

**Param's final response to Mahathir
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The tit-for-tat feud between former premier Dr Mahathir Mohamad and Param Cumaraswamy, continues today with the top lawyer saying his response would be final.
MCPX

mahathir and param cumaraswamy In his statement sent to Malaysiakini, Param described Mahathir's April 14 letter as a "pathetic piece of distortions".

Mahathir's April 14 letter was a response to a letter written by Param, the former United Nations special rapporteur on the independence of judges and lawyers, which was published in Malaysiakini last Friday.

Param's letter was in turn a response to Mahathir's April 7 letter, which appeared in The Sun.

Param's letter in full

The following is my response to Mahathir's letter published in Malaysiakini on April 14 and The Sun on April 15 to place the facts and issues in their proper perspective:

The latest response of Mahathir is a pathetic piece of distortions and attempts at ex-post facto rationalisation by an angry and frustrated man attempting to defend the indefensible.

Does he not know or has he not been advised that it was not open to him to "have sued (for Anti-Corruption Agency chief Shafee Yahya) for libel" on the basis of Shafee's evidence in court. Clearly, Mahathir felt more secure in being cleared by "the government agencies" than in having his version tested in a court of law against Shafee's version. If the judges could not determine who was telling a lie, what advantage did "the government agencies" have?

With regard to the sworn testimony of Shafee, it was Mahathir who said in his letter published in the Sun of April 8, that "If I was to be accused I should be at least heard". It was in response to that I said he had every opportunity then between June 12 and Aug 8, 2000, to give under oath his version of what happened.

It is too late in the day now after eight years to bemoan that he was not given a hearing. However, the public still have the right to know whether the police took a sworn statement from Mahathir and if so when and the contents of the statement. A mere public declaration of his version now as against the sworn statement by Shafee in court will remain a source for suspicion particularly in the light of lapses of memory on his part demonstrated when he testified before the Royal Commission on the Lingam video clip.

While on that video clip, this is the first time we hear the suggestion that the video tape could have been taken to blackmail Lingam. It was never raised by Lingam at the commission hearing nor put to the witness who took the video. Neither did Mahathir himself allude to that at the hearing. Is Mahathir now privy to some fresh evidence?

Mahathir justifies the appointment of the then EPU (Economic Planning Unit) director as

governor of the Central Bank in September 1998 because "he had not been proven guilty". But I never said or suggested that he had been proven guilty.

The concern which I expressed is how that person who was under investigation from 1998 to 2001 (this is from statement of the ACA as reported in the media on April 8) could have been appointed and hold office as the governor of Bank Negara Malaysia during that period, contrary to the often stated government policy that a person under investigation would not be considered for appointment to a public office or for promotion.

As for the statements of the high officials of the enforcement agencies as reported in the media on April 9, my concerns were legitimate as supported by the facts including dates. It is regrettable that to date there has been no clarification forthcoming from them, particularly the Inspector General of Police. It really is incredible that an investigation into the testimony of Shafee was carried out by Feb 15, 2000, and papers submitted to the AG and file closed when in fact Shafee only gave his testimony on June 12, 2000.

Mahathir has shamelessly distorted my reference to the pleading filed in the London litigation in 1999 for the recovery of RM17.7 million from the publishers of International Commercial Litigation.

The words "Malaysia's internationally discredited judiciary and legal system" were neither my finding nor my words. They were quoted from the defence pleaded by the publishers. That was their perception of the Malaysian judiciary then. How Mahathir could attribute that to me and allege that I was biased, etc, is beyond belief.

Mahathir appears to give the impression that as special rapporteur on the independence of judges and lawyers I was preoccupied with investigating Malaysia only. Far from that. I can do no better than to quote what Kofi Annan, the former UN secretary-general, said in a letter dated Aug 2, 2000 to Mahathir.

He said, amongst others, "Param Cumaraswamy had received a universal mandate from the commission to investigate such complaints wherever they arise. Malaysia was merely one of the about 100 countries in which he intervened. The special rapporteur on the independence of judges and lawyers had a right and a duty to investigate Malaysia's judiciary in the course of the performance of his mission".

Among the 100 countries I intervened in were the US, UK, Belgium, Italy, Spain and Australia. My reports on Guantanamo Bay and detention without trial in the US are well-documented and my public statements which incidentally were adverse to the US, were published even in Malaysia.

That Mahathir abused his powers during his tenure as prime minister has been alleged by many, and of late, widely reported. I am just one of many. As to how he consolidated that power over the years I gave a brief account in the Far Eastern Economic Review of Oct 9, 2003 i.e. about the time when he retired.

As for the setting up of a royal commission, this is no doubt a matter for the government. However, taking into account the state of mind of Mahathir as demonstrated in his latest letter under reference, such a commission may be an exercise in futility. It may not be prudent to waste taxpayers' money on such an exercise.

As for his other personal remarks against me, I do not propose to stoop to his level to respond save to say that his words and actions bring him no credit.

Param Cumaraswamy

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