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Malaysia: Drop defamation lawsuit against news website

Malaysian Prime Minister Najib Tun Razak and Abdul Rauf Yusoh, Executive Secretary of United Malays National Organization (UMNO), which is part of the ruling Barisan Nasional (BN) coalition, should drop a defamation suit against online news portal *Malaysiakini*, said Amnesty International today. The use of defamation laws with the effect of inhibiting legitimate criticism of government or public officials violates the right to freedom of expression.

On 3 June, Prime Minister Najib Tun Razak and Abdul Rauf Yusoh served a writ of summons on Mkini Dotcom Sdn Bhd, which operates *Malaysiakini*, and on its Editor-in-Chief Steven Gan and Chief Editor Fathi Aris Omar, accusing them of publishing articles defamatory of the Prime Minister and UMNO. According to the legal notice the lawsuit stems from two articles – entitled “A case of the PM reaping what he sows” and “How much will Najib spend to keep Terengganu?” – which were published on the “Yoursay” section of the *Malaysiakini* website on 14 May. The two articles contain a compilation of readers’ comments critical of the government, and in particular Prime Minister Najib Tun Razak.

In addition to seeking damages from *Malaysiakini* and the editors for the two articles, the Prime Minister and head of UMNO are demanding an apology and the retraction of the articles, and are seeking an injunction against the publication of similar articles in the future.

Civil defamation suits against media have been used in the past by government officials and politicians with the effect of stifling political dissent and curtailing freedom of expression. The latest lawsuit marks yet another attack on the right to freedom of expression in Malaysia, where for years peaceful political activists and human rights defenders have been arrested and detained under a range of draconian laws which do not comply with international human rights law and standards.

One such law is the Sedition Act, which has long been used to detain political activists. In June 2012, Prime Minister Najib Tun Razak announced that his administration would repeal the Act, but two years later, that promise remains unfulfilled. The failure to repeal the Sedition Act – and the continuing use of other laws which violate the right to freedom of expression – coupled with this latest attempt to stifle criticism of the government clearly shows where the Prime Minister stands in regard to upholding the right to freedom of expression in the country.

The right to freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR). This right includes the right to “receive and impart information and ideas through any media”.

The UN Special Rapporteur on the right to freedom of opinion and expression has affirmed the importance of journalism as an activity that, among other things, provides individuals with the necessary information to allow them to develop their own thoughts and to exercise their right to seek and receive information. He has underlined that the only purpose of defamation, libel, slander and insult laws must be to protect reputations and not to prevent criticism of government, and that defamation laws should reflect the importance of open debate about matters of public interest and the principle that public figures are required to tolerate a greater degree of criticism than private citizens.

The UN Human Rights Committee, the expert body tasked with interpreting the International Covenant on Civil and Political Rights (ICCPR) has also underlined these points, and has stated that defamation laws “must

be crafted with care to ensure that they comply with [the right to freedom of expression] and that they do not serve, in practice, to stifle freedom of expression". In particular the Committee has stated that "[t]he penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression".

Malaysia has yet to ratify the ICCPR, despite repeated calls to do so by civil society activists and members of the international community. The government flatly rejected multiple recommendations to ratify the treaty during the adoption of its Universal Periodic Review in March 2014.

Amnesty International urges the Malaysian government to reconsider its position, and take immediate steps to ratify the ICCPR, incorporate its provisions in to domestic law, and implement it in policy and practice.

Malaysiakini, known for its reporting on human rights issues in Malaysia, is one the country's leading web-based newspapers. The Malaysian government has for a long time sought to restrict the work of *Malaysiakini*, in particular by refusing to grant a printing and publishing license. In October 2012 *Malaysiakini* successfully sued Malaysia's Home Minister over his refusal to grant a permit under the country's Printing Presses and Publications Act (PPPA) in August 2010. In addition to this latest lawsuit, *Malaysiakini* is currently facing five additional defamation lawsuits.