

✿ Equality



“ I repeat what I had said before. The law is no respecter of persons. ”



—**Raja Azlan Shah FJ (as he then was)**
Public Prosecutor v Datuk Haji Harun bin Haji Idris (No 2) [1977] 1 MLJ 15, FC at 32

HERALD

Sultan Azlan Shah



Contribution to Higher Education in Malaysia

*H*is Royal Highness was appointed as the Pro-Chancellor of Universiti Sains Malaysia (USM) in 1971 and the Chairman of the Higher Education Advisory Council in 1974. His Royal Highness was an external examiner of the Faculty of Law, University of Malaya, from the time the Faculty was established until 1986, when he was appointed the Chancellor of the University of Malaya.

Since 1986, His Royal Highness Sultan Azlan Shah has been the Chancellor of the University of Malaya, the oldest University in the country.



“ A parliamentary democracy ensphering an elected legislature as one of its fundamental facets is one in which the representative of the people are not only entitled to make basic decisions but in which they actually make such decisions.

It is the possession of the entitlement and the ability to make basic determining decisions which constitutes supreme power and is the essence of democracy. ”

—**HRH Sultan Azlan Shah**
Parliamentary Democracy

Parliamentary Democracy

4

Aliran Seminar on Parliamentary Democracy

Kuala Lumpur, 14 July 1985

I am very pleased to be here today to open this seminar on Parliamentary Democracy organised by Aliran. The proceedings of this seminar will no doubt generate considerable interest with the manifestation of diverse viewpoints and constructive suggestions and ideas in relation to the topic of discussion.

Parliamentary democracy as a term would ex facie require no definition and one would take it immediately as a reference to the form of democratic government originally evolved in England, and subsequently borrowed by other countries, under which the powers of the State are vested in three different organs of government. The crux of the matter however is the connotation that “democracy” as a political system does not become a democracy merely because it is given that appellation. Without however pre-empting the theorists of the concept, it would suffice for me to say that the true meaning

of democracy can be summed up in the phrase “government by the people”.

“Democracy” as a political system does not become a democracy merely because it is given that appellation. The true meaning of democracy can be summed up in the phrase “government by the people”.

A parliamentary democracy ensphering an elected legislature as one of its fundamental facets, and which is the political system we are fortunate to be endowed with in this country, is one in which the representative of the people are not only entitled to make basic decisions but in which they actually make such decisions. It is the possession of the entitlement and the ability to make basic determining decisions which constitutes supreme power and is the essence of democracy. The distinguishing and outstanding feature of a parliamentary democracy is that the relationship between the legislative and executive powers is one of parliamentary supremacy over the executive.

The system of government I have just adumbrated reflects a polity in which the people in effect govern themselves but which yet copes with the basic problem of politics—to allow government to control the governed and yet be itself controlled.

In concrete terms, parliamentary democracy therefore means a number of things:

First, as I have said, there must be a right for the people to choose their own government whom they will entrust to govern

them. This can only be achieved by having a process which guarantees to its people a right to exercise their free will to choose the government. Such a right must also mean that the people must be free to organise in opposition to the government in office. Any form of pressure or arbitrary limits imposed on the people in their free exercise of the right to choose their own government will be a clear abrogation of any parliamentary system of government. A single party system of government has only a semblance of a parliamentary democracy.

The elected government is not free to exercise governmental power in any manner it chooses, for in a parliamentary democracy, the exercise of governmental power is bounded by rules: the rules as spelt out in the Constitution and conventions.

Secondly, though it is through a process of free election that a government is elected, the elected government is not free to exercise governmental power in any manner it chooses, for in a parliamentary democracy, the exercise of governmental power is bounded by rules: the rules as spelt out in the Constitution and conventions which prescribe the procedure according to which legislature and executive acts are to be performed and which delimit their permissible context. These rules must necessarily circumscribe the arbitrary exercise of any discretion which the elected government may be bestowed with.

It is fundamental to such a system of government (that is parliamentary democracy) that the government in power had been elected to govern the people in accordance with the wishes of the

people. Such a government should not clothe itself with such powers that in their exercise, does not reflect the true wishes of the people.

It is not unheard of for certain elected governments to assume the role of the custodian of the people by the mere fact that they had been given the mandate to govern. The mandate to govern is distinct from any mandate to make arbitrary decisions.

Thirdly, parliamentary democracy must also necessarily mean that any powers granted by the Constitution to the elected government to suspend the application of the parliamentary system of government in the interest of the security of the nation should be sparingly exercised. A frequent exercise of such powers by the elected government may demonstrate a weakness on the part of the government to govern the country in accordance with the wishes of the people.

Fourthly, constitutional amendments ought not be made too frequently. Parliamentary government also envisages constitutionalism and so the constitutional restraints on the exercise of power must not be diluted unduly.

Parliamentary government envisages constitutionalism. Constitutional restraints on the exercise of power must not be diluted unduly.

Fifthly, the right to information and the right of being consulted are very important. The theory that it is the people who decide will fall to the ground if the government keeps the people uninformed. Similarly, major bills must not be rushed through Parliament. The people should have an opportunity to express their views.

Last, but not the least, in a parliamentary democracy, the right to free speech is sacrosanct. A parliamentary democracy which curbs the right of the people to speak freely is no parliamentary democracy. This right of free speech must embrace not only a right to agree but a right to dissent from the majority view. A practical concomitant of this is the existence of a free press. A fettered press is an anomaly in a parliamentary system of democracy.

The right of free speech must embrace not only a right to agree but a right to dissent from the majority view. A fettered press is an anomaly in a parliamentary system of democracy.

In so saying that there must be free speech, I am not, however saying that it should be an unqualified right; for no constitution in any country can grant such an absolute freedom. But then it should not also be only a symbolic right. What must be borne in mind is that the right to free speech ought not be subject to qualifications or to limits which are so far-reaching as to make the right devoid of any meaningful content.

It might be that this system requires some variations or modifications in line with the needs and requirements of different countries and peoples and perhaps also against the changing context of the political background as times change and the years go by.

This seminar will no doubt discuss this important topic from various aspects and perspectives and formulate suggestions for improvement and reform in areas where this might be called for. I have therefore no doubt that this seminar will provide useful discussion and fruitful conclusions and generate deep thinking not

only amongst the participants but also by the public generally on the theme of its proceedings.

I have accordingly great pleasure in formally declaring open this seminar. I wish it all success and am confident that its proceedings will prove to be of great benefit and worthy of its organisers.

Editor's note

See also chapter 5, *Checks and Balances in a Constitutional Democracy*, below.

