

Karpal: Independent state legal advisers a no-go
Malaysiakini.com
July 09, 2010

The move to appoint "independent" state legal advisers may very well hit a stone wall - unless the constitution is amended.

Legal advisers (LA) are a branch under the Attorney-General's Chambers, and are already provided for under the Judicial and Legal Service Commission (JLSC), which was established in line with Article 144 of the federal constitution.

NONE "So, essentially, I don't think (the state government) can do anything about it. It's a federal appointment by the Attorney-General himself," said senior lawyer Karpal Singh (left).

He also said that while things looked bleak for the Pakatan Rakyat state governments intending to appoint their own legal advisers, there was only one way left for them - to amend the constitution.

Karpal, who is also the MP for Bukit Gelugor, said that only when legal advisers are exempted from the JLSC that a state could appoint the candidate it wanted.

"But of course, it is unfair for state governments because the legal advisers are appointed by the Attorney-General on a personal level.

"This means that the A-G will have an eye on the state's legal matters," he said.

Karpal also noted that a legal adviser will face a conflict of interest should there be a clash between the federal and state governments.

"In cases where the state and federal governments can potentially be at loggerheads, as in land acquisition matters or in federalising resources, legal advisers then cannot act independently."

However, he said, there were other ways to obtain legal advice from other sources without going through the LAs, such as by obtaining a fiat (decree) from the state governments.

"From there, any independent lawyer can advise the state as counsel."

NONEThe issue of appointing an independent legal advisers for state governments raised question marks, almost immediately after Opposition Leader Anwar Ibrahim's announcement.

The de facto PKR leader (right) had proposed that the Pakatan Rakyat state governments appoint their own legal advisers, in view of "negligence" by the current batch of LAs.

While Anwar did not elaborate on what the troubles were, it has been widely rumoured that the Selangor state government has been having problems with its LA for deliberately causing delays in a law suit to compel the federal government to declassify key documents on the water concessions in the state.

It was also an open secret that the previous Pakatan government in Perak had been at

loggerheads with its state LA before the take-over by the current BN government early last year.

Uneasiness among some Pakatan leaders

However, it is understood that Anwar's announcement has caused uneasiness among some Pakatan Rakyat state leaders.

A PR leader in Penang, who did not want to be named, said that it was likely that Chief Minister Lim Guan Eng would not be taking up Anwar's proposal.

"Yes, it is a system tightly controlled by the federal government. But unless there is a change in the constitution, all we can do is expand our legally-trained staff so that we can always get alternative views.

"The system is making (the LAs) ungovernable, but there are always other ways to circumvent it," he said.

Lim was later quoted as saying that it made no difference whether or not the state government appoints their own legal advisors because it is the exco members who will ultimately give the final nod to any state decisions.

Minister in the Prime Minister's Department Mohd Nazri Aziz had previously said that any move by state governments to appoint their own LAs would be "unconstitutional" and that Anwar's claim the federally-appointed LAs were biased was "baseless".

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd.
Source : <http://www.malaysiakini.com/news/136848>