

## **PKR Youth to file for judicial review of Section 114A**

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**By Hafiz Yatim**

PKR Youth will file a judicial review application before the coming parliamentary sitting next month to challenge the constitutionality of the much-criticised Section 114A of the Evidence Act.

Its chief Shamsul Iskandar Mohd Akin called on all lawyers who feel that the new amendment is unconstitutional to lend a hand to PKR Youth to mount this constitutional challenge.

"I am assembling several lawyers in the legal fraternity to mount this challenge.

"Other NGOs like the Centre for Independent Journalism, which initiated the Internet Blackout Day, are also invited to join," Shamsul Iskandar, who is also a practising lawyer, said.

"I would also like to invite those within Umno who are also critical of the amendment, like Deputy Higher Education Minister Saifuddin Abdullah and Umno Youth chief Khairy Jamaluddin Abu Bakar, to also join us in this fight and application if they continue to take the stand they do not support the amendment. They should go above politics to support us."

Besides Saifuddin and Khairy, who are reportedly being considered for action against them by the cabinet for their criticism of the amendment, is Deputy Youth and Sports Minister Gan Ping Siew.

### Cabinet stands firm on Section 114A

Many of those who oppose the amendment see the legislation as stifling the freedom of expression on the Internet.

Minister in the Prime Minister's Department Nazri Aziz said the cabinet discussed the issue yesterday.

"The cabinet has decided that there is not going to be any change... We need this to ensure that we can effectively fight cybercrime," Nazri was quoted as saying by news agency AFP.

Nazri said there was a misconception as there is no presumption of guilt but merely one of the facts.

Shamsul Iskandar said the announcement made by Nazri defied the constitutional provision and law in the justice system that a person is innocent until proven guilty.

"I hope the legal fraternity will join us and give their opinion on how best to challenge Section 114A as it is in the interest of the public," he said.

Bar Council president Lim Chee Wee said there are two ways to repeal Section 114A, one by mounting a constitutional challenge by way of a review and the other for Parliament to remove the amendment.

Lim said the federal constitution states that 'no person shall be deprived of his life or personal liberty, save in accordance with law', and that everyone has equal protection of the law.

Furthermore, under Article 11 of the Universal Declaration of Human Rights, every individual is innocent until proven guilty when charged with a penal offence and this is recognised by the Federal Court.

The Malaysian criminal justice system stands on the twin pillars of the burden of proof lying with the prosecution and the common law principle of presumption of innocence.

Besides the Bar Council, Suhakam has also criticised Section 114A and called for its review as it violates the human rights principle of freedom of expression enshrined in Article 19 of both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

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