

Amnesty International Women's Rights Action 2000

Women's Rights are Human Rights
The Struggle Persists

MALAYSIA

The Silencing of a Human Rights Defender

AI Index: ASA 28/02/00

[BOX]

“Women engaged in the defence of human rights must be protected. Governments have a duty to guarantee the full enjoyment of all rights set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights by women working peacefully in a personal or organisation capacity for the promotion and protection of human rights. Non-governmental organisations, women's organisations and feminist groups have played a catalytic role in the promotion of human rights of women through grass-roots activities, networking and advocacy and need encouragement, support and access to information from Governments in order to carry out these activities.”

Beijing Platform for Action, Strategic Objective I, para. 228

[end BOX]

Irene Fernandez is a prominent Malaysian human rights activist, director and co-founder of *Tenaganita*, a non-governmental organisation campaigning for the rights of women and migrant workers. She is married with three teenage children. She has been on trial since 1996 for “maliciously publishing false news” in a report about conditions in immigration detention camps in Malaysia. Although currently free on bail, she faces a prison sentence of up to three years. If she is convicted and imprisoned, Amnesty International would consider her to be a prisoner of conscience. The organization believes she is being prosecuted solely on account of her peaceful activities as a human rights activist.

Irene Fernandez was arrested in 1996 after *Tenaganita* published a report entitled “Abuse, torture and dehumanised treatment of migrant workers in detention camps”. The report details allegations of ill-treatment, sexual abuse and denial of adequate medical care to migrant workers, held as alleged illegal immigrants in a number of detention camps throughout Malaysia.

During 1994-5, in the course of a research project into health and the incidence of HIV/AIDS amongst migrants workers in detention camps, *Tenaganita* staff interviewed over 300 foreign nationals following their release. Most of the migrant workers interviewed were of Bangladeshi, Indonesian or Filipino nationality. Patterns of alleged ill-treatment, abuse and official corruption emerged. The allegations included reports of a series of deaths caused by malnutrition, beri-beri¹ and other treatable illnesses.

¹ A disease caused by lack of vitamins and other nutrients essential to health.

In August 1995 *Tenaganita* issued its report and called on the authorities to open the detention camps for inspection and to set up an independent Commission of Inquiry to investigate the various allegations that had emerged. In September that year the Deputy Minister of Home Affairs stated that 42 deaths due to “natural causes” had occurred in the detention camps and announced the appointment of an independent Visitors’ Panel to study conditions in the camps. The Panel’s findings have never been made public. In the same month a senior Police Field Force officer filed a complaint of criminal defamation against Irene Fernandez, and she and other *Tenaganita* volunteers involved in the research were repeatedly called in for questioning at police headquarters. In addition, Irene Fernandez’s lawyers were subjected to police questioning about witnesses related to the case, in violation of international standards of fair trial.

Seven months after the publication of the report Irene Fernandez was arrested and charged under Section 8A(1) of the Printing Presses and Publications Act. This legislation makes it an offence to maliciously publish “false news”. Malice was defined by whether or not the accused took “reasonable measures” to verify the truth of the news.

Amnesty International remains concerned at threats by the authorities to use the Printing Presses and Publications Act to silence public discussion of other issues of legitimate concern. Since Irene Fernandez was charged, there are known to have been three other instances in which NGOs criticizing police conduct have been threatened with prosecution under Section 8A(1) of the Printing Presses and Publications Act.

The trial of Irene Fernandez - the longest running in Malaysia’s legal history - may continue for at least two more years. It has been debilitating in terms of the time, energy and resources required both from Irene and the human rights lawyers who defend her. Although free on bail, she must appear in court for every hearing and so far has had to make well over 150 court appearances. Not only has her health suffered, but the work entailed in attending and preparing for numerous court appearances has prevented *Tenaganita* from devoting time to the advocacy work they provide for migrant and other workers.

Amnesty International has long-standing concerns about conditions in the immigration detention camps and has repeatedly called on the Malaysian authorities to allow access for independent monitors. The organization is gravely concerned that instead of conducting a full, public inquiry into the conditions in the camps, the authorities chose to prosecute the human rights defender doing something about those conditions, Irene Fernandez.

TAKE ACTION!

Please write:

- urging that all charges against Irene Fernandez be dropped;
- expressing concern that she has been charged solely on account of her peaceful exercise of the right to freedom of expression;
- noting that Article 6 (b) of the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly in December 1998, states that everyone has the right to publish views, information and knowledge of all human rights and fundamental freedoms;
- calling for the amendment of the Printing Presses and Publications Act to ensure that it cannot be used to penalize those who peacefully express their opinions;

- urging the authorities to sign and ratify the International Covenant on Civil and Political Rights.
Please send letters to:

Deputy Prime Minister and Minister for Home Affairs
Dato' Abdullah Haji Ahmad Badawi
Ministry of Home Affairs
Jalan Dato' Onn
50546 Kuala Lumpur
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Fax: +60 3 230 1217

Minister in Prime Minister's Department with responsibility for Legal Affairs
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Photo caption:

Irene Fernandez. Director of women's NGO *Tenaganita*, on trial for supporting the rights of migrant workers. ©Private

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