

Malaysia: stop the harassment and intimidation of Women's March organizers

The ICJ called on the Government of Malaysia to take immediate steps to protect the right of all persons in the country to freedom of expression and assembly, after seven organizers of the International Women's Day (IWD) March were summoned for questioning by police authorities on 14 March 2019.

"It is very concerning that the Malaysian authorities continue to rely on repressive legislation to control and undermine freedom of expression and freedom of assembly in the country," said Emerlynne Gil, ICJ's Senior International Legal Adviser.

The Women's March took place in Kuala Lumpur, on 9 March 2019. The demands of the participating groups included an 'end of all violence based on gender and sexual orientation', the ban of all child marriages, and the setting of RM1,800 as a minimum wage.

A statement by the Dang Wangi District Police Deputy Chief identified the organizers as individuals who had spoken at an 'LGBT' rally.

They were reportedly taken in for questioning on 18 March for potential violations of Section 4(1) of the Sedition Act and Section 9(5) of the Peaceful Assembly Act. They remain at risk of being charged for these offences.

The ICJ considers the Sedition Act 1948 and the Peaceful Assembly Act 2012 to be incompatible with international standards. The ICJ has previously called on the Government of Malaysia to abolish both laws, which have historically been used to silence voices of those challenging governmental policy.

The laws place restrictions on the exercise of freedom of expression that are overbroad, unnecessary and disproportionate, and inconsistent with rule of law and human rights principles. The Pakatan Harapan Government committed itself to abolishing the Sedition Act 1948 and the Peaceful Assembly Act 2012, but has not done so to date.

"The vague definition of 'seditious tendencies' in the Sedition Act has been used as a tool for silencing government critics and human rights defenders by previous administrations. It is disappointing that the Malaysian authorities have ended the moratorium on the use of the Sedition Act 1948, and continue to use it, instead of moving towards its abolition," said Gil.

According to international standards, any limits on the right to peaceful assembly should not require prior authorization by the authorities. Notification requirements must not be unduly bureaucratic and be used only for the purpose of allowing the authorities to facilitate the exercise of the right to peaceful assembly, and to protect public safety.

In a 14 March statement, the organizers claimed to have been in regular communication with the police and to have been in compliance with the relevant notice provisions of the Peaceful Assembly Act.

The ICJ calls on the Malaysian authorities to end any investigations targeting the organizers of the Women's March pursuant to the Peaceful Assembly and Sedition Act. It also calls on the Government to abolish the Peaceful Assembly Act and the Sedition Act.

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Background:

The colonial-era Sedition Act 1948 criminalizes speech that is deemed to contain the broadly and vaguely defined 'seditious tendencies', which include "exciting disaffection against the ruler" or the act of inciting "feelings of ill-will and hostility between races". Section 9 of the Peaceful Assembly Act places an onerous duty on an event organizer to notify the Officer in Charge of the Police District in which the assembly is to be held, a requirement that the organizers have stated they have complied with.

Sedition Act 1948 (after the 2015 amendment)

4. (1) Any person who—

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act which has or which would, if done, have a seditious tendency;
- (b) utters any seditious words;
- (c) prints, publishes, "or causes to be published", sells, offers for sale, distributes or reproduces any seditious publication; or
- (d) "propagates" any seditious publication, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three years but not exceeding seven years; and any seditious publication found in the possession of the person or used in evidence at his trial shall be forfeited and may be destroyed or otherwise disposed of as the court directs.

Section 9 of the Peaceful Assembly Act 2012

(1) An organizer shall, ten days before the date of an assembly, notify the Officer in charge of the police District in which the assembly is to be held.

(2) Subsection (1) shall not apply to-

(a) an assembly which is to be held at a designated place of assembly; and

(b) any other assemblies as may be specified in the Third schedule.

(3) If the assembly is a religious assembly or a funeral procession, the organizer may inform the Officer in charge of the police District in which the assembly or procession is to be held; and may, if assistance is needed to maintain traffic or crowd control, request for such assistance.

(4) The notification under subsection (1) shall be given to the Officer in charge of the police District in which the assembly is to be held by A.R. registered post or courier or by hand.

(5) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.