

**The Decision By Cabinet To Allow Appeal Of The Judgement That Section 15.(5)(a) UUCA 1971 Is Unconstitutional Flies In The Face Of PM's 'Political Transformation Programme'**

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After a series of calls for the Government to not appeal the Court of Appeal judgement that Section 15.(5)(a) of the UUCA is made by top politicians from both Barisan Nasional and Pakatan Rakyat, hopes were high that the Cabinet will abide by and accept the Court's decision.

The UMNO Youth Chief, Khairy Jamaluddin, Deputy Higher Education Minister, Saifuddin Abdullah and MCA Youth Chief, Wee Ka Siong have made a show of openly supporting the Court's position that the relevant section of the UUCA is unconstitutional and the UUCA should be amended accordingly.

In the "spirit" of the political transformation programme launched by the Prime Minister, Najib Razak on the eve of Malaysia Day where he announced the proposed repeal and amendment of various draconian Acts such as the Internal Security Act (ISA) and the Printing Press and Publications Act (PPPA), Malaysians were expecting an enlightened decision by the Cabinet to finally remove the shackles of academic freedom at our institutions of higher learning.

However, the BN government has instead chosen burst the high hopes of the people and to abdicate its responsibility to the Attorney General, purportedly to make a study of the "points of law". The excuse could not be more lame as regardless of the Court decision, the Cabinet could have taken opportunity to announce a proposed amendment of the UUCA, particularly the controversial Section 15.

In fact, the Cabinet should have taken the bold decision not only to amend Section 15.(5)(a), but the entire Section 15 of the Act which severely restricts the freedom of academics and students in our local universities.

Section 15.(1) states that students of the University, even if they are of voting age or PhD students, cannot be members of any political party, or any other organisation as determined by the Minister of Higher Education.

Section 15.(2) states that no University students' body shall have any association with any political party, or any organisation as determined by the Minister of Higher Education.

Section 15.(6)(a) states that students and academics will only have the "freedom" to make statements on their areas of study and research while 15.(6)(b) prohibits their participation in any seminar, symposium or event organised by any political party, even if it is within their area of expertise.

The above sections of the Act are obviously unreasonable and unconstitutional on so many grounds – such as the Article 8 which states that "all persons are equal before the law" forbidding discrimination against students and academics; and Article 10 which guarantees the "freedom of speech and expression" as well as "the right to form associations".

I have filed the proposed amendments to the above Sections of the Act during the sub-committee debate on the UUCA Amendment Bill in December 2008 arguing on its unconstitutionality. However, the motion was defeated unanimously by the BN members of Parliament.

We call upon the Cabinet not to make the same mistake twice, at the expense of not only the Prime Minister's "political transformation programme", but also the reputation and credibility of our institutions of higher learning. Without academic freedom, our universities will never be able to achieve our goals of becoming "world-class" institutions. Regardless of the final decision by the Attorney-General, Najib Razak must retake the initiative and commence the process of removing all unconstitutional and unreasonable elements from the UUCA.

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