

Bar Council startled by judge's 'damning' disclosure
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Sarawak High Court judge Ian Chin sent shock waves through the legal fraternity when he exposed incidents of executive interference dating back more than 10 years.
MCPX

The revelations were made at the start of an election petition hearing yesterday, over which he is presiding.

He implicated former prime minister Dr Mahathir Mohamad and former chief justice Eusoff Chin - two key personalities in the VK Lingam tape scandal which had recently rocked the country's judiciary.

Malaysian Bar president S Ambiga sounded both alarmed and concerned when contacted to comment on the stunning revelations.

"The disclosures by the judge are both startling and damning. They speak of forms of executive and other interference in the judiciary which have undermined the institution," she said.

"Judges must make known and, if necessary, make public any such acts of interference by any party."

ian chin ian hn chin judgeThe Borneo Post reported Chin's (right) allegations that Mahathir had threatened judges with removal should they decide unfavourably towards his administration [See full text of Chin's speech in court - PDF file].

Chin was hearing the election petition filed by DAP candidate Wong Hua She, who wanted the court to declare the result of the Sarikei parliamentary contest on March 8 'null and void'.

Barisan Nasional candidate Ding Kuong Hing had won the seat with a slim majority of 51 votes in the election three months ago [see chart below].

Ambiga urged Chief Justice Abdul Hamid Mohamad and all other relevant authorities to conduct a thorough and comprehensive investigation into the matter of executive interference and judicial indiscretions.

She said there have been rumours of such interference, but said this is the first time a sitting judge has provided details.

"We want to encourage all judges, present and past, to provide information about any and all instances of any such interference so that further action may be taken," she said.

'Astronomical award'

Relating how there had been complaints about him pertaining to his previous conduct, Chin revealed what had happened to him after handing down two judgments in 1997.

sarikei parliamentary seat 100608 One was the judgment in a case handed down on Feb 5, 1997 where he did not follow the ruling in granting "astronomical awards" for libel as was decided in the Vincent Tan vs MGG Pillai defamation case.

Tan, a business tycoon, was awarded RM10 million in damages after suing Pillai for four articles containing allegations of corruption and illegal dealings by Tan, which were published in the Malaysian Industry magazine in 1993 and 1994.

The second judgment was an election petition, where on Feb 13, 1997, Chin had set aside Mong Dagang's election when allegations of bribery were proven in the ballot.

The petitioner, Donald Lawan, had sought to declare the election of Mong Dagang, to the Sarawak state constituency of Bukit Begunan, as null and void on the ground that the vote was tainted with bribery.

According to Chin, the Judges' Conference was held on April 24 - two months after these judgments - then premier Mahathir was scheduled to hold a dialogue with the judges.

lingam tape inquiry day 4 170108 mahathir "What was termed a dialogue and later reported as one was anything but a dialogue. (Mahathir) went there to issue a thinly-veiled threat to remove judges by referring to the tribunal that was set up before and stating that though it may be difficult to do so, it was still done," Chin told the court.

"He said all that after he had expressed his unhappiness with what he termed 'the Borneo Case' and after he asked whether the judge who decided that case was present or not.

"After he was done with issuing that threat, he then proceeded to express his view that people should pay heavily for libel.

"He managed to get a single response from a Court of Appeal judge who asked whether he would be happy with a sum of RM1 million as damages for libel.

"He approved of it and he later on made known his satisfaction by promoting this judge (since deceased) to the Federal Court over many others who were senior to him when a vacancy arose."

Chin said he was devastated but was later advised by supportive Federal Court judges who told him to ignore Mahathir. He was also comforted by a fellow High Court judge who opined that Mahathir was "too much".

Sent to a 'boot camp'

However, a month after the 'dialogue', Chin was packed off to a boot camp together with selected judges and judicial officers.

"The boot camp was without any doubt an attempt to indoctrinate participants to hold the view that the government's interest as being more important than all else when considering judgments," he said.

Chin pointed out that this 'devilish notion' was stated by then Court of Appeal president Lamin Mohd Yunus.

"Everyone was quiet during the question sessions. Also invited to the boot camp was a lecturer from a university who berated the election case.

"(But) the bright spot in this episode was that a judicial officer, during question time, told the lecturer that she had no question but only a statement to make which was that the lecturer was in contempt of court."

Chin also said former deputy prime minister Anwar Ibrahim had attended the 'boot camp'.

"(Mahathir) was scheduled to talk at this 'boot camp' but he did not turn up and instead sent his then deputy (Anwar) who instead of talking, invited questions.

"The one question I remembered being asked was: 'are politicians looking for girls when they are often seen loitering at posh hotel lobbies?'"

Anwar is currently PKR de facto leader and was the person who made public the existence of the Lingam tape.

bar council judiciary dinner 170408 ambiga interviewed Ambiga was surprised by Chin's details of the going-ons at the judges' conferences.

"From my knowledge, I was not aware that this was happening at judges' conferences, and I did not know of such boot camps," she said.

Chin said the perversion of justice did not stop there.

He said his colleague, justice Mohammad Kamil Awang, had received a telephone call from then chief justice Eusoff Chin asking Kamil to dismiss the election petition that he was going to hear in Kota Kinabalu.

Said Chin: "He (Kamil) sought my opinion as to what to do with the telephone call. We went into the possibility of making a police report or of writing to the chief justice a letter to record what he had said over the telephone but in the end he decided against it since it will be his words against that of the chief justice."

In 1999, Kamil ruled that the election for the constituency was illegal and that phantom voters, including non-citizens, had cast their votes in the poll. Hence the March state election for the Likas constituency as null and void.

In his judgment, he hinted that 'the only guide' to a man is his conscience and that it was an insult to one's intelligence to be given a directive over the phone that these petitions should be struck off without a hearing.

eusoff chin vk lingam tape hearing 180108 01Kamil did not name the caller but said in his judgment he was determined to truly act as a judge and not a 'yes man', but soon after it was revealed that Eusoff was the one who made the call.

In his defence, Eusoff (right, centre) acknowledged calling Kamil, but denied issuing any directive except to tell him to expedite the case.

Chin, however, added that he was happy to learn that Kamil did not bow to the pressure by Eusoff and went on to hear the election petition based on law and evidence.

Sword of Damocles

Chin further said he had twice stood unsuccessfully as a Barisan Nasional candidate for a parliamentary and a state seat in Sabah in the 1980s. He was defeated by a DAP candidate in one of those elections.

"Now, though he (Mahathir) is no longer the prime minister and so no longer able to carry out his threat to remove judges, which should therefore dispel any fear which any judge may have of him, if ever there was such fear," he told the court.

"Nevertheless the coalition party (BN) that he led is still around and the second respondent won on a ticket of that coalition party and it may cross someone's mind that I may have an axe to grind against the party concerned or any member thereof.

"The petitioner in this case may also have similar view with regard to my defeat by a candidate standing on the ticket of a party to which he belongs.

"After this disclosure, litigants who were affected by the hundreds of judgment that I had handed down since those infamous days may justifiably worry as to whether any of my judgments were in any way influenced by this attempt to hang the Sword of Damocles over my head.

"No amount of words from me would assuage you of your worry; you will have to read my judgments as to whether they are according to the evidence and the law or whether they were influenced by threat."

The court then stood down for 30 minutes to let counsel for Wong and Ding consider whether to apply for his recusal.

Both parties subsequently expressed their full confidence in him in presiding over the hearing.