

Judging the judges
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Wong Fook Meng

Chief Justice Zaki Azmi seems to be initiating bold reforms and is raising the bar for our judiciary. According to newspaper reports, he had even asked two High Court judges to leave for being grossly inefficient.

He is sending a clear and unmistakable signal: He means business.

Lawyers have noted that there are obvious improvements in the court system since Zaki took over the helm of the judiciary. Judicial officers are more prompt in disposing cases, court staff are more friendly and responsive and the general working ethics of the court have improved.

Perhaps, after so many years of lagging behind in terms of having a world-class judiciary, we are finally making some progress. Every positive step that we are taking should be celebrated.

Having said that, we must remember that we still have a long road ahead of us. To begin with, there must be some serious cracks in the judicial appointment and promotion system that allows two "grossly inefficient" High Court judges to hold such high offices in our nation's judicial hierarchy.

High Court judges wield enormous powers and their decisions have far reaching implications on the day-to-day life of Malaysians. In some cases, they even hold the power of life or death for accused persons.

Entire fortunes of both companies and individuals hang in the balance as High Court judges apply the law to the factual matrix of each case. As such, we must have people of the highest intellectual capacity, rigorous work ethics and unquestionable integrity to sit on the bench.

Former Prime Minister Abdullah Badawi has left behind a legacy in the judicial appointments commission. While the commission boasts of having eminent current and former judicial personalities, what is obviously missing from the composition of the commission is the representation from the legal profession and civil society.

Compare our judicial appointment process with that of the United States. President Obama recently nominated Sonia Sotomayor to replace Justice Souter on the US Supreme Court. However, before Justice Sotomayor could ascend to the bench, she was subjected to intense and rigorous questioning before the Senate Judiciary committee.

She was grilled on issues ranging from her poorly chosen words in public speeches to her judicial temperament before being confirmed as a Supreme Court Justice. The function of a senate confirmation hearing is to ensure that the future Supreme Court Justice possesses the highest qualifications and irreproachable integrity and is thus suitable for the eminent office that he or she holds.

If we truly aspire to have a world class judiciary with world class judges, perhaps the appointment of our High Court judges, Court of Appeal judges and Federal Court judges

should include a hearing before the judicial appointment commission.

Nominees for the various positions should be tested on their mastery of the law, personal integrity and professional accomplishments and contribution to the legal profession. They must be able to stand up to the most robust scrutiny.

And, the hearings should be carried on live telecast so that we can see for ourselves the quality of the nominees. The hearings should also involve representatives from the legal profession and civil society who can pose questions to the nominees. This will ensure that all the stakeholders of our judiciary are involved in the appointment process of judges.

Judges are the pillars of our judicial system and the ordinary people of Malaysia deserve only the most qualified people to sit on the bench. We certainly need to weed out the "grossly inefficient" and Zaki's bold initiative of asking the two errant High Court judges to leave is a move in the right direction.

However, we must continuously up the ante and strive for excellence. Certainly, clearing the threshold of "grossly inefficient" is just passing the minimum standard. To have a world-class judiciary, our judges must be held to the highest standards.

For that to happen, the appointment of our judges must involve the various stakeholders. Surely, if judges are going to sit in judgment of others for their entire professional tenure, the people have the right to judge whether they are qualified to sit on the bench in the first place.

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