

## WITHDRAWAL OF CHARGES: ATTORNEY GENERAL SHOULD EXPLAIN

By

Tun Abdul Hamid Mohamad

On Jun 07, 2018, I wrote, "*As his appointment (appointment of Tommy Thomas as Attorney General (AG)) has become a reality, I will not argue about it. On the other hand, I shall wait and see what he will do regarding specific issues and, if necessary, I may comment on it, indeed, I may support or oppose it*" (Translation)."

I had already made some comments in "*Is the AG choosing his briefs like a private lawyer?*" (June 25, 2018).

Now, it has been reported that he had withdrawn charges against Hassan Karim Member of Parliament (MP) for Pasir Gudang, Thomas Su Keong Siong MP for Kampar, R Sivarasa MP for Sungai Buloh and N Surendran, former MP for Padang Serai.

He also dropped charges against PH supporters Syarul Ema Rena Abu Samah, popularly known as "Ratu Naga" and political cartoonist Zulkiflee Anwar Haque, better known as Zunar.

They were charged with offences under the Sedition Act, Communications and Multimedia Commission Act, and the Peaceful Assembly Act.- [Freemalaysiatoday](http://freemalaysiatoday.com) 10 08 2018

I join the call made by Zainur Zakaria and Rangunath Kesavan for the AG to explain his action. I adopt the reasons given by both lawyers for the call, which I shall not repeat.

However, I wish to add that the reasons should be in respect of each charge against each of them.

I know that in the past, no AG had been called to give reasons for his withdrawal of charges, publicly. But, that is because, as far as I can remember, no AG had withdrawn charges under similar circumstances as AG Tommy Thomas has done. Here, the fact is that he has withdrawn charges against members and ex-members of Parliament of Pakatan Harapan (PH), the ruling coalition of political parties to which he owed his appointment. If convicted and "*sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit and has not received a free pardon*" - Article 48(1)(e), Constitution) they would be disqualified from being MPs.

His action has raised doubts regarding his impartiality, independence and integrity besides undermining the PH government's pledge of transparency. So, it is in his personal interest and the interest of the government that he comes out with an explanation.

On August 9, the Utusan Malaysia reported that the UMNO youth legal secretariat had complained about the appointment of a lawyer from the AG's former law firm to represent the government in respect of the seizure of the luxury yacht, Equanimity.

On the same day, the AG responded with a lengthy statement, in English, defending his action. He explained why he personally chose Ms Selvaratnam to handle the case. In brief, she is the most qualified and experienced for the job. While I will not dispute his claim about her expertise and experience because I do not know her and I have no information to contradict it, the fact remains that she may be the best from the AG's former firm. What about lawyers from other firms?

However, now there is an additional factor in favour of her appointment: she is doing it for free. She must be the only lawyer in the world to do such a complicated case for a government, free of charge. Citing her own interview by the press, to determine the ownership of Equanimity alone may take six months, not to mention the prolonged litigation of related issues. One can imagine the amount of fees she forgoes. We can only thank her for that. However, the question that lingers in my mind is, had not the issue been raised by the UMNO youths, would she do it for free?

There is yet another question i.e. the procedure for appointing the firm of Joseph & Partners, which is not free of charge and may cost the government hundreds of thousand Ringgits.

Does the financial procedure allow the AG to personally choose and appoint a firm of advocates and solicitors to represent the government? I admit I do not know the answer. But, what I know is that, even to buy a book for the court library, you are not permitted to purchase it direct from the publisher, even at a discount. You have to get the approval of a committee and the committee would only approve on condition that you purchase through an agent which has to be a company selected in an open tender, which will purchase the book and sell it to the court, of course at a higher price, because the agent cannot do it for free! Call it stupid but that was what I was advised.

I am drawing the attention of the AG to the rule in case, coming from the private sector, he might be caught by surprise. If such rule does not exist or it does not apply to him, well and good. But still, he has to be transparent.

Back to withdrawal of charges, I repeat that the AG has to give reasons for doing so, in his own interest and the interest of the government.

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