



Inter-Parliamentary Union
For democracy. For everyone.

Malaysia

Decision adopted unanimously by the IPU Governing Council at its 203rd session (Geneva, 18 October 2018)



Nurul Izzah, daughter of Malaysian opposition leader, Anwar Ibrahim, speaks to the media after being released on bail on 17 March 2015 © AFP Photo/Manan Vatsyayana

MYS-21 - N. Surendran
MYS-23 - Khalid Samad
MYS-24 - Rafizi Ramli
MYS-25 - Chua Tian Chang
MYS-26 - Ng Wei Aik
MYS-27 - Teo Kok Seong
MYS-28 - Nurul Izzah Anwar (Ms.)
MYS-29 - Sivarasa Rasiah
MYS-30 - Sim Tze Sin
MYS-31 - Tony Pua
MYS-32 - Chong Chien Jen
MYS-33 - Julian Tan Kok Peng
MYS-35 - Shamsul Iskandar
MYS-38 - Nga Kor Ming
MYS-39 - Teo Nie Ching (Ms.)
MYS-40 - Azmin Ali

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

The case concerns 16 then opposition members of the Malaysian House of Representatives. Mr. Khalid Samad, Mr. N. Surendran, Mr. Ng Wei Aik and Mr. Sivarasa Rasiah were charged under paragraphs (a), (b) and (c) of section 4(1) of the Sedition Act of 1948, while five other opposition members of parliament, namely Mr. Rafizi Ramli, Ms. Nurul Izzah

Case MYS-COLL-01

Malaysia: Parliament affiliated to the IPU

Victims: 16 opposition members of parliament (14 men and two women)

Qualified complainant(s): Section I (1) (a) of the [Committee Procedure](#) (Annex 1)

Submission of complaint: September 2014

Recent IPU decision: [February 2017](#)

IPU mission: [July 2015](#)

Recent Committee hearing: Hearing with the Malaysian delegation at the 133rd IPU Assembly (October 2015)

Recent follow-up

- Communication from the authorities: Letter from International Relations and Protocol Division, Parliament of Malaysia (October 2018)
- Communication from the complainant: October 2018
- Communication from the IPU: Letter addressed to the Speaker of the House of Representatives (September 2018)
- Communication addressed to the complainant: October 2018

Anwar, Mr. Tony Pua, Mr. Nga Kor Ming and Ms. Teo Nie Ching, were being investigated for this crime. In recent months, charges against the four members of parliament were all withdrawn, whereas with regard to the five under investigation no charge was finally brought against three of them, while an instruction for no charge to be brought against the two others is in the hands of the Attorney General's Office. However, on 29 September 2016, Mr. Chua Tian Chang was sentenced to a three-month prison term and fined RM 1,800 for sedition. Another charge of sedition against him was discontinued by the prosecution after his acquittal at first instance.

With regard to seven of these parliamentarians, the action taken against them under the Sedition Act was wholly or partly related to criticism they voiced about the conviction and sentence that the Federal Court handed down in February 2015 against Mr. Anwar Ibrahim. The Sedition Act was amended in 2015. As a result, criticism of the Government and the judiciary is no longer punishable under the act. There were concerns that the Sedition Act in its current form remains outdated, runs counter to human rights and is being used to attack and silence the political opposition.

Four parliamentarians, namely Mr. Chong Chien Jen, Mr. Julian Tan Kok Peng, Mr. Shamsul Iskandar and Mr. Sim Tze Tzin, were charged under section 4(2)(c) of the Peaceful Assembly Act (PAA) in connection with their participation in demonstrations. They have all claimed that the legal action taken against them runs counter to their right to freedom of assembly. They have now been discharged and acquitted, some of them in recent months.

On 14 November 2016, Mr. Ramli was sentenced under the Official Secrets Act to an 18-month prison term for unauthorized possession of the 1MDB audit report and for exposing it to the media. The Appellate Court upheld the conviction but varied the sentence: instead of imprisonment, it ordered Mr. Ramli to be bound over for two years on a good behaviour bond of RM 10,000 in one surety. It appears that Mr. Ramli remains subject to other charges or criminal investigations.

An on-site mission went to Malaysia in June to July 2015 and was able to meet with most of the parliamentarians who were the subject of the original complaint.

Parliamentary elections took place on 9 May 2018. The new Cabinet has set up a working group, which includes the Attorney General's office, National Human Rights Commission, Bar Council, civil society and others, to review all security-related legislation, including the amended Sedition Act. Until the working group reaches its conclusions, the Cabinet has placed a moratorium on the Sedition Act, suspending its implementation.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Malaysian delegation for the information provided at the hearing with the Committee on the Human Rights of Parliamentarians during the 139th IPU Assembly and the parliamentary authorities for the written details submitted recently;
2. *Is pleased* that seven parliamentarians are no longer subject to sedition charges or to an investigation into alleged sedition; *reaffirms its view* that their statements amounted to no more than criticism of the Government and the judiciary, which is no longer punishable under the amended Sedition Act; *decides* therefore to close further examination of their cases in line with Article 25 of the Annex I to the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians;
3. *Sincerely hopes* that the Attorney General's Office will heed the instruction for no sedition charge to be brought against Mr. Nga Kor Ming and Ms. Teo Nie Ching and that it will soon be able to close their cases as well;
4. *Trusts* that, all the more so in light of the moratorium, the Attorney General's Office will ask for the conviction of Mr. Chua Tian Chang at first instance on a charge brought under the old Sedition Act to be dismissed in the pending appeal procedure; *wishes* to receive official information regarding this prospect and to be kept informed of the appeal proceedings;
5. *Welcomes* the recent steps taken by the new Malaysian Cabinet to begin a review of the amended Sedition Act as part of a larger legislative review; *sincerely hopes* that this review will result in the adoption of legislation that is fully compliant with international human rights

standards; *recalls* in this regard its long-standing view that the amended Sedition Act, which includes a severe mandatory minimum penalty, remains excessively vague and broad, thus leaving the door open to abuse and setting a very low threshold for the type of criticism, remarks and acts that are criminalized; *wishes* to be kept informed of progress made by the working group set up to initiate the review process; *takes note* of the Malaysian delegation's support for the offer of IPU assistance to this endeavour;

6. *Notes* that Mr. Ramli's sentence was significantly reduced because the court of appeal, while reaffirming that he had committed a procedural breach of the Official Secrets Act, also took into account the fact that he had acted in the exercise of his parliamentary immunity in releasing information about 1MDB that was of paramount concern and interest to Malaysian society as a whole; *understands* that Mr. Ramli is, however, still subject to other legal proceedings; *wishes* to receive further official information on the criminal proceedings he is facing and the factual and legal grounds on which they are based;
7. *Is pleased* that the charges under the Peaceful Assembly Act (PAA) against four parliamentarians were dropped; *decides* therefore to close further examination of their cases in line with Article 25 of the Annex I to the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians;
8. *Sincerely hopes* that the authorities will soon decide to join the overwhelming majority of nations that have ratified the International Covenant on Civil and Political Rights; *points out* in this regard that, if absolutely necessary, Malaysia can make reservations and declarations upon becoming a party to the Covenant, as long as those do not contravene the object and purpose of the treaty;
9. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue its examination of the four remaining cases and to report back to it in due course.