

A-G has no business heading new task force, says lawyer
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Attorney-General (A-G) Tan Sri Mohamed Apandi Ali has no business heading a newly set up task force to investigate the debt-laden 1Malaysia Development Bhd (1MDB), a lawyer said.

S. N. Nair said the A-G, who is the public prosecutor overseeing criminal prosecution, should never be part of any investigating team.

"The public prosecutor's role is to only review investigation papers and decide whether there is sufficient evidence to charge persons under applicable laws," he told The Malaysian Insider.

Nair said this in response to a report in Sin Chew Daily that the new A-G is heading the National Revenue Recovery Enforcement Team (NRRET) which comprises Bank Negara, the police, Customs Department and Inland Revenue Board.

Conspicuously left out is the Malaysian Anti-Corruption Commission (MACC).

Even Transparency International Malaysia (TI-M) president, Datuk Akhbar Satar, had questioned Apandi's role in the new task force.

The first task force, which included MACC, was disbanded soon after Apandi took over as A-G from Tan Sri Abdul Gani Patail last month.

Former A-G, Tan Sri Abu Talib Othman, had urged Gani to disassociate himself from the task force investigating the prime minister over the 1MDB scandal, saying this will enhance public perception and integrity into the probe.

Talib (pic, right) had said it was not desirable for Gani, who is also the public prosecutor, to be a member of the task force.

He said the police, MACC and the central bank (who were probing 1MDB and the discovery of RM2.6 billion in Datuk Seri Najib Razak's private accounts) have wide investigative powers under applicable laws, as well as experience to carry out their duties without supervision by the A-G.

"We have been observing this check-and-balance principle all these years and it is not desirable to disregard it to ensure justice for all," he had told The Malaysian Insider.

Talib's views are shared by lawyers, including Nair, who said Gani should not be part of the investigation or else his office would not be seen as being independent.

Nair said his stand on Gani equally applied to Apandi who is reported to be the chairman of NRRET.

"The new A-G should not put the cart before the horse. He should not have any role in the investigations but just confine himself to prosecutorial duty," he added.

He said the task force or any investigation agency had no business seeking guidance from the A-G while the probe is ongoing.

"All investigating agencies have legal officers and departments for reference," said the lawyer, a former police officer.

Nair said under Article 145 (3) of the Federal Constitution, the A-G could decide whether to institute, conduct or discontinue any criminal case.

"The A-G cannot be part of the investigation or else his office will not be seen as independent," he said, adding that Apandi must disassociate himself to ensure the separation of powers between the prosecuting and investigating agencies remained.

Some members of the old task force were subsequently hauled up for questioning by Bukit Aman under Section 124 of the Penal Code, for activities detrimental to parliamentary democracy.

Seven MACC officers were called, the first was DPP Ahmad Shazalee Abdul Khairi on August 1 and the last, MACC special operations deputy director Tan Kang Sai, on August 5.

The probe by MACC was in relation to SRC International over a RM4 billion loan from Retirement Fund Inc (KWAP) to 1MDB, and the subsequent transfer of RM42 million into Najib's personal bank accounts.

Police have since postponed the investigations into MACC's alleged leak of information which was published in the Sarawak Report portal, saying the police wanted to avoid numerous assumptions and public perception.

Bank Negara governor, Tan Sri Dr Zeti Akhtar Aziz had on August 13 revealed that seven officers were also questioned by police over leaks related to the 1MDB probe.

However, Zeti said the central bank has completed its investigation on bank transactions related to 1MDB and submitted these papers to the A-G.

Meanwhile, MACC deputy chief commissioner (operations) Datuk Shukri Abdull said the exclusion from the new task did not affect the functions of the anti-graft body.

"We are indifferent about this matter. It is business as usual for us," he said on Friday.

He said MACC would continue its investigation into SRC International's RM42 million.

"MACC will carry on with its duty within the confines of the laws that govern the commission. We have no problem with the new task force as this will not affect us at

all," he had said. – August 25, 2015.

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