



I G L H R C
INTERNATIONAL GAY AND LESBIAN
HUMAN RIGHTS COMMISSION

YB Tan Sri Ismail Omar
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November 9, 2011

Re: Ban of *Seksualiti Merdeka*

Dear Tan Sri Ismail,

I write to you from the International Gay and Lesbian Human Rights Commission (IGLHRC), a twenty-one year-old human rights organization with offices around the world, to express deep concern about recent events around *Seksualiti Merdeka*, an annual festival dedicated to the use of art and performance to advocate for human rights. On November 3, 2011, police shut down all events related to *Seksualiti Merdeka*, citing concern for public order. The police crackdown represents a violation of the rights to assembly, association, privacy and expression.

On November 1, two plainclothes and two uniformed police officers entered a workshop on lesbian, gay, bisexual, transgender and queer and questioning (LGBTQ) human rights, an act we interpret as surveillance and intimidation. The police acted in response to a complaint by members of a Malay rights group, Perkasa, to the Deputy Inspector General of Police, Datuk Seri Khalid Abu Bakar, alleging that *Seksualiti Merdeka* was promoting “abnormal and immoral activities.”

On November 3, Mr. Khalid in a press conference in Kuala Lumpur ordered that *Seksualiti Merdeka* be banned, saying, “We are not against the people's right to freedom of speech or human rights. However, if the event creates uneasiness among the vast majority of the population, it may result in disharmony, enmity and threaten public order.” The police then threatened “action” against anyone who defied the ban. He also announced that festival organizers would be taken in for questioning by police under Section 298A¹ of the Penal Code and under Section 27A(1)(c) of the Police Act.²

1 Section 298A of the Penal Code allows police to take action against anyone who causes “disharmony, disunity, feeling of enmity, hatred, ill-will or prejudice or for the maintenance of harmony or unity on the grounds of religion.” <http://www.agc.gov.my/Akta/Vol.%2012/Act%20574.pdf>

2 Section 27A(1)(C) of the Police Act empowers police to act against any activity that takes place on private premises but is deemed prejudicial to the interest and security of Malaysia or that would excite a disturbance of the peace.” <http://www.agc.gov.my/Akta/Vol.%207/Act%20344.pdf>

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Ten organizers were questioned by Royal Malaysian Police in Kuala Lumpur. As a result of the ban, organizers were forced to stop the annual festival.

Since 2008, *Seksualiti Merdeka* has been an annual showcase of artistic expression to advocate for Malaysian citizens who are denied the rights to identity and self-determination. *Seksualiti Merdeka* has always held peaceful, educational gatherings on private premises. The 2011 theme, “Queer Without Fear,” aptly captures the violence, culture of impunity and harassment experienced by LGBT Malaysians. Homophobia and transphobia take diverse forms. The national Malay media has condemned women who appear masculine and men who appear feminine.³ Terengganu state schools have removed effeminate male students from regular schools and mandate them to “reparative” education.⁴ Melaka religious authorities have sanctioned the intimidation and beating of transgender people (*mak nyah*).⁵ Reports from an unpublished study being conducted on violence against LGBT people preliminarily indicate that police have extorted money from LGBT individuals, and families are using physical violence to punish gender and sexual non-conformity of female members.⁶

The National Commission of Human Rights of Malaysia, Suhakam, has made a commitment to promote the respect of LGBT people. Suhakam has demonstrated this commitment by specifically reprimanding members of the press who have used derogatory language against LGBT people and have affirmed that LGBT human rights must be respected. As a member of the Asia Pacific Forum (APF), which adopted the *Yogyakarta Principles*, an authoritative interpretation of international human rights law with regard to sexual orientation and gender identity, Suhakam has also affirmed that according to the Principles, “All people regardless of their sexual orientation and gender identity are entitled to enjoy their basic rights as human beings.” Furthermore, it has committed to speak out against “name-calling, bullying and infliction of bodily harm against LGBT groups.”

We urge you to:

- Lift the ban against *Seksualiti Merdeka*.
- Ensure that police do not arrest or intimidate the organizers of and/or anyone connected to *Seksualiti Merdeka*.
- Protect the organizers of and/or anyone connected to *Seksualiti Merdeka* from private actor violence and hold vigilantes who commit acts of violence on this basis accountable to the fullest extent of the law.
- Conduct a public awareness campaign about equality before the law and non-discrimination, regardless of sexual orientation or gender identity.
- Train police officials with regard to lesbian, gay, bisexual and transgender rights to end arbitrary harassment of LGBT individuals, their speech and assembly.
- Ensure that the rights to assembly, association, speech, and expression are upheld universally and not subject to arbitrary or biased perceptions of public order.

3 http://www.utusan.com.my/utusan/info.asp?y=2010&dt=0228&pub=Utusan_Malaysia&sec=Rencana&pg=re_04.htm

http://www.kosmo.com.my/kosmo/content.asp?y=2010&dt=0502&pub=Kosmo&sec=Negara&pg=ne_01.htm

4 <http://www.nst.com.my/nst/articles/16eff/Article/>

5 <http://www.freemalaysiatoday.com/2011/04/19/mak-nyah-want-to-be-heard/>

<http://www.malaysiakini.com/news/70572>

6 Information on file with the International Gay and Lesbian Human Rights Commission (IGLHRC).

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The ban on *Seksualiti Merdeka* represents unmitigated censorship and stifling of freedom of expression, association and exchange of ideas. As noted by members of the Islamic Renaissance Front and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST), two of the many Islamic and non-Islamic groups that support *Seksualiti Merdeka*, “All Malaysians have a right to personal liberty, dignity and privacy.” Rather than violating the rights of Malaysians to conduct peaceful forums, workshops and performances, IGLHRC calls upon the government to live up to Prime Minister Najib Razak's vision of a “progressive, liberal nation.”

Sincerely,



Cary Alan Johnson
Executive Director

CC:

Prime Minister of Malaysia, YAB Dato' Sri Haji Mohd Najib bin Tun Haji Abdul Razak

Deputy Prime Minister, YB Tan Sri Muhyiddin Yassin

The Human Rights Commission of Malaysia

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