

URGENT ACTION

ACTIVISTS CHARGED FOR PEACEFUL PICKET

Five activists continue to face charges after participating in a peaceful picket against a hospital cleaning services company in June 2020. The picket drew attention to the alleged unfair treatment of union members and insufficient personal protective equipment for cleaners. Police arrested, detained and charged five activists for “unauthorised gathering”. An essential component of the right to association, no one should be prosecuted solely for a peaceful gathering. We therefore call on the Attorney General to repeal the case and drop all charges.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Tan Sri Dato' Sri Idrus Harun
Attorney General of Malaysia
Attorney General's Chambers
No. 45, Persiaran Perdana, Presint 4
62100 Putrajaya, Malaysia
Email: ag.idrus@agc.gov.my

Dear Tan Sri Dato' Sri Idrus Harun,

*I am writing to call on you to drop the charges faced by five activists—**M. Sarasvathy, L. Danaletchumy V. Santhiran, P. Jothi, and C. Subramaniam Raja**—who participated in a peaceful picket on 2 June 2020 against alleged mistreatment of hospital cleaners by a sub-contractor. Their allegations included inadequate supply of PPE for COVID-19, intimidation of cleaners active in the union, the cancellation of a Collective Agreement accepted by the previous sub-contractor, lack of annual increase in wages, lack of increase in sick leave and annual leave according to seniority, and reduced number of paid public holidays. The company denies these allegations.*

As you may be aware, the picket in question consisted of less than 20 people, and all participants practiced physical distancing, wore masks, and had their temperatures checked. Still, the activists were arrested and remanded overnight, and chained in court which is a form of inhuman or degrading treatment that may amount to torture. The activists also allege that they were mistreated during the arrest and in lockup, claiming they were verbally abused by police officers, forced to change their clothes with the room door open and were not given water for their personal medication.

Charged on 2 June 2020 with violating the Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) Regulations 2020, each activist now faces a fine of up to RM 1,000 (USD 234) or up to six months' imprisonment or both. This fine is particularly disproportionate as they were protesting poor wages.

Pickets are an essential component of the rights to freedom of association and assembly as enshrined in international law; restrictions on these rights during health emergencies must be necessary and proportionate to the aims of addressing the emergency. The COVID-19 crisis should not be used as a pretext to unnecessarily and disproportionately suppress rights to freedom of peaceful assembly and association. Those on the frontlines of the pandemic must not be punished for asking for better working conditions.

I call on your office to:

- **Drop all charges against the five members, as the charges are either contrary to international human rights law or carry penalties that will disproportionately affect this group;**
- **Investigate allegations against the company and ensure that all labour laws are respected and enforced, especially the inadequate supply of personal protective equipment for COVID-19 and the intimidation of workers active in the union.**

Thank you for your kind attention.

ADDITIONAL INFORMATION

Cleaners in Malaysian government hospitals are contract workers, hired by private companies who have been sub-contracted by concessionaires that were awarded government contracts for hospital support services. As contract workers, cleaners are often paid only the minimum monthly wage of RM1,200 (USD 280), and are not entitled to receive benefits such as annual pay rises, more than 11 days of paid public holidays, bonuses, and compensation in the event of retrenchment. Furthermore, the constant change of contracts often leaves cleaners in a position of instability, as new contractors can revise and reduce benefits, and working seniority may not be recognised.

In 2016, the National Union of Workers in Hospital Support and Allied Services (NUWHSAS) was revived by a group of hospital cleaners in the northern region to negotiate a collective agreement of 43 demands including increased starting wages and a yearly increment. NUWHSAS report that they negotiated a new collective agreement of 38 demands in October 2019 setting out the terms and conditions of the contract cleaners' employment. Before the agreement was supposed to take effect in January 2020, however, the sub-contract was sold off to a different company – a subsidiary of a public listed and government-linked company owned by the Malaysian government's sovereign wealth fund. According to [media reports](#), the company now refuses to recognise the union, and the collective agreement was consequently considered null and void. The company has neither confirmed nor denied that it refuses to recognise the union but [said](#) the claim of union busting is the subject of a pending trade dispute case under the Industrial Relations Act Section 18. Court proceedings have been postponed due to the COVID-19 pandemic.

According to NUWHSAS, at the start of the COVID-19 pandemic, cleaners did not have access to adequate personal protective equipment when they cleaned COVID-19 wards and facilities, and Edgenta UEMS had provided them with an inadequate supply of masks and gloves. The union has also accused Edgenta UEMS of particularly targeting cleaners active in the union by:

- Changing the working hours and shifts of workers active in the union;
- Arbitrarily transferring union members to hospitals far from their residence;
- Forbidding union-related discussion between union worksite committees and workers, even during break times;
- Disallowing union members from working overtime to increase their earnings;
- Intimidating and threatening union members with disciplinary action.

On 3 June 2020, the company released [a statement denying the allegations](#) put forth by the union, including the deliberate changing of hours and shifts, arbitrary transfer to hospitals, forbidding union activities, verbal harassment, the denial of PPE, and the lack of increment in wages and paid holidays. However, legal representatives of the union stand by their original allegations.

In a letter to Amnesty International Malaysia on June 19, UEM Edgenta once again denied the allegations. They also stated that they had taken multiple actions since the protest. These include forming an internal taskforce to review the allegations by the union; a roadshow at selected hospitals in Northern Peninsular Malaysia that included an audit of PPE and engagement sessions with healthcare support services employees; and the development of PrihatinLine, an online channel for hospital support service employees to share feedback and concerns with top management and the new taskforce. The union has reported that since the launch of the campaign, representatives from the company have met individually with cleaners, but refuse to meet with the union.

During the most recent court appearance on August 28 2020, the court stated that it will decide whether the charges are dropped or pursued on 18 September 2020.

Prior to this incident, on 26 March 2020, the union stated that workers at Teluk Intan Hospital were barred by the same company from being screened for COVID-19—despite 39 health staff at the hospital having tested positive. The union claimed that the company's reasoning for refusing testing was that there would be no replacements for the cleaners if they were asked to go on leave following the screening³. On 27 March, the Ministry of Health ordered all workers at the hospital to undergo COVID-19 tests.

PREFERRED LANGUAGE TO ADDRESS TARGET: English, Bahasa Malaysia

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 27 October 2020

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PREFERRED PRONOUN: M. Sarasvathy (She/her); L. Danaletchumy (She/her); V. Santhiran ; (He/him); P. Jothi (She/her); C Subramaniam Raja (He/him)

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/asa28/2644/2020/en/>