

STATEMENT FOR THE HEARING OF HUMAN RIGHTS DEFENDERS BY THE
GERMAN BUNDESTAG.

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A nation that criminalizes and punishes human rights defenders is a nation that practices corruption and kills democracy. Unfortunately, I belong to such a nation where human rights defenders are labelled as subversive and probably in the coming future as terrorists.

Malaysia, a well developed country, economically, seems to be looked upon as an example in economic growth with a society that is multi ethnic and religious. Yet, democratically, it is weak where people who do speak up on human rights violations are punished. Malaysia's economic growth came through the hard work of over 3 million migrants since the late 80's. Today it continues to increase its recruitment and is expected to recruit more than a million foreign workers in the coming year from 12 different countries in Asia..

Tenaganita, women's force, began its program with migrant workers in 1993 focusing on migration, health and HIV/AIDS. In order to create effective interventions, we conducted a participatory action research to understand the factors and conditions that increased the risk to HIV infection among migrant workers. In the course of the research and discussions with migrants, the organization obtained information on the horrific conditions in immigration detention camps throughout the country. Researchers met over 300 former detainees who told of their traumatic experiences in the camps. From the information obtained from the former detainees, recruiting agents and journalists who had done their own investigations, a Memorandum entitled, "The Abuse, Torture and Dehumanised Conditions in Immigration Detention Centres " was sent to the Prime Minister and all relevant agencies in August 1995. A press conference was held where we called on the government to investigate and establish an independent board of inquiry

In the Memorandum, I stated our findings of torture of detainees, death in the camps, of people dying from severe malnutrition related, yet, curable diseases like beri beri, odema, the denial of proper food and water, denial of medical treatment, rape and sexual abuse of women detainees and over crowdedness and irregular water supply. The memorandum also raised issues of corruption both in the camps and in the process of recruitment. We brought about how migrant workers were recruited without proper employers and were cheated. Specifically, we identified one agency that was owned by the brother of the then deputy home minister who had got the approval to recruit 20,000 Bangladeshi workers. Many of the former detainees who did testify to us were recruited by this agency.

At this period in time, the Prime Minister also held the portfolio of Home Minister. The management of the camps was the responsibility of the Home Ministry. It therefore raised

questions of accountability, governance and transparency of the Home Ministry and that of the Prime Minister.

But when the issue became a national concern with the government denying the allegations raised in the memorandum, I, as Director was interrogated for 10 days, arrested and charged under the Printing Presses and Publication Act 1984 for maliciously publishing false news on March 18, 1996. I went through a seven and half year trial at the Magistrates Court. On October 16, 2003 I was convicted and sentenced to 12 months imprisonment. I am on bail for Rm 3000 and my passport impounded, pending my appeal to the High Court.

During the long trial period, the organizations work was very much affected by continuous harassment by the government. The staff were very closely monitored. All our telephone lines were monitored. Our office was raided twice by enforcement officers but they could not find any fault with us. Various agencies like Labor, Income Tax etc. monitored us very closely. They made sure that we did not delay a single day when payments were due.

During this period, we had the first and only half way house for women and children who were HIV+. We also housed women who were trafficked and forced into prostitution at this home. In fact the house was full all the time. We received funds from the Ministry of Health to manage the house. But when I was arrested and charged in court in 1996, the following year the funds were stopped. The decision to stop the funds was so sudden that we had to close the house temporarily for six months to raise separate funds. it was indeed very difficult. Finally last year, we formed a separate organization and the Home is now managed independently and not under Tenaganita.

The 12 month imprisonment is a gross injustice done to me. All I did was to give voice to former and current migrant detainees through a Memorandum and a Press Conference. In fact, I clearly requested the government to institute a royal commission of inquiry so that there will be an independent inquiry as the police were implicated. The judgement reflects how the Executive, the government of the day in Malaysia uses institutions like the Judiciary to silence human rights defenders. This form of court process also gives the government the excuse to wash its hands off from any accusation of human rights violations. The former Prime Minister, Dr. Mahathir constantly used this excuse... it was not his decision but the courts and that he had no control over the courts.

The Malaysian Human Rights Commission is also not able to investigate into my situation. According to the Human Rights Commission Act, it states that the Commission has no authority to investigate a complaint the moment the case is referred to a court of law.

Sadly, the Mahathir era did not respect nor recognize human rights. Today, though Dr. Mahathir is gone but it is the same government that is in power. Many human rights defenders have been detained under the Internal Security Act called the ISA. This Act allows detention indefinitely without trial. During the period in detention, many of the human rights defenders have been tortured by the police and the special intelligence division of the police

with the hope of "turning them over" and to admit to the allegations of subversion brought against them.

There have been many others detained under the Police Act and charged for illegal assembly over various forms of gatherings and demonstrations held in the country. The amount for bail has been increased from RM 1000 to RM 5000 now. The trials are still being continued. Other laws have also been used. Mohd. Ezam, the National Justice Party Youth Leader was arrested, charged and sentenced to 18 months imprisonment under the Official Secrets Act.. He had brought out incidents of corrupt practices committed by the Minister of International Trade supported with documented evidence. The documents in his possession were termed as official secrets and thus it was wrong for him to hold possession of them.

In all these cases it has become very clear that Malaysia does not have an independent judiciary. This institution has to be used to justify the criminalization of human rights defenders. The state is also able to absolve itself of the violations. It then, puts the onus and responsibility on to the judicial system

In my case, there are three fundamental areas of human rights that we need to take cognizance of when understanding my case. The first sector of rights is on the rights of migrant workers and their right to life and security when they are detained and held in Immigration detention camps. This is the substance of the Memorandum on the Abuse, Torture and Dehumanized Treatment of Migrant workers. It was the ardent call of the organization when we had the Press Conference.

The Press Conference was crucial. We needed to inform the public, both Malaysians and families of the migrant workers of the conditions in the camps. It was a public interest matter. The media reports would be a way to ensure that check and balance was practised. This form of freedom of expression is fundamental as it ensures democracy stays alive; there is transparency and accountability on the part of the government.

The above actions constitute the role and responsibility of civil society and of human rights organizations and defenders. We needed to give voice to the most marginalized groups in the country. And thus, it is the responsibility of the state to listen and to address the issues at hand and enter into dialogue with the organization.

Therefore, where a state moves in the direction where it disregards human rights, principles of democracy, independence of the judiciary but instead continues to violate rights with impunity and criminalizes human rights defenders like me or Anwar Ibrahim, or Ezam and others, it is crucial that the international community and other governments respond.

Human Rights is indivisible and universal. The violations are no more local but global. Thus there has to be external pressure. International relations is very crucial for the Malaysian

government to sustain its current economic growth. Malaysia, also wants to be recognized as a leader of the south especially after it hosted two major conferences, namely the meeting of the non aligned nations (NAM) and OIC. In this context the European Union is very important. The European Parliament too needs to take a position on my case and the need to defend human rights defenders. This is ever so important since Malaysia now has very quickly passed the Anti Terrorist Act. This global trend should not be now the excuse for persecuting human rights defenders or taking to task any form of political dissent.

The Human Rights Defenders declaration adopted by the United Nations must become more visible and be adopted by countries. The European Union can provide support politically and financially to create an effective mechanism at different levels to monitor violations and take to task perpetrators. A form of global fund can be established for defence, protection and consciousness building on role and responsibilities of human rights defenders. We need a concerted effort for interventions. Thus a north south collaborative actions, programs and exchanges can be organized. There has to be monitoring and research to see the links between violations of rights of defenders and that of actions to fight terrorism.

Germany has been close to me. In my involvement in human and women's rights activism, Bread for the World supported my programs till 1997. Their new policies could not support me as Malaysia was seen as a developed nation. Amnesty International, the German chapter has been extremely supportive. Three years during the EXPO in Hannover, they organized a concert regarding the trial in order to raise the awareness among the German people.

I would like the support to be strengthened. I would like the German Parliament to speak to their counterparts in the European Parliament for a resolution on my case that would add pressure on the Malaysian government. There must be a response from the government of Malaysia, although more now that we have a new Prime Minister. It would be important that the German Parliament commits itself to a very intensive program to support and strengthen the work of human rights defenders.

The attorney general's office vehement objection to the release of my passport to travel with the only reason that I may tarnish the image of my country must be taken seriously. This objection has led to the court rejecting my application for an interim release of my passport. Thus my absence today. This refusal has not only denied me the right to address your good selves in this Parliament but it has also not given respect to the German Parliament. I would like you to send a letter of protest to the Prime Minister and the Malaysian government.

The seven and half year trial, the conviction and now the appeals has and will affect our work with migrants and programs on HIV/AIDS. We will also need funds to meet the trial costs and the campaign that is currently being organized and will be intensified. Financial support for the defence and for the campaign is very much needed. We hope you can also play a role in supporting us.

But most of all, I value the relationship and understanding that has developed in this process. I look forward to strengthening the relationship and the actions that we need to work together in partnership. It is these forms of support that gives me strength to continue the struggle. Human rights can never be compromised. I believe the universality of rights can only hold meaning when there is a global partnership. We have begun and let us build on it. We live life only once. Let us live that life fully and so to others with dignity and rights