

Practise democracy to ensure separation of powers, says Mahathir
Free Malaysia Today
July 23, 2017

The PPBM chairman says the executive branch of government should not obey the directives of the legislator if told to implement illegal acts.

PETALING JAYA: Former prime minister Dr Mahathir Mohamad has called on the government to practise democracy in ensuring that there is proper separation of powers between the legislature, the executive and the judiciary.

The chairman of Pakatan Harapan and PPBM said the division of powers is essential in order to check on the excesses of any branch.

Specifically referring to the administration under Prime Minister Najib Razak, he said one should not obey the directives such that it entails implementing “clearly illegal acts.”

“Should the directives go beyond the provision of the law and should the executives implement the directives then the judiciary may intervene so as to stop the implementation,” he said.

“The executive branch is clearly within its rights to refuse execution if the directive is against the law in any way,” he added in a posting on his blog yesterday.

Mahathir, who ruled Malaysia from 1981 to 2003, claimed that top executives in government are fearful for their positions as their appointments are made by the Yang di-Pertuan Agong on the advice of the prime minister or an accredited member of the cabinet.

“For the weak, among them the wisest thing to do is to obey the PM whether the directive is proper or not,” he said, stressing that it is possible for the prime minister or relevant minister to give wrong advice.

Mahathir, 92, said this in emphasising the need for the judiciary to be seen to be impartial and free from the power of the top legislators, particularly the prime minister.

“But when there is deviation or interference by the political head of government which results in the laws, rules and procedures being ignored, then the credibility of the judiciary is lost,” he said.

He cited the termination of Abdul Gani Patail as attorney-general in 2015, purportedly for health reasons, saying that there was no evidence that a medical board was convened in the case of his removal.

Mahathir also said it is not too late to rescind the recent extension to the tenures of Chief Justice Raus Sharif and Court of Appeals president Zulkefli Ahmad Makinudin after they have reached the maximum age of retirement for judges.

“Do that and the independence and impartiality of the judiciary will be restored,” he said.

He said failure to do so would mean that Malaysia would be condemned as a “kleptocracy” and a corrupt country, in addition to having a failed judiciary.

Yesterday, retired judge Gopal Sri Ram alleged that Mahathir and former attorney-general Abu Talib Othman were behind the amendments to the Federal Constitution in 1988, which removed the judicial power of the courts.

He said this came about after the then Supreme Court ruled in the case of Public Prosecutor v Yap Peng that the AG, who is also the public prosecutor, could not at his discretion apply to transfer criminal cases for trial.

Sri Ram, who represented Yap Peng in the trial, alleged Abu Talib had informed the government that he could not function as “judges were giving him a lot of problems and the solution was to introduce legislation”.

He said the government then organised a series of highly-charged road shows for about four to five months to inform the public that the judiciary had no business to interfere with the powers of the AG.

Sri Ram also made reference to the 1988 judicial crisis where three Supreme Court judges were removed from office under Mahathir’s rule.

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