

8 August 2000

AI Index ASA 28/009/2000 - News Service Nr. 152

Malaysia: Sodomy verdicts - a major setback for human rights

The sentences passed today against former deputy Prime Minister Anwar Ibrahim and his adopted brother, Sukma Darmawan Sasmitaat Madja, highlight the vulnerability of all Malaysians to selective, politically motivated prosecutions using restrictive or discriminatory laws -- including those relating to free speech, to peaceful protest and, in this case, to sodomy, Amnesty International said.

Anwar Ibrahim and Sukma Darmawan were found guilty on charges of sodomy by the High Court in Kuala Lumpur and sentenced to terms of imprisonment of nine and six years respectively. Sukma Darmawan, being under 50 years of age, was also sentenced to four strokes of the cane.

The organization considers Anwar Ibrahim a prisoner of conscience, detained and brought to trial not because of any particular alleged crime, but because of his dissenting political activities and the challenge he posed to government leaders. His co-accused, Sukma Darmawan who is currently on bail, was prosecuted solely to secure a conviction against Anwar Ibrahim, and will also be considered a prisoner of conscience should he be detained.

"The events following the dismissal from office of Anwar Ibrahim in 1998 have exposed as never before the fragility of human rights safeguards in Malaysia," Amnesty International said.

"In order to remove Anwar Ibrahim from political life and to discredit him publicly, those in power in Malaysia resorted to measures including the misuse of law, state institutions and the courts, the

ill-treatment of detainees to coerce confessions, and the erosion of the right to a fair trial."

"In the face of such a challenge the courts have failed to defend effectively fundamental human rights principles enshrined in the Malaysian Constitution and reflected in international human rights law," Amnesty International added.

The organization is gravely concerned by the perception -- shared by many Malaysians -- that in politically sensitive cases the independence of the judiciary can no longer be guaranteed.

The need for effective judicial protection is critical in light of reported patterns of ill-treatment, at times amounting to torture, of detainees, including those held incommunicado under the Internal Security Act (ISA), migrant workers in detention camps, and demonstrators held in police cells for alleged illegal assembly.

The organization is therefore particularly concerned that consistent, credible reports that police subjected at least four detainees to severe ill-treatment to coerce confessions implicating Anwar Ibrahim have not been fully and independently investigated or the suspected perpetrators held to account. Sukma Darmawan testified that, during prolonged abusive verbal interrogation, he was subjected to intense psychological and physical pressure including being stripped naked in a cold room, struck, sexually humiliated and threatened with indefinite detention under the ISA. However, after hearing testimonies from police, the High Court ruled that the prosecution had proved beyond reasonable doubt that Sukma Darmawan's confession was made voluntarily, and was admissible as evidence.

Amnesty International is also concerned that a number of other events during the proceedings affected the fairness of the trial. These include the series of amendments to the charges related to the dates of the alleged offences, rulings on the introduction of evidence and calling of witnesses, and statements by Prime Minister Mahathir Mohamad that undermined the presumption of innocence of the accused. The organization urges the Court of Appeal to fully address these issues.

Background

Anwar Ibrahim was arrested on 20 September 1998 and initially held without charge under the ISA. Subsequently, politically motivated charges of abuse of power (allegedly using his office to interfere with police investigations into alleged sexual offences and sodomy) were filed against him. After a trial which Amnesty International considered to be unfair, Anwar was sentenced in April 1999 to six years in prison. His appeals were rejected.

In September 1999 Sukma Darmawan and academic Dr Munawar Anees were arrested and, after pleading guilty of having been sodomised by Anwar Ibrahim, were sentenced to six months in prison. They later retracted their confessions stating they were severely ill-treated to coerce them.

Amnesty International is gravely concerned that instead of conducting full, independent and impartial investigations into these allegations the authorities have instead filed perjury charges against Sukma Darmawan and two others who also alleged ill-treatment by police.

In April 1999 the Attorney-General (Public Prosecutor) informed the High Court that Anwar Ibrahim and Sukma Darmawan would be jointly tried on charges of sodomizing Anwar's wife's former driver,

Azizan Abu Bakar, and that Sukma Darmawan would also be tried at the same time of abetting Anwar to sodomize Azizan. The Attorney General chose not at this stage to charge Azizan for having been sodomized by Anwar Ibrahim and Sukma Darmawan.

The organization remains concerned that the existence of laws relating to same-sex relations not only allows the authorities to use alleged homosexuality as a pretext against political opponents, but also violates international human rights, including freedom of conscience, freedom from discrimination and the right to privacy. Amnesty International would consider any person detained solely on the grounds of their real or perceived sexual orientation to be prisoners of conscience, along side those detained solely on the grounds of their political, religious or other conscientiously held beliefs, or solely by reason of their ethnic origin, colour, or gender.

\ENDS

public document

For further details, please refer to AI Index (ASA 28/06/99)

"Malaysia - Human Rights Undermined - Restrictive Laws in a Parliamentary Democracy"

<http://www.amnesty.org/ailib/aipub/1999/ASA/32800699.htm>. For information or to arrange an interview, please contact the Amnesty International press office in London on +44 207 413 5729.