

Roadblocks to independent state legal advisers

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Constitutional law expert Abdul Aziz Bari today welcomed Pakatan Rakyat's recent decision to appoint 'independent' state legal advisers in opposition-run states. But, he pointed out, constitutional requirements will be a major stumbling block to the move.

"Good to know that Pakatan is doing something about this, which I have been proposing for years," he said.

NONE However, Abdul Aziz (right) said, Pakatan should not stop there. It should also look into appointing 'independent' state secretaries and state financial officers, who together with the legal adviser, served as ex-officio executive council members.

His contention is that the unholy 'trinity' of state legal adviser, secretary and financial officer were BN's 'moles' in the state administration and represented a direct threat to Pakatan state governments.

As is standard practice in the former federated Malay states, the three state officer posts are actually federal government appointments, with candidates for state secretary and state financial officer picked from the ranks of the federal administrative and diplomatic officer corps or PTD, while the legal adviser is a federal counsel from the Attorney-General's Chambers.

"They are 'used' by the BN to destabilise the Pakatan-ruled states," he claimed.

The UIA law professor's warning may already have been proven true as these same officers have been blamed for playing the part of being the 'trojan horse' in the BN takeover of Perak, the recent troubles in the Kelantan state government and the snafu over the water deal in Selangor.

Much like rubbing salt into an open, festering wound, Abdul Aziz feels, is the painful truth that the salaries and perks of such 'state officers', which the AG just upgraded, are all paid for by the Pakatan states.

Red flag alert to enemy within

"But their loyalty is with Umno-BN," he added.

perak state govt crisis the rain tree assembly 040309 02 He believes the existing situation is such that the Pakatan states are "sleeping with enemies" in their midst, much like what happened in Perak.

"MB Nizar used to complain that the officers fed Umno with all the information, since they were present at all state executive council meetings. Legally, it is wrong, because these officers were divulging state secrets," he added

He alleged that the oversight by the officers in question was mostly ignored by the federal government, despite the clear implications.

"After all, the Attorney-General is their boss, and it is the AG who decides whether or not to take action under the Official Secrets Act 1967," quipped Abdul Aziz.

But the problem, he explained, was that provisions for the federal appointment of the three state postings remained a constitutional requirement.

"This is a requirement from the past, which is now used by BN for its own ends," said Abdul Aziz.

As an example, Selangor state assembly first sitting 210508 Khalid Teng Sultanhe lecturer pointed to Article 52 of the Selangor Constitution, which states that it is the Sultan who appoints the state secretary, legal adviser and financial officer (the three officers who sit in the state executive council).

The ruler is to consider the recommendation made by "the appropriate service commission", which is the PTD or the Attorney-General's Chambers.

The only restriction to this, he said, was that the Sultan "shall consider the advice of the MB".

"But as we know, when it comes to Pakatan states, they sing a different tune. Even formal ceremonial duties, like summoning the house in Perak, becomes very important," he argued.

Possibility of another head-to-head clash

Similar provisions, Abdul Aziz said, remained in force in other state constitutions, hobbling any plan for the states to appoint 'independent' officers to the three posts.

But he is of the opinion that even when there is no power, like the case of the Perak state secretary, the BN government will assert that there is, and resort to using brute force even, to maintain its rule.

He also warned that Pakatan may be drawn into another head-to-head battle with the royalty because the sultans, as the heads of state in the opposition-controlled states, might be dragged into any fracas by the BN-led federal government.

"The power to appoint these three officers is in the hands of the sultans (or heads of state)," he explained.

Abdul Aziz believes Pakatan needs to amend the state constitution first, as the Sultan's power is in there.

"Which may mean that Pakatan needs to get to Putrajaya first. This is one of the many cleaning-up processes they need to do... part of the housekeeping before they can talk about delivering their promises and so on," he said.

dap ipoh last ceramah 070308 crowd1But while acknowledging that the journey for Pakatan to realise its Putrajaya vision and reform agenda are fraught with many such dangers, the silver lining in all this, he believes, is that these goals can be used to garner support from the voters come the next general election.

"BN surely won't do that," he said, hinting that such 'reform' ideas might well be the ace-in-the-hole for Pakatan.

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