

Pakatan must decentralise AG's powers

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Pakatan Rakyat should seriously consider decentralising the powers of the attorney-general if it is elected into power.

At present the AG has sole discretionary powers in commencing criminal prosecution, under Article 145 of the federal constitution.

The exercise of this discretion has, in the past and of late, become the subject of grave criticism.

Some have argued that certain prosecutions were politically-motivated. Others have criticised the AG for failing to prosecute where criminal acts were obvious and argued quite convincingly that those decisions were likewise motivated, either politically or otherwise.

NONE Some instances where prosecution have been criticised include the case involving DAP secretary-general Lim Guan Eng who came to the defence of an underaged Malaysian girl who alleged that she was sexually violated.

Lim was charged with sedition and subsequently imprisoned for 18 months after conviction.

Then there is the case of DAP chairperson Karpal Singh, who is currently charged with sedition for merely reiterating a legal opinion.

And we could take the case of PAS deputy president Mat Sabu, who has been charged with criminal defamation. His accuser, it is said, openly retracted his complaint against him in court and apologised to him.

Recently, we have the charge against PKR's Rafizi Ramli and another in connection with the National Feedlot Corporation scandal.

This is even more disturbing as it smacks of utter disregard on part of the AG of and concerning the need to protect whistleblowers, thereby thwarting efforts by Parliament to encourage members of the public to take part in the fight against corruption.

'World's best democracy' a mockery

The charges against Rafizi can also be seen as an affront towards the 'reformist' Najib Abdul Razak administration. It also makes a complete mockery of the prime minister's promise to make this country "the world's best democracy".

These are just a few of very many examples.

Pakatan Rakyat must, just like it hopes to achieve in all other areas of governance, introduce transparency and accountability into the field of decision-making in the criminal justice system.

This may be a somewhat radical departure from the conventional norm but there are compelling reasons justifying its inception.

Some of the suggestions include the setting up of a committee to which complaints can be made when persons are charged or not charged, which will have the power to review decisions of the AG.

It may be important to also consider making it compulsory for this committee to report to Parliament every year, so that there is greater scrutiny and balance in its handling of complaints.

Another way would be to legislate to empower courts to determine whether or not certain decisions to prosecute are tainted and therefore liable to be set aside.

The reverse would apply where no decision to prosecute is taken when the evidence of an offence and of the perpetrator are overwhelming.

The short of it is we must recognise that there is a need for the office of the AG and his powers to be revamped.

At present the AG seems to be cold to criticism. Complaints against him are many but his responses hardly, if any. This is perhaps because the AG is clothed with absolute power under the federal constitution.

This is the exact mindset that needs to be corrected. The AG must be put in a position where he can be called upon to explain.

Opening his decisions to review will ultimately plant a greater sense of responsibility on his part in the exercise of his duties as the public prosecutor.