

**Bersih crackdown: Time for Agong to step in, says don  
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In light of constitutional abuses in the government crackdown against Bersih 2.0, the Yang di-Pertuan Agong is legally bound to step in and safeguard the rakyat's interests, says renowned constitutional law expert Abdul Aziz Bari.

"It is not about getting political or partisan but to save the country and the constitution," contended the International Islamic University Malaysia (IIUM) lecturer, who has researched and written extensively on the subject.

He explained that as "guardian of the constitution", the King is duty-bound to protect it, as per his oath of office.

Abdul Aziz (left) also believes the situation presents an opportunity for the King to return the spotlight to the institution of the monarchy, especially after the 2009 Perak political crisis and his own absence in 2007.

"To my mind, given the nature of the problem, the King should receive the memorandum himself. There is nothing in the constitution that prohibits it. Nothing political or partisan about it, as claimed by the BN or police," the law professor told Malaysiakini.

The King need only to receive the memo and pass it to the relevant authorities, Abdul Aziz said, adding that the people don't expect the King to play an active role in Malaysia, as opposed to sovereigns such as King Bhumipol of Thailand or Spanish monarch King Juan Carlos.

Traditionally, kings in Malaysia have been submissive at the federal level, though in their home states, the Malay rulers have been known to be assertive.

With a tenure of five years, the King spends less time in office than some prime ministers, like Tunku Abdul Rahman Putra, who headed the government for 15 years, and Dr Mahathir Mohamed, for 22 years.

**'King can act against government'**

Abdul Aziz conceded that the Yang di-Pertuan Agong as a constitutional monarch plays a largely symbolic role.

But the paramount ruler is still vested with national authority. Acts of governance and public service are carried out in his name and under his authority - evidenced by the phrase monogrammed onto the envelopes of all government agencies, "Atas Urusan Seri Paduka Baginda" (On His Majesty's Service).

Normally, the ceremonial ruler acts on the advice of the sitting government - which holds popular mandate, a proviso put in place to protect the King from controversy - but the King is only bound to follow advice that is constitutional.

"Here lies the argument that the King reserves the power to act against the government (if and when absolutely necessary)," stressed the legal expert.

**'Federal disdain of royals'**

More than just violating the constitution, Abdul Aziz recounted the disdain that the BN-led federal government has shown toward the King and the institution of royalty.

"Their attitude towards the King is inconsistent and confusing. The Mahathir administration in the 80s and 90s, for example, made use of the institution to protect their interests."

When the government gets into trouble, he said, they shamelessly hide behind the throne, noting the King's speech used in Parliament to defend government policies.

He also pointed to the first Bersih march in November 2007, when several Istana Negara officials made statements echoing Umno's point of view on the issue.

### **'EC undermined'**

Abdul Aziz also hit out at the Election Commission (EC), which is constitutionally under the purview of the King.

"The complaints (against electoral improprieties) have been one too many and have been around for far too long. It all started in 1990 with the setting up of Election Watch under the leadership of former head of the judiciary, Suffian Hashim.

"The problems are real and the constitution, which envisages free and fair elections, has been undermined. Umno-BN and the EC have been dragging their feet when it comes to electoral reform. I do not think the King should listen to them," he argued.

The IIUM academician believes the King and the Malay rulers have a duty to ensure that the Election Commission is credible, as provided for under subsection 2 of Section 114 of the constitution.

The lecturer also noted that the Conference of Rulers has the right to be consulted on the appointment of the EC under subsection 1 of the same article.

### **'Questionable government judgment'**

But the final straw in the argument for the King to step in, Abdul Aziz said, is questionable government judgment in the pre-emptive crackdown on Bersih 2.0.

"Given the arbitrary arrests in Penang and elsewhere - the King and the rulers must step in. As for the use of Section 122 of the Penal Code, it is just illogical, for those detained were not even armed.

"Of late, there have been too many occasions where the institution of monarchy has been dragged into controversies by Umno and the federal government. The monarchy should distance itself from the politics of the ruling party."

More seriously, he warned against the government's expressed intent to use the military to deal with the planned July 9 electoral reform rally - a threat that warrants the King to put his foot down, Abdul Aziz said.

Home Minister Hishammuddin Hussein (right) said late last month that the army may be deployed if the rally got out of hand.

"The function of the military is mainly to deal with war and is not to be used against the citizens. It is there to protect the sovereignty and integrity of the nation; not to deal with the business of maintaining public order," Abdul Aziz said.

Though in some instances it is legally permissible for the military to be deployed to restore public order, the situation now, he pointed out, was far from it.

"It is due to the knee-jerk reaction on the part of the police. In other words, what was envisaged by the home minister is not justified.

"The police must get their priorities right; they are there to maintain public order in order for democracy to work. As of now it is just the reverse: the police are interfering with the political rights of the citizens.

"The Yang di-Pertuan Agong, as the supreme commander of the federation and armed forces, and the Malay rulers as the colonels-in-chief of all the formations and units, must step in," Abdul Aziz added.

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