UN Human Rights Office concerned by criminalization of transgender women in Malaysia

BANGKOK (9 October 2015) – The United Nations Human Rights Office for South East Asia (OHCHR) notes with regret this week’s decision by the Malaysian Federal Court to reinstate Section 66 of the Negeri Sembilan Syariah Criminal Enactment (1992) that criminalizes transgender women on the basis of their appearances, and subjects transgender women to fines and up to six months imprisonment.

The judgment overturned a Court of Appeal ruling from a year earlier which declared unconstitutional the criminalization of Muslim transgender women for cross-dressing. The Federal Court ruled that the legal challenge on the constitutionality of a law has to be made directly at the Federal Court as the matter involved the Federal Constitution.

Section 66 prohibits any male person from wearing women’s attire, or posing as a woman, in any public place.

“This law infringes the rights of transgender women, including the right to live with dignity, to freedom of movement, the right to work, to equality before the law and to freedom from discrimination and freedom of expression,” said Matilda Bogner, the Regional Representative of OHCHR’s Southeast Asia office.

The Federal Court does not only have a duty to interpret rules and procedures but must protect the fundamental rights of individuals guaranteed under the Federal Constitution of Malaysia and in line with international human rights standards, said Bogner.

OHCHR continues to receive reports of arrests and attacks against transgender people in Malaysia. In the north-east state of Kelantan, nine transgender women were arrested, imprisoned and fined on the basis of their appearance in June.

As recently affirmed by the Secretary-General and 12 UN agencies, including OHCHR, laws that criminalize and discriminate against transgender persons on the basis of their gender identity or expression violate international human rights law. States have an obligation to repeal such discriminatory laws and to legally recognize the gender identity of transgender persons.

“We call on Malaysian authorities to uphold their international human rights obligations without discrimination, and to address human rights violations against transgender women. The Government should amend Section 66 of the Negri Sembilan Syariah Criminal Enactment (1992) and similar provisions in other Malaysian states to bring them in line with international human rights standards,” said Bogner.
* To read the statement, please visit: [http://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx](http://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx)

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The Regional Office for South-East Asia in Bangkok represents the High Commissioner for Human Rights within South East Asia. The High Commissioner for Human Rights is the principal human rights official of the United Nations and heads the Office of the United Nations High Commissioner for Human Rights, which spearheads the United Nations’ human rights efforts.

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