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Amnesty International Report 2017/18 - The State of the World's Human Rights - Malaysia

Civic space shrank further as a crackdown on civil and political rights continued. There was a rise in the use of open-ended and arbitrary travel bans to restrict and threaten the freedom of movement of human rights defenders. Indigenous rights activists and journalists were arrested and investigated for campaigning against and reporting human rights abuses.

Freedom of expression

The government continued to harass, detain and prosecute critics through the use of restrictive laws such as the Sedition Act and the Communications and Multimedia Act. More than 60 individuals were arrested, charged or imprisoned under various pieces of legislation. Four individuals were charged, and another convicted, under Section 233 of the Communications and Multimedia Act which criminalizes, among other things, the “misuse of network facilities” for criticizing the government or for government-related satire.

Freedom of movement

In July, the Court of Appeal ruled that the government has absolute discretion to bar any citizen from travelling abroad without needing to provide a reason.¹ (<https://www.amnesty.org/en/countries/asia-and-the-pacific/malaysia/report-malaysia/#endnote-1>) This ruling facilitated continued violations of the right to freedom of movement and the work of human rights defenders, including cartoonist Zunar and activist Hishamuddin Rais. The authorities also barred several human rights defenders from entering Malaysia; they included Bangladeshi activist Adilur Rahman Khan² (<https://www.amnesty.org/en/countries/asia-and-the-pacific/malaysia/report-malaysia/#endnote-2>) and Singaporean activist Han Hui Hui, who were deported after attempting to attend human rights conferences. Bans were secretive, arbitrary and not subject to appeal. No prior notice was given.

Freedoms of association and assembly

Human rights defenders and opposition parliamentarians continued to stand trial for participating in peaceful protests. In July, the Kota Kinabalu High Court reversed an earlier acquittal by the Magistrate’s Court of activist Jannie Lasimbang who had been charged under Section 9 of the Peaceful Assembly Act 2012. Her trial was ongoing at the end of the year. Parliamentarians and activists were charged after joining the peaceful #KitaLawan (We Fight) protest rally; they included MP Sim Tze Tzin, Maria Chin Abdullah, Mandeep Singh and Adam Adli. Charges against Maria Chin Abdullah, Mandeep Singh and Sim Tze Tzin were initially dismissed by the courts, but brought again in October. Adam Adli was acquitted of his charges by the Magistrate’s Court in November.

Indigenous Peoples’ rights

In January, following peaceful protests against logging licences granted by local authorities, 21 Indigenous human rights defenders from the Temiar people in the northern state of Kelantan were detained. Two journalists were also arrested.³ (<https://www.amnesty.org/en/countries/asia-and-the-pacific/malaysia/report-malaysia/#endnote-3>) They were released within 48 hours, but the rights of the Temiar to their customary lands remained under threat because logging activities continued without the free, prior and informed consent of the communities. In August, 11 Indigenous human rights defenders in Perak were arrested by police when peacefully protesting against a logging company.

Arbitrary arrests and detentions

Preventive detention laws such as the Prevention of Terrorism Act and Security Offences (Special Measures) Act (SOSMA) continued to be used to detain, prosecute and imprison people alleged to have committed security offences. The maximum detention period of 28 days under the SOSMA was set to remain in force for five years from 31 July, following a parliamentary vote.

On 26 April, the Kuala Lumpur High Court sentenced Siti Noor Aishah to five years’ imprisonment for possession of 12 books, under a sweeping provision of the SOSMA prohibiting the possession, custody or control of any item associated with any terrorist group or the commission of a terrorist act.⁴ (<https://www.amnesty.org/en/countries/asia-and-the-pacific/malaysia/report-malaysia/#endnote-4>) The books owned by Siti Noor Aishah had not been banned, which raised further concerns about the arbitrary nature of the law and the way it was applied.

Police and security forces

Impunity for deaths in custody and excessive use of force and firearms persisted. There were at least five deaths in custody during the year. They included S. Balamurugan who, according to cellmates, was beaten by police during interrogation. A magistrate had earlier ordered that he be released and given medical attention. No police investigation into his death was known to have been carried out.

Death penalty

The death penalty continued to be retained as the mandatory punishment for offences including drug trafficking, murder and discharge of firearms with intent to kill or harm in certain circumstances. Executions continued to be carried out during the year and there remained no established procedure for notification of scheduled executions.⁵

(<https://www.amnesty.org/en/countries/asia-and-the-pacific/malaysia/report-malaysia/#endnote-5>) In November, Parliament amended the Dangerous Drugs Act, providing the judiciary with discretion on the mandatory death penalty in the event the accused is a drug courier and has co-operated with law enforcement in “disrupting drug trafficking activities”. The provision included a mandatory 15 whip lashes.

Rights of lesbian, gay, bisexual, transgender and intersex people

Discrimination against LGBTI people continued both in law and practice. Section 377A of the Penal Code criminalizes consensual sexual relations between adult men. In June, the Health Ministry received local and international criticism for its decision to launch a video competition for teenagers on how to “prevent gender confusion” which included “gay, lesbian, transgender, transvestite and tomboy”. The wording was subsequently removed.

Torture and other ill-treatment

In July, Kelantan state assembly passed amendments to the Syariah Criminal Procedure Enactment 2002 which would allow caning of criminals to be carried out in public. Torture is not adequately defined or prohibited in the state Syariah Criminal Code or the Malaysian Penal Code.

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