

There's no certainty - only opportunity
Malaysiakini.com
Sept 4, 2008
Colin A Pereira

With Anwar Ibrahim now back in Parliament after trouncing the BN candidate, victory per se never in doubt, the focus is likely to turn on whether he can achieve his self-declared goal of forming the government and becoming prime minister by Sept 16.
MCPX

Ever since the March general election, the BN leadership has been expounding the immorality of BN members of parliament crossing over to the opposition ranks whilst at the same time, surreptitiously and shamelessly trying to entice opposition members to do likewise.

The former Perak menteri besar had openly stated that the BN would form the Perak government by Aug 31, a prospect that would only have been possible by crossovers, whilst Khir Toyo recently revealed that he was in negotiations with PAS immediately after the general elections with the view of Umno remaining in government and frustrating the will of the electorate.

Not to mention that historically in Malaysia, crossovers have, by and large, been from the opposition to BN without even a whimper of protest from the latter. Examples include Gerakan, PBS and Semangat 46, all of which joined BN after winning as opposition parties.

Of course, to judge one's conduct by reference to BN's standards of morality would be impertinent to the very concept of morality. Be that as it may, in terms of national governance however, moral concepts ought not to prevail over constitutional and legal principles and the concept of the rule of law.

This is not to propound that moral values have no place in society. In fact, in a civilised nation, led by a government committed to a free and democratic society, laws should generally be compatible with and certainly not repugnant to, commonly held moral values.

First and foremost, Anwar's declaration to form the government has always been by constitutional means only. The Federal Constitution does not forbid crossovers and, it being the supreme law of the country, cannot be subjugated to any other principle. The BN and its predecessor, having been in power for over 50 years has not seen it fit to amend this provision of the Constitution.

Our election system also recognises that it is the individual who stands for election and not the party. This can be distinguished from the 'party list system' adopted in some European democracies.

Whilst the party structure may be pertinent in terms of financing, propaganda and branding, the ultimate candidate for an election, and the ultimate victor, is in fact the individual. Therefore, the party has no proprietary rights over the individual candidate.

What is even more peculiar in our Constitution is that a member of parliament who resigns is barred from standing for re-election for five years. As such, a member of parliament who has lost confidence in his party is deprived of an avenue to test his support amongst his constituents by way of a by-election.

So the moral argument that having stood under a particular party banner, he ought not cross over to another party is untenable since his constituents would be deprived of the opportunity to re-elect him.

There is therefore no constitutional or legal bar to an elected representative crossing over to another party, post election. In fact, where he has lost confidence in his own party or its leadership, one could even argue that it would be morally reprehensible for him to remain in the party.

The BN leadership, in vilifying those contemplating crossing over are putting party above nation, which is unsurprising, bearing in mind the potential loss of the trappings of power. How could anyone justify to their constituents remaining in BN when senior party member Tengku Razaleigh, has described the prime minister of not having the credibility to run the country day by day, is beyond comprehension.

That the BN will crumble, whether before the 16th or after is abundantly clear. The question is whether it will leave office gracefully or try to stir up trouble one last time.

Copyright © 1999-2007 Mkini Dotcom Sdn. Bhd.
Source : <http://www.malaysiakini.com/news/89114>