

International law experts say Karpal's conviction violates freedom of speech

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The International Commission of Jurists (ICJ) has joined the Malaysian legal fraternity in disapproving the High Court's decision in convicting lawyer Karpal Singh of sedition, saying the conviction was inconsistent with international law and standards on the free expression of opinion by lawyers.

ICJ's International Legal Advisor on Southeast Asia Emerlynne Gil said this conviction sends out a message that lawyers in Malaysia are not free to express their opinions about legal issues.

Gil said Karpal's conviction was based on the fact that during a press conference in early 2009, he had allegedly uttered "seditious words" when he questioned whether Sultan Azlan Shah had the legal authority to remove the then Perak Menteri Datuk Seri Mohammad Nizar Jamaluddin.

"This case is another sign of the lack of respect of the Malaysian government for the principle of free expression," said Gil in a statement.

She said Karpal acted in fulfilment of a core function of the legal profession, which is to contribute to the public discourse on matters of law.

The United Nations basic principles on the role of lawyers specifically provide that lawyers, like ordinary citizens, are entitled to freedom of opinion and expression.

She said lawyers have the right "to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights" without fear of suffering professional restrictions or repercussions due to their lawful action.

Meanwhile, the Malaysian Bar said the right of a citizen, and in this case, a senior and experienced lawyer to voice an opinion on a constitutional point of law, was clearly within the scope of the freedom of speech and expression guaranteed under the Federal Constitution.

"That constitutional right must be interpreted liberally while any limits on it should be interpreted narrowly," Bar vice-president Steven Thiru said in a statement.

He said the constitution allowed Putrajaya to make laws, including the Sedition Act, that limited the right to free speech; but stressed that such laws "must be interpreted restrictively to ensure that the fundamental right was not rendered meaningless".

Steven said the sedition law enacted in 1948 was an "affront to the rule of law" and designed to suppress and persecute the citizens.

"The Act is antithetical to democratic principles and ideals as it stifles and criminalises genuine, temperate and reasonable discussions of important national issues," said Thiru, whose organisation represents about 13,000 lawyers in the peninsula.

Lawyers for Liberty (LFL) executive director Eric Paulsen said Karpal's conviction reaffirms the return of authoritarianism and political persecution.

Paulsen said this was apparent following the dismissal earlier this week of P. Uthayakumar's appeal, also for sedition.

He said the return of authoritarianism and political persecution followed a brief lull during which Prime Minister Datuk Seri Najib Razak made a series of democratic reforms which turned out to be a rebranding exercise and ultimately – false.

Yesterday, High Court judge Datuk Paduka Azman Abdullah found Karpal guilty of uttering seditious words against the Sultan of Perak at the height of the constitutional crisis in 2009.

The sentence has been deferred to March 7 for Karpal's defence team to prepare mitigation to obtain a lighter sentence.

Under section 4(1) of the 1948 Sedition Act, Karpal now faces a fine of up to RM 3,000 or imprisonment of up to three years.

The conviction may force Karpal to give up his seat as a member of the Malaysian parliament as the constitution stated that an elected representative was disqualified from office if fined more than RM 2,000 or jailed for a term exceeding one year.

Karpal, 73, has provided legal defence in several high profile cases, including that of opposition leader Datuk Seri Anwar Ibrahim, whose trial on charges of sodomy had drawn heavy criticism in Malaysia and internationally.

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