

**Court of Appeal: Section 15(5)(a) violates guarantee of freedom of speech**

**The Star Online**

**November 1, 2011**

**Reports by SHAILA KOSHY, MARTIN CARVALHO, NG CHENG YEE, YUEN MEIKENG, WONG PEK MEI, P. ARUNA, KANG SOO CHEN and YVONNE LIM**

PUTRAJAYA: Section 15(5)(a) of the Universities and University Colleges Act 1971 (UUCA) which restricts students from expressing support or opposing any political party has been ruled unconstitutional.

In a landmark 2-1 majority decision, the Court of Appeal held that the provision was unreasonable and violated the constitutional guarantee of freedom of speech.

The court said this yesterday in overturning a High Court decision on Sept 28 last year that Section 15(5)(a) fell within the public order and morality restrictions on freedom of speech as spelled out under Article 10(2)(a) of the Federal Constitution.

While Justices Hishamuddin Yunus and Linton Albert allowed the appeal, Justice Low Hop Bing, who chaired the panel, dissented.

Justice Low said the restriction was necessary to "prevent infiltration of political ideologies" among students who were "easily influenced" as it could affect the primary purpose of universities, that is, the pursuit of education.

The appeal was brought by Universiti Kebangsaan Malaysia (UKM) then political science undergraduates Muhammad Hilman Idham, Woon King Chai, Muhammad Ismail Aminuddin and Azlin Shafina Mohamad Adza who had faced disciplinary action for being present during the by-election campaign in Hulu Selangor parliamentary on April 24 last year.

Justice Hishamuddin said he failed to see how a student who expressed support for or against a political party could bring about an adverse effect on public order or morality.

Citing the activities a student could do at 21 – enter into contracts, marry, vote – he said it was irrational and an irony that the UUCA barred them from saying anything that could be construed as supporting or opposing a political party.

He said Section 15(5)(a) was "not only counter-productive but repressive in nature" as it impeded healthy development of the critical mind.

"Universities should be the breeding ground of reformers and thinkers, and not institutions to produce students trained as robots."

Justice Linton held it was an "utter absurdity" that university or college students faced "the grim prospect of expulsion" because of their presence at a by-election.

Justice Low said the restrictions were to protect both the students and the institution's interest as a matter of policy and therefore were reasonable.

He continued that those finding fault with the UUCA "have their remedy at the ballot box".

Copyright © 1995-2011 Star Publications (M) Bhd (Co No 10894-D)

Source:

<http://thestar.com.my/news/story.asp?file=/2011/11/1/nation/9813459&sec=nation>