

**Repeal 'guilty until proven innocent' law, Bar Council tells government**  
**Malaysian Insider**  
**August 13, 2012**

KUALA LUMPUR, Aug 13 — The Bar Council wants the government to repeal a law that makes even coffee shops offering free Wi-Fi services liable for any defamatory or criminal acts of customers using computers at their premises.

It said that while it recognised that people could exploit a false persona to incite racial hatred, organise violent hate crimes and commit fraud, the recently introduced Section 114A of the Evidence Act of 1950, which came into force on July 31, was not the answer to these problems.

The new law creates a presumption that any registered user of network services is presumed to be the publisher of a publication sent from a computer linked to that network service, unless the contrary is proved.

The Section also provides that any "person whose name, photograph or pseudonym appears on any publication depicting himself as the owner, host, administrator, editor or sub-editor, or who in any manner facilitates to publish or re-publish the publication is presumed to have published or re-published the contents of the publication unless the contrary is proved."

"Suitable replacement legislation can be enacted later, if necessary, but only after full consultation with all stakeholders," the Bar Council said in a statement today.

"Such a section would therefore create a presumption that is so wide that even the owner of a coffee shop that offered a free Wi-Fi facility could be presumed to have published an online publication originating from a computer using the Wi-Fi facility.

"Although it is true that the presumption enacted is merely a rebuttable presumption, dragging such persons into court in the first place, and the embarrassment, cost and inconvenience that an ordinary layperson could be subjected to, cannot be compensated for by any eventual victory."

Deputy Higher Education Minister Datuk Saifuddin Abdullah and Umno Youth chief Khairy Jamaluddin have added their backing to a growing chorus of protest against the new law.

"We urge members of parliament from both sides of the divide to make a bipartisan approach to the Government to take immediate steps to repeal Section 114A.

"In formulating a replacement to section 114A, we urge the government to embrace an open and transparent process for drafting suitable legislation to address the problems of anonymous cybercrimes by having public consultations with all relevant stakeholders," the Bar Council said.

The campaign against the new law that threatens to curtail freedom of expression online here has widened with more organisations promising to take down their websites in the Internet Blackout Day tomorrow.

The Centre for Independent Journalism Malaysia (CIJ) said the Bar Council has confirmed they will be taking down their website to support this while the DAP is also shutting down all its websites on August 14.

Tech-savvy DAP leader Lim Kit Siang and human rights lawyer Edmund Bon have pledged to go offline for 24 hours while others will support a pop-up to promote the Stop 114A campaign. They include Datin Paduka Marina Mahathir, Hishamuddin Rais (Tukar Tiub), Uppercaise, Nat Tan, Niki Cheong, Anil Netto, Juana Jaafar, Sarawak Bloggers, Fahmi Fadzil and myasylum.

The Internet Blackout Day initiative is aimed to create awareness among Internet users about the negative impact of the amendment on online expression and takes its cue from similar efforts in the United States and New Zealand in support of internet

CIJ said internet users who visit participating websites tomorrow will see a pop-up window that will contain the message of the campaign. In addition, Netizens may change their profile pictures/avatar on Twitter and Facebook to black or use downloadable images provided by CIJ.

The new law was passed by the Dewan Rakyat and Dewan Negara in April this year and was gazetted on July 31 by de facto law Minister Datuk Seri Nazri Aziz.

Hakcipta © 2012 The Malaysian Insider

Source:

<http://www.themalaysianinsider.com/malaysia/article/repeal-guilty-until-proven-innocent-law-bar-council-tells-government/>