

Plan to sue WSJ in Malaysia baffling

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COMMENT A number of lawyers have expressed their puzzlement over Prime Minister Najib Abdul Razak's legal letter to The Wall Street Journal (WSJ).

On my part, I am baffled when I learnt that Najib's lawyers from the firm of Hafarizam, Wan Aisha & Mubarak, should see fit to sue WSJ and its two reporters, Simon Clark and Tom Wright right here in Malaysia.

According to senior lawyer Kenny Ng, Najib can technically sue WSJ in Malaysia. "The arguments would be that Najib, who is the plaintiff, is based in Malaysia, and the subject matter as well as public interest considerations are all here in Malaysia," he said. "The WSJ, on the other hand, can also raise a counterclaim in the United States. Obviously, any contestant would prefer a home ground advantage if he can!"

Whether it will be in Malaysia or the United States, the case will inevitably place Malaysia in another spotlight again for the wrong reasons after former opposition leader Anwar Ibrahim was jailed.

Wrong moves

Both case scenarios of claim and counterclaim are possible, given the nature of the case involving a reputable international publisher based in New York and the Malaysian prime minister.

However, technicalities aside, it appears to me that any legal suit against WSJ carried out in Malaysia may not help Najib to regain his reputation, even if he had won the case all the way to the Supreme Court.

This is because even the task force, comprising the inspector-general of police, Malaysian Anti-Corruption Commission, Attorney-General's Chambers and Bank Negara, set up to probe the case has earned brickbats from three local members of parliament.

What more if the task force found that there was no case against Najib! I can imagine the reaction from both the local and international community. Concerns would be raised whether WSJ would be given a fair trial in Malaysia, to which WSJ can also object to the trial being carried out in Malaysia.

The last round when the Malaysian judiciary was given adverse reports was when the Federal Court sentenced Anwar to a five-year term of imprisonment, in what is dubbed "a dark day for the Malaysia judiciary".

According to an editorial piece published by Sydney Morning Herald (SMH), the conclusion

is that “it’s almost impossible to tell whether or not the judges (in Malaysia) were entirely judicially impartial...”

United States State Department spokesperson Jen Psaki called Anwar’s case a “high-profile case”, urging Malaysia to “apply the rule of law fairly, transparently, and apolitically in order to promote confidence in Malaysia’s democracy and judiciary.”

In short, the world has been watching our judiciary system for a long time. For Najib to now sue the WSJ in Malaysia would further leave a very negative impression on Malaysia’s already dented global image.

Even before the legal suit begins, the spotlight would be on the country’s judiciary once more. At least, Foreign Minister Anifah Aman has got the cue when he said that he has not decided yet to write another open letter against WSJ, as he had done with the New York Times recently.

Damage already done

In my opinion, the senior partner, Mohd Hafarizam Harun (photo), should have at least consulted the public relations team working on Najib’s reputation, instead of even suggesting in his letter that WSJ would be sued in Malaysia.

The suggestion, made in order to save one man’s reputation, has once again put the country in the spotlight.

I would be surprised if the international media would not start commenting about our judiciary system once again. Najib should realise that this is not good for the country’s reputation and for business as well.

When the international media continues to put a focus on the independence of the country’s judiciary, this would make it so much more difficult in trying to attract more foreign direct investments (FDI) into the country.

Najib or his men cannot continue chastising Dr Mahathir Mohamad, blaming him for being the mastermind behind the WSJ expose, because on all counts, Najib is equally responsible because the government did not respond to the queries made by the WSJ reporters before the article was published.

Although the old adage still holds true that one is innocent unless proven otherwise, Najib would be better off if he provides his side of the story to WSJ, giving all the documentary proofs to back his claims that he did not take any money from 1MDB.

The odds are however against Najib since there have been far too many denials instead of being open and transparent in the way how Najib answered to the press. The longer he remains in office, the worse it will get, and along with him will be the reputation of many others.

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