

PUBLIC

AI Index: ASA 28/004/2003

27 January 2003

UA 24/03 Fear of torture or ill-treatment/fear of incommunicado detention

MALAYSIA **Male (name unknown), member of the armed forces**  
**Male (name unknown), library security guard**

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Malaysian police reportedly arrested a sergeant in the Malaysian armed forces on 18 January, and a library security guard on 20 January, under the Internal Security Act (ISA), which allows for indefinite detention without charge or trial. It is not known where they are being held, or whether they have access to legal representation or to their families. Amnesty International is concerned that the two men are at risk of torture or ill-treatment during police interrogation.

The police reportedly arrested the sergeant in the Federal Territory of Labuan, and the security guard in Sandakan, in the state of Sabah. The police reportedly claim that the men are suspected of being members of *Jemaah Islamiyah*, a group which allegedly wants to create a regional Islamic state through the use of force. It is not known under which section of the ISA the men are being held, though similar arrests have been under Section 73(1).

#### **BACKGROUND INFORMATION**

Under Section 73(1) of the ISA, the police may detain without warrant any person deemed a threat to the national security or economic life of Malaysia for up to 60 days for investigation. The Minister of Home Affairs can subsequently issue a renewable two-year detention order, without reference to the courts.

Those detained under the ISA have in the past been denied access to lawyers and their families, and been held in solitary confinement during the first 60 days of their detention. Detainees have reported being physically assaulted, forced to strip, deprived of sleep, food and water, and told their families would be harmed. There have also been reports of the use of prolonged aggressive interrogation techniques, used in order to coerce a confession, that amount to torture or ill-treatment. The detainees' vulnerability is increased by the fact that judicial or legal intervention is highly restricted, and when granted usually proves ineffective.

The Malaysian government has increasingly justified the use of the ISA, particularly its provision for preventative detention, with specific reference to the 11 September 2001 attacks on the World Trade Centre and the Pentagon in the USA, and to the 13 October 2002 bomb attack in Bali, Indonesia. It has also sought justification by comparing the ISA with recently adopted anti-terrorist legislation in the USA, which also permits detention without trial. At least 73 people accused of links with suspected militant Islamist groups have been arrested under the ISA in Malaysia since May 2001. None of those arrested have been tried in court for the allegations made against them.

The ISA has been repeatedly criticized by domestic and international human rights organizations, as it violates fundamental human rights and has been used as a tool to suppress peaceful political, religious, academic and social activities perceived as threats by the authorities. Over 4,000 people have been detained under the act since the 1960s.

#### **RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:**

- urging the authorities to guarantee that the two men will not be subjected to physical or psychological torture, or other ill-treatment, while they are in custody;
- calling for them to be allowed immediate and regular access to lawyers, their families and independent medical attention;

- urging the authorities to charge them with a recognizably criminal offence and bring them before a court of law, or else release them;
- expressing concern that the ISA violates fundamental human rights, as set out in the Universal Declaration of Human Rights, including the right to a fair and public trial and the right to be presumed innocent until proven guilty according to law;
- emphasizing that human rights must not be sacrificed in the name of security, and that all accusations of human rights violations must be promptly investigated by an independent authority.

**APPEALS TO:**

Minister of Home Affairs & Deputy Prime Minister

Dato= Abdullah Haji Ahmad Badawi  
 Ministry of Home Affairs (Menteri Dalam Negeri)  
 Aras 13, Blok D1  
 Parcel D, Pusat Pentadbiran Kerajaan Persekutuan  
 65202 Putrajaya, Selangor  
 Malaysia

**Telegram:** Minister of Home Affairs, Ministry of Home affairs, Selangor, Malaysia

**Fax:** + 60 3 8886 8014

**Salutation:** Dear Minister of Home Affairs

Inspector General of Police

Tan Sri Norian Mai  
 Ketua Polis Negara  
 Ibupejabat Polis Diraja Malaysia  
 Bukit Aman  
 50502 Kuala Lumpur  
 Malaysia

**Telegram:** Inspector General of Police, Ketua Polis Negara, Kuala Lumpur, Malaysia

**Fax:** + 60 3 2273 1326 (*please note this number is not always available; please keep trying*)

**Salutation:** Dear Inspector General of Police

**COPIES TO:**

Chairman, Human Rights Commission (SUHAKAM)

Abu Talib Othman  
 Suruhanjaya Hak Asasi Manusia Malaysia  
 29th Floor  
 Menara Tun Razak  
 Jalan Raja Laut  
 50350 Kuala Lumpur  
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**Fax:** + 60 3 2612 5620

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**Salutation:** Dear Chairman

and to diplomatic representatives of Malaysia accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 10 March 2003.