



Inter-Parliamentary Union

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Malaysia

MAL28 - Nurul Izzah Anwar

*Decision adopted by consensus by the IPU Governing Council at its 196th session (Hanoi, 1st April 2015)*¹

The Governing Council of the Inter-Parliamentary Union,

Having before it the case of Ms. Nurul Izzah Anwar, a member of the House of Representative of Malaysia, which has been examined by the Committee on the Human Rights of Parliamentarians pursuant to the Procedure for the examination and treatment of complaints (Annex I of the revised rules and practices),

Taking into account the information provided by the Malaysian delegation to the 132nd IPU Assembly (Hanoi, March 2015) on the occasion of the hearing held with the Committee; *taking into account* the information provided by the complainant,

Considering that Ms. Nurul Izzah Anwar was arrested and detained overnight from 16 to 17 March 2015 under the Sedition Act 1948 for a speech she made in Parliament on 10 March 2015 in support of her father, Mr. Anwar Ibrahim, who had been sentenced at final instance on 10 February 2015 to a five-year prison term on a sodomy charge. In her intervention, Ms. Nurul Izzah said that, although Mr. Anwar Ibrahim would be in prison for five years, and even if other Pakatan Rakyat (PR) leaders were to be similarly punished, the people would not give up the struggle for reform. "I am certain Barisan Nasional's greed for power will not be able to extinguish the fire of the people's struggle," she said. She then read out portions of the speech that Mr. Anwar Ibrahim made at the close of his trial, including the parts in which he: (i) expressed grave disappointment over the injustice that continued to be perpetuated against him, even though he was already incarcerated; (ii) criticized those in power whom he accused of manipulating the Prisons Department and other government agencies in denying him his right to attend Parliament as leader of the opposition; (iii) accused the judges of bowing to political masters and said that they were partners in a crime that contributed to the death of a free judiciary. Ms. Nurul Izzah stated, in her intervention, that she felt for those who were disappointed that Mr. Anwar Ibrahim was not able to personally deliver his speech and that he had accepted the sacrifice of going to prison for the country and the people. She also said that her father would never remain silent and would continue to fight for freedom and justice, adding that he would not surrender,

Considering that article 10 of the Constitution of Malaysia guarantees freedom of expression (subject to restrictions necessary in the interests of security of the Federation, friendly relations with other countries, public order or morality, to protect the privileges of Parliament, to provide against contempt of court, defamation or incitement to any offence), and in article 63(2) confers immunity from any proceedings in court for anything said by a member of parliament in Parliament; article 63(4) provides an exception to this immunity under article 63(2) for words uttered by members of parliament that fall under the Sedition Act 1948; this exception under article 63(4) is, however, limited and specifies that action can only be taken against members of parliament for words uttered that fall under section 3(1)(f) of the Sedition Act 1948, i.e. on citizenship, the status of rulers, national language, or the special status of Malays,

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The delegation of Malaysia expressed its reservation regarding the decision.

Considering that the complainant considers that Ms. Nurul's intervention in Parliament was protected under her right to freedom of expression, as well as to parliamentary privilege, and that the exceptions under the Sedition Act limiting such privilege are not applicable in this case,

Recalling that the complainant affirms that the Sedition Act as it currently stands aims to stifle the opposition; it considers that the act is drafted so broadly so as to criminalize democratic speech, including criticism against the Government, its leaders, and ruling political parties,

Considering that, according to the information provided at the hearing with the Committee in October 2014 by the Malaysian delegation to the 131st IPU Assembly with respect to cases MAL21-27, the Government was actively exploring, through the establishment of a dedicated team, four different options to review the Sedition Act, namely: (i) maintaining the act with minor changes; (ii) abolishing it; (iii) replacing it with the National Harmony Act; or (iv) maintaining the Sedition Act along with the adoption of the National Harmony Act; the matter was now in the hands of the Attorney-General's Office, which was due to make a proposal on how to go forward,

Considering that the Malaysian delegation to the 132nd IPU Assembly (Hanoi, March 2015) stated that the intention of the Government had now become to amend the Sedition Act and that specific legislation would be proposed to Parliament in the coming weeks; the Malaysian delegation stated that the new legislation would have to strike the right balance between protecting stability and social harmony on the one hand and freedom of expression on the other; one of the proposed amendments would entail the crime of sedition also covering topics related to the territorial integrity of Malaysia as well as religion,

Considering that the complainant affirms that the amendments aim to further limit freedom of speech in Malaysia; it *recalls* in this regard that the Prime Minister, after first announcing in 2012 that he intended to promote a comprehensive review of the Sedition Act with a view to abolishing it, made a U-turn at the end of November 2014 by publicly announcing the intention not to repeal but to bolster the act instead,

Considering that the Malaysian delegation to the 132nd IPU Assembly reiterated its invitation for a delegation of the Committee to come to Malaysia so as to gain a better understanding of, amongst other things, the Sedition Act and its review,

1. *Thanks* the Malaysian delegation for its cooperation and the information provided;
2. *Is deeply concerned* that Ms. Nurul Izzah was arrested, briefly detained and might be the subject of an investigation on account of a statement she made in Parliament;
3. *Recalls* that freedom of expression is essential to the working of a democratic parliament, and that members of parliament must be entitled to raise questions of public interest, such as concerns about the functioning of the judiciary, all the more so when they refer to a case with immense national ramifications; *fails to understand* therefore how the statement which Ms. Nurul Izzah made would not be covered by parliamentary privilege and the right to freedom of expression; *considers* that Parliament, as the guardian of the rights and privileges of its members, and therefore the protection of the institution as a whole, should take this incident extremely seriously; *wishes* to know what steps Parliament, through its Committee on Privileges, has taken to this end;
4. *Calls on* the authorities to discontinue any further investigation against Ms. Nurul Izzah in connection with her aforesaid statement in Parliament; *wishes* to receive official information and the views of the authorities on this matter;
5. *Is concerned* that, from the four options to review the Sedition Act, the authorities have chosen the one of keeping the act with amendments; *is particularly concerned* at reports that the amendments, rather than raising, may further limit guarantees of freedom of speech; *calls on* the Malaysian Parliament to do everything possible to ensure that, at this critical juncture, the new legislation fully complies with relevant international standards and fully guarantees that citizens and parliamentarians alike can speak out freely without fear of undue legal action; *wishes* to receive a copy of the amendments as soon as they become available; *assures* that the IPU stands ready to assist Parliament in its legislative work, including by sharing relevant experiences from other countries, should that be requested;

6. *Welcomes* the invitation extended by the Malaysian delegation for a Committee delegation to travel to Malaysia; *considers* that such a mission would be a good opportunity to enhance the Committee's understanding of the review of the Sedition Act and to identify opportunities for sharing other countries' relevant legislative experiences;
7. *Requests* the Secretary General to make the necessary arrangements for the mission to take place in the near future;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.