

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Index: ASA 28/2607/2015
6 October 2015

Malaysia: Court ruling on Sedition Act yet another blow to freedom of expression

Today's Federal Court ruling confirming the constitutionality of Malaysia's repressive Sedition Act is yet another blow to freedom of expression in the country and will only encourage the Malaysian authorities to continue their ongoing crackdown on peaceful dissent, said Amnesty International.

On 6 October 2015, five Federal Court judges unanimously dismissed a case brought by law lecturer Azmi Sharom, challenging the constitutionality of the Sedition Act, a repressive colonial-era law, which has been used to arbitrarily arrest and detain scores of human rights defenders and government critics in recent years.

The application was filed after Azmi Sharom was charged with "sedition" after an online news portal in August 2014 published comments he made regarding a political crisis in Malaysia's Selangor state, citing the 2009 constitutional crisis in Perak State. He was charged under Articles 4(1)(b) and 4(1)(c) of the Sedition Act on 2 September 2014, though this case was put on hold pending the outcome of the Federal Court application. The ruling now opens the way for authorities to proceed with the case against him – and dozens of others facing "sedition" charges.

The decision will have a wider chilling effect on civil society organizations, human rights defenders, academics, and others who continue to face intimidation and harassment. In recent years, Malaysian authorities have made increasing use of the Sedition Act to investigate, charge and imprison opposition politicians, human rights defenders, academics, journalists, lawyers and others who have peacefully expressed opinions that are perceived by the authorities to be critical of the government or monarchy.

Amnesty International believes around a hundred individuals have been investigated, detained or charged under the Sedition Act since the beginning of 2014.

The Sedition Act effectively criminalizes criticism of the government, violating the right to freedom of expression. It criminalizes a vast array of acts, including those "with a tendency to excite disaffection against any ruler or government" or to "question any matter" protected by the Malaysian Constitution.

Malaysian Prime Minister Najib Razak had promised in 2012 to repeal the Sedition Act. However, he has failed to deliver on this promise and instead has sought to strengthen the repressive law. Amendments to the Act, passed by Parliament on 10 April this year, introduce tougher penalties for "sedition", including a mandatory jail term of between three and seven years. A new provision imposing a mandatory jail term of between five and 20 years in prison for seditious acts which "cause bodily injury or damage to property" is overly vague and there are concerns it could be used to impose very long prison sentences against government critics. The amendments have yet to come into force, but are expected to be gazetted in the coming weeks.

Amnesty International has long expressed concern about the Sedition Act, which violates the right to freedom of expression enshrined in Article 19 of the Universal Declaration of Human Rights. While international human rights law permits restrictions to the right to freedom of expression, these restrictions are clearly defined and limited in scope. There is no way that the overly broad provisions of the Sedition Act meet the criteria allowing the restriction of this right under international human rights law. The Sedition Act is also inconsistent with the right to freedom of expression guaranteed in Article 10 of Malaysia's Constitution.

In April 2015 UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein urged the Malaysian government to withdraw the proposed amendments to the Sedition Act, warning that the new provisions would seriously undermine freedom of expression and opinion in the country.

Amnesty International again calls on the Malaysian authorities to stop using the Sedition Act – and a range of other repressive laws – to criminalize peaceful dissent. As a first step, they must unconditionally release all those who have been detained and imprisoned for the peaceful exercise of their human rights, and to drop charges against all those who are facing imprisonment solely for the peaceful exercise of their right to freedom of expression.

The authorities must also repeal the Sedition Act, and review and amend all other laws which restrict the right to freedom of expression, in compliance with international human rights law and standards.