

Nazri: No need to review Article on judiciary
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KUALA LUMPUR, March 15 — Putrajaya has rejected calls to review Article 121 of the Federal Constitution despite criticism that it curbs judicial independence, insisting today that the courts stand in isolation and are not agents of federal law.

Article 121 pertains to the jurisdictions of Malaysian courts — civil, criminal and syariah — as well as the powers to appoint and dismiss judges.

De facto law minister Datuk Seri Mohamed Nazri Aziz also stressed that the doctrine of the separation of powers as well as judicial independence, which are basic features in the Constitution, had not been affected by the controversial 1988 amendments to the Article.

“This matter was decided in the case of PP vs Kok Wah Kuan when the Chief Judge of Sabah and Sarawak stated that the original amendment of 121(1) of Federal Constitution does not mean the courts are agents who bow mechanically to the government and federal law,” he said.

The Padang Rengas MP added that the Article was not the sole determinant of the judiciary’s role as judges must also interpret and implement laws in carrying out their duties.

Nazri said this in a written reply to Tasek Gelugor MP Karpal Singh, who had asked if Barisan Nasional (BN) was prepared to work with the opposition and form a two-thirds majority to amend the Constitution to restore the judiciary’s power.

The minister’s statement today comes despite the Bar Council’s claim last week that the Attorney-General was “receptive” to its call for a review of Article 121, which it insists robs the judiciary of its independence.

Former Chief Justice Tun Mohd Dzaiddin Abdullah said last month the judiciary became subservient to politicians after Article 121 was amended in the 1980s by then-prime minister Tun Dr Mahathir Mohamad.

Dzaiddin had said the amendment was repugnant as Parliament could now pick which powers to grant to the judiciary, altering in a very fundamental way the basic structure of the Constitution.

Dr Mahathir has said, however, that the constitutional changes had not altered judicial powers but merely granted the Attorney-General the responsibility to choose which court should hear a case.

“The rights and functions of the judiciary have not been subservient to the politicians or the prime minister before or after the amendment,” he stressed.

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