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A-G's statement `not in keeping with role as first law officer'

KUALA LUMPUR, Fri. - The Bar Council regrets the Attorney-General's statement that those who made allegations of "selective prosecution" against him, risk being charged with sedition.

Bar Council president R.R. Chelvarajah said today the statement was not in keeping with the Attorney-General's role as the nation's first law officer, as it showed a "lack of respect or understanding of the concept of democracy and the Rule of Law".

"So long as he exercised his discretion properly he should not fear any criticism. If he is criticised for any alleged failure, he must justify his decision by explaining his action.

"Ignoring the criticism by threatening prosecution is not the way to solve the problem," he said in a statement.

Chelvarajah said the Attorney-General should take the lead in showing that public officers, especially those holding high office, subscribed to the principle of accountability and transparency.

"His statement, sadly and regrettably, is gravely wanting in that respect," he said.

As an officer entrusted with the duty to protect the Constitution and public interest, he said, the Attorney-General should keep in mind the principle, affirmed by jurists such as Lord Denning, as well as Prime Minister Datuk Seri Dr Mahathir Mohamad, that "no one is above the law".

Chelvarajah expressed disbelief that the Court of Appeal intended for its judgment in the Lim Guan Eng case to be interpreted as putting the Attorney-General above the law.

"Whether the allegation of `selective prosecution' or `double standards' constitutes an offence would depend on whether the Attorney-General had, indeed, acted wrongly."

While it was undeniable that the Attorney-General alone had the discretion to decide whether or not to prosecute cases under Article 145(3) of the Constitution, Chelvarajah said, no discretion could ever be taken as absolute in a democracy.

The prevention of abuse of discretionary power was inherent in the concept of the Rule of Law, he said, adding that the authority charged with dealing with such abuse was the courts.

"As with every question of abuse, the courts must try to strike a balance between the competing interests posed by the need for a fair and efficient administration of justice and the need to protect the citizen against the arbitrary exercise of power, in this case, by the Attorney-General."

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