

PUBLIC

AI Index: ASA 28/001/2004

UA 20/04

Incommunicado Detention/ Fear of torture or ill-treatment

15 January 2004

MALAYSIA

Khaidir bin Hadran (m), aged 38 - Businessman

Khaidir bin Hadran was reportedly arrested by police on 11 January and is being held incommunicado under the Internal Security Act (ISA). Accused of being the leader of *Jemaah Islamiyah*, he may be detained for an indefinite period of time without charge or trial, when he could be at risk of torture or ill-treatment.

Khaidir bin Hadran was initially detained at Felta Tementi Police Station in Rentam, Temerloh, Central Pahang state, and then transferred to Ibu Pejabat Kontingen Kuantan Police Station. On 12 January, he was taken by 20 policemen in plain clothes to his home in Gombak, north of Kuala Kumpur, prior to it being searched. Since then, his family, lawyers and human rights organisations have been unable to contact him. His current whereabouts and place of detention are unknown.

Police officials have stated that Khaidir bin Hadran is being detained because of his involvement with the regional group *Jemaah Islamiyah*, which allegedly wants to create an Islamic state in Southeast Asia, through the use of force.

BACKGROUND INFORMATION

Under Article 73(1) b 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. Under Article 8, the Minister of Home Affairs is empowered to subsequently issue a two-year detention order, renewable indefinitely.

In the past, most of those detained under the ISA have been held incommunicado, 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 been reports of the use of prolonged aggressive interrogation techniques, which are intended to coerce a confession or to elicit information, that amount to torture or ill-treatment. The detainee's vulnerability is increased by the fact that judicial interventions, including *habeas corpus* writs, are highly restricted, and when granted usually prove ineffective. In some cases, detainees have been refused access to lawyers and advised not to seek legal counsel.

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 as well as social activities perceived to be a threat by the authorities.

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

- expressing concern for the safety of Khaidir bin Hadran who was reportedly arrested by the police on 11 January 2004;
- calling for the authorities to make public the whereabouts of Khaidir bin Hadran and to grant him immediate access to his relatives, lawyers and any medical attention he may require;
- urging that he be treated humanely while in custody and not subjected to torture or ill-treatment;
- calling for his immediate and unconditional release, unless he is to be charged with a recognizable criminal offence;
- expressing grave concern that he is being held without trial under the Internal Security Act (ISA) which 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.

APPEALS TO:

Prime Minister

Prime Minister Dato= Abdullah Haji Ahmad Badawi
Prime Minister=s Department, Block 1
Federal Government Administration Centre
62502 Putrajaya, Selangor, Malaysia

Telegram: Prime Minister, Putrajaya, Selangor, Malaysia

Fax: + 60 3 8888 8344/3530 (faxes may be switched off outside office hours, 7 hours ahead of GMT)

Salutation: Dear Prime Minister

Inspector General of Police

Datuk Seri Mohd Bakri Omar
Ketua Polis Negara
Ibu pejabat 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 keep trying)

Salutation: Dear Inspector General of Police

COPIES TO:

Chairman of National Human Rights Commission

Tan Sri Abu Talib Othman
Suruhanjaya Hak Asasi Manusia Malaysia
29th Floor, Menara Tun Razak
Jalan Raja Laut, 50350 Kuala Lumpur, Malaysia

Fax: + 60 3 2612 5620

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 26 February 2004.