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PM: Judiciary has never been beholden to the Government (HL)

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KUALA LUMPUR, Thurs. - No one should question the independence of the Malaysian judiciary and its ability to make decisions freely because history has proven that it is not beholden to the Government, Prime Minister Datuk Seri Dr Mahathir Mohamad said today.

He said the judiciary had ruled in favour of the Opposition more often than it did for the Government which had on all occasions accepted the decisions although at times the judgments "seemed unfair".

However, he said, the Government did not protest or complain because it respected the freedom of the judiciary to make decisions without fear or favour.

"I am not complaining that the judiciary is unfair, but it seems to us that decisions are made without any regard to the Government ... not at all," he told reporters after briefing Senators and Barisan Nasional MPs at Parliament House on the next Dewan Rakyat and Dewan Negara meeting which begins on Oct 20.

Dr Mahathir cited an instance where an Opposition member was fined less than RM2,000 so that he would not be disqualified as an MP, although the maximum fine for the offence was much more than that.

"This is discrimination but we didn't protest," he said.

Among recent cases involving Opposition MPs, Datuk Seri Joseph Pairin Kitingan, then Sabah Chief Minister, was fined RM1,800 after he was found guilty by the Kota Kinabalu High Court in 1994 for using his position to commit corrupt practice.

He was charged under the Emergency Ordinance (Essential Powers) which carries a maximum 20 years' jail or a fine up to RM20,000.

In 1978, DAP secretary-general Lim Kit Siang was charged, convicted and fined RM15,000 on five charges relating to the disclosure of secret information regarding the purchase of four fast strike craft by the Royal Malaysian Navy in 1976.

He appealed to the Federal Court and successfully had the fine for each charge reduced to less than RM2,000.

Under the Federal Constitution, an MP who is fined RM2,000 or more or jailed for more than a year, will automatically be disqualified as a member of the Dewan Rakyat.

Dr Mahathir said on the other hand, when cases involving the Government appeared before the court, they were severely dealt with.

"I don't know what else you can say about the judiciary being fair when the same judiciary has decided very much against the Government in many instances.

"We are not saying that it is unjust. But the same judiciary had declared that Umno was an illegal party. We had to re-start Umno and we were put in big trouble by that decision."

Umno was declared illegal by the High Court in 1988 after several members sought court redress over certain grievances arising from the party polls the year before.

Similarly, Dr Mahathir said the judiciary had convicted many party officials who held high posts in the Government, including Ministers and Menteri Besar, for offences committed by them.

"So, the judiciary in Malaysia is not beholden to the Government. In some other countries, you can be sure that it (the judiciary) will decide for the Government and whoever attacks the Government will be punished to

the point where there will be no return for them."

Dr Mahathir said foreign countries, including members of Asean, were not in a position to criticise the Malaysian judiciary.

He said those who criticised the Malaysian judiciary should look at their own system which did not work well.

In the United States, he said, the policemen who beat up a black man were freed by the court of all charges of brutality, resulting in a big riot in Los Angeles.

"Recently, another black man had his feet tied to a lorry and dragged on the road until he died.

"A Japanese student who knocked on someone's door to ask for directions was shot dead by the owner of the house.

"The houseowner claimed that he was under the impression that the Japanese student was a robber. The court found him not guilty. This effectively means he can shoot whoever he wants."

Dr Mahathir said such court decisions could only come from a country where there was no justice whatsoever, especially for the blacks. "And now they are trying to teach us about justice."

In Malaysia, he said, everyone was treated equally, regardless of race.

Asked to comment on various statements by certain Asean leaders on Datuk Seri Anwar Ibrahim's impending trial which gave the impression that the judiciary was not free, Dr Mahathir said:

"That is their right. They can raise it if they want. But we can also raise issues about their countries.

"I wish they will give the court a chance to decide. That is the judiciary in this country. Maybe in their countries, it is not the courts that decide, it is the mob on the streets which makes the decisions.

"In these countries, the mob is making the decisions. In our system, the courts make the decision."

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