

# Senior lawyer: Shake-up a welcome change for now



PETALING JAYA: The rationalisation proposal to make nine agencies independent entities and which reports directly to Parliament is seen as a welcome change by many.

However, several concerns have been raised, especially in the event of an elective "dictatorship".

Senior lawyer Datuk Roger Tan said if there was an absolute majority in Parliament one day, the issue of an Executive dominance would arise.

He called for the Committee of Institutional Reforms to look into how to prevent this from happening.

"It is a good move to preserve the independence of institutions, such as

the Malaysian Anti-Corruption Commission (MACC) and the Election Commission, but it may not necessarily be good if one day the Government has an absolute majority in Parliament.

“We must have necessary safeguards against any abuse, especially by the Government of the day that controls Parliament.

“If one day we have an elective dictatorship, the Government will then be able to take control of these institutions,” he said.

Tan said that posts such as the MACC chief commissioner or the Human Rights Commission of Malaysia (Suhakam) commissioners should be elected by a bipartisan committee, comprising MPs from both divides.

He said there was also a need to amend the Acts of the respective commissions for them to be appointed by the committee.

On the move to place the prosecution powers of the Attorney General’s Chambers (AGC) under the Public Prosecutor’s Office, and with only the latter being made an independent entity, Tan questioned if its independence would be affected when the AG reports to Parliament.

“At the moment, the AG is the Public Prosecutor. The AG, as the legal advisor to the Government, reports to the Prime Minister’s Department.

“But the AG as the Public Prosecutor, reports to Parliament. What is the point when the person is the same?” said Tan.

Suhakam chairman Tan Sri Razali Ismail welcomed the move to make the commission fully independent as it was a big step in its evolution and human rights bodies.

“Most human rights bodies all over the world are elected by Parliament and it’s the fair way to do it.

“If you look at how Suhakam has functioned before, our advice was hardly ever taken into account and now with this, things will change.

“We will use Parliament to make a point to the Executive,” said Razali, adding that Suhakam had always wanted to be independent of the Government.

He also said they have previously been used “cosmetically” by the government, at times when it suited those in government.

Transparency International Malaysia president Datuk Akhbar Satar lauded the overhaul of the Prime Minister’s Department, saying that it would avoid duplication of work and reduce wastage.

He added that it was vital for MACC and EC to be placed under Parliament, not only in terms of administration but also for financial autonomy.

“We have to relook the role and relationship between public servants and politicians and make sure there is less intervention by politicians.

“We need to find a good strategy to combat corruption and improve the Corruption Perceptions Index. Our rank dropped from 55 to 62 last year, the worst in the history of our CPI,” Akhbar said.

Human rights lawyer Roger Chan said having institutions being accountable to Parliament would provide better transparency and more information to be accessed by the public.

Meanwhile, he said the separation of the Public Prosecutor’s Office from the AGC was also highlighted by the Malaysian Bar.

“The mischief being addressed here is when the Public Prosecutor acts in a case that involves the Executive.

“Let’s say a minister is charged, and if we stick to the original position where the AG is the Government’s adviser and also the Public Prosecutor, then you have a conflict of interest.

“The AG should not play a role in prosecution matters,” Chan said, adding that the main objective was to maintain prosecutorial independence.