

**Natural law: Pakatan's dangerous tool**  
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Pakatan Rakyat's policies are based on Natural Law principles and this can ultimately be a threat to justice and liberalism. What is Natural Law? *Lex iniusta non est lex* - an unjust law is not a law.

This is the single most important theoretical issue in the realm of Natural Law.

Natural Law theory stands on the proposition that, 'law cannot be properly understood except in moral terms,' and therefore law and morality are inextricably linked, according to Dr. Roger Cottrell in his seminal book, *The Politics of Jurisprudence*.

Natural Law is derived, according to St. Thomas Aquinas in *Summa Theologica* from a higher, Divine Law; and with this exalted status, Natural Law becomes the yardstick by which the worth or authority of man-made law can be judged.

Prof JM Finnis asserted that unjust laws may give rise to a moral obligation to criticise and protest against them, and in extreme conditions disobey them and force change. This has been Pakatan Rakyat's main thrust, as evidenced from the days of the reformasi movement in 1998 to the Bersih and anti-ISA rallies to the perennial and continuing Umno-BN bashing by opposition MPs in the alternative media. Pakatan's agenda is centred on its mission to constantly prove that the ruling Barisan Nasional party has held onto power with the aid of laws that have been employed to protect and cover up their policies and practices of corruption, nepotism, cronyism and rent-seeking that has bled the nation's coffers and the tax-payer.

These practices, if seen in the Natural Law context, are in no uncertain terms immoral.

Therefore Natural Law would prescribe nothing less than an unequivocal overthrowing of this immoral regime through the ballot box, and this is the unwavering message sent forth by Pakatan supporters across the nation.

Once the Umno-BN regime is overthrown, the new Pakatan government, guided by Natural Law principles, will undoubtedly want to enact laws which promote moral order for the greater good of the nation. This, it is submitted, can prove dangerous, for ultimately, the one who uses this Natural Law yardstick to judge, influence and shape man-made laws is none but a human himself, with a finite and often skewed impression of 'God's will'.

As Cottrell describes, 'Moral reasoning applied to such a social and public matter like legal regulation will typically produce prescriptions as to how the power of the state should be exercised in controlling citizen's actions.' Laws will be enacted for the 'common good', appealing to the lowest common denominator of what is 'moral' – influenced by the religious credentials of PAS and the conservative elements within PKR and DAP.

The Jabatan Agama Islam Selangor's moral police continue to barge into hotel rooms and pubs searching for Muslim drinkers or unmarried or gay couples is inevitably distressing and disturbing the peace of non-Muslim patrons as well. The Pakatan-led Selangor state government makes nary a sound in response, giving one the impression they actually condone moral policing.

The recent Pakatan-led uproar over the legalisation of sports betting is yet another example

of Natural Law holding sway over an individual's right. In a surprising development, the DAP has apparently now taken to riding the moral high horse, long ridden by PAS and PKR as evidenced by Penang Chief Minister Lim Guan Eng's rejection of sports betting licenses in the state. Umno-BN have joined the bandwagon by their sudden policy reversal on the sports betting issue.

If Pakatan's track record has been shown to pander to the majority's (read Muslim) conservative requirements, one wonders what would become of legalised gambling institutions, nightclubs or other forms of 'immoral' entertainment should Natural Law become entrenched into Pakatan's policymaking formula once it comes into power.

One also wonders about 'controversial' minority rights such as that of gays, drug or pornography users, sex workers and the like.

Because morality is subjective, many may applaud Pakatan's moral policing while others may find it an affront to their freedom of choice. There are also supporters who admire Pakatan's battle to overthrow Umno-BN but at the same time abhor Pakatan's moral conservatism.

As such, there exists a real, but yet underlying division within the ranks of members and supporters of Pakatan – conservative and liberal – united only by the dogged determination to overthrow the common enemy, BN. After this is achieved, the division will become painfully apparent – those who stood together as political allies will discover they were actually political enemies all along.

The more liberal elements within Pakatan and in society must, without delay, demand Pakatan answer hard and direct questions on its policy trajectory, especially the question on whether our constitutional freedoms: of movement, of association, of expression and of choice will be subject to, and limited by moral considerations as dictated by religion.

It is submitted that the possible removal of Anwar Ibrahim (and his liberal ideology) will see Pakatan, helmed by the majority theocrats and conservatives, travelling deeper into the realm of moral conservatism, their journey paved by Natural Law.

Anwar must prepare for the likelihood of facing a jail term by appointing more liberalists to the leadership to check and balance the conservatives, or better still, outnumber them.

For the electorate, we must all remember HLA. Hart's dicta, 'law is not morality, let it not be subsumed by morality' and thereupon renew our commitment to resist in the strongest manner possible, any attempts at the 'religionisation of law'.

If we do not resist the more conservative quarters in Pakatan, we may end up exchanging one authoritarian regime for another at the next general election. In the interests of justice and individual rights, Pakatan must discard its Natural Law leanings and rein in its more conservative leaders in favour of those with a more liberal democratic approach.

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