

PUBLIC

AI Index: ASA 28/009/2002

UA 373/02 Fear of torture or ill-treatment/fear of incommunicado detention 20 December 2002

**MALAYSIA** Male (name unknown), religious teacher, Malaysian national  
Male (name unknown), religious teacher, Indonesian national (Malaysian permanent resident)

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Two men were arrested on 19 December by the Malaysian police 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 their families. Amnesty International is concerned that the two men are at risk of torture or ill-treatment during police interrogation.

The Malaysian police reportedly arrested the two men in the town of Sandakan, in the state of Sabah. The police claim that the men are members of *Jemaah Islamiyah*, a group accused of acts of terrorism, who reportedly wish 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. 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 most recently 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. Thirty seven people accused of links with suspected militant Islamist groups have been arrested under the ISA in Malaysia in 2002. None of those arrested have been tried in court for the allegations made against them.

Those detained under the ISA have in the past been denied access to lawyers and been held in solitary confinement. Many detainees have been physically assaulted, forced to strip, deprived of sleep, food and water, told their families would be harmed, and subjected to prolonged aggressive interrogation to coerce them to confess. The detainees' vulnerability is increased by their knowledge that no judicial or legal intervention is permitted and that family visits are entirely at the discretion of their interrogators.

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 that the authorities perceive as threats. 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 not to be subjected to torture or other cruel, inhuman and degrading treatment, the right to a fair and public trial and the right to be presumed innocent until proven guilty according to law.

**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**

**E-mail: tpm@smpke.jpm.my**

**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)**

**Salutation: Dear Inspector General of Police**

**COPIES TO:**

Chairman, Human Rights Commission (SUHAKAM)

Ybhg. Tan Sri Musa Hitam

Suruhanjaya Hak Asasi Manusia Malaysia

29th Floor

Menara Tun Razak

Jalan Raja Laut

50350 Kuala Lumpur

Malaysia

**Fax: + 60 3 2612 5620**

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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 31 January 2003.