

## **BN ministers blocked limiting AG's powers**

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**By Zaid Ibrahim**

COMMENT The deputy chief commissioner (operations) of the Malaysian Anti-Corruption Commission (MACC), Mohd Shukri Abdul, admitted at a public forum recently that the MACC is rendered helpless when the attorney-general does not want to charge someone with graft even if the MACC investigation produces adequate evidence.

This is not a new revelation. It has been a common complaint over the years from the enforcement agencies, whether the police, the Securities Commission, Immigration, Customs or the MACC. These agencies can only investigate and recommend, but the decision to prosecute ultimately depends on the attorney-general.

This is the most scandalous, preposterous and ridiculous state of affairs in our country. It sickens me how we have allowed such a blatant abuse of power by the Barisan Nasional government to go unchecked.

All these enforcement agencies are adequately staffed by senior lawyers and experienced investigating officers. They have all the facilities required to conduct proper investigations. So why can't we allow these agencies the power to decide the final question, which is whether the culprit should be prosecuted or not?

I suppose the reason why the BN Government wants to keep things as they are is that if they can "control" the attorney-general, they can then exercise their power accordingly when it suits them.

When I was in the government, I proposed that we should amend the federal constitution to give the power to prosecute not just to one person called the attorney-general, but to a newly created Office of the Public Prosecutor to be headed by the solicitor-general; (and all the designated lawyers in that office).

I wanted the attorney-general not to be involved in the day-to-day operations of criminal prosecution but to act only as chief legal adviser to the government so we can overcome the present mischief. But the strongest objection came from my erstwhile colleagues: the BN ministers.

They did not say why they objected but we all knew the reason. The attorney-general will of course relish having his full power over Heaven and Earth since no one else in the country can question his exercise of power. He does not have to explain his decision.

And of course the BN feels reasonably confident of the arrangement because the attorney-general holds office at the pleasure of the crown, meaning the BN government, so they know that they can rein him in when necessary.

When I said that we should empower the enforcement agencies to prosecute by designating their officers as members of the Public Prosecutor's Office, I was told that this would not be necessary since the attorney-general has the authority to delegate his power to the officers in these agencies to prosecute under the Criminal Procedure Code.

System is flawed

The problem is that these "promises" to empower enforcement officers have not materialised. And even if they do materialise, the set-up is such that there may well be instances of when the agencies may prosecute only if the attorney-general consents to it.

The system is flawed because these legal officers are all subservient to, and dependent on, the attorney-general for their promotion. They will not cross swords with him. It is impossible for them even to

entertain a decision against the wishes of the attorney-general. This is where we are today. Why must we live with a system that is so open to abuse.

By now, the prime minister should recognise that goodies and cash payments can win support from some people, but the majority of the rakyat want an accountable and responsible government much more than handouts.

The airtime and the news on why Anwar Ibrahim is not fit to be prime minister is a total waste of time. The same news has been repeated again and again over the past 12 years. It should be replaced by policy decisions that address the fundamental weaknesses of this government.

That would be fitting for a popular and transformational prime minister.

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