

Suing Malaysiakini for defamation may backfire, legal experts warn Najib
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By Eileen Ng

Datuk Seri Najib Razak's threat to sue Malaysiakini over alleged defamatory comments by the online news outlet's readers is a move that might backfire on him, earning him more public derision, say legal experts.

They said while Najib had the right to defend himself, a more apt move would be to use its right of reply as suggested by Malaysiakini and engage the news portal's readers.

Constitutional lawyer Edmund Bon said there were better ways to engage the public than taking legal action, as such a move would "backfire" on any politician.

"In this Internet age, there are bound to be both positive and negative feedback from readers. Politicians are public figures, and they should expect their lives to be opened to scrutiny. Instead of resorting to threats to sue, they should explain and improve on their conduct," he said.

Malaysiakini had reported yesterday that Najib had threatened to take legal action against the news outlet over its readers' comments on his handling of the political impasse in Terengganu.

The news portal had said the prime minister's legal action was initiated in a personal capacity and jointly with Umno through law firm Hafarizam Wan & Aisha Mubarak.

A letter of demand was hand-delivered to Malaysiakini on Wednesday, stating: "The compilation of readers' comments in two 'Yoursay' articles published on May 14, namely 'A case of the PM reaping what he sows' and 'How much will Najib spend to keep Terengganu?', were defamatory."

Najib and Umno are demanding an unconditional apology within 48 hours from the issuance of the letter and a retraction of the alleged defamatory articles.

Former Bar Council president Lim Chee Wee said like any other individual, Najib is entitled to take action to protect his legal rights, and such moves had happened in Singapore involving the island state's prime ministers.

"However, there is the question of whether he should do this during his tenure as PM, involving his precious time and energy (while) being distracted by what is really low-level litigation.

"Politicians and individuals occupying positions of public office have to expect criticisms from the public, some or most of which could be incorrect.

"The proper reaction is for the recipient of criticisms to come back with arguments against the criticisms," Lim said in an email to The Malaysian Insider.

Lawyer Rangunath Kesavan said Najib's intention to sue Malaysiakini was "wrong" as a politician is subjected to criticism all the time.

"You're the PM. There will be criticisms against you. And as a politician, you must have thick skin as brickbats come with the turf. People have the democratic right to speak even if you disagree with them," he said.

Acknowledging that Najib has the right to defend himself, Rangunath said the prime minister would not be the first or the last person to initiate legal proceedings against the country's media, noting that even opposition leaders had done so many times.

"To be fair to the PM, there are a lot of statements made against him online. People need to learn to be responsible in making comments and a lot does not seem to be aware of this responsibility," he added.

Veteran journalist Datuk A. Kadir Jasin said in dealing with matters published by the media, the right to publish is a very important defence.

He said as much as the media have the right to publish, the aggrieved party should also have the right to reply.

"Only if the media refuses to publish the reply of the aggrieved party then the party should take the media to court," he said. – May 18, 2014.

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