

Saifuddin to rally BN MPs against Evidence Act

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By Koh Jun Lin

Deputy Higher Education Minister Saifuddin Abdullah will rally BN parliamentarians against the recent Evidence Act amendments, he told a forum on the law in Kuala Lumpur today.

evidence act bar council forum Saifuddin said this when a member of the audience at the Bar Council forum asked what he intended to do about the Evidence (Amendment) (No 2) Act 2012, having voiced his misgivings about it.

"First thing, I will call KJ (Rembau MP Khairy Jamaluddin Abu Bakar) and say we are partners in crime again... and I know a few other BN parliamentarians who are as sympathetic and understanding as KJ and myself.

"I think we have to send a message, loud and clear, to our bosses that we need to review this and perhaps with a view of...

"I know it has just been gazetted, but it happened in the past where we have amended what has been amended," Saifuddin said in response.

He added that it would be for the good of the public to repeal the amendment, which he described as a "hiccup" in Prime Minister Najib Abdul Razak's transformation plans.

"As a BN guy who supports progressive, democratic reforms and someone who believes in a more mature democracy, I take this as a 'hiccup'.

"In plain words, I don't need this. Not when I am going for the next general elections," said Saifuddin, adding that it would be difficult for him to explain why the amendment would not amount to internet censorship.

Under Section 114A of the amended law, the owner, editor or administrator of a website on which any posting appears - or the owner of the Internet connection or equipment with which the posting was made - is presumed to be the person who made the posting, unless proven otherwise.

It came into force on Tuesday last week.

Presumption of guilt does not arise

However, another panellist, lawyer Faisal Moideen argued that the law does not create presumption of guilt as feared by some critics like the Centre for Independent Journalism (CIJ).

"Presumption of guilt does not arise by the way of 114A. It is only the shifting of the evidential burden of one element or one fact. That is the fact of publication," he said.

United Nation High Commissioner for Refugees (UNHCR) Former Protection Assistant, Faisal MoideenHe explained that there are still other parts of a case that still need to be proved. Even if the presumption of publication is not rebutted and other aspects of a trial fail, the whole case would still collapse.

Faisal (right) dismissed the fears as 'alarmist' and that he does not have any issues with the amendments.

On the contrary, he opined that it would in fact help private individuals who would otherwise have no means to prove that the owner of website had published defamatory statements against them.

However, all three other panellists, Saifuddin, and the lawyers K Shanmuga and Fong Cheng Leong, disagreed, noting that for the accused to rebut the allegations is still a long, drawn out process.

"It is very easy to say as lawyers, 'well we can come and prove otherwise'.

Loyarburok founder K Shanmuga story"But the fact of the matter is that if you are sued or charged in court, your reputation suffers, you'd have to take leave to go to court every time the case is called up, you'd have to spend a lot of money to hire one of us (lawyers) to go to court to defend you, and at the end of the day you won't get your legal fees back. Not all of it," Shanmuga (above) said.

Faisal conceded that the law had been worded too broadly. While maintaining that he does not have a problem with the amendment, he found no harm in having stronger safeguards.