

16 AUG 1996
Eusoff-Amendment
CHIEF JUSTICE SUPPORTS AMENDMENT TO CPC

KUALA LUMPUR, Aug 16 (Bernama) -- Chief Justice of the Federal Court Tan Sri Eusoff Chin supports the suggestion that the Criminal Procedure Code (CPC) be amended to remove any uncertainty over the standard of proof required of the prosecution in criminal trials.

He said Section 180 of the CPC appeared to be "ambiguous and messy" and should be amended to make the intention clear. This could be done by adding certain sub-sections or by taking out some words.

The phrase "prima facie", for instance, was not found anywhere in the CPC, he told newsmen after opening the annual meeting of the Peninsular Malaysia Bailiff Union.

Eusoff was asked to comment on Prime Minister Datuk Seri Dr Mahathir Mohamad's statement yesterday that the government was studying the implications of the Federal Court's landmark judgement last month which held that the prosecution in criminal trials must prove their charges beyond reasonable doubt at all stages of their cases.

The court decided by a four-three margin that the standard of proof at the end of the prosecution's case was not the lower standard referred to as the "prima facie" (on the face of things) case, but the higher one of beyond reasonable doubt.

Dr Mahathir said there were 400 criminal cases pending which the government feared it might lose in view of the Federal Court's decision.

He said the government's study of the judgement would include the possibility of amending the CPC.

Eusoff said the Federal Court, in the landmark judgement delivered on July 27, had only interpreted the meaning of Section 180 of CPC.

"We have done that and the reasons are given in our judgement based on what we think the meaning of Section 180 of the CPC should be," he said.

Eusoff said it was the prerogative of the government to formulate policies and if the government introduced or amended a law, the court would implement the intention of Parliament.

"The primary function of the court is to interpret the law and it is not the function of the court to make laws. The function to make laws is with the government and Parliament," he said.

"If the government feels the section is not clear and it may lead to a split decision, then the law should be amended to make the intention of Parliament clear," he added.

Eusoff admitted that some laws were ambiguous and sometime the wording of the laws led to confusion, but the court would always try its best to interpret it based on the principle that Parliament did not legislate in futility.

Therefore, he said, every word, every phrase and every sentence of the laws must be given a meaning and a section would not be read in isolation but be read together as a whole to get the true meaning.

Asked whether he had suggested the amendment to the government, he said under Article 145 of the Constitution, it was the Attorney-General who should advise the government on legal matters and not the Chief Justice.

"We shall not get ourselves involved," he said. -- BERNAMA

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