

**1MDB exposes not against democracy, lawyers tell police**  
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**By V. Anbalagan**

Lawyers have expressed concern that police are investigating a media owner, publisher and opposition members for "activities detrimental to parliamentary democracy", pointing out that the individuals were merely expressing opinions on the debt-ridden 1Malaysia Development Berhad (1MDB).

They said police were abusing their power by classifying their investigations under Section 124 of the Penal Code as opinions expressed over 1MDB were in no way intended to bring down the federal government.

Section 124 relates to activities deemed detrimental to parliamentary democracy. It contains several provisions, including printing, selling, circulating and being in possession of any document or publication detrimental to parliamentary democracy.

The section provides for a jail term of between 10 and 20 years, upon conviction. By invoking this section, lawyers said the authorities were aiming to silence whistle-blowers, put a stop to investigative journalism and divert attention from core issues engulfing 1MDB.

Lawyer M. Visvanathan said to his knowledge this was the first time the police was invoking this section since Parliament passed amendments to the Penal Code in 2012.

"But I fail to understand how the action of the media had undermined the political system of this country," he said, adding that allegations were only levelled against 1MDB and certain individuals closely connected to the state investment company.

Visvanathan said this in response to Inspector-General of Police Tan Sri Khalid Abu Bakar's recent statement that police have recorded a statement from The Edge publisher and CEO Ho Kay Tat to facilitate investigations concerning the financial daily's articles on 1MDB.

Khalid said investigations were being carried out under Section 124 of the Penal Code, adding that police would record a statement from The Edge media group owner Datuk Tong Kooi Ong.

Media reports said police may also be investigating two opposition leaders – Petaling Jaya Utara MP Tony Pua (DAP) and Pandan MP Rafizi Ramli (PKR) – under the same section.

Lawyer Amer Hamzah Arshad said he found it strange that police were investigating the individuals under Section 124 as they were merely expressing their views.

"There is no revolution by illegal means to bring down the government. Those targeted are merely expressing their opinions, which is allowed in a parliamentary

democracy like Malaysia," Amer said.

The lawyer, who handles criminal and human rights cases, said the media owners were only expressing a particular view which may not be palatable to some holding public office.

"The aggrieved party can file defamation suits and also obtain injunctions to stop the media from publishing such reports," he added.

Amer said a democratically elected government could be brought down through the ballot box or via a vote of no confidence against the leader of the ruling government.

"It is also not wrong for anyone to call for the resignation of the prime minister for misgovernance and that cannot be construed as an offence under Section 124 of the Penal Code."

Amer said it must also be remembered that former prime minister Tun Abdullah Ahmad Badawi was also pressured to vacate his public office a year after his government was returned to power, albeit with a reduced majority in the Dewan Rakyat.

Civil lawyer Alex De Silva said what the police were doing was absurd as it was going after those for exposing a scandal which affected the Malaysian public.

"What the media is doing is in line with parliamentary democracy principles and not the opposite. Those who are unveiling the scandal are the real patriots of this country."

De Silva said going after the media publisher was also a grave warning to others in the business to stop investigative journalism, especially of those in the corridors of power.

He also said it was premature to go after Ho and Tong because the special government task force, the auditor-general and the Public Accounts Committee were also in the midst of investigating the 1MDB fiasco.

"If the reports were baseless, these individuals could be investigated for criminal defamation but an offence for acting in breach of parliamentary democracy is far-fetched," he added.

Lawyers for Liberty executive director Eric Paulsen said the media and opposition did not go against the state in exposing the scandal but only individuals connected to 1MDB.

"Exposing corruption and mismanagement of billions of ringgit lost or unaccounted for cannot be an offence under Section 124. It is an extreme misrepresentation of the law to investigate under this section."

Paulsen said this section was vaguely and broadly drafted and the explanation of what constituted "activities detrimental to parliamentary democracy" was contained in Section 130A of the Penal Code.

"The rationale seems to be that activities that invoked some kind of armed struggle, violent means to overthrow a lawfully elected government."

Paulsen said this episode also revealed that whistle-blowers, including those from the media, were not accorded protection if the alleged suspects were those in power.

"The police are now going after the media to contain the fallout arising from the 1MDB scandal," he said, adding the drama that was unfolding was also an act of intimidating anyone critical of and sharing information about the scandal.

Paulsen said it was also a way of removing the spotlight from allegations that billions were channelled into the private accounts of Prime Minister Datuk Seri Najib Razak and another RM2 million deposited in the bank account of his wife, Datin Seri Rosmah Mansor.

He said that was the reason the authorities had blocked access to whistle-blower site Sarawak Report, investigated those vocal about 1MDB under a section that was being used for the first time and finally suspending The Edge Weekly and The Edge Financial Daily for three months. – July 27, 2015.

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