

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: Two women convicted under internet law for social media posts

The Indonesian authorities should stop using the Electronic Information and Transaction (ITE) Law (Law No. 11/2008) – known also as the “internet law” – to criminalize freedom of expression, Amnesty International said today, as two more individuals were convicted last week simply for sharing their opinions online.

The organization considers all those imprisoned under the ITE Law solely for peacefully exercising their right to freedom of opinion and expression or thought, conscience and religion, to be prisoners of conscience and is calling for their immediate and unconditional release. Amnesty International is also calling on the authorities to repeal criminal defamation provisions that are contained in the ITE Law and Indonesia’s Criminal Code.

On 31 March 2015, the Bandung District Court sentenced Wisni Yetty, a 47 year old woman from Bandung, West Java province, to five months’ imprisonment and a fine of 100 million rupiah (US\$7,670). She could face an additional six months’ imprisonment if she fails to pay the fine. She was convicted under Article 27(1) of the ITE Law for “transmitting electronic content that violated decency” after she accused her ex-husband of abusing her in a private chat with a friend on Facebook. Her husband had accessed her account, printed the chat conversation and reported her to the police.

In a separate case on the same day, the Yogyakarta District Court sentenced Florence Sihombing, a student, to six months’ probation or two months’ imprisonment and a fine of 10 million rupiah (US\$767). She was convicted for criminal defamation under Article 27(3) of the ITE Law, after she posted on her ‘Path’ social media account that “Jogja is poor, stupid and uncivilized. Friends in Jakarta and Bandung should never live in Jogja”. According to the Chief Judge, her post contained “insults” and had created “restlessness” among residents of Yogyakarta.

The conviction and sentencing of both women contravene Indonesia’s obligations under the International Covenant on Civil and Political Rights (ICCPR), particularly Article 19, as well as Article 28E(2) of Indonesia’s Constitution, which guarantee the right to freedom of opinion and expression.

The ITE Law has been used in other recent criminal defamation cases, such as that of Fadli Rahim, a civil servant who is serving an eight month sentence after being convicted for defamation in February 2015 by the Sungguminasa District Court in Gowa, South

Sulawesi province for criticising the work of the District head in a private 'Line' application group chat. In Tegal, Central Java, two anti-corruption activists, Agus Slamet and Udin, were charged under the ITE Law after the Tegal District head reported them to the police for posting satirical pictures on Facebook which she found insulting. They were released on 6 March 2015 after spending five months in pre-trial detention and are currently awaiting trial.

Articles 27 and 28 of the ITE Law have also been used to prosecute acts deemed blasphemous or to have defamed religion. Abraham Sujoko, from West Nusa Tenggara province, is currently serving a two year prison sentence for "defamation of religion" under Article 27(3) of the ITE Law after posting a video of himself on YouTube saying that Ka'bah (an Islamic holy shrine in Mecca) was a mere stone idol and Muslims should not pray facing it. He was also fined three and a half million rupiah (US\$288).

Background

According to civil society groups working on freedom of expression online in Indonesia, at least 85 people have been charged under the ITE Law since 2011, mostly under Article 27.

The U.N. Working Group on Arbitrary Detention (WGAD) has criticized the use of criminal defamation charges as a means of repressing freedom of expression and has explained that charges related to defamation, libel and slander should be dealt with by the authorities under civil, not criminal law and that there should not be prison sentences for such charges.

Similarly, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has emphasized that imprisonment should never be applied as a punishment for defamation and recommended that states repeal their criminal defamation laws and rely on civil defamation laws.

In July 2013, in its Concluding Observations on Indonesia, the UN Human Rights Committee, established pursuant to the ICCPR, expressed concern at the application of the defamation provisions in the ITE Law and Criminal Code and asked Indonesia to revise the Law to ensure that it is in compliance with Article 19 of the ICCPR.

Amnesty International welcomes reports that the Indonesian House of Representatives has scheduled amendments to the ITE Law in their 2015 National Legislation Program (*Prolegnas*) and urges the House to ensure that the law is revised in line with Indonesia's international human rights obligations.