

Khaled: Cabinet to let AG decide on UUCA appeal

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Higher Education Minister Khaled Nordin today dismissed claims that the cabinet has decided to appeal the unconstitutionality of Section 15 of the Universities and University Colleges Act 1971 (UUCA) .

NONEKhaled (left) said in an SMS statement this evening the matter would be referred to the Attorney-General's Chambers.

The minister said that he would be discussing with AG Abdul Gani Patail whether an appeal should be filed.

"I have briefed the cabinet. The next course of action, after I discuss the matter with the AG," he said.

The government has one month from last Monday's decision to file leave-to-appeal application at the Federal Court.

In the apex court, appeals are not automatically heard as approval had to be first obtained from a panel of Federal Court judges.

Earlier today, Chinese-language newspaper websites, quoting cabinet sources, reported that the cabinet decided to appeal Monday's Court of Appeal ruling that Section 15 of the UUCA is unconstitutional.

azlanThe reports said the move was because the Court of Appeal decision was deemed to have "gone against the spirit of separation of powers".

This was corroborated by Rembau MP Khairy Jamaluddin, who on micro-blogging site Twitter said: "China Press reported that cabinet has decided to appeal the CoA decision on UKM4. I've heard the same from sources."

UKM4 blames Umno

In an immediate reaction, Mohd Hilman Idham, one of four former undergraduates - dubbed UKM4 - who mounted the court challenge, said any move by the government to appeal the court ruling would be deeply disappointing.

NONE If the appeal proceeds, the blame will rest solely on Umno, said Hilman at an emergency press conference this evening.

"Even though some Umno leaders support (the court's decision) , Umno itself does not have the political will to institute reforms," he said.

He pointed out that several BN component parties, including MCA, MIC, Gerakan and PBB, have called on the government not to appeal the decision.

"Clearly, Umno is liability to BN," said Hilman.

Also present was Wong King Chai, another UKM4 member, who urged the government to view the court's decision positively for it grants undergraduates new-found political freedom.

"The four of us urged that the doctrine of separation of powers and the sovereignty of law is respected and that Section 15 (5) (a) of the UUCA repealed."

The other two UKM4 - Azlin Shafina Mohamad Adza and Ismail Aminuddin - were unable to make it to the press conference.

Lawyer: Keep in mind legal reality

Earlier, in an immediate reaction to the website reports, Malik Imtiaz Sarwar, the lawyer representing the four former Universiti Kebangsaan Malaysia students who took the case to court, said it was the government's right to appeal.

"It is also a question of constitutional importance, on which the Federal Court should declare its position.

human rights defender report 020407 malik imtiaz "I trust the government will keep in mind the legal reality that in Malaysia, it is the federal constitution, and not the Parliament, that is supreme.

"Though Parliament can make laws to restrict free expression, those laws must be reasonable and proportionate.

"How the government intends to argue that sub-section 15 (5) (a) of the UUCA is reasonable will be of great interest to Malaysians," Malik Imtiaz (left) told Malaysiakini.

Article 4 of the federal constitution states that the constitution is the supreme law of the federation and any law passed after Merdeka Day that is inconsistent with the constitution shall, to the extent of inconsistency, be void.

On Monday, the Court of Appeal in a 2-1 landmark decision declared Section 15 (5) (a) of the UUCA, which bars university students from being involved in politics, unconstitutional and as such, null and void.

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