

**INTERNATIONAL CAMPAIGN BY
THE INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS
IN SUPPORT OF
CHIN PENG'S PETITION TO RETURN TO MALAYSIA**

Who is Chin Peng?

Chin Peng, born Ong Boon Hua in the small Malaysian town of Sitiawan, Perak, in 1924, experienced the impact of the 1930's depression on his family. As a teenager, he was drawn into student activism at his school. Many political changes were stirring in southeastern Asia at this time and Chin Peng read avidly, learning about exploitation of countries by colonizers and exploitation of laborers by industrialists.

During the Japanese occupation of British Malaya from 8th December 1941 to 1945, Chin Peng was a guerilla fighter with the Communist Party of Malaya (CPM) which, nevertheless, decided to cooperate with British forces to defeat the Japanese. After the Japanese surrender, the returning British colonizers even nominated Chin Peng for the Order of British Empire, an award which he declined.



For almost three years after the Second World War, the CPM under Chin Peng, by then its Secretary-General, actively participated in peaceful and democratic activities to oppose colonial rule and to secure independence for Malaya. In fact, the CPM was the first political party legally established in Malaya to demand independence and freedom, first from the British, then from the Japanese, and then from the British again.

Other groups in Malaya were also seeking independence from the British including the Malay Nationalist Party (PKMM)-led Pusat Tenaga Rakyat (PUTERA), headed by Dr Burhanuddin Al-Helmy, and the All-Malayan Council for Joint Action (AMCJA), led by Tun Tan Cheng Lock, who had jointly declared a People's Constitution for an independent Malaya in 1947.

In a bid to destroy the rising anti-colonial forces and the CPM, the British colonial authorities arrested thousands of Malay youth who were demanding independence in early 1948. And in June 1948, it declared a State of Emergency and banned the CPM and other anti-colonial and labor organizations. The CPM was left with no choice but to resort to an armed struggle for independence.

Chin Peng's immense contribution to defeating the Japanese invaders and in securing the independence of Malaya from British colonialism cannot be denied.

Peace Negotiations and the Haadyai Peace Agreement

In 1955, the first peace negotiation with the CPM took place in Baling, Malaya. It was inconclusive. It was only in December 1989, upon the mediation of the neighboring Thai

government, that a second peace negotiation successfully resulted in the signing of the Haadyai (Thailand) Agreement between the CPM, (represented by Chin Peng, CPM chairman Abdullah CD and Rashid Maidin), and the Malaysian government. Malaya had since received its independence from the British in 1957.

The Haadyai Agreement stipulated that the CPM would disband all armed units and terminate all armed activities. All weapons would be destroyed and CPM members would locate and destroy all landmines it placed in Malaysia. The Malaysian government would pay medical costs for any CPM members injured while removing landmines. For these concessions, CPM members who wanted to re-establish legal residence in Malaysia could do so after spending at least 6 months in pre-designated places in Thailand. Those taking residence in Malaysia would have to swear allegiance to the King and abide by the Federal Constitution and laws of Malaysia.

The CPM leadership has since ensured scrupulous implementation of the agreement. But Chin Peng's petition to return to live in Malaysia has been denied to date.

Violation of International Law by Malaysia

As stipulated by the Haadyai Agreement, within a year after the 2 December 1989 signing of the Agreement, Chin Peng notified the Malaysian government of his intention to return to reside in his country of birth. Although he complied with the terms and conditions of the Haadyai Peace Agreement, to date the Malaysian government has refused its obligations under the Agreement.

The Malaysian Government's refusal to grant Chin Peng residence not only violates Malaysia's solemn obligations under the terms of that Haadyai Peace Agreement, but it also violates its obligations under the United Nations' Universal Declaration of Human Rights and of the United Nations' International Covenant on Civil and Political Rights. Delineation of these violations is made in more detail in the petition below.

Chin Peng, 83 years old, has now sought a High Court order to allow him to return to Malaysia. The International Association of Democratic Lawyers (IADL) supports Peng's petition to return to Malaysia pointing out that the Malaysian Government's denial violates international law. IADL asks you to join in asking the Malaysian Government to honor its obligations under international human rights law and grant immediate residence and citizenship to Chin Peng. Signatures of organizations and individuals are being sought for the petition which follows.

**TO: The Attorney General of Malaysia
Secretary General of the United Nations**

WHEREAS The United Nations' Universal Declaration of Human Rights stipulates

- in Article 15:
*Everyone shall have the right to a nationality.
No one shall be arbitrarily deprived of his nationality ...*
- in Article 13:
Everyone has the right to leave any country, including his own, and to return to his country.
- in Article 9:
No one shall be subjected to arbitrary ... exile.

AND RECALLING THAT The United Nations' International Covenant on Civil and Political Rights stipulates

- in Article 12:

Everyone shall be free to leave any country, including his own.

No one shall be arbitrarily deprived of the right to enter his own country.

AND MINDFUL THAT The Administrative Arrangement between the Government of Malaysia and the Communist Party of Malaya Pursuant to the Agreement to Terminate Hostilities signed on 2 December 1989 in Haadyai, Thailand stipulates

- in Article 5.1:

Members of the CPM and members of its disbanded armed units shall be allowed to take up residence in MALAYSIA if they so desire, after they have stayed in the pre-designated places in THAILAND for a minimum period of six months.

- In Article 6.4:

Those who are Malaysian citizens and have settled down in MALAYSIA shall enjoy the same privileges as any other citizens under the Federal Constitution and the laws of MALAYSIA.

AND RECOGNIZING THAT Chin Peng has complied with all the terms and conditions of the Agreement and the Administrative Arrangement for persons wishing to establish residence in Malaysia and his petition to the appropriate government officials in June 2004 for return was denied in October 2004;

AND BEING AWARE THAT further attempts by Chin Peng's lawyers to communicate with Malaysian government officials following the denial in October were unanswered;

AND COGNIZANT THAT in March 2005 Chin Peng filed a petition in the High Court of Malaya at Penang asking that the Malaysian government honor its solemn obligations under its own Federal Constitution and Citizenship Rules as well as the terms of the Haadyai Agreement and allow him to return to reside in his country of birth;

AND WHEREAS to date the High Court of Malaysia has failed to take action on Chin Peng's petition,

THEREFORE, We, the undersigned, urge the Malaysian Government to honor its obligations under the Haadyai Peace Agreement.

WE FURTHER URGE the United Nations to use its good offices to ensure that the Malaysian Government honor the terms of the Haadyai Peace Agreement, the United Nations' Universal Declaration of Human Rights, and the United Nations' International Covenant on Civil and Political Rights.

FINALLY WE URGE the High Court of Malaysia rule immediately that Chin Peng may return to reside in Malaysia and enjoy all privileges of citizenship there.

SIGNED:

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* Much of Chin Peng's military and political involvement has been documented by others (e.g. Spencer Chapman, *The Jungle is Neutral*) as well as by Ian Ward and Chin Peng (*My Side of History*).