who are bent on creating chaos in the country. Whatever their plans are, every right thinking Malaysian abhors violence which disrupts our normal daily lives. We have had more than our fill of such incidents.

Perhaps some people are not aware that except for a very brief period, legally speaking, we have been in a permanent state of Emergency securitywise.

In June 1948, the Government proclaimed an Emergency to counter the insurgency by the Communist Party of Malaya. That proclamation of Emergency was more than justified by subsequent events. Innocent civilians, women and children who did not support the Communist cause were ruthlessly murdered. Trains were derailed regularly. Cinema houses packed with patrons were bombed.

The Communists were well armed and organised throughout Malaya, openly declaring their objective of bringing down the Government by force of arms. The country was placed on a war footing. Hundreds of our soldiers and policeman died fighting the Communists.

The 1948 Emergency officially ended in 1960 but sporadic terrorist incidents occurred until Dec 2, 1989 when the CPM finally negotiated a settlement with the Government. There have, however, been four emergencies since the 1948-1960 emergency.

On Sept 3, 1964, an emergency was proclaimed on grounds of national security to meet the armed aggression of Indonesia on Malaysian soil as a result of its objection to the formation of Malaysia. This konfrontasi emergency is still in force although we have had good and friendly relations with Indonesia since 1965.

On Sept 14, 1966 another emergency was declared following a constitutional crisis between the Federal Government and the State Government of Sarawak. This emergency is still in force.

On May 13, 1969 racial riots broke out following the result of the general election of May 10, 1969 which was preceded by a racially-charged election campaign. Houses and shops were torched. There was looting. Many people were killed and injured. On May 15, 1969 a proclamation of Emergency was issued. Parliament was suspended for 22 months and the country was governed by the National Operations Council during the period. This emergency is still in force.

On Nov 8, 1977 following a constitutional crisis between the Federal Government and the State Government of Kelantan an emergency was

proclaimed. However, this emergency was revoked on Feb 11, 1978.

By Article 150 of the Federal Constitution if a proclamation of Emergency is not sooner revoked, it shall cease to have effect if resolutions are passed by both Houses of Parliament annulling such a proclamation. It is submitted that the proclamations of Emergency of 1964, 1966 and 1969 should be revoked because the reasons for their proclamation have long since ceased to exist.

It may be recalled that the pre-Merdeka Government only had the power to declare an Emergency in the first instance which is valid for a maximum period of three months. An emergency could only be extended by the Federal Legislative Council if satisfied that the security situation justifies it and even then up to a maximum of one year. Thus the Government had to justify to the legislature every year for an extension of the Emergency.

The law has since been changed. It must be stated, however, that the prolonged existence of the several and overlapping emergencies are perfectly legal and constitutional. But the public is nonetheless kept in a state of constant confusion.

From the Prime Minister's warning of the threat to our national security, it may well be that a new proclamation of Emergency will be issued. Perhaps a White Paper will set out the facts so that the people will know who are the country's enemies to better assist the Government to safeguard our independence, security, peace and economic well being.

May the spirit of patriotism of the Merdeka celebration stand us in good stead to face the dangers that lie ahead.

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