

Ministry applauds decision as a victory

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A man smoking at a public area near the playground in Rawang. — LIM BENG TATT and FAIHAN GHANI/The Star

KUALA LUMPUR: The Health Ministry applauded the decision of the High Court here which upheld the ministry's smoking ban in food outlets nationwide.

"Alhamdulillah! Smoking ban at eateries stands!" Health Minister Datuk Seri Dr Dzulkefly Ahmad tweeted yesterday.

"Tahniah rakyat Malaysia (Congratulations Malaysians)," he said.

The constitutional challenge was brought by seven smokers who wanted the court to review the ministry's total ban on smoking in food outlets which started on Jan 1 this year.

Dr Dzulkefly said the ministry promised to continue to defend a healthy environment to protect the health of the people.

He thanked the ministry's staff who were consistent in defending the ban on smoking in public eating places and all NGOs that were committed to supporting and defending the policy.

High Court judge Justice Datuk Seri Mariana Yahya ruled that the application by the group did not breach Articles 5 and 8 of the Federal Constitution which provide for the rights of person and equality before the law, respectively.

She said that they could still smoke three metres away from food premises and did not deny their freedom of choice.

On Dec 31 last year, seven smokers who called themselves "Smokers Right Club" filed the lawsuit to challenge the smoking ban in all eateries. In January, the group was granted leave to initiate judicial review proceedings to challenge the smoking ban.

NGOs supporting the smoking ban have deemed the court dismissal against the judicial review a win for public health and the majority society, but industry players said that there should a designated spot for smoking.

Malaysian Council for Tobacco Control (MCTC) president Datuk Dr Lekhraj Rampal said MCTC was happy with the court's decision.



The ruling stays: A stall owner at the Esplanade in George Town, Penang showing a no-smoking sign at his stall.

"This is a win for public health and a win for the health of the future generations," he said.

Dr Lekhraj, who is also the Malaysian Medical Association's Action on Smoking and Health Committee chairman, said people's health, the health of the nation and the future generations should be put first.

"We believe the law of the country will prevail regardless of the industry or individuals trying to obstruct the tobacco control policy of the country," he said.

Dr Lekhraj said the government and NGOs must continue to focus on educating and empowering people regardless of income levels on the hazards of smoking tobacco, vaping or using e-cigarettes and shisha. "We also need the support of MPs who represent the people and who should be concerned about the health of the nation.

"We will support the new Tobacco Control And Smoking Act that is expected to be tabled in 2020 and we expect the MPs to do the same," he said, adding that if they were not aware of the hazards of smoking on health, they could contact the Health Ministry or MCTC.

"They must not forget the social-economic impact of tobacco use in Malaysia and globally.

"It cannot be measured in dollars and cents only. What happens if a person dies at 40? Who will take care of their children if they die of cancer and heart attack as a result of smoking?" he asked.

Smoke Free Malaysia says the court battle was a fight between seven smokers and the majority society.

"The victory is on the side of the majority. The ban on smoking in food premises will be fully enforced on Jan 1, 2020," it said in a post on change.org.

Meanwhile, Malaysia Singapore Coffeeshop Proprietors General Association president Datuk Ho Su Mong said smokers have the right to bring the case to court and the judge has the right to make the judgment, while the Health Ministry has the right to ban smoking to protect non-smokers.

"But the ministry should also look at the human rights of smokers by allocating a designated area for smoking," he said.

Ho said that smokers standing by the roadside could endanger their lives if there was no proper place to smoke.

"They also tend to throw cigarette butts on the roadside as there are no ashtrays or bins for them to use," he said.

He said the smoking ban also hit the bottom line of retailers' businesses but when asked about the cost of health and medical treatment, he said the government should focus on addressing the high 60% illicit cigarette use instead.

"The government should control illicit cigarettes rather than the legal ones," he said.

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