



THE recent Bar Council's resolution of no confidence on the Chief Justice and to address the incredible harm that KPI's bring into the justice system is lauded and supported by Tenaganita.

The organization recognizes the "breaking point" that lawyers face especially in criminal matters where investigations, research, preparation of witnesses and support to the victim are integral parts to realize truth and justice. Key performance indicators as established do not reflect concept of justice but a mechanical process of disposing cases.

The experience of how migrant workers cases have been dealt with through the establishment of the speedy courts at Immigration detention centres reveals to us the great injustice that migrant workers have faced in Malaysia. The Home Minister recently revealed in Parliament that more than 30,000 foreigners have been caned or whipped for so called "illegal" entry into the country. Human Rights organizations have called it as a tool for torture of migrants. We should be ashamed for the cruel treatment we have accorded them.

A study done on the speedy courts showed that 98% of the detained migrant worker's were not represented at all in court. The majority of the workers did not have interpreters in court and were forewarned by the authorities to plead guilty as it would speed up their case and they could return home early. None of them were told of their rights and the implications of their charges.

The courts were only interested in finishing up the backlog of cases as more raids were done on migrant workers. Workers who could not produce their passports as they were either held by the employer or the agent were punished for illegal entry with imprisonment and whipping. Was justice ever in the minds of those who administered the courts or was the objective only in completing the backlog of cases? Did such a process develop proper investigations? Obviously it did not as the workers who were legal and had passports were imprisoned and whipped for illegal entry.

The government of the day and the judicial process did not even recognize these migrants as human beings with basic rights and who did not commit a crime. Their only “crime” was that they did not have their legal document with them. It was the established system of recruitment and employment in the country determined by the Home Ministry that had placed them in this vulnerable condition.

We must learn from this form of continued violation of rights and cruelty to people. It is indeed important for us to ensure that justice must be seen to be done. The whole judicial process must be administered so that truth and justice will reign while perpetrators will be made accountable. In order to achieve it, speedy court decisions are definitely not the way.

Malaysians want a justice system where efficient and indepth investigations, without fear or favor are carried out with professionalism by investigating officers while lawyers work towards representing their clients with vigor and commitment to ensure justice and truth reigns. In order to achieve these goals, the lawyers must be given time to conduct interviews, do research, determine their strategy of defence and prepare their clients and witnesses for the trial.

Tenaganita supports the Bar Council's position for the removal of KPI's and if need be a Royal Commission of Inquiry be instituted. But most of all, the organization wants a process established for the development of an independent judiciary. With an independent judiciary, we would not need such KPI's as much time can be saved from unnecessary trials related to political dissent, criminalization of human rights defenders and corruption that has become embedded in almost every state institution.

*Dr. Irene Fernandez*

*Executive Director*

*Tenaganita.*