

**'88 crisis: The Bar strikes back**  
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It was troubling times for the Malaysian Bar back in 1988.  
MCPX

On March 19 that year, lawyer Param Cumaraswamy in his final speech as Bar Council chairperson had set the mood of the turbulent time that was to dawn on the legal fraternity.

param cumaraswamy interview judiciary crisis 060808 01"Today, I step down with a sense of sadness. Not because I am relinquishing the president's post. But because of the deteriorating state of the fundamental liberties in this country.

"Just on the eve of my retirement from the presidency, we saw one of the basic structures of our Constitution destroyed.

"The balance between the Executive, the Legislature and the Judiciary is rudely shaken. At the centre, the Executive gains enormously in power at the expense of the judiciary," he said.

The speech was made in light of a slew of attacks by then premier Dr Mahathir Mohamad against the judiciary and judges as well as when Article 121 of the Federal Constitution - which guarantees judicial independence - was amended.

### **Mahathir taken to task**

In his hard-hitting speech, Param had levelled criticisms against Mahathir for being ignorant to what the judiciary stood for.

"The prime minister's vile and contemptuous allegations and accusations leveled at the judiciary and our judges left many shocked beyond belief.

mahathir pc 260608 05"His speech (in Parliament), which was full of venom, hate and spite with no substance whatsoever, illustrated his complete and total ignorance of the role of the judiciary and the judicial process itself.

"What he may not have realised is that in directing all those attacks on our judges, he has in fact, thrown his might not so much against His Majesty's judges, but against the majesty of Law, Justice and the Constitution.

"Far from clearly defining the duties and functions of each arm of the government, he has caused confusion. He had indeed defaced and defiled the Constitution," Param said.

The former United Nations special rapporteur on the independence of judges and lawyers then gave assurance that the Bar would continue to campaign for judicial independence again.

"Here let me assure our judges that the Bar pledges its complete and total support to them and will see that the judicial power remains with their courts.

"These amendments will not go without a challenge. I am sure when the time comes, our

judges will rise to the occasion and assert what is rightly their Constitutional power and restore the supremacy of our Constitution.

"The Constitution does not belong to the prime minister or his government. It belongs to the people. It is the agreed charter of the nation.

"A responsible government will organise itself to meet with the requirements of the Constitution and not amend the Constitution to suit the needs of the government," he said to hundreds of guests present.

Param handed the reigns over to prominent lawyer Raja Aziz Addruse who subsequently became lead counsel for sacked Lord President Salleh Abas.

### **Meeting with Hamid**

Param, who met with Malaysiakini recently, recollected the events that took place soon after his speech. He also related how he met the judge who succeeded Salleh as head of the judiciary, Hamid Omar then.

tun salleh abas zaid ibrahim ex gratia payment 200608 01According to Param, the Bar had directed him to see Hamid after receiving information that the senior judge - who was next in line to be Lord President - would chair the controversial tribunal that decided Salleh's (photo) fate.

"I said to him, 'We are concerned that if you are appointed and you chair the tribunal it will not look good for our judiciary because you are the next in line for the office of the Lord President and you are party to the letter (about) the meeting which agreed to Salleh writing a letter to the king". There will be a conflict of interest," he related.

However, Param was shocked when Hamid admitted that he was worried about being sacked if he did not take up the position of chairperson in the tribunal.

"He said something that was most shocking. He said, 'If I don't accept the appointment, I will be sacked. If I'm sacked, will you or the Bar Council compensate the loss of my remuneration?'

"I said, 'I am most surprised that such remarks are coming from you as chief justice. You and I know that the King is a constitutional monarch and he acts on advice. How can you say he will sack you?'

param cumaraswamy interview judiciary crisis 060808 04"He said, 'Oh you don't know him. If you want, you go and tell him. I will buy you dinner'. That's all he said," he related.

He noted how current Home Minister, Syed Hamid Albar, was present at the extraordinary general meeting held by the Bar then.

"He was a member of the Bar in 1988 when we took the resolutions to boycott Hamid Omar (the one who replaced Salleh as Lord President) in an EGM with the highest turnout ever that time.

"Syed Hamid was present. He had both his hands up, people noticed that. And I think he should be reminded of the great support he gave to the Malaysian Bar when we took that position against Mahathir's attack on the judiciary and Hamid's involvement in the tribunal,"

he said.

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