

## **AWAM'S STATEMENTS IN 2012**

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### **1. Rising number of snatch thefts | April**

Although statistics on petty crimes show a downward trend, public perception continues to be that such crimes as snatch thefts are on the rise and increasingly violent. These crimes also target women, who are largely perceived to be easy targets. One of the effects is that women feel unsafe in public spaces.

Media often plays up this idea that a criminal could be lurking at any corner, ready to snatch your bag. So women constantly look behind their shoulders, wary. Crime does not merely affect the victim; it always has some impact, not least psychological, on the larger society. That's one reason we need to work together to tackle all forms of violence.

AWAM has been working for more than 25 years to eliminate crimes against women because we are determined that every woman should enjoy the right to go about their daily lives and access public spaces without fear of violence.

### **2. Rising number of robberies in car parks targeting women | June**

The current public focus on kidnappings and violent crimes involving women in car parks is something that crops up every now and again, but the underlying problem of unsafe public spaces is something many women in the country, and in Klang Valley in particular, face on a regular basis. AWAM has been working to address this issue by lobbying over two decades for better laws and policies to prevent violence and discrimination against women, notably through the Citizens Against Rape campaign which we first launched in 1987 and then again in 2003.

Although some car parks are well lit and guarded, many are not. There are varying levels of safety precautions taken by different car park operators, and some inspire more confidence than others. There are several issues at play here:

Most, if not all, car parks insist that parking is at the user's own risk. Thus, the burden of responsibility for the safety of a car park is not placed on its operator, but on the vigilance and luck of the user. While everyone should try to be aware of their surroundings and to do their part in preventing violence by speaking up against it when it happens, the operator must provide a safe environment and the government is obliged to ensure this.

AWAM calls for the government and local authorities to enact and enforce mandatory regulations on security measures that all owners and operators of public spaces must comply with. The security measures taken should not depend on what operators are willing to provide but on what people ought to be able to expect.

Such security measures for car parks in particular include the installation of CCTV systems and of good lighting, frequent patrols by trained security guards, and the availability of staff who can serve to escort lone users to their vehicles.

We believe that public discourse on this topic should shift from focusing solely on what women can do to protect themselves to what women, and indeed all persons, ought to be able to expect from the state and from those who own and operate public spaces (like car parks) and, indeed, from each other. Empowerment involves understanding one's rights, as a citizen and as a human being. This awareness of rights is still largely missing.

Organisations like AWAM try to raise such awareness through public campaigns and trainings. But it is not merely our responsibility to do so. Families and schools are primary places to instil rights awareness in younger Malaysians, and we encourage parents and teachers to educate themselves and their charges on what we can expect as citizens and persons with human rights.

Those who have questions or who would like to help advocate for the creation and implementation of better laws and policies to prevent violent crimes against women and to make our public spaces safer for all should get in touch with AWAM by calling 03 7877 4221 or emailing [awam@awam.org.my](mailto:awam@awam.org.my).

### **3. Whether there is a need for a sexual offenders registry | June**

AWAM is of the view that more can and should be done to prevent sexual offences and other violent crimes. A consideration of the effectiveness of our current laws is certainly due, and the implementation of a registry and the central registration of offenders will help to ensure that sexual offenders do not gain positions in which they are in charge of persons vulnerable to abuse, e.g., children and patients.

However, this registry should not be readily accessible by the public as that would constitute a violation of an offender's fundamental human right to privacy and data protection. A public registry would also render those listed perpetually guilty (even if they have served out punishments commensurate to their crimes) and susceptible to harm and discrimination.

A better model is the British one, where police keep tabs on the registry and allow members of the public with valid concerns to approach them with enquiries about specific persons. There must be a clear explanation of who can and cannot make enquiries and what the enquiry process looks like.

As the Registration of Criminal and Undesirable Persons Act does not seem to be in use at the moment (we note that there are no cases or articles that refer to this act), it may be best to review the legislation and replace it with a more effective one. Specific legislation on sexual offences (including sexual harassment) that covers such a mechanism would probably be more effective in curtailing sexual offences than this current law.

For the law to be more effective in deterring sexual violence, AWAM also recommends minimum sentencing for sexual offences and swift and consistent punishment for convictions. And while harsher and swifter punishments for sexual offences do send out the message that these are serious crimes, they do not by themselves solve the problem.

We need greater societal awareness of the causes and consequences of sexual violence. The problem is inherently linked to the unequal position of women in society, to gender-based discrimination, and to the propagation of a culture which objectifies and sexualises women while simultaneously encouraging silence and shame around women's sexuality. Until we address the root causes of sexual violence, we can never fully prevent its occurrence.

#### **4. How NGOs raise funds and yet maintain their independence | July**

As a feminist organisation, AWAM advocates for gender equality and the fulfilment of women's rights in the country. This work is necessarily political. However, that does not make us partisan (i.e., involved in "party politics"). AWAM is an independent organisation that believes in engaging critically with all political actors, especially those in government, to hold them accountable to the rakyat.

It is unfortunate that whenever civil society actors are critical of the establishment, they get branded as "pro-opposition". Political advocacy is not necessarily for one political party or another; it can be issue-based or principle-based as well. AWAM works specifically on issues related to women's rights and gender-based violence and discrimination. At the same time, we support efforts that promote democracy and human rights.

We certainly do not shy away from political issues, and we are appalled by attempts to shut down spaces for dissent and deliberation—both key democratic practices. In particular, we note recent cases of harassment and intimidation of human rights defenders. We see these as part of an unhealthy trend in Malaysia which reflects a low level of civility and an endorsement of the use of violence against those who think differently.

AWAM has set policies to guide our fundraising decisions. We try hard to diversify our source of funding so that we are not dependent on any one group to fund the work that we do. Monies received by AWAM are almost entirely used for specific programmes and activities. These programmes and activities are drawn up by AWAM based on our vision and mission; they therefore reflect our organisational goals and not the agenda of any one funder.

As a non-partisan organisation, we are particularly careful about accepting funds from the government or any political party. At the same time, we believe that the state has an obligation to support civil society organisations, particularly those that provide counselling or refuge services to women.

#### **5. Use of pre-nuptial agreements to safeguard women | August**

Women should not have to rely on prenuptial agreements to safeguard their rights within a marriage. Our laws should ensure justice and protection for all persons, in both their public lives (e.g., at work and in public spaces) as well as in their private engagements (e.g., at home and within the family or domestic partnership). The turn to prenuptial agreements might suggest that our laws do not work as they should; our lawmakers should take heed of this. Not every woman is in the position to insist upon a prenuptial agreement and few have the knowledge and resources to ensure that theirs is a good and watertight one.

#### **6. The directive by police to clothe women detained in anti-vice raids in robes | August**

AWAM believes that everyone is entitled to dignity and respect. We laud the move to provide robes for women detained at anti-vice raids, and we hope to see the implementation and enforcement of strict policies and processes to prevent abuse of detainees' rights and intrusion of their privacy. We also echo SUHAKAM's call for the media to stop sensationalising reports on such anti-vice raids.

## **7. Sentencing decisions of recent statutory rape cases | August**

While the courts have discretionary powers in sentencing for statutory rape cases, decisions should take into account and respond to the specific merits of each case based upon established and clearly articulated legal principles. AWAM is alarmed at the sentencing decision issued in the case of Chuah Guan Jiu, and particularly at the reference, once again, to the offender's "bright future". This seems to have become a standard excuse for lenient sentencing in cases of statutory rape. Furthermore, AWAM notes with added concern reports that the offender had led the victim to his home under false pretences.

We hope that the decision to hand him such a light sentence is based on solid reasons, and we look forward to reading the court's written judgement on the matter. Finally, we would like to reiterate the point made by the High Court in its judgement on the case involving Noor Afizal Azizan: sentencing decisions in such cases should be determined according to the specifics of the case in question.

## **8. The Education Ministry's endorsement of gay guidelines | September**

It is extremely troubling that the Education Ministry should support discriminatory and divisive moves such as these seminars and guidelines. What will it achieve except to encourage intolerance and paranoia while mocking the very concept of pluralism that we claim to value so much in Malaysia? Parents are encouraged to take "corrective measures"--one shudders to think what these are.

One also wonders on what basis exactly the Education Ministry saw fit to endorse these guidelines, which appear to be pulled out of thin air and fail to draw upon any research and scholarship on gender expression and sexual orientation. These moves are not just homophobic; they're asinine. The Education Ministry should put an immediate stop to them and focus on the tough and necessary work of educating our young to be engaged and discerning citizens, accepting of difference and critical of shoddy reasoning.

## **9. Introducing and Using Victim Impact Statements in Court | September**

AWAM supports measures to provide survivors of violence avenues to voice their needs and perspectives on the violence they have faced.

Courts must be required to ensure that survivors have been advised of the chance to present victim impact statements. They should have the right to present their victim impact statements in writing or orally, and in a language that they are most comfortable using.

We believe that survivors have a right to be heard, and that victim impact statements can help ensure perceived fairness in court decisions. At the same time, the courts must be careful to ensure that victim impact statements are considered as part of all other evidence

and testimony gathered and do not by themselves determine sentencing. Justice must be restorative, not retributive.

#### **10. Provision of Mandatory Sentencing for Convicted Rapists | October**

The move to introduce mandatory prison sentences for those convicted of statutory rape was hasty and ill-considered. Clear and strict sentencing guidelines should be introduced and the government should provide regular training for judges and lawyers on gender sensitization and on the nature of consent and rape.

Coverage: [Malaysian Sentencing Plan Criticized – New York Times](#)

#### **11. Provision of Prescribing Mandatory Jail Sentences for Convicted Rapists | October**

While we note the government's concern over recent court decisions in sentencing for statutory rape, AWAM considers the move to introduce a provision prescribing mandatory jail sentences for those convicted of statutory rape hasty and ill-considered. Discretionary powers should remain available to judges in such sentencing precisely so that they can take into account the specific merits of a case—the difference in age and influence, the degrees of consent and exploitation, possible mitigating or aggravating factors at play—to ensure that punishment is just. In some cases, this might mean community service or a binding over for good behaviour. In others, far more severe custodial sentences might be in order.

In place of mandatory minimums, AWAM recommends implementing clear and strict guidelines to assist courts in issuing judgments including specifying which cases deserve light sentencing and which require minimum custodial sentences. The government should also provide regular trainings for judges and lawyers on gender sensitisation and on the nature of consent and rape.

AWAM believes that statutory rape cases can only be dealt with adequately when we have good laws as well as policies and programmes that support the implementation of such laws and an independent judiciary capable of applying the law in a fair and consistent manner.

#### **12. High Court overturning Session Court's decision on jailing of rapist | November**

AWAM is pleased to read this judgement, which goes some way to restoring public confidence in our judiciary. The judge is right to note the factor of manipulation in this case. Coercion and exploitation need not be overt or manifest in physical struggle. Furthermore, AWAM supports the order that the perpetrator undergo rehabilitative counselling.

Justice serves the public interest best when it goes beyond retribution and ensures rehabilitation. We also hope to see these recent cases spur greater interest among parents, teachers, community leaders, and the government to ensuring that our children receive comprehensive, rights-based sex education.

#### **13. Setting up of NGO to support men accused of violence – Man Aid Force | December**

AWAM believes that every person has the right to due process and to the protection of their physical and mental well-being. This includes persons accused of perpetrating acts of gender-based violence, such as rape and domestic violence. In line with this belief, AWAM supports moves to increase access to legal aid and counselling for such persons.

However, we question the particular motivations and assumptions behind the setting up of Man Aid Force. The idea that women are given to making false allegations of rape and abuse, for instance, is patently unfounded and sexist. We know of no reliable study which suggests that such false allegations are a significant problem. On the other hand, we know through numerous reports as well as through the work that AWAM has done over almost three decades of campaigning for better laws and policies to prevent gender-based violence that rape, sexual harassment, and domestic violence are serious issues that impact women, families, workplaces, and communities at large.

If the founders of Man Aid Force seek justice for innocent men, we encourage them to review the legal processes and suggest necessary reforms. At the same time, we call on them to work with established women's rights groups towards a larger societal vision: a Malaysia where every person, regardless of gender, is able to live in safety and with dignity. Now that is a goal worth championing.