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Malaysia: Stop penalizing peaceful assembly and dissent

Amnesty International calls on the Malaysian authorities to stop the harassment of rally organizers and other activists, and to drop investigations against three students who were detained solely for promoting the #TangkapMalaysian Official1 (Arrest Malaysian Official 1) rally, scheduled for 27 August.

On Saturday 20 August 2016, the three students were arrested and subsequently detained for three days for entering a public university in the state of Ipoh, Perak to promote a rally calling for the arrest of an individual named as 'Malaysian Official 1,' who was named in a lawsuit filed by the United States Department of Justice. The civil suit alleges that 'Malaysian Official 1' and others used an investment firm owned by the Malaysian government to steal more than one billion ringgit [\$250 million US] which had been earmarked for the country's economic development.

The three students – Ashraf Nazrin, Luqman Hakim Zulrazali, and Luqman Hakim Fadzli– were arrested on 20 August, under section 9(5) of the Peaceful Assembly Act, for failing to notify the Officer in Charge of the Police district in which the assembly was to be held. They were also investigated under section 447 of the Penal Code, for trespass. Pursuant to a remand hearing, which took place that day at which they had no legal representation, they were detained until 22 August, when they were released on police bail. The students had in fact met with police on 16 August, four days before they were arrested, to discuss the planned rally.

Amnesty International calls on the authorities to ensure that the organizers and those who plan to attend the rally must be allowed to exercise their right to peaceful assembly and must not be arrested, harassed or intimidated, for merely organizing or attending a peaceful gathering. Furthermore any limitations need to be in line with international standards.

There are previous occasions too, when the Malaysian authorities have detained organizers ahead of planned rallies, thus creating a climate of fear and insecurity. This creates additional challenges for rally organizers, of ensuring that the public is aware of their right to participate in a peaceful gathering, of negotiating public space with the authorities, and of responding to intimidation tactics by the authorities in the form of arrests and investigations.

In August 2015, for instance, activists Adam Adli, Ahmad Syukri Razab, and Mandeep Singh, who had gone to meet with the police ahead of a planned rally in order to discuss the parameters of peaceful assembly. The three were instead arrested and detained for four days, pending investigation for acts 'detrimental to Parliamentary democracy' under section 124 B of the Penal Code. The acts referred to in the investigations were their speeches calling on young people to participate in this rally. The rally proceeded without the presence of the organizers on 1 August 2015 and more than 20 rally goers were arrested for 'illegal assembly'. They were all freed on police bail and charges were not pursued.

Amnesty International calls on the Malaysia authorities to uphold human rights standards protected by international law and the Federal Constitution and to ensure that police facilitate peaceful

demonstrations and ensure the safety of those attending, rather than intimidating and harassing those seeking to exercise their right to peaceful assembly.

The authorities should also review and reconsider Malaysia's laws on peaceful assembly, including the Peaceful Assembly Act 2012, that have the effect of obstructing human rights defenders and critics of the government. These laws impose stringent requirements on rally organizers to give the police ten days' advance notification of a planned rally. They also provide the officer in charge of the Police District with almost absolute discretion in setting conditions for the rally – such as the date, time, manner, and conduct of the assembly, and make it a crime to fail to abide by the conditions set by the police—factors, all of which can tend to deter individuals from participating in peaceful assemblies. Moreover, in view of the scope provided in the Peaceful Assembly Act 2012 for requirements and restrictions set by the Officer in charge of the Police District, this effect of this act is to restrict peaceful assemblies instead of facilitating them.

The right to freedom of peaceful assembly is enshrined in the Universal Declaration of Human Rights which, as a member state of the United Nations, Malaysia has undertaken to respect, and is also protected by Malaysia's Federal Constitution.

Background

After the passing of the Peaceful Assembly Act 2012, organizers of rallies that are critical of the government have become the primary target of authorities as seen in the cases of Maria Chin, Jannie Lasimbang, Adam Adli and several other cases.

In November 2015, Maria Chin Abdullah and Jannie Lasimbang, organizers of the Bersih 4 rally, that took place in August 2015, demanding clean and fair elections for Malaysia, were charged under the Peaceful Assembly Act 2012 for organizing the peaceful gathering. If convicted, they could face a fine of up to RM10,000 (\$2,000 US). They are both currently out on bail while the trial proceedings continue.

On 31 July 2015, activists Adam Adli, Mandeep Singh and Ahmad Syukri Razab were arrested for promoting an assembly which had not yet taken place. Adam Adli and Ahmad Syukri Razab attended the Dang Wangi Police headquarters to meet with police to discuss an assembly which was to be held on 1 August. However, prior to the rally the trio were arrested. Pursuant to a remand order Adam Adli and Ahmad Syukri Razab were detained for six days and Mandeep Singh was detained for four days. Lawyers representing them sought a review of the detention orders, arguing that the remand detention was unnecessary, punitive, excessive and made in bad faith, as two of the group had gone to the police station at the request of the police to discuss with the police the planned rally, only to be arrested. The trio were released on police bail after four days on 4 August 2015, as the judge found that six days was excessive and unnecessary, and following investigation they were released without charge with no further action on this case.