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Venue : PWTC, KUALA LUMPUR
Date : 10 DECEMBER 2000
Title : "RIGHTS WITH RESPONSIBILITY" FORUM ORGANISED BY THE HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)

Ladies and Gentlemen,

I would like to congratulate the Commission on Human Rights Malaysia or what is now popularly known as SUHAKAM, and in particular, Tan Sri Musa Hitam, for organising this Forum.

The holding of this Forum and the presence of so many distinguished members of the Malaysian public reflect the growing importance that we attach to the observance of World Human Rights Day in Malaysia, in general and to the concept of human rights, in particular.

The issue of Rights and Responsibility is widely discussed and debated. This is not something new as conceptually Rights and Responsibility affect us all, as an individual, as part of society or as government. In fact it is two sides of the same coin. We are in reality exercising our rights and responsibility in our daily lives. It is extremely important for a multiracial, multi-cultural, and multi-religious country like Malaysia for our citizens to have a clear understanding and appreciation of this concept. The preservation of human rights must be carried out in the context of maintaining peace, security, stability and prosperity.

We want to feel free to do, what we consider right. There is nothing wrong with this, so long as our action do not impinge on the rights of others or it is not against our laws or for that matter contrary to the norms or the established value systems of our society. Mahatma Gandhi, when hearing about the human rights declaration by the UN, is said to have commented that his illiterate mother had remarked to him that there could be no rights without responsibility.

Our common and shared objectives is to see the well being, peace, security and prosperity of our country. Differences definitely will be there depending how each one of us as individuals and government perceives regarding the issue of Rights and Responsibility. But our differences should not create a division between us. If we look at the UN Declaration it talks about human rights, without incorporating with the same emphasis the issue of human responsibilities. I therefore must commend the distinguished members of SUHAKAM for focussing upon this issue.

The issue of human rights has become fashionable to such an extent that it has dominated world politics. Today we are witnessing the birth of international institutions and other forms of mechanisms established under them, for the purpose of prescribing to nation states how they should treat their own citizens. The Universal Declaration of Human Rights, which was largely ineffective in the Pre Cold War

period, has in the Post Cold War Period been used by the developed countries to pressure the developing countries to accept their norms, standards and values. This has created conflicts between the developed and the developing countries.

No one should be against democracy. Freedom and the like is an important ingredient of our society. We are not against human rights, but our view is that no country should be forced to accept standards or practice which are opposed to its own laws or established value systems.

It is the responsibility of the Government to create awareness and to take proactive measures to incorporate human rights values into our daily life. In a plural society such as ours, reaching a consensus on rights is challenging, if not difficult. Such consensus is necessary to maintain unity and stability. While there may be different interpretations and perceptions of human rights, as a concept, human rights is neither peculiar to any culture nor the sole domain of any particular country. No individual or country can claim exclusivity on human rights, for they are universal. However, the norms and precepts for the observance of human rights vary from society to society and from one period to another within the same society.

At the time of independence, most Malaysians were poor and without access to social services. They were separated by class, religion and colour. There was great disparity between the urban and rural populations. Many had predicted that our new nation would not last and is doomed to go the way of other politically unstable and economically vulnerable newly independent countries. However, we have proven all of them wrong. We have built a sovereign state, politically stable nation, a steadily growing economy that had endured the 1997 crisis, and a harmonious multiracial society. In short ladies and gentlemen, together we have built a successful nation that should be the pride of all Malaysians.

In the quest for modernization, we have chosen moderation. We have pursued moderate and pragmatic development policies in all spheres. All the needs and aspirations of our multi-ethnic, multi-cultural and multi-religious society were and are taken into consideration but not all could be accommodated without infringing on the rights of a particular group in society. There is constant give and take between the various groups and very often, one group will have to subsume its short-term concerns to accommodate the other groups for long-term peace, security and stability.

Through it all, Malaysia maintained its democratic system. It held fair and free elections without fail since its independence. It has a vibrant civil society. The number of non-governmental organizations, labour unions, trade associations, think tanks are on the increase. Admittedly there have been political discords, economic crises and social discontentment in our nation --- over rights, over opportunities, over inequity. Yet, we managed to overcome and resolve our differences through consultations, dialogues and consensus, in the spirit of give and take and with the paramount interest of the nation at heart.

There is global agreement on core human rights values. However, contentious fringe issues surround the core. Over the years, debates between developed and developing countries have ensued on the question of how to promote and protect human rights. Western theory on human rights is deeply influenced by market capitalism, political liberalism and individualism. It puts great premium on civil and political rights but there is insufficient recognition of the need for socio-economic entitlements. On the other hand, many developing countries contend that there can be no meaningful enjoyment of human rights if poverty is pervasive and hunger and disease all encompassing. Rights to basic necessities and to development are entitled to the same protection as civil and political liberties.

The question constantly asked by developing countries is whether there need to be a certain level of development before the necessary environment can be fostered for the full enjoyment of civil and political rights. For many, meeting basic needs for food, shelter, education, and health remain a daily struggle. In such a situation, civil and political rights have little meaning without their social and economic underpinning.

The concept of rights with responsibility has been debated for centuries. In Islam God reminds us in Surah Al-'Asr, verses 1-3 that man is in the state of loss except for those who have faith and do righteous deeds and those who advice about the truth and exercise patience. Many great leaders and thinkers too have been associated with the concept of rights and responsibility.

- Samuel Taylor Coleridge spoke about it as early as 1831 when he said that "There are no rights whatever without corresponding duties".
- Gerald W. Johnson, once said that " No man was ever endowed with a right without being at the same time saddled with responsibility".
- More lately Abraham Joshua Herschel in 1905 in his book "Who is man?" talks about "inalienable obligations" that comes with "inalienable rights".
- Eric Hoffer, " The basic test of freedom is perhaps less in what we are free to do than in what we are free not to do".
- Virginia Woolf, " To enjoy freedom we have to control ourselves".
- And there is even an American saying that says that "the right to wave your fist ends where your neighbour's nose begins".

Whilst we accept the universality of the principles and philosophies of human rights, we should never in practice and application abandon our norms cultures and values or our social and economic background. The truth is even countries that supposedly are the greatest advocates and champions of human rights, practise hypocrisy and double standard in dealing with racial and religious issues, by showing prejudice and bias to minority groups, even in the enforcement of the law.

Malaysia subscribes to the universality of human rights, but not as a license to do anything without regard to the rights of others. The rights of the majority are just as valid as the rights of others. Our society as a whole has the right to protect itself from the unbridled exercise of rights by certain individuals or a minority group, which can contribute to the collapse of morality and the structure of human society. We do not want rights to be exercised irresponsibly. The Malaysian government sees it as

its continued responsibility to apply, adhere and advocate the concept of rights with responsibility.

Concepts and principles are always easy to advocate, but what will be more relevant is to match these with the realities. One cannot disagree with what Thomas Paine said "Establish the Rights of Man; enthrone equality,let there be no privileges, no distinction of birth, no monopolies, make safe the liberty of industry and trade, the equal distribution of family inheritance". But how far or how much of these laudable principles are really practised by individuals and states. It is for this reason that I always find the discussions on this subject fascinating as well as perplexing. To me the ideals seem to be always in conflict with the realities. We have therefore got to be pragmatic when confronted with the issue of rights. It is more acceptable for us to say we will exercise our rights but with responsibility. This means we take into account other relevant factors that I have touched on earlier in the execution of what we consider as our rights.

When we live in defined borders, we have elected to live in a peaceful and orderly society with rules and laws to govern us. Thus any system of law from the time of Hammurabi Code, give "rights" to citizens to act in a certain manner that does not contravene the code. During the time of the Greek City States and Imperial Rome, discriminatory codes existed, giving different rights to different classes of citizens. Even religions prescribed on the rights of its adherents and the responsibility that goes with it. Laws exist in order to protect and preserve civilized society. Thus when we speak about rights, responsibility forms part of rights.

The Magna Carta for example when signed in 1215, was for the purpose of protecting ordinary citizens of that time, and to settle the differences between the feudal king and the landed barons. It defines rights together with the responsibilities required to be observed. These concepts ultimately through common law over the centuries granted rights and obligations to all citizens. However "rights" and "responsibilities" in the modern sense made its appearance and became enforceable by the courts through the 1688 Bill of Rights. What made the English Bill of Rights to be considered as a step forward in the development of the modern concept of human rights, is the philosophical application as expounded by the work of Thomas Hobbes and subsequently by John Locke.

Malaysia is moving towards liberalisation. More and more, of our policies reflect the changing times and mood of the people. We should move in consonant with changing times and mood of the people. We should shape our own human rights model based on our needs and experiences. Malaysia has always argued for pluralism and relativism, whereby the country's social context should determine the content of its laws and policies.

It is significant to note that the 1999 Act defines "human rights", as being the fundamental liberties as enshrined in Part II of the Federal Constitution. Being a country with a heterogeneous population, it is inevitable that rights of the individual are enshrined in the Federal Constitution.

It is not difficult to fathom from the list of the fundamental liberties enshrined in Part II of the Federal Constitution that the fundamental liberties guaranteed in that part of the Constitution, must meet with the requirements of protagonists of human rights in any civilised country. Human rights is therefore not a novel concept to Malaysia and Malaysians.

Indeed, instances are not infrequent, when the Judiciary has come to the aid of a citizen, with a complaint that there has been a violation of this fundamental liberty, by the authority in power. The enforcement of an individual's entrenched and fundamental right under the Constitution has in numerous instances been met with a prompt application of the prerogative writs of habeas corpus or certiorari. Orders made by Ministers of the Government affecting the entrenched fundamental rights of a citizen have been readily ordered to be quashed, and in some instances with an appropriate award of damages against the Government. One need only look into the reported cases in the local law journals to see how the Courts of this land have come to the aid of the citizen towards safe-guarding his entrenched fundamental rights.

The awareness and recognition of the fact that freedom of any kind has got a positive and a negative aspect, has necessitated the Government of the day, in many countries which subscribe to human right values, in principle, to provide for some form of restraints to such freedoms. The negative aspect of freedom which such countries have found a need to provide for a restraint is that, such freedom as afforded to its citizens should not endanger the economic security of the nation, and the well being of the fellow citizens.

The Government of the day is committed to the protection of all its citizens alike, and to ensure that they enjoy the liberties conferred upon them in a manner which does not affect the peace and security of the nation. Towards this end, the Government will expect every citizen to ensure that he or she exercises his or her entrenched fundamental right without it being an impediment or a threat to his fellow citizens, and or the nation. This then is the co-related duty of the citizen, which the Government will expect in exchange for the rights or liberties conferred upon the citizen by the Constitution.

The freedoms, as afforded to the citizens of this country, have therefore got to be balanced against the general security of the nation, the general moral standards as applicable to our society and the existing political and cultural background of the nation. It is therefore incumbent upon each and every citizen of this country to avail of the liberties afforded to him, with such restraints as will be necessary, towards ensuring national security, economic security, social security and above all, peace and order in this multi-racial, multi-cultural, multi-lingual and multi religious society or ours.

We are no longer looking in a world that fit into the old left-right political mode. Globalization, liberal democracy, trade liberalisation, human rights, all envisage the creation of a world society - a society that is based on multiplicity but not unity.

Globalization as a driving force connotes the criss-crossing of sovereign national states with transnational actors, with various powers, circumstances, identities and network, which at any time can undermine the sovereign national states. In other words today local events or occurrences may not have purely local consequences, but instead can affect the whole world. It is thus necessary when we deliberate on the subject of rights with responsibility, we are conscious of this new force or else we are overtaken by events. We will not be able to exercise our own option or choice in our desire to achieve freedom and democracy, as we perceive it and which is suited to our needs.

We can easily argue that it is true that we cannot achieve absolute freedom in the exercise of our individual rights as it is always subject to constraints or limitations imposed by the State, provided by the constitution or other written laws. There is always a need for us to reorganize our lives and actions, our organisations or institutions.

I do not propose to deal with each one of the liberties afforded to a citizen of this country by our Constitution, but I think it will be appropriate for me to make mention of the sentiments expressed by our Court when talking about the right to freedom of speech, in the context of our law of sedition, as entrenched in our Sedition Act. Raja Azlan Shah, as Duli Yang Maha Mulia Paduka Seri Sultan Perak was then said as follows, and I quote:

"We must resist the tendency to regard right to freedom of speech as self subsistent or absolute. The right of freedom of speech is simply the right which everyone has to say, write or publish what he pleases so long as he does not commit a breach of the law. If he says or publishes anything expressive of a seditious tendency, he is guilty of sedition. The Government has the right to preserve public peace and order, and therefore, has a good right to prohibit the propagation of opinions which have seditious tendency. Any government which acts against sedition has to meet the criticism that it is seeking to protect itself and to keep itself in power. Whether such criticism is justified or not, it is, in our system of Government, a matter upon which, in my opinion, Parliament and the people and not the courts that should pass the judgement. Therefore, a meaningful understanding of the right to freedom of speech under the Constitution must be based on the realities of our contemporary society in Malaysia by striking a balance of the individual interest against the general security or the general morals, or the existing political and cultural institutions. Our sedition law would not necessarily be apt for other people but we ought always to remember that it is a law that suits our temperament. "

Critics of the Malaysian government may point to the relatively slow pace in the pursuit of human rights in the country and the greater weight being given to responsibilities over rights. Malaysia also may continue to be the subject of foreign government and NGO annual reports on human rights. But such criticisms failed to appreciate the overriding rights of the community over that of the individual. Malaysia would continue to be rooted in the tradition of community responsibility. And we make no apology for that. It would indeed be the height of irresponsibility if not folly, on the part of the Government to allow the pursuit of human rights to the extent of destroying the country's social fabric that the Government has been nurturing over the last 40 years.

The Malaysian Government is following with serious concern the alarming trend in the exercise of so called human rights in developed countries. It would appear that the wisdom of the once cherished concept of rights with responsibility has been conveniently forgotten. It would appear too that "societal progress" is measured by the degree to which such rights is allowed to be exercised, however ridiculous they are in the context of a civilised society. We shudder to think the day when the demand of individual (human) rights in the West will be such as to turn back the progress of civilisation to the dark days of anarchy, disorder and decadence.

I hope your deliberation on this subject will take into account all these factors. We must not lose sight, in our eagerness to follow the examples of others, we may lose whatever we have or possessed. We must always be able to create a balance between rights and responsibility.

We must mould human rights values for our country that suit our culture and values. Following blindly simply to be in fashion with others may not bring the result we intend to achieve. The Malaysian government has at all times been committed to and will continue to be committed to human rights values, but with the balance struck as declared by the courts of the land. We must always ensure that peace, security, law and order will continue to be the way of our practice of freedom and democracy. Freedom per se is not an end in itself. It requires a shared understanding of limits and entails assumption of responsibility for the consequences of one's actions. Responsibility is the inevitable and necessary criteria for a meaningful freedom. The government will always be wary and conscious of the goings on in other parts of the world where there is little or no restraint on individual freedoms or rights, in fulfilment of its duty to protect its citizens.

Ladies and Gentlemen,

Let me once again state that rights cannot exist without restriction and without responsibility. A reciprocal stress upon responsibilities to balance rights does not in any way excuse us from our obligation to promote human rights.

There is much yet to be done for our people in the economic and social sphere. This is also human rights. We need to improve upon our good record in the observance of civil and political liberties too. There is no country in the world that does not need to do the same. The struggle to enhance human dignity is a never ending journey, for the horizon keeps on changing. We aspire for more and newer rights even as we progress.

Many developing countries were robbed and denied of their basic rights for hundreds of years. We had to struggle to regain our dignity and reclaim our freedom from the colonisers that now pontificate. They have short memories indeed. They also have poor eyesight. They cannot see some of their own present day shortcomings, because they are so busy preaching others.

Let us not breed antagonism among the people towards the State as it is most unhealthy and inhibiting. Our common goal should be the forging of a bond between people and state that will bring about trust and goodwill, and not one of suspicion and enmity.

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10 December 2000