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Malaysia: Detained Islamists' hunger strike highlights continued denial of right to trial

As 16 detainees held without trial since 2001 under Malaysia's Internal Security Act (ISA) entered their third week of hunger strike, Amnesty International again called for all ISA detainees to be charged and given a fair trial, or else to be immediately released.

"Detention without trial remains a violation of human rights - whether in Malaysia's Kamunting Detention Camp or in Guantanamo Bay," Amnesty International said today.

"Presumed guilty of unspecified links to 'terrorism' and denied the right to defend themselves before the courts, Malaysia's 'forgotten' prisoners continue to endure prolonged detention.

"They also suffer profound uncertainty over if and when the government will choose to release them," Amnesty International added.

The 16 detainees began a hunger strike on 1 March to protest the government's renewal - despite the reported recommendation for release by the ISA Advisory Board - of their 2001 two-year executive detention orders. The detainees stated that they felt they had no alternative course of action. They claimed that authorities had misled them into believing that - if they and their families accepted their detention without public complaint, including by not seeking judicial redress through habeas corpus petitions - their original detention orders would not be renewed.

The detainees were arrested under the ISA in mid-2001 on suspicion of belonging to a local 'militant' Islamist group, *Kumpulan Mujahadin Malaysia* (KMM). Twelve of the arrests took place before the 11 September 2001 Al Qa'ida attacks in the USA, and most of those detained were members of the country's main opposition party, the Islamic Party of Malaysia (PAS). One of those arrested, Nik Adli bin Nik Abdul Aziz, is the son of the chief minister of PAS-controlled Kelantan state. Government officials alleged that KMM, some of whose members had undergone religious and military training in Afghanistan, aimed to create an Islamic state in Malaysia through the use of force. No evidence to substantiate these accusations has been made public.

As the health of the hunger strikers is reported to be deteriorating, Amnesty International urges the authorities to ensure that all the detainees receive appropriate medical care and be given regular access to independent doctors. The organisation welcomed last week's inspection visit by Malaysia's national Human Rights Commission (SUHAKAM), which found that at least four detainees had been taken to hospital for treatment before being returned to detention. Home Ministry officials also visited the camp to confer with the hunger strikers.

Background

Since its promulgation during campaigns against communist insurgents in the 1960s, the ISA, which allows indefinite detention without trial through executive order, has frequently been deployed by the authorities in a politically-motivated and selective manner. At various times opposition activists, academics, students, trade unionists - and now suspected Islamist "terrorists" - have been accused of threatening national security, subjected to "preventive" ISA detention and denied the right to defend themselves before the courts. After arrest, during an initial sixty-day "investigation" period, ISA detainees are at risk of ill-treatment or torture as they are interrogated by Special Branch police.

Following the attacks on 11 September 2001, the authorities have defended the ISA as a tool in the "War against Terror". At least 80 suspected Islamists are reported to be detained in Kamunting Detention Camp, most accused of links to *Jemaah Islamiah*, a regional network allegedly linked to Al-Qa'ida. Attempts, though periodic habeas corpus petitions, to allow judicial scrutiny of the authorities' grounds for their detention have been mostly ineffective.

In 2003 SUHAKAM undertook a comprehensive review of the ISA and recommended that the Act be repealed and replaced with legislation that properly balanced national security and human rights concerns, particularly through the safeguard of independent judicial oversight rather than the current Advisory Board whose recommendations are non-binding. As immediate interim measures, the Commission recommended *inter alia* that two-year detention orders be reduced to three months, after which the detainee must be charged or released. The government has yet to respond to the Commission's Recommendations.