

*Cabinet Principles in Malaysia: The Law and Practice* by Abdul Aziz Bari. Kuala Lumpur: Univision Press, 1999, 94 pp. ISBN 983-40026-0-2.

Reviewer: Jamil Farooqi, Department of Sociology and Anthropology, International Islamic University Malaysia.

It is a small but crucial monograph relating to the theory and practice of cabinet government in Malaysia. It explains the legal provisions concerning the formation and powers of the cabinet and the actual practice that one witnesses in parliamentary democracies. It discusses common issues like appointment of the Prime Minister, his powers and his relationship with his colleagues, the general characteristics and functions of the cabinet and principles governing cabinet government. These are of immense public interest and have many implications in the working of the political system and establishing democratic spirit in the county.

In a parliamentary form of government the cabinet plays a pivotal role. It is the sole executive body responsible to run the administration of the country. In the light of this fact when we study the provisions of the constitution regarding the appointment of the Prime Minister, formation of cabinet and its relation to parliament, we do not find any gap between the law and actual practice. Though it appears that the Yang di Pertuan Agong has the discretionary power to appoint the Prime Minister and ministers, in reality, he has no choice except to appoint the leader of the majority group in the parliament as the Prime Minister and to appoint other ministers on the advice of Prime Minister. The parliament is the manifestation of public will and that must be given preference in the decision making process. Only in "doubtful circumstances" the head of the state can take drastic steps and exercise his power as a guardian and protector of the constitution. There are two situations in which the head of the state can exercise his discretionary power. One is where no group or party has a majority in the parliament, and the other is where no person enjoys the confidence of the majority of the members. In these circumstances the head of the state can invite a person to form the government irrespective of the numerical strength of his group or party in the house with the hope that he will be able to get the confidence of the house. He may also dissolve the house if he thinks that it is in the best interest of the nation and to safeguard the

constitution. The same is the case with the dismissal of the Prime Minister. As a general principle, the head of the state has no power to dismiss Prime Minister because he represents the masses and is the symbol of general will, but in situations where the Prime Minister violates democratic principles and destroys the sanctity of the constitution, the head of the state may dismiss him or dissolve the parliament. This situation arises when a Prime Minister refuses to resign despite losing the confidence of the house or when a Prime Minister prevents a claim that he has lost the confidence of the House from being tested at the floor of the House. As it is the violation of the democratic principle, the Malaysian constitution gives power to the Yang di Pertuan Agong to dismiss a Prime Minister. In fact the democratic system functions and works successfully if people follow democratic principles, manifest democratic spirit and develop a democratic cult. Otherwise, it will only be a mockery.

The Prime Minister, in a parliamentary system, enjoys a commanding position vis-à-vis his colleagues. He selects cabinet ministers and may also dismiss them when he is not satisfied with their performance. A minister remains in office as long as he enjoys the confidence of the Prime Minister or else he must resign. In case of refusal to resign a crisis comes into being. In such a situation there are only two solutions. The Prime Minister either advises the head of the state to dismiss the minister concerned or, alternately, the Prime Minister resigns along with his cabinet and forms a new cabinet. These abnormal conditions arise when the system is not run in the true democratic spirit or when the participants in the system are not properly schooled in the theory and practice of a cabinet government.

It should, therefore, be apparent that in a constitutional democracy the position of the head of the state is symbolic and nominal because he has not been directly elected by the masses. Against it, the actual power rests in the hand of the Prime Minister because he is elected by the masses and, as such, represents the will and interest of the public. Further, he is accountable to the public for his policies. The provisions of the constitution regarding his role in the government and relation with his colleagues are in tune with the principle and spirit of democracy rather than an anomaly.

The author has tried to explain how a Prime Minister functions and exercises his power. A Prime Minister, according to him, has to operate in certain political realities, and, thus, he has to make certain compromises with the situation. He sometimes yields to the pressure of

the party and his colleagues in the distribution of privileges and sometimes he quits as he fails to get the support of the party members. He cited two examples in Malaysia. In 1970 Tunku Abdul Rahman decided to leave because he could not get the support of the prominent party members. Similarly in 1981 Datuk (Tun) Hussein Onn had to relinquish the office due to political maneuvering. These examples simply reflect the nature of the parliamentary process. Any occupant of significant position has to face this situation until he enjoys absolute power. The Prime Minister depends upon his quality of leadership: courage, ability to take decisions, strategy, charisma, and the like. If he possesses such qualities he wields much power, makes his own policies and acts independently, otherwise he yields to the wishes of others. The second aspect of the problem is that in a democracy the individual is much less important than the party. Individuals come and go but the party continues to function. The party has certain ideals and programmes according to which it formulates a manifesto, presents it to the masses and seeks a mandate from them. On getting the mandate, the party is to rule the country in a particular way. The party is accountable to the electorate. In case it fails to materialize its programs, the electorate will not elect it in future. A Prime Minister is supposed to act on the programs of the party and serve its interest. If a Prime Minister accepts the pressure of the party and its members in good faith and for the interest and welfare of the party, people and nation, it is in the true spirit of a democratic system. The third aspect is that a Prime Minister is also the leader of the ruling party. In many cases he holds both the positions, i.e., head of the majority group in parliament and head of the party. The same is the case in Malaysia. In this case the position of Prime Minister is very comfortable. He can influence party stalwarts and members to get their approval for his acts and policies. He cannot work smoothly when the head of the party is different and there is conflict between him and the head. In this situation his position will depend upon the degree of confidence and support he enjoys from party members.

The author also points out an anomaly in the functioning of the cabinet. As a matter of principle and legal provisions, the cabinet is responsible for framing the policies and programmes to administer the affairs of the country, but in actual practice the policies and programmes are influenced and sometimes determined by the civil servants. Thus, the civil servants are actual masters and not the cabinet or elected members. This is the violation of basic principles of democracy. In support of his contention he referred to Brazier<sup>1</sup> and Norton<sup>2</sup>. He also

cites three examples. First is the creation of the National Economic Action Council in late 1977 when its constitutional status was not clear. Second is the issue of the abolition of the Internal Security Act (ISA) 1960 when the Prime Minister wanted to abolish it but on the advice of the police he could not do so. The third is the tabling of the 1998 Budget in the Dewan Rakyat. The dominance of civil servants on the working of the cabinet should be considered in the light of power structure with particular reference to the relations between cabinet and bureaucracy.

The cabinet consists of the elected representatives of the people. They believe in a particular ideology, policies and programmes which their party adheres to and presents to the masses and seeks their approval. They are not the experts of administration and other departments and affairs of the government. They determine the broad policy, line of action, the goal, which the government has to materialize and the way through which it has to proceed. The mechanism through which they have to implement the policies and programs of the government is the bureaucratic set-up. Thus, the basic duty of the cabinet is to control and supervise the civil servants. If the civil servants fail to implement the policies of the government, the cabinet takes action and replaces them with competent and efficient persons. Yet, the fact remains that the government needs to consult the experts, take advice from them and act upon their advice. This is not against democratic norms and practices. In matters of defense or economy, for example, if any government relies on the advice of the experts or forms any committee to study particular situation and advise the government it is neither unconstitutional nor undemocratic but it is in the best interest of the nation. Taking advice from the bureaucrats and acting upon their advice is not an indication of bureaucratic dominance. The domination of civil servants or bureaucracy on the cabinet or its members depends upon the competence and efficiency of cabinet members. If a Prime Minister is competent he can never be dominated or dictated to by civil servants. Sir Winston Churchill, the Prime Minister of Great Britain, is known for his policies and strategies and was never dominated by civil servants. Civil servants dominate when a Prime Minister or members of the cabinet are incompetent, inefficient or weak.

Overall the book is interesting. It explains the working of the cabinet in the Malaysian constitution and highlights certain issues and problems that require elaborate discussion and serious thinking. The monograph needs to be expanded and more case studies need to be cited. A serious copy editing of the manuscript is certainly desirable.

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1. R. Brazier, & S.A. de Smith, *Constitution and Administrative Law*, 5<sup>th</sup> edn. (Penguin Books, 1989).

2. P. Norton, *The Constitution in Flux* (Oxford: Blackwell, 1989).