

## **COMMENT | Backdoor gov't 'illegitimate' until it is approved by Parliament**

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COMMENT | While the king has to use his judgement to choose the prime minister when there is a dispute over who commands the majority in Parliament, common sense and prudence dictate that this decision is ratified by Parliament which should sit normally after that.

Using procedures to deliberately delay Parliament and constrict its powers through nonsense restrictions to frustrate and postpone the inevitable no-confidence motion against Prime Minister Muhyiddin Yassin is against all principles of a democratic government and may well be open to challenge in the courts.

Thus, the move by Muhyiddin to restrict Parliament to only the king's address and not to conduct any other business via an amendment to the agenda sent to the speaker - he appears to have the legal power to do this, although some dispute that - is an utter mockery of parliamentary process and an abuse of his

powers.

It prevents either the legitimisation of his government or the demonstration of his lack of majority. That must lead one to suspect that Muhyiddin may not have the majority especially given how whimsical some MPs become during such times when they can be swayed by promises of power, patronage and money.

In other words, the blunt truth may be that this is an illegitimate government which is prolonging its existence by delaying a proper parliamentary sitting which will decide once and for all whether Muhyiddin commands the majority in Parliament.

By law and by convention, Muhyiddin needs to tender his resignation if he loses a vote of no confidence in him, as explained clearly in this article by constitutional lawyer Gurdial Singh Nijar.

He said in that article: "If the motion is carried, by a simple majority of those present and voting, then the PM must tender his resignation together with that of his cabinet.

"The PM may also, instead of tendering his resignation, request the king to dissolve Parliament. The king is not obliged to agree to the request. Recall that

the then sitting MB of Perak made this request to the then Sultan Azlan Shah of Perak in the Perak State Assembly crisis. The request was not acceded to.

“If the king agrees to the request to dissolve, and the Dewan is accordingly dissolved, a general election must be held within 60 days of the dissolution.

“The king may, as an alternative to dissolution, invite an MP to form the next government. This person must be one who, in the king’s judgement, is likely to command the confidence of the majority of the members of the Dewan Rakyat. This is at his subjective discretion. It is his judgement and based on who he thinks is likely to have the majority confidence.”

It’s clear what Muhyiddin is up to

It’s as clear as a smog-free day, of which we have many these days of the pandemic - incidentally the rather lame reason for Muhyiddin restricting Parliament to the king’s address - what Muhyiddin is up to.

He is delaying a proper sitting of Parliament until he can consolidate his position by offering enough positions, power and money to Perikatan Nasional MPs of all shapes and denominations so that they are likely to support him and tie them up with his own fate.

As I explained in another article, this is part of Muhyiddin's grand plan, these positions that he gives them come with significant money and benefits and therefore link his own good fortune with theirs, thus ensuring their support for him.

But he is not so confident of this plan so far. First, Parliament was supposed to sit in March and then was postponed to two months later in May, during which time frantic behind-the-scenes moves saw major scrambling and unscrambling of positions in government-linked companies and organisations.

But now, there is the frantic, last-minute scramble to push the decisive motion out by a further two months to July, which indicates perhaps that all is not crystallised yet and more manoeuvres may be necessary before he can be sure of his position.

The more time he can buy, the more time Muhyiddin has to consolidate his position and get enough MPs and political parties (think of 18 MPs from GPS of Sarawak for instance), who are right now a capricious bunch who will likely throw in their lot with those who promise the most.

If Parliament convenes as decided, we will probably have yet another dubious distinction - the first time Parliament is sitting to only hear the king's address,

without transacting any other business. Why, it may be a world first for a parliamentary democracy - akin to our dubious distinction of 1Malaysia Development Bhd (1MDB), the world's largest kleptocracy.

Finally, does Muhyiddin have the power to do this? There are some who argue that Muhyiddin's move is illegal and the parliamentary speaker was wrong in acceding to it. Lawyer Harris Ibrahim in his blog post says Muhyiddin cannot dictate the whole order of business in Parliament.

He quotes Standing Order 14(1) which provides that unless the Dewan directs otherwise, the business of each sitting shall be transacted in the order laid out in that Order. There is a whole list of them, including question time, and matters of public importance.

The order is as follows:

(a) Formal entry of Tuan Yang di-Pertua.

(b) Prayers as shall be approved by the House. The prayers for a joint session shall be accordingly amended to include references to the Senate and to members of the Senate and shall be read by the Setiausaha Dewan Rakyat.

(c) Taking of oath by any new member.

(d) Messages from the Seri Paduka Baginda Yang di-Pertuan Agong.

(e) Announcements by Tuan Yang di-Pertua.

(f) Petitions.

(fa) Minister's Question Time.

(g) Questions to ministers for oral answers.

(h) Motion on matters of urgent public importance.

(i) Statements by ministers.

(j) Tributes.

(k) Obituary speeches.

(l) Personal explanations.

(m) Presentation of government bills (first reading).

(n) Motions relating to the order of business (to be moved by a minister).

(o) Public business.

(p) Motions for the introduction of non-government bills.

(q) Other items of business in the order they appear on the Order Paper for the day.

Well, if the opposition is unhappy with what Muhyiddin has done, a legal challenge is in order. But today is already Thursday, and Monday is the parliamentary sitting - very little time to do anything. Probably that too was intentional - sending in the amendment at the last minute.

Effectively what Muhyiddin has done is to delay the legitimisation or otherwise of what may well be an illegitimate government. Until he allows Parliament to sit properly, this government is illegitimate in the eyes of the people, and perhaps even in law.

If shops and restaurants, malls and complexes, offices and factories, construction and renovation, all businesses and operations are slowly moving back to normal, even if it is the new normal, why can't the Dewan Rakyat and Dewan Negara resume normal operations with proper social distancing measures in place?

We all know why. It's nothing less than a very grave travesty of justice and the rule of law. The public must not excuse this.

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