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Bar Council's proposed contempt legislation 'not for political purpose'

KUALA LUMPUR, Mon. - The Bar Council today said it had drafted a Contempt of Courts Act out of concern over the "unbridled power" of judges in this matter, and not for any political purpose.

Its president, R.R. Chelvarajah, said the Bar Council, being a non-political organisation, did not want to be used by politicians for their own ends.

"We submitted the draft out of real concern for lawyers and litigants who appear in court, and journalists who write about the courts.

"That's why we wanted the Act," he said in an interview.

Barisan Nasional politicians had, over the last two days, called for such an Act to prevent lawyer-politicians from using the court to gain political mileage.

The flood of comments began after Prime Minister Datuk Seri Dr Mahathir Mohamad last week said the Government was looking into the "libellous" statements of lawyer Karpal Singh.

Karpal had alleged in court that Datuk Seri Anwar Ibrahim was likely being poisoned after tests showed that a urine sample, purportedly from him, had a high level of arsenic.

However, subsequent tests found no signs of poisoning.

Chelvarajah said the council proposed the Act because it felt there was a need for certainty in the law, procedure, punishment and proof of the contempt.

He also said if any lawyer attempted to use the court as a political platform, it was for the judge to put him back on track.

"If the lawyer is going on about an irrelevant matter, the court should intervene and stop it. We can't stretch contempt of court to cover things like these," he said.

The proposed Act had defined "criminal contempt" as words, written or spoken, which are false and intended to bring a court into disrepute; and which interfere with the due course of a judicial proceeding or obstruct the administration of justice.

Thus, Chelvarajah said, it might be contempt if the lawyer wilfully lied to the court, acted with malice and bad faith, or deliberately disregarded a court order.

Chelvarajah said there can be no blanket provision to deem it contempt if a lawyer makes a "political" statement as it may be relevant to the case and made out of genuine concern.

The Bar Council had drafted the Act last year after a spate of contempt cases which sparked outrage among lawyers.

The draft Act and an accompanying memorandum were approved by the Malaysian Bar annual general meeting in March.

The council handed over copies to the Prime Minister, Deputy Prime Minister and Attorney-General in August.

Bar Council vice-president Mah Weng Kwai agreed that it should be the judge who should put an end to "politicking" in court.

He said if the judge allowed the lawyer to make "political" statements, it would be illogical for the judge to later cite the lawyer for contempt unless the lawyer persisted in his comments after a ruling was handed down.

If the lawyer was persistent he could be cited for disregarding a court ruling but not for making a political statement.

He said there should not be two sets of rules - one for lawyers and another for lawyer-politicians.

Mah said the council wanted judges to be brought within the ambit of the Act, making them liable to contempt proceedings as well.

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