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18 February 2016 - LRWC Applauds Discontinuance of *Sedition Act* prosecution of Dr. Azmi Sharom and calls for repeal of Act and the immediate discontinuance of other sedition prosecutions

On 12 February 2016, Malaysia's Attorney General dropped sedition charges against Dr. Azmi Sharom.¹

LRWC welcomes the discontinuance of the sedition prosecution of Dr. Sharom and calls for repeal of the *Sedition Act* and immediate discontinuance of all pending prosecutions under the Act. The *Sedition Act* is being wrongly used in Malaysia to silence and punish critics for voicing peaceful opinions about issues of public concern.

In September 2014, Dr. Sharom, a law professor at the University of Malaya, was charged under Section 4(1) (b) and Section 4(1) (c) of the *Sedition Act* for comments allegedly made at a political event five years earlier. The charges were laid after an online news outlet published Dr. Sharom's legal analysis of a crisis in Malaysia's Selangor.² In expressing shock at the charges, Dr. Azmi stated that his comments were based on established case law and democratic principles.

Dr Sharom subsequently brought a constitutional challenge of the *Sedition Act* in October 2014, but his petition was rejected by the Federal Court in October 2015.³

However, on 12 February 2016, Malaysia's Attorney-General Mohamed Apandi Ali decided to "discontinue prosecuting" Dr. Sharom and advised that his chambers would close the case against him. The Attorney General stated, "in the interest of justice and after examining the evidence given by the prosecution's witnesses in court, I am using my discretion under Article 145(3) of the Federal Constitution and decide to drop the charges against Dr. Azmi."⁴

Sedition laws are almost universally viewed as obsolete in common law jurisdictions,⁵ and apply only in cases where there is evidence of the intention and capacity to incite the violent overthrow of a lawful government.⁶ Many states, legal specialists and United Nations reports have identified the *Sedition Act 1948* as a tool used illegitimately to restrict freedom of expression in a manner inconsistent with Malaysia's international law commitments and have called for its repeal.

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¹ Sumisha Naidu, "Sedition charges against Malaysian law lecturer dropped", Channel News Asia (February 12, 2016), online: <http://www.channelnewsasia.com/news/asiapacific/sedition-charges-against/2508872.html>

² In Sharom's analysis, he cited a 2009 constitutional crisis in Perak in which Karpal Singh a human rights lawyer had voiced an opinion about the authority of the Sultan of Perak. More information at "A-G drops sedition charge against Azmi Sharom", *The Malaysian Insider* (February 12, 2016), online: <http://www.themalaysianinsider.com/malaysia/article/a-g-drops-sedition-charges-against-azmi-sharom>

³ Ida Lim, "Federal Court rules Sedition Act constitutional, UM's Azmi Sharom to stand trial", *The Malay Mail* (October 6, 2015), online: <http://www.themalaymailonline.com/malaysia/article/federal-court-rules-sedition-act-constitutional-ums-azmi-sharom-to-stand-tr>

⁴ *Supra* note 1.

⁵ Consider, e.g. "The offence of seditious libel is now obsolescent" Lord Denning, *Landmarks in the Law*, (London, Butterworths, 1984) at 295; "there is almost complete agreement in the common law jurisdictions that sedition should be made obsolete" L.W. Maher, 'The Use and Abuse of Sedition' (1992), *14 Sydney L.R.* 287 at 312.

⁶ *Boucher v The King*, [1951] SCR. 265 at 285-286, per Watkins L.J.