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Param-Mahathir

UN RAPPORTEUR PARAM DENIES ATTACKING JUDICIARY

KUALA LUMPUR, Oct 1 (Bernama) -- Lawyer Datuk Param Cumuraswamy has denied that he made "virulent attacks" on the Malaysian judiciary and is unfit to hold his present appointment as United Nations Special Rapporteur on the independence of judges and lawyers.

He also urged Prime Minister Datuk Seri Dr Mahathir Mohamad to identify any of his statement that had attacked the judiciary.

In his speech at the UN General Assembly in New York on Wednesday, Dr Mahathir had criticised the UN for "rather unusual practices", citing as an example, the choice of UN human rights commissioners.

Without naming anyone but obviously referring to Param, Dr Mahathir told the world body: "But the UN chose a person well known for his virulent attacks on the Malaysian judiciary to report on that institution".

"The UN then conferred on him total immunity against the laws of his country without reference to or consent of the country and the immunity apparently extends beyond his task of reporting his findings to the UN."

Param, in a statement here today, said the immunity from legal process claimed by the UN in his case was in accordance with the Convention on Immunities and Privileges of the United Nations 1946.

He said Malaysia ratified this Convention without any reservation whatsoever in 1957 and by this act, Malaysia consented to its application, including on its own citizens.

"Hence the assertion that the UN conferred on me the immunity without the consent of Malaysia is untenable and baseless," said Param, who was granted immunity by the UN from a local legal suit filed against him two years ago.

Dr Mahathir had said that in Malaysia, even the King and the hereditary rulers are not above the law.

Param said contrary to the Prime Minister's remarks, his statements on the Malaysian judiciary were all in relation to protecting and securing its independence, impartiality and integrity.

Param attached press clippings which he said "clearly show how in the late eighties I came in defence of the independence of the Malaysian judiciary against attacks on it by the Prime Minister himself".

Referring to Dr Mahathir raising the issue at the UN General Assembly, he said: "I understand this is the first time in the history of the UN General Assembly that a head of government stood at its podium and criticised a citizen of his own country".

Param, a former president of the Malaysian Bar Council, also rejected remarks made by the Prime Minister in the speech that he (Param) had broken the laws of the country.

In his speech Dr Mahathir said: "We are told that governments must not interfere with the judiciary. Yet in this case, the government is expected to instruct the judiciary not to act against this UN commissioner for breaking the laws of the country".

Param said: "No court of law has found me in contempt, or liable for defamation or that I had broken the laws of the country. Yet the Prime Minister had prejudged and delivered his verdict, thus being judge and jury".

He said even in Malaysia, the law provides for the executive to intervene in the legal process when immunity from the legal process is claimed by a diplomat.

"It is a cardinal principle in consular and diplomatic law that when immunity from legal process is claimed by a diplomat, it is the executive which asserts the same in a court of law either in person or in writing. Where the law itself provides for the executive to intervene in the legal process how could it be said that such intervention would interfere with judicial independence.

"In fact there is a judgment of the highest court in England to the effect that such intervention does not amount to executive interference in the independence of the judiciary," he said.

Param said he was appointed by the Commission on Human Rights in May 1994 with a mandate to monitor the independence of judges and lawyers throughout the world.

He said he had since intervened in more than 60 countries including the United States, United Kingdom and Northern Ireland, Belgium, Australia, New Zealand and China.

"I have met presidents, prime ministers and chief justices. I have given extensive press conferences in these countries about the state of judicial independence. I have never had problems with these governments and their courts," he said.

He added that the decision of the highest court of the United Nations (to grant him the immunity from legal process) is binding on Malaysia which is a party to an international treaty together with its state organs like the judiciary.

-- BERNAMA

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