

Mahathir still untouchable by the law?

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Despite being out of power for almost five years, former autocrat Dr Mahathir Mohamad appears to be still enjoying immunity from the long arms of our law enforcement bodies, just like in the good old days of the Mahathir rule. MCPX

This is the irresistible conclusion from events surrounding the revived controversy over Mahathir's alleged interference in an Anti-Corruption Agency (ACA) investigation on a former Director General (DG) of the Economic Planning Unit (EPU) during Mahathir's reign.

During the second trial (on sodomy) on Anwar Ibrahim, former DG of ACA Shafee Yahya testified on June 12, 2000 that Mahathir angrily told Shafee to stop investigating then DG of EPU Ali Abu Hassan Sulaiman. Shafee had earlier (in 1998) raided Ali's office and found large amount of unaccounted for cash (RM100,000) in the latter's drawer.

mahathir and param cumaraswamyFormer United Nation Special Rapporteur Param Cumaraswamy took up Mahathir's recent challenge for any foreign agency to investigate his misdeeds, and exposed this incident.

In defence, Mahathir refuted the allegation by giving his side of the story in a letter published in the Sun on April 8, 2008. However, this letter appears more like an attempt to distract rather than to take on the real issue which is the finding of large amount of unaccounted for cash in Ali's office drawer. Mahathir claimed that in the meeting with Shafee in his office (on June 19, 1998), it was Shafee who lost his temper on Mahathir after being asked a series of questions, angrily and loudly accusing Mahathir of interfering with his work.

Mahathir's defence weak

Never mind about who is angry against who, what about the meat of the issue which is the finding of the unaccounted for cash? Is it true that there was such a large amount of cash in Ali's drawer? Is it true that Ali could not account for it? Mahathir being Ali's immediate superior, what did Mahathir do upon being confronted with such alleged misdeed by his top official? Did Mahathir pursue this serious allegation to the very end? If he didn't, why? If he did, can he tell us now the true story of this cash in Ali's drawer? I think Mahathir owes the nation true answers to these questions.

As regards whether Mahathir did or did not order Shafee to stop investigation, the test of the pudding is in the eating. What happened to the investigation? Did Shafee continue to investigate diligently after the said meeting with Mahathir and brought the investigation to a swift conclusion?

The answer is an emphatic no. ACA's director of investigation Mohd Shukri Abdul said that it took three years (1988 to 2001) to complete the investigation on Ali. Is it not strange that a simple case like this – either Ali could or could not justify the cash on him – which should have taken only days or weeks, had actually taken three years to complete? What possible justification could there be for this long delay if not for the fact that the case had in fact been put on cold store after the fateful Mahathir-Shafee meeting?

Such suspension of investigation would surely have been reflected in ACA's report, the conclusion of which is certainly of great interest to the public. So, can we ask what the finding of this report is? No, according to Mohd Shukri. Reason? He could not give details as investigation was conducted before his time. What kind of nonsensical answer was that? By Mohd Shukri's logic, if his position is taken over by some one today, the new officer would be in the ridiculous situation of not being able to answer any question at all on any case, as he has only taken the new position this day. ACA's naked attempt to hide the skeletons in the cupboard is only too obvious.

Perhaps the greatest weakness of Mahathir's defence is his failure to appear in court to refute Shafee's allegation. Contrary to Mahathir's claim that he was not allowed the opportunity to refute the accusation, Mahathir in fact took the opposite course. He fought tooth and nail to resist a subpoena to appear in court. Even on the very day that Shafee testified against Mahathir – June 12, 2000 – , Anwar's counsel Christopher Fernando had a clash with High Court Judge Arifin Jaka arising from this subpoena. Arifin asked Christopher to close the case at the end of the day, but Christopher objected on the ground that he was still awaiting a decision from the Federal Court (the highest court) on Anwar's appeal against the Court of Appeal decision upholding Judge Arifin's ruling to allow Mahathir not to testify in the trial.

When a prime minister is accused by his top corruption buster in court of having stopped an investigation on the PM's top aide, and the PM steadfastly refused to take the stand in the same court to refute the accusation, what conclusion can we draw other than the PM is guilty as charged? That is what the common people would think, but not our attorney general and police.

Hiding skeletons?

On April 8, 2008, Attorney General Gani Patail said police investigated Mahathir for the alleged misdeed, and the investigation papers were received by the Chambers in February 2000. He said however "the Chambers had found no evidence to suggest Mahathir had interfered in investigations". (Param pointed out in a letter to Malaysiakini published on April 11 that it was impossible for AG to receive the investigation papers in February 2000 when Shafee only testified in June 2000, but AG has not made any public clarification to date).

On April 9, 2008, Federal CID director Mohd Bakri Zinin said he would obtain the files containing the investigation papers submitted to the Attorney General and go through it to ascertain whether the probe was properly done. If the case needed to be re-opened, he would refer his findings to the Inspector General of Police (IGP) Musa Hassan.

On April 10, 2008, Musa Hassan was asked whether the case would be re-opened. He answered: "What for? Are there any witnesses? It would be the same thing." With that, we take it that Musa had already made up his mind the case would not be looked at, and the CID director could therefore save his time by not looking at the files.

On the same day, Gani Patail said the Mahathir case was officially closed and would not be considered for re-opening unless fresh evidence surfaced.

With that, it looks like AG and police have acted in concert to block current effort to re-open this Mahathir abuse-of-power case.

Then what about the Ali Abu Hassan's cash-in-drawer case? ACA's Shukri said that then AG Mohtar Abdullah had asked for the case to be closed due to "inconsistent witness statements and lack of supporting statements". Doesn't this smell fishy - an officer caught red-handed with unaccounted for cash by the chief of ACA himself personally, and yet the ACA could have bungled with such mangled statements as to cause the AG to reject them after three long years of investigation? Since our ACA could not be so hopelessly inefficient, what choice do we have except to conclude that either ACA or AG or both have been less than honest?

AG's shady role

That both the previous AG Mohtar and current AG Gani appeared to have acted dubiously with regards to these scandals involving Mahathir should come as no surprise, if we know their questionable role in the sham trials of Anwar Ibrahim. Mohtar and Gani, (who was then the leading prosecutor), were accused in an affidavit by lawyer Manjeet Singh Dhillon to have blackmailed Manjeet's client S Nallakaruppan with threat of the death penalty to concoct evidence against Anwar. In fact on the same day that Shafee testified against Mahathir (June 12, 2000), counsel Christopher examined Manjeet (a former Bar Council president) on Gani's attempt to blackmail Nalla. I reproduce below the relevant section of an AFP news report dated June 12, 2000 touching on this part of the court proceeding:

Fernando, seeking to prove that witnesses against Anwar had been coerced, then called lawyer Manjeet Singh Dhillon.

Manjeet was the lawyer for Anwar's one-time tennis partner S Nallakaruppan (better known as Nalla).

Nalla was initially charged with possessing live ammunition under an act which carries a mandatory death sentence. Prosecutors later reduced the charge and Nalla in February 1999 was jailed for 42 months.

Manjeet said he met state prosecutor Abdul Gani Patail in October 1998.

There was a "blatant attempt by Abdul Gani to extort and blackmail evidence from a man (Nalla) by using his life as a bargaining chip," he said.

lingam tape panel meeting 031007 abdul gani patail Manjeet said Abdul Gani told him that prosecutors "were looking into the matter on behalf of the prime minister and that he wanted evidence from Nalla concerning (Anwar's affairs with) women.

"In the course of mentioning that fact he moved in numbers and finally settled for five women."

Manjeet said Abdul Gani told him "that I had to impress on Nalla to bear in mind that he could die." Nalla did not give evidence against Anwar.

Both Mohtar (famous for his selective prosecution) and Gani had perverted justice to serve the personal interests of Mahathir, and it is certainly not unreasonable to suspect that they have done likewise in these cases, considering that the circumstances surrounding this scandal have overwhelmingly pointed to Mahathir's guilt.

Prime Minister Abdullah Badawi vowed in a major post-election speech on March 25 to

renew efforts to fulfill his pledges of reforms made in his 2004 election manifesto. Now is the time to honour this renewed pledge by restoring some shine to our tarnished law-enforcing bodies by accepting Mahathir's challenge to invite an international body to investigate the allegations against Mahathir. Does Abdullah have what it takes to fulfill the yearnings of the electorate so eloquently expressed in the Mar 8 election?

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