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REPORT OF AN AMNESTY INTERNATIONAL MISSION TO THE FEDERATION OF MALAYSIA

18 November - 30 November 1978



Amnesty International British Section Tower House 10 Southampton Street London WC2E 7HF

Telephone: 01-836 5621

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RODUCTION

The following report is based on the findings made by an nnesty International delegation which visited Malaysia from 3 November to 30 November 1978. This was the first official nnesty International delegation to the country, but the organization as been concerned for many years about political prisoners and their reatment in Malaysia. In that time, Amnesty International's attention as focussed on preventive detention under the Internal Security Act 1960) and its use as a means to hold political opponents of the overnment for long periods of time without charge or trial. nnesty International has been gravely concerned that the number of ersons held in preventive detention has grown considerably in recent ears, the number of detainees in the largest camp, Taiping Kamunting, adrupling from approximately 200 to over 800 between 1974 and 1978.

During their stay in Malaysia, the Amnesty International mission, onsisting of a member of the National Advisory Council of Amnesty nternational's United States section, Thomas C. Jones, and a member of nnesty International's Asia Research Department, Michael C. Williams, ald discussions with a number of government officials including an Sri Osman Cassim, Permanent Secretary of the Ministry of Home Affairs, nd Tan Sri D.B.W. Good, Chairman of the Advisory Board which reviews ases of persons held in preventive detention under the Internal Security ct. Although the International Executive Committee of Amnesty Intervational had informed the Malaysian Government of its intention to send mission to Malaysia in November, the mission delegates were unable to vecure interviews with Datuk Hussein Onn, the Prime Minister, Tan Sri Chazali Shafie, the Minister for Home Affairs or with Datuk Sri Hamzah \bu Samah, the Attorney General and Minister for Law. Regrettably, the uission delegates were refused permission to visit either Taiping Kamunting Detention Camp or the Batu Gajah Special Detention Camp. Moreover, the mission's request that they be allowed to meet 10 prisoners of their selection in Kuala Lumpur was also flatly rejected.

Amnesty International's present concern regarding human rights violations in Malaysia remains the use by the government of Malaysia of preventive detention under the Internal Security Act of 1960 (ISA). Derived from British colonial legislation created in 1948 in the face of an insurrection led by the Malaysian Communist Party (MCP), the ISA allows for detention without trial for two years, but these orders are renewable so that one detainee Kong Hoi, detained at Batu Gajah, has now spent nearly 15 years in prison. The Malaysian Government itself acknowledged in November 1978 that 53 persons have been in detention for more than eight years and the total number of persons held at present under the Internal Security Act is believed to exceed 1,000. A citizen of Malaysia detained under the ISA has, as this report shows, no recourse to legal safeguards nor has he any opportunity to establish his innocence of the accusations levelled against him. Political detainees in Malaysia are never charged with any offence and no political detainee is ever arraigned before a court of law. Once a detention order is issued, the Malaysian appeal courts have ruled that courts cannot "go behind the order" - i.e. they cannot and will not question the factual basis of the conclusory allegations used or the basis for detention. In effect, the Minister for Home Affairs has nearly absolute powers of arbitrary arrest and detention in "security" cases. Habeas corpus is meaningless in such cases.

Although Amnesty International is aware that the Malaysian Government has periodically had to face the threat of renewed insurgency from the banned Malaysian Communist Party (MCP), most notably in 1974-1976, the mission delegates were assured in their discussions with Tan Sri Osman Cassim and Tan Sri D.B.W. Good that the political detainees at Batu Gajah and Taiping are not considered by the Malaysian Government to be "communist terrorists". Indeed, as this report clearly shows, the majority of the detainees were at the time of their arrest members of legal political parties and trade unions. Amongst political prisoners currently held in detention in Malaysia are two former deputy ministers, two members of parliament representing the Democratic Action Party (DAP), the Chairman of the Partai Sosialis Rakyat Malaya (Malayan People's Socialist Party), an internationally renowned sociologist, members of the now defunct Labour Party of Malaysia and trade unionists. In view of the observations made in this report regarding the practice of holding political prisoners in long term preventive detention without trial and considering that the Malaysian Government has never claimed or established that there is evidence of a criminal nature against these prisoners, Amnesty International regards all these detainees as prisoners of conscience. During their meeting on 24 November 1978 with the Permanent Secretary of the Ministry of Home Affairs, Tan Sri Osman Cassim, Amnesty International's mission delegates requested copies of the detention orders served on all prisoners held under the Internal Security Act. The delegates were informed that this request would be looked into by the Minister for Home Affairs, Tan Sri Ghazali Shafie. On 10 January 1979, Martin Ennals, Secretary General of Amnesty International, wrote to Tan Sri Ghazali Shafie repeating this request, but no reply has been received by Amnesty International.

Under Section 73 of the Internal Security Act a person may be detained for 60 days on the suspicion "that he has acted or is about to act or is likely to act in any manner prejudicial to the security of Malaysia or any part thereof." Amnesty International's mission delegates found that during this period detainees were invariably detained in solitary confinement at undisclosed detention centers and were subjected to considerable ill-treatment which amounted to psychological, and in some cases, physical, torture. This finding has recently been corroborated by a memorandum submitted by the Malayan Bar Council to the Malaysian Government in February this year.* During this 60-day interrogation period detainees are invariably refused any access to legal counsel or a medical practitioner. Amnesty International has consistently found elsewhere that where legal and medical safeguards during interrogation are absent, the likelihood of ill-treatment and torture is much increased. Clearly the Malaysian experience verifies this. Nor for that matter are long term political detainees guaranteed access to legal counsel. Lawyers have frequently been denied access to their clients and the privilege of confidential communication between lawyer and client is never respected. When a lawyer visits a client at either Batu Gajah or Taiping Detention camps, an officer of the Special Branch (state security police) is always present.

After a person has been detained for 60 days under the Internal Security Act the Minister for Home Affairs has either to authorize his

* Malayan Bar Council, Memorandum on Internal Security Act, February 1979

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Amnesty International is also concerned with the practice the Malaysian authorities have made in recent years of broadcasting on television interviews with or statements from certain political prisoners purporting to be their "confessions". In 1977 a number of individuals including Samad Ismail, Managing Editor of the New Straits Times, Datuk Abdullah Ahmad, former Deputy Minister for Science, Technology and Environment, and Datuk Abdullah Majid, former Deputy Minister for Labour and Manpower were shown in TV broadcasts as having "confessed" that they were communist or marxist sympathizers and had worked against the Government. Such televized interrogations are , in the view of Amnesty International, no substitute for fair, open trial, and the practice of imputing guilt by such means, through televized media

release or serve a detention order for two years on the individual concerned. The order need not be publicized and takes effect without the need to publish it in the Gazette (as is normal with ordinances issued by the Government). When a detainee is served with such an order, his/her case is reviewed every six months by an Advisory Board, which is chaired by a retired High Court Judge, Tan Sri D.B.W. Good, and two other persons neither of whom possesses any legal background. In addition, every meeting of the Advisory Board is attended ex officio by a Special Branch officer. As its name would suggest the Board's functions are purely those of recommendation and its Chairman fully acknowledged to the Amnesty International delegates that its recommendations made from time to time were seldom acted on by the Minister for Home Affairs. With some 900 persons currently admitted as being in detention under the Internal Security Act, the Board must review an average of 150 cases a month. Meeting as it does, on no more than three days a week, it is estimated that the Board can spare approximately 20-30 minutes on each prisoner's case. Although every prisoner has the right to appear before it in person, few exercise this right. No prisoner from Batu Gajah has appeared before it since 1967 and only a third of those held at Taiping elect to do so - usually on the first occasion their case is reviewed. Few of those who do appear are represented by legal counsel. Thus, in the vast majority of cases, there is no adversary procedure, no advocate for the rights of detainees. Where lawyers have appeared, there have been flagrant abuses of fundamental procedural rights, including the denial of the right of confidential communication between lawyer and client and the denial of the right to a bill of particulars specifying details underlying the government allegations which serve as grounds for detention. Thus no basis is provided for these allegations to be challenged. Moreover, not only is the lawyer not given full particulars of a evidence by the Special Branch on the grounds of "national security".

prisoner's case, the Board itself frequently is denied access to detailed Amnesty International has also learnt of the existence of another body, not publicly acknowledged, the Federal Assessment Board, which is chaired by the Deputy Director of the Special Branch and whose members are all Special Branch officers. As its name would imply this board would seem to make a preliminary assessment of a prisoner's case based on Special Branch reports, some of which are denied to the Advisory Board, prior to the latter's review of a prisoner's case. It is not surprising given the practices described above that the detainees have no confidence in the Advisory Board procedures.

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controlled by the Government, violates the rule of law. Amnesty International rejects completely the use of such proceedings to justify the continued detention of individuals without trial under the Internal Security Act.

The conditions of long-term detention political detainees in Malaysia, as will be evident from the report, are grim. Indeed it is a cause of grave concern to Amnesty International that conditions have deteriorated dramatically in recent years. The prison population of Taiping Kamunting Camp quadrupled between 1974 and 1978 and detainees at Batu Gajah have since 10 March 1977 been confined to their cells for a minimum of 21 hours a day. Medical conditions at both camps are grossly inadequate and a number of prisoners are now in serious illhealth.

Amnesty International is also gravely concerned at the extension in Malaysia of offences punishable by the death penalty. Since 1975, the death sentence has been mandatory for persons found possessing firearms in a designated "security area" or in circumstances "which raise a reasonable presumption that he intends, or is about to act, or has recently acted, in a manner prejudicial to public security." An amendment to the Narcotics Act, also passed in 1975, makes drug trafficking a capital offence. Moreover, the Essential (Security Cases) Regulations introduced in October 1975 and enacted in January 1979 stripped the defendant in security cases of basic legal safeguards and abolished the distinction between adults and juveniles. In December 1978, 44 persons were in prison sentenced to death under the Essential (Security Cases) Regulations.

In submitting this report to the Malaysian Government, Amnesty International respectfully urges that speedy consideration be given to the recommendations that follow in order that long-standing human rights violations be rectified forthwith.

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Amnesty International has found that legal safeguards to protect individuals from arbitrary arrest, prolonged imprisonment without trial, and torture and other cruel, inhuman and degrading treatment or punishment in Malaysia are wholly inadequate. In particular, the absence of an independent judicial authority to examine and restrain arbitrary or lawless executive action has led to the most serious abuses of internationally-recognized fundamental human rights.

CHAPTER I

RECOMMENDATIONS

Between 18 November and 30 November 1978, an Amnesty International mission visited Malaysia. Bearing in mind the long-standing violations of human rights and fundamental freedoms in Malaysia which Amnesty International has recorded over the years, Amnesty International respectfully submits the following recommendations for the Malaysian Government:

Preventive Detention

Amnesty International recognizes that governments may on occasion be obliged to take steps to ensure the safety and security of the State when faced with a public emergency. These may include provisions for a speedy means to try offences committed in furtherance of such serious acts as sabotage and terrorism. But we are deeply concerned about the ensuing curtailment of civil liberties and the deviations from normal procedural safeguards which these special measures entail. Amnesty International has consistently opposed long-term preventive detention for political purposes throughout the world. The use of the Internal Security Act as justification for prolonged indefinite detention without trial, in some cases for up to 14 years, violates the basic human right to liberty, to the presumption of innocence, and to a fair, open and speedy trial before an independent and impartial tribunal. The rule of law requires that the right to a fair, open and speedy trial be recognized and implemented by all governments. Prolonged indefinite detention without trial is incompatible with basic human dignity and unacceptable under internationally-recognized standards of fundamental human rights.

Amnesty International therefore recommends that the Government introduce legislation at an early date for the abolition of the Internal Security Act (1960).

Amnesty International recommends that if the Internal Security Act (ISA) is not immediately abolished, the ISA be revised with a view to establishing an independent and effective machinery with full power and duty to enquire into the legality of detention in every case. Its decision should be binding on the Executive. An independent examination of the alleged grounds for detention is a minimum safeguard against unlawful detention of the individual.

iii. The Advisory Board does not and cannot effectively function to protect the fundamental rights of detainees. Only the Chairman has any legal training. The Advisory Board, with no enforcement power whatsoever, does not and cannot provide effective judicial review of the grave issue of individual liberty supposedly within its mandate.

Amnesty International recommends that the Advisory Board be abolished, and that effective judicial review by highcourt judges be guaranteed as essential to the protection of detainees' fundamental human rights.

iv. As indicated in this report, the 53 detainees at Batu Gajah who have been held eight years or longer without trial under the Internal Security Act have been recommended for release by the Advisory Board as the Board did not find there was sufficient grounds to continue their detention.

Amnesty International recommends that all detainees who have been recommended for release by the Advisory Board, including the 53 detainees at Batu Gajah, be granted immediate and unconditional release.

Amnesty International is gravely concerned about the case of ٧. Samad Ismail, the former Managing Editor of the New Straits Times, who has been detained without trial since June 1976 under the ISA. Throughout this period of detention Samad Ismail has been held incommunicado in solitary confinement. He has received only irregular visits from his family and has not been allowed reading or writing materials, other than the Koran. His continued detention under such severe conditions can only be considered as the most flagrant violation of the UN Standard Minimum Rules for the Treatment of Prisoners.

Amnesty International recommends that Samad Ismail be released immediately or that he be transferred to a normal prison pending his early trial.

Torture 1**T**

vi. Amnesty International has found convincing evidence that the employment of torture both during interrogation and after transfer to long-term detention facilities has occurred in Malaysia. We suggest the following recommendations in line with the provisions of the UN Declaration on Torture (resolution 3452 (XXX) of 1975, Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) passed by the UN General Assembly on 9 December 1975.

Amnesty International recommends that the Government institute immediate and full open commissions of inquiry into the torture and maltreatment of detainees in Malaysia, taking all necessary steps to end such brutal and inhumane practices at once. Such commissions should consist of respected, impartial and independent members of the legal and medical professions whose objectivity is unquestionable.

Amnesty International further recommends the establishment of a code of conduct for police officials, particularly concerning the period of interrogation in keeping with

various proposed international draft codes for police and other law enforcement officials.*

vii. Amnesty International has found, in many countries, that isolation of prisoners during interrogation from outside contacts, particularly from legal counsel and family, creates the "pre-conditions of torture". The Malaysian system of interrogation, in which the detainee is kept in complete solitary confinement and the most extreme methods of psychological torture are employed systematically, merely confirms this.

Amnesty International recommends that the Malaysian Government ratify the International Covenant on Civil and Political Rights and implement in its own constitutional and legal system the procedural guarantees contained therein to protect these basic rights, particularly the provisions of Articles 7, 9, 10 and 14, quoted below in this report.

Amnesty International further recommends that, as protection against torture as well as protection against arbitrary arrest, all detainees be guaranteed the right to confer with legal counsel and family within 24 hours of arrest and regularly thereafter.

Amnesty International further recommends that the arrested person is allowed at least two medical examinations, one immediately after arrest and one at the end of the period of police custody, and that the medical reports are made available to the prisoner and his lawyer.

viii. Many detainees held under ISA provisions are poor and have little or no education, thereby making legal assistance essential if they are to be able to assert their basic legal rights. Those few who have legal counsel have been consistently denied the essential right to confidential communication with their lawyers.

Amnesty International recommends that free legal assistance be provided to all detainees arrested under the Internal Security Act who are unable to afford their own legal counsel.

Amnesty International further recommends that the right to privacy and confidentiality of communication between lawyer and client be immediately recognized and implemented.

Detainees held for interrogation are systematically subjected to solitary confinement and prolonged interrogation in cruel, inhuman and degrading conditions, in violation of all internationally-recognized standards.

Amnesty International recommends that the practice of the systematic use of solitary confinement and prolonged interrogation cease immediately.

* See United Nations Draft Code of Conduct for Law Enforcement Officials, currently before the United Nations General Assembly.

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Amnesty International further recommends that the Malaysian Government take steps to end all cruel, inhuman and degrading treatment of prisoners by implementing at once the standards set forth in the UN Standard Minimum Rules for the Treatment of Prisoners for all detainees being interrogated.

III Prison Conditions

x. Detainees at Batu Gajah Special Detention Camp have, since the introduction of the 10 March 1977 Internal Security (Detained Persons) (Amendment) Rules been subjected to an exceptionally severe prison regime that has involved their being held in their cells for a minimum of 21 hours a day. There is ample medical testimony to show that solitary confinement, especially when it is prolonged, can have very serious psychological and physical consequences. Moreover, solitary confinement is punitive by nature and its imposition on detainees is not consistent with the Malaysian Government's stated position that such detention is preventive.

Amnesty International <u>recommends</u> that the international minimum standards set forth in the <u>Standard Minimum Rules</u> be recognized and implemented at all detention facilities in Malaysia, including the Batu Gajah Special Detention Camp, without delay.

Amnesty International further recommends the early repeal of the Internal Security (Detained Persons) (Amendment) Rules 1977.

xi. Amnesty International has received persistent complaints from detainees, and from their families and lawyers regarding the inadequacy of medical facilities at both Batu Gajah and Taiping detention camps. Specifically, prisoners have complained of difficulties in seeing a doctor and of their denial of traditional Chinese medicines.

Amnesty International <u>recommends</u> that resident Chinesespeaking doctors be appointed to both Batu Gajah and Taiping detention camps and that prisoners have free access to the doctors at regularly stated times, without the necessity of going through an unqualified medical orderly.

Amnesty International further recommends that, subject to inspection , prisoners be allowed to receive traditional Chinese medicines from their families.

Amnesty International further recommends that the practice of handcuffing prisoners who are taken outside the detention camps for medical treatment cease forthwith.

CHAPTER II

HARASSMENT OF DISSENT IN MALAYSIA: THE POLITICAL PARTIES AND TRADE UNIONS

Since independence from Britain in 1957, Malaysia has been ruled continuously by the Alliance government, a coalition of three communally based political parties - UMNO (United Malays National Organization), MCA (Malaysian Chinese Association) and MIC (Malaysian Indian Congress). UMNO has been the dominant party within the government and the Prime Minister and other key cabinet positions, such as Home Affairs, Defence, Foreign Affairs and Justice are always held by UMNO appointees. Since 1974 the three parties who form the Alliance government have been joined by several smaller parties who were formerly in opposition and the ruling coalition has since been referred to as the National Front.

The Malaysian political system has been characterized by a marked inflexibility and intolerance towards political parties and groupings who have tried to organize themselves on a non-communal basis, or who have threatened the political monopoly of UMNO, the MCA or the MIC within their respective communities. Although there are some very small non-communal parties within the National Front government these are of almost no significance in the political life of the country.

The Government and its component political parties, especially UMNO, have suspected parties that have sought to organize on a noncommunal basis of undermining their political constituency and, not infrequently, have even accused them of being infiltrated by the illegal Malayan Communist Party (MCP). Malaysian politics since independence from Britain in 1957 have been predicated on the unchallenged assumption that the country was only governable through a coalition of the three main communal political parties - UMNO, MCA and MIC. Opposition parties have therefore been viewed as a threat to the status quo and as harbingers of communal and class conflict. For their part, opposition parties have found themselves gravely affected by restrictions on fundamental liberties.

In the 1960s, the main multi-racial leftwing party, the Labour Party of Malaya (LPM), was hard hit by the arrest of hundreds of its members, several of whom remain in detention today. The Labour Party, as its name suggests, was modelled on the British Labour Party, campaigning on a platform of public ownership, expanded government welfare programs and the creation of cooperatives. It recruited predominantly, though not exclusively, amongst the Chinese working class. In 1957 the Labour Party entered an alliance with the Malay nationalist party, Partai Rakyat (People's Party) to form the Socialist Front. In the 1959 elections the Socialist Front won 12.9% of the vote and eight seats in the 104-seat Parliament. In 1964, it increased its share of the popular vote to 16% but succeeded in winning only two seats. In the following year the Partai Rakyat left the Socialist Front after internal disagreements and in 1969 the Labour Party boycotted the general elections in protest against the arrest and detention of several of its members and supporters. In the early 1970s the party ceased to function, partly as a result of the arrests it had suffered.

In 1964-65 Malaysia found itself in a state of virtual armed conflict with neighbouring Indonesia over the formation of Malaysia (established in September 1963) as a federation of independent Malaya and the .

former British colonial territories of Singapore, Sarawak and North Borneo. The new state was denounced by the Indonesians as neocolonial and sections of leftwing opinion in Malaysia also shared this view. The Government reacted by arresting and detaining under the Internal Security Act considerable numbers of leftwing politicians including leaders of the Labour Party and the Socialist Front. Amongst these was Tan Kai Hee, Secretary General of the Labour Party who was arrested in 1965 and detained until March 1973. At least 22 of the approximately 100 detainees at Batu Gajah Special Detention Camp today were Labour Party activists arrested in the mid or late 1960s including the longest serving detainee, Kong Hoi, who is now in his fifteenth year of detention. Other former prominent figures in the Labour Party still in detention at Batu Gajah include Tan Hock Hin, Chai Kow Pai, Ong Loong Sheng, Ng Wei Siong and Lim Choo Leong. A number of other Labour Party and Socialist Front activists were also detained under the Banishment Act (see Chapter III). Amongst these was C.C. Yong, a former State Assemblyman in Johore State and secretary of the Socialist Front in Johore. Arrested in 1967, C.C. Yong was detained for ten years without charge or trial until February 1977, first under the Banishment Act and then under the Internal Security Act. In 1976, he appealed successfully in the High Court against the Banishment Order served against him, but although the judge ordered his release he was rearrested immediately as he stepped out of the court and detained under the Internal Security Act. He was subsequently released in February 1977 but has been deprived of his citizenship.

The Partai Sosialis Rakyat Malaya (the Malayan People's Socialist Party), formerly Partai Rakyat, is a largely Malay party with a socialist program and has sought to win support particularly amongst the Malay peasantry. Several of its members have been detained under the Internal Security Act and the party's Chairman, Kassim Ahmad, has been imprisoned since November 1976. The PSRM did not win any parliamentary seats in either the 1974 or 1978 elections but alarmed the central government in the early 1970s by the support and machinery the party had built up in the predominantly Malay states of Trengganu and Pahang. In January 1970 two leading members of the PSRM in Pahang, Dzulkifli bin Ismail and S. Sivasubramanian, both State Assemblymen, were arrested after boycotting a visit to the state by the then Prime Minister, Tunku Abdul Rahman. Sivasubramanian was subsequently released from detention on 1 October 1970 but Dzulkifli bin Ismail remained in detention without trial under the Internal Security Act in Batu Gajah Detention Camp for a further four years until his release on 16 October 1974.

In November 1974, another leading member of the PSRM, or Syed Husin Ali, Professor of Sociology at the University of Malaya, was arrested and detained without trial under the Internal Security Act. He is now in his fifth year of detention and is imprisoned at Taiping Detention Camp. The Chairman of the PSRM, Kassim Ahmad, was arrested in November 1976 and is also now detained in Taiping Detention Camp. (On these cases see also Chapter VI.)

Another political party whose members have been detained without trial under the Internal Security Act is the Democratic Action Party (DAP). The Democratic Action Party was founded in 1966, originally

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- 11 with strong links to the ruling People's Action Party (PAP) in the neighbouring Republic of Singapore*. The DAP emerged in the late 1960s as the strongest non-Malay based opposition party, winning nine seats in the 1974 parliament and 16 in the elections of 1978. The DAP has found support especially among Malaysian Chinese and because of this the party has made deep inroads into the political constituency of the Malaysian Chinese Association (MCA), a member of the coalition National Front government. The Secretary General of the DAP, Lim Kit Siang, was detained without trial under the Internal Security Act from May 1969 to October 1970 and at the time of writing two of its MPs, Chan Kok Kit and Chian Heng Kai, have been detained without trial since November 1976. Despite the fact that Chan Kok Kit was a Member of Parliament at the time of his arrest in November 1976, the Deputy Speaker of the House refused to allow a debate on the arrest of Chan Kok Kit and two other MPs, on the grounds that the matter was not urgent. In a statement on 4 February 1977, the Inspector General of Police, Tan Sri Haniff Omar, stated that the two DAP leaders together with four other politicians, had been detained "because of their involvement in the activities of the Communist United Front or in activities which could be regarded as assisting the advancement of the Communist United Front, whether directly or indirectly, deliberately or unknowingly." Both Chan Kok Kit and Chian Heng Kai have strenuously denied these charges and have invited the Government to charge them in open court so that they have a fair chance to rebut the accusations made against them. In April 1978 Lim Kit Siang was arrested and charged on five counts under the Official Secrets Act which carried a total maximum of 31 years' imprisonment for raising inside and outside Parliament in 1976 the question of the price and suitability of four Swedish gunboats purchased by the Royal Malaysian Navy. Ironically as a result of Lim Kit Siang's intervention the price of the gunboats was reduced by US \$4 million. There is a strong possibility that conviction for Lim Kit Siang will mean disqualification from Parliament. In November 1976 the Government for the first time arrested two members of the ruling UMNO party and detained them under the Internal Security Act. They were Datuk Abdullah Ahmad, former political secretary to Prime Minister Tun Razak and Deputy Minister for Science, Technology and the Environment, and Abdullah Majid, former press secretary to Tun Razak and Deputy Minister for Labour and Manpower. Both Abdullah Majid and Abdullah Ahmad are at present imprisoned in Taiping Detention Camp. Their arrests appeared to reflect the increasing strength within UMNO of a strongly anti-communist group.

Trade Unions

Trade unions, like opposition political parties, have been badly hit by the provisions of the Internal Security Act. Moreover the

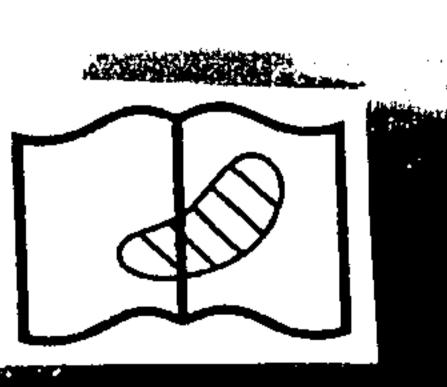
Singapore was a self-governing British colony until September 1963 when it became part of the new Malaysian Federation together with Malaya, North Borneo and Sarawak. Singapore left the Federation and became an independent Republic in August 1965.

Registrar of Societies has broad powers over the registration of unions, which the Government has not hesitated to use in the past to curb legitimate trade union activities. Trade union activists who have been militant in defending members' interests have found themselves liable to detention without trial under the Internal Security Act. It should be borne in mind too that a large part of the Malaysian workforce is still employed in tin mines and rubber or palm-oil plantations, often in isolated rural areas, where employers still exercise a paternalist hold over their workers. Amongst trade unionists detained at Batu Gajah Special Detention Camp are Lim Joo, S.N. Rajah, Ong Loong Sheng and R. Gunaratnam. All of these trade unionists have now been detained without trial for nine years or more. Other trade unionists are detained at Taiping, including Lim Nam Kee. Amongst those recently detained is Lim Mah Chiau, who was arrested on 28 October 1978. Prior to his arrest he was an active trade unionist in the Transport Equipment Union, an affiliate of the International Metalworkers Federation. His case and those of other trade unionists in detention in Malaysia have been taken up by Amnesty International.

A typical case of a trade unionist in detention in Malaysia is that of Chan Beng San. Born in Malaysia, Chan Beng San was active in trade union activities in Singapore in the early 1960s, and in 1963 he was elected a member of the Central Executive Committee of the National Union of Building Construction Workers of Singapore. When the union was deregistered he became a full time official of the Singapore Commercial Houses and Factory Employees Union. In 1965 when this union was likewise deregistered he returned to Malaysia to work in a shoe factory in Johore Bahru. In 1968, a strike occurred at the factory after an incident in which a foreman had struck several women workers. Not long afterwards, in September 1969, Chan Beng San was detained by the Malaysian authorities under the Internal Security Act. The grounds given for his detention cited his long activity in the trade union movement. He was detained first at Muar detention camp (now closed) and then at Batu Gajah. He was eventually released in August 1978 having served nine years in prison without trial.

In 1979 a dispute which broke out amongst the workforce of Malaysian Airline System (MAS), the state-run airline, illustrated eloquently the attitude of the authorities to labour unrest. The dispute had its origins in negotiations over a new pay agreement which broke down in November 1978. In December the Airlines Employees Union (AEU) representing 4,000 of MAS's 7,000 workers ordered a work to rule which caused disruption to the airline's flight timetables. The Government reacted in January 1979 by deregistering the Airline Employees Union and suspending union officials from their jobs. Nevertheless, the go-slow and work to rule continued. On 14 February the Government arrested 22 members of the AEU in early morning raids and detained them under the Internal Security Act. Those arrested included Maksudai Rahman, deputy president of the AEU, A.T. Xavier, secretary of the union, Baldev Singh, assistant secretary and Kuppasamy Panusamy, advisor to the AEU and secretary of the Selangor Branch of the National Union of Plantation Workers. At the same time Special Branch officers arrested Donald Uren, the Asia representative of the International Transport Workers Federation (ITWF) and ordered the expulsion from the country of Johann Hauf, assistant Secretary General of the ITWF. A

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statement issued by the police said the 23 were being held to prevent them continuing to act "in a manner prejudicial to the maintenance of an essential service." Protests against the arrests were led by V. David, secretary general of the Malaysian Trades Union Congress, who had been detained himself under the Internal Security Act in 1969 and by several foreign trade unions. In addition, all MAS operations were suspended and the union's accounts frozen.

The case of Donald Uren and the 22 AEU members were adopted by immesty International as prisoners of conscience. Amnesty International was gravely concerned to receive reports that some of the 23 may have been ill-treated during the time they were detained. At the end of April all 23 persons were released from detention but the AEU is now to all intents and purposes defunct, having been deregistered by the Government.

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CHAPTER III

VIOLATION OF FUNDAMENTAL HUMAN RIGHTS IN MALAYSIA

International Standards

In the Malaysian context, the balance between governmental power and individual freedom has been drawn in a manner which makes governmental authority in matters of arrest and detention all-powerful: the individual is at the mercy of the executive branch of the State. By Constitution, legislation, court decision, and executive action, internationally-recognized fundamental freedoms and basic human rights intended to protect the individual from the arbitrary use of governmental force have been effectively abolished. The power of the security authorities is virtually absolute: internationally-recognized guarantees of individual human dignity, which have been repeatedly shown to be essential for the protection of the individual from arbitrary abuse of governmental power, are non-existent. Amnesty International has found serious violations of rights guaranteed in the Universal Declaration of Human Rights. In particular those rights guaranteeing the individual protection against torture and prolonged detention without trial have clearly been violated in Malaysia.

Amnesty International seeks observance throughout the world of the United Nations Universal Declaration of Human Rights, unanimously approved by the UN General Assembly. The Declaration is "an internationallyendorsed statement of principles"*, proclaimed by the General Assembly to be "a common standard of achievement for all peoples and all nations."** The International Covenant on Civil and Political Rights, the provisions of which "reflect rights set forth in the Universal Declaration of Human Rights"***, recognized as "the international bill of human rights"⁺ has entered into force as a treaty with the binding force of law for States party to the Covenant, and, as such, is the most authoritative internationally-accepted codification of fundamental standards of basic human rights.

Amnesty International has found serious violations of the following fundamental human rights, set forth in the International Covenant on Civil and Political Rights as reflecting the Universal Declaration of Human Rights, by actions of the Government of Malaysia:

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

Article 9 _____

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention

*	The International Covenants				
	OPI/562, United Nations, N.Y				
**	Universal Declaration of Hum				
	N.Y. (May 1976),p 3				
* * *	Op cit. Note *, p 2				
Ŧ	Ibid, p l				

on Human Rights and Optional Protocol, . (Nov. 1976), p 1 man Rights, OPI/15, United Nations,

Anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release

Anyone who is deprived of his liberty by arrest or 4. detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

. . . .

Article 14

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, ... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law

Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

> (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal counsel of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

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To examine, or have examined, the (e) witnesses against him and to obtain the attendance and examinations of witnesses on his behalf under the same conditions as witnesses against him;

(g) Not to be compelled to testify against himself or to confess guilt.

Article 18

. . .

1. Everyone shall have the right to freedom of thought, conscience and religion.

Article 19

. . .

Everyone shall have the right to hold opinions L + without interference.

Everyone shall have the right to freedom of 2. expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice.

Before considering the specific nature of the violation of these fundamental human rights by the Government of Malaysia, it is necessary to consider the important question of restrictions on these rights imposed in the name of national security, within the Malaysian Constitutional framework.

The Constitutional Framework

Part II of the Federal Constitution of Malaysia, "Fundamental Liberties", provides the following guarantees of individual rights. inter alia:

Article 5. Liberty of the person

No person shall be deprived of his life (1)or personal liberty save in accordance with law.

Where complaint is made to a High Court (2) thereof that a person is being unlawfully detained the court shall inquire into the complaints and, unless satisfied that the detention is lawful, shall order him to be produced before the court and release him.

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Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.

Where a person is arrested and not released (4) he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority

Article 10. Freedom of speech, assembly and association

Subject to clauses (2), (3) and (4) -(1)

> (a) every citizen has the right to freedom of speech and expression;

(b) all citizens have the right to assemble peaceably and without arms;

(c) all citizens have the right to form associations.

Parliament may by law impose -(2)

> (a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, ... public order or morality

(b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order;

(c) on the right conferred by paragraph (c) of Clause (1) such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality.

Restrictions on the right to form associations (3) conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.

. . . .

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Thus, as one commentator on Malaysian constitutional law has noted, "Article 10 (2) places freedom of movement within the complete discretion of Parliament "* "Article 9 (2) places the same restriction on the

Harry E Groves, "Fundamental Liberties in the Constitution of the Federation of Malaysia", in T M Suffian, H P Lee, F A Trindode, Eds., The Constitution of Malaysia, Its Development: 1957-1977, Oxford University Press (1978), p 29

guarantee of the right of freedom of movement."*

Moreover, further restrictions on the guarantees of "Fundamental Liberties" are included in Part XI of the Federal Constitution, "Special Powers Against Subversion, And Emergency Powers", which specifically permits, in Article 149, the suspension of Articles 5, 9 and 10 "and perhaps others of the Fundamental Liberties, since it validates any legislation otherwise outside the legislative power of Parliament"**

"Restrictions Necessary to Protect National Security" and Public III Emergency Exceptions

The International Covenant on Civil and Political Rights explicitly recognizes that there are legitimate times of national crisis which require emergency powers. However, the introduction of a state of emergency or a state of exception is subject to clear conditions and limitations, which are codified in Article 4, which provides:

In time of public emergency which threatens the life of a nation and the existence of which is officially proclaimed, the States Parties to the present Covenent may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their obligations under international law.

No derogation from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.***

It should be noted at the outset that even in times of "public emergency which threatens the life of a nation", no derogation can be made by any government from the obligations to respect the "inherent right to life" (Article 6), the prohibition on "torture or ... cruel, inhuman or degrading treatment or punishment" (Article 7), the prohibition of slavery (Article 8), the prohibition of ex post facto laws, i.e., those which would hold an individual guilty of a criminal offence" on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed" (Article 15), and "the right to freedom of thought, conscience and religion." (Article 18).

Article 4 makes clear, by its language, that restrictions on other basic rights guaranteed by the Covenant are to be limited in both scope and duration "to the extent strictly required by the exigencies of the situation." There is no justification under international law for the perpetual suspension of fundamental liberties incorporated into Malaysian law and practice. Unfortunately, in Malaysia the exception has become the rule.

*	Ibid
**	<u>Ibid</u> , p 30
***	<u>Ibid</u> , p 15

. . . .

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In effect, then, the invocation of Article 149 suspends the constitutional guarantees of specific "Fundamental Liberties" in Malaysia, including the right to life, investing the Parliament with sweeping power to legislate in the interests of "security". Article 149 allows parliamentary action on vague grounds which do not conform with Article 4 of the International Covenant on Civil and Political Rights and allows the Malaysian Government to suspend those guarantees which Article 4 of the Covenant seeks to protect.

Article 151, "Restrictions on preventive detention", provides inter alia:

IV

In the exercise of its security power, the Malaysian Parliament has in effect delegated immense authority to the Executive in the person of the Minister for Home Affairs. Section 8 (1) of the Internal Security Act provides:

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Article 149 of the Malaysian Constitution, "Legislation against subversion", provides, inter alia:

If an Act of Parliament recites that action has been (1)taken or threatened by any substantial body of persons, ...

(a) to cause, or to cause a substantial number of persons to form, organized violence against persons or property, or ...

(e) which is prejudicial to the security of the Federation or any part thereof,

any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Article 5, 9 or 10, or would apart from this Article be outside the legislative power of Parliament

The Constitution itself provides for wide powers of arrest.

Where any law or ordinance made or promulgated in (1)pursuance of this Part provides for preventive detention"

Thus, the power of Parliament to provide for preventive detention, with limitations to be considered separately below, is specifically recognized in the Constitution. That power finds expression in the Internal Security Act of 1960, with subsequent Amendments.

The Internal Security Act of 1960

If the Minister is satisfied that the detention of any person is necessary with a view to preventing him from acting in any manner prejudicial to the security of Malaysia or any part thereof or to the maintenance of essential services therein or to the economic life thereof, he may make an order (hereinafter referred to as a detention order) directing that the person be detained for any period not exceeding two years.

Section 8 (5) of the same Act also empowers the Minister to place restrictions of freedom and movement on an individual for any of the purposes mentioned in Sub-section (1).

Furthermore, Section 8 (7) provides that every such detention order or restriction order may, by order of the Minister, be extended for a further two-year period. These provisions have been used in Malaysia as the basis for detention by executive order, with no judicial examination of the legality of detention, for successive two-year periods. At least 89 detainees have been imprisoned now for more than five years, and one detainee, a former Labour Party activist, Kong Hoi has now entered his fifteenth year of imprisonment.

Additional powers of arrest and detention on police authority alone are granted in Section 73 of the Internal Security Act, which provides for an individual arrest and detention without warrant for up to 60 days if the police find there are reasons to believe

(a) that there are grounds which would justify his detention under section 8; and

that he has acted or is about to act or is likely to (b) act in any manner prejudicial to the security of Malaysia or any part thereof

In interpreting these vast powers, the courts of Malaysia have favoured sweeping Executive authority. Thus, in Karam Singh v. Mentri Hal Ehwal Dalam Negeri, Malaysia*, the Federal Court held that the question as to whether there was reasonable cause for detention under Article 149 was a matter of opinion and policy, a decision entirely for the Executive, and that the burden of proof of mala fide as improper exercise of the power of detention must shift to the detainee. In effect, this is an all but impossible burden of proof, with the result that an individual detained in Malaysia under the Internal Security Act is without meaningful judicial recourse. If the Minister for Home Affairs issues an order of detention, the individual named may be imprisoned, for all practical purposes, until the Minister orders his release.

On 4 October 1975 the Malaysian authorities introduced new regulations governing trials for offences against national security. These regulations caused considerable disquiet amongst the legal profession and the Malayan Bar Council was vocal in leading opposition to the new regulations.

Of particular concern are the Essential Regulations, which abandoned many of the elementary principles of law in introducing special procedures for dealing with cases certified as security cases by the public prosecutor. The new regulations shifted the burden of proof onto the defence, meaning that defendants in security cases are now presumed guilty until proven innocent. The laws of evidence were also drastically changed, with witnesses permitted to give evidence in the absence of both the accused and his counsel. Security case trials can be held without juries, and judges are obliged to pass maximum sentence (which can include the death penalty) upon conviction. (See further Chapter VII on the death penalty.)

(1969) 2 Malaysian Law Journal 129, discussed Ibid, pp 35-6

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It should be noted at the outset that the Advisory Board has no judicial authority -- its role, as its name implies, is purely "advisory", and its recommendations are not binding in any way on the Executive. In fact, the Amnesty International delegation was informed by Tan Sri D.B.W. Good, the Chairman of the Advisory Board, during their meeting with him on 28 November 1978, that the Minister for Home Affairs has refused to approve a standing recommendation of the Advisory Board that all detainees held at Batu Gajah Special Detention Camp since 1971 or before - a total of some 53 detainees - be released on the grounds that they could no longer be considered threats to national security. Tan Sri Good also cited a number of cases of detention involving political figures who were recommended for release by the Advisory Board, stating his view that the recommendations were overruled "for political reasons."

L.

he Advisory Board

Article 151 of the Federal Constitution, "Restrictions on preventive detention", noted briefly above, provides:

Where any law or ordinance made or promulgated in (1)pursuance of this Part provides for preventive detention -

(a) the authority on whose order any person is detained under that law or ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to Clause (3), the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;

(b) no citizen shall continue to be detained under that law or ordinance unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong*within three months of receiving such representations, or within such longer period as the Yang di-Pertuan Agong may allow.

An advisory board constituted for the purpose of (2) this Article shall consist of a chairman, who shall be appointed by the Yang di-Pertuan Agong and who shall have been, or be qualified to be, a judge of the Federal Court or a High Court ..., and two other members, who shall be appointed by the Yang di-Pertuan Agong after consultation with the Lord President of the Federal Court.

(3) This Article does not require any authority to disclose facts whose disclosure would in its opinion be against the national interest.

The non-political Head of State elected by the hereditary state Rulers from among their number.

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It should also be noted that Clause (3) of Article 151 provides the Executive with a constitutional basis for the withholding of relevant evidence from both detainees and the Advisory Board on grounds of "national security". This simply compounds the virtually insurmountable difficulties with which a detainee under the Internal Security Act is faced, for, as noted above, the courts have refused to go behind the Executive's decision by judicial examination of the issue of whether there is reasonable cause for detention. Clause (3) vitiates the apparent "Restrictions on preventive detention" of Article 151, in its requirement that a detainee be informed "as soon as may be" of the grounds of detention and allegations of fact on which the order is based, since "he is not entitled to facts which, in the opinion of the detaining authority, would be against the national interest."* Moreover, the Federal Court has ruled that "vagueness, insufficiency, or irrelevance of the allegations of fact supplied to the detainee will not render the detention unlawful but only permit the detainee to request particulars."** Here a detainee under provisions of the Internal Security Act is caught once more in a vicious circle as a result of Clause (3), because according to information provided the delegation by respected members of the Malaysian Bar, requests for bills of particulars in cases before the Advisory Board have been denied on grounds of national security. Once again, fundamental liberties and procedural rights which appear to be guaranteed by one part of the Federal Constitution are vitiated by the overriding national security provisions. In effect, the Executive's power of arrest and detention on security grounds in Malaysia is virtually absolute and unlimited.

Section 11 of the Internal Security Act provides that each detainee held under Section 8 (1) is entitled to a copy of the detention order and to be informed of his right to make representations against the order before the Advisory Board, such representations to be presented first in written form and thereafter by personal appearance before the Board. However, the vast majority of detainees refuse to appear, having concluded apparently that these rights are illusory. Tan Sri Good informed the delegation that since 1967 not one detainee at Batu Gajah had appeared before the Board and that only about one-third of the detainees at Taiping appear, and then generally only once, even though they are entitled to appear before the Board when their cases come up for Advisory Board review every six months.

Of the small minority of detainees who appear before the Board, only a very small percentage are represented by legal counsel, as the large majority of detainees come from working class backgrounds and there is no right to the appointment of counsel for those who cannot afford a lawyer's fees. Thus, for the vast majority of detainees, untrained in the law and without legal counsel, the right to make representations before the Board is of little consequence. Where lawyers have appeared, there have been flagrant abuses of fundamental procedural rights, including cases of the denial of the right to confidential communication between lawyer and client, as well as the denial of the right to a bill of particulars, as noted above.

(1969) 2 Malaysian Law Journal 129, p 36 <u>Ibid</u>, citing <u>Karam Singh</u>, <u>op cit</u>, <u>supra</u>

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In well over two-thirds of the cases, then, the Advisory Board, consisting of three members, of whom only the Chairman has any legal training at all, must perform its constitutionally mandated review function having before it only the allegations of the Executive who ordered the detention in the first place and any Special Branch intelligence reports which the Minister may choose to reveal. A Special Branch liaison officer attends the hearings ex officio. There is no true adversary procedure, and any opinion rendered is merely a recommendation without binding effect. It is not surprising that most detainees have no confidence in such Advisory Board procedures and that most detainees choose not to appear.

The Government admits that some 900 persons are currently detained under provisions of the Internal Security Act. With Advisory Board review mandated for each case every six months, this means that the Board must consider an average of 150 cases each month. Meeting three times a week, the Board cannot devote much more than 20 minutes to each case on the average. Such a heavy caseload would be incompatible with effective judicial review of such grave issues of individual liberty. It is but one more proof of the illusory nature of the protections of fundamental rights supposedly afforded by the Advisory Board. The conclusion is inevitable that the Advisory Board cannot and does not provide effective protection against arbitrary arrest and detention. It has no powers to recommend the release of a prisoner and indeed its own recommendations are frequently ignored by the Minister for Home Affairs. Moreover, the heavy caseload that it has to deal with makes a mockery of its ability to examine individual cases in a thorough manner.

VI

This Act provides for the punishment of an act with "seditious tendency", a person's intention being quite irrelevant.

B

Other laws restricting basic human rights

Sedition Act, 1948 (Amended 1970)

Sedition could be committed in any one of six ways:

- inciting disaffection against any Ruler or government; i) inciting unlawful changes to any lawful matter; ii) inciting contempt for the administration of justice; (iii) raising discontent amongst the people; iv) promoting ill-will between races or classes; or v) (vi) questioning any sensitive issue, i.e. citizenship,
- the national language, special privileges, and the status of the Rulers.

The 1970 amendments to the Sedition Act widened the scope of the offence (sedition) and also excluded the need to prove intention. The Prosecution has now only to prove a seditious tendency.

Banishment Ordinance - Malaysia Act, 1963

By Article 25(1) of the Constitution the Government can deprive any citizen (who is a citizen by registration or naturalization) of his

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citizenship if satisfied that this would be conducive to the public good. The Banishment Act which is applicable only to non-citizens is then invoked to order banishment of the individual concerned. Persons involved are then detained awaiting deportation. As other countries are unwilling to accept them, and as many prisoners have anyway refused deportation, they are left to languish in prisons for anything up to 10 years. Although at the present moment no persons are detained in Malaysia under the Banishment Act, the last seven persons being detained having been released in 1978, in the past up to 100 persons have been imprisoned under this Act at any given time.

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The Government of Malaysia, through the Minister for Home Affairs,

is invested with sweeping powers of arbitrary arrest and detention by executive order under the Internal Security Act (ISA) of 1960. Under Section 8 of the Act, the Minister is authorized to detain without trial for a two-year period any person he believes has acted or is likely to act "in a manner prejudicial to the security of Malaysia". Moreover, Section 8(7) enables the Minister to extend orders for further two-year periods, a power which successive Ministers for Home Affairs have not shrunk from using. This power has been used to justify indefinite detention without trial for periods of up to 15 years.

We have noted too that Section 73 of the ISA provides for an individual arrest and detention without warrant for up to 60 days before the Minister decides whether the person concerned will be served with a detention order. Indeed, very many, and possibly the majority, of persons detained under the Internal Security Act are released after this initial 60-day period of interrogation. Section 73 is used in a systematic way by the Malaysian authorities to intimidate

and harass voices of dissent within Malaysian society. Amnesty International has found that an almost uniform pattern emerges of a person's treatment during this 60-day period. Any police officer may arrest and detain an individual merely on "reasonable belief" that there are grounds which would satisfy the Minister to make a detention order against the person concerned. Most of the persons arrested under this Act are held in Kuala Lumpur, although facilities exist for holding people for the 60-day interrogation period in every state of Malaysia. Nearly all large police stations have Special Branch cells where persons held under the ISA can be detained and interrogated for 60 days prior to the Minister taking a decision as to whether the individual will be served with a two-year detention order. For example, at the police station in Jalan Tebrau in Johore Bahru in Johore State, there are eight small individual cells where political detainees can be held. At the High Street Police Station in Kuala Lumpur there are four sets of Special Branch cells. Seremban Prison in Negeri Sembilan State also has facilities for holding political detainees as do police stations at Muar in Johore State and Taiping in Perak State. However, it must be pointed out that the majority of persons arrested and held for 60 days under the ISA are imprisoned in undisclosed holding centers where they come into contact with no one other than their interrogators.

The detainee, almost invariably, is arrested late at night at home and taken to a police station and then transferred in a closed and often unmarked van to a Special Branch holding center. X (whose name is known to Amnesty International but is witheld at his request) was arrested at his home:

CHAPTER IV

ARREST AND INTERROGATION

Preliminary Interrogation

"At about 3 am I was awakened by a heavy knocking at my door and by the sound of several men in the courtyard.

I opened the door and found to my astonishment eight police officers, four of them in plain clothes, and some of them with their guns drawn. They told me I was being arrested under the Internal Security Act. By this time the whole family had awoken and the children were crying. The officers searched every room of the house, including the children's bedroom. Meanwhile, I was told to get dressed. I remember thinking afterwards how little I had protested through the almost 30 minutes the police were at my home. I had heard and known friends who had been detained under the Internal Security Act and from the moment I was arrested an absolute despair at my situation descended upon me.

We left my home in two landrovers and drove for about 20 minutes around the outskirts of Kuala Lumpur. The landrovers stopped and I was bundled into a closed van. It was so fast I cannot recall whether it was marked or not. Inside the van I was strapped into a vertical coffin-like chamber. A desperate feeling of claustrophobia and nausea overcame me. For over two hours the van sped through the night until finally we came to a stop in an underground garage. I was bundled out through some darkened rooms into a large brightly lit room which was later to be my interrogation room. I looked at my watch - 6.10 am it was the last occasion I would know the time or whether it was even day or night for two months."

The whereabouts of the detention center where X was detained were not disclosed to him throughout his 60 days' interrogation and Amnesty International knows of few cases where detainees knew where they were held. Strict precautions are taken to keep the prisoner incommunicado at all times. If, after a period of three or four weeks, the prisoner is allowed a family visit, he is invariably taken back to an ordinary police station, again in a closed van, to receive his visitors. In Kuala Lumpur prisoners held under the 60-day rule are taken back to the High Street Police Station for such visits. Afterwards they are returned to Special Branch Holding Centers. Amnesty International is aware that such interrogation centers exist in Kuala Lumpur at Jalan Gurney (Gurney Road), Bukit Aman and at Bluff Road, but undoubtedly several other secret detention facilities exist in the city.

When the prisoner first arrives at the interrogation center he is deprived of his clothes, watch and spectacles. He is issued with prison clothing, consisting of a T-shirt or singlet and ill-fitting trousers without a belt, so that at all times he is left in the humiliating position of having to hold them up. Throughout the 60-day period the prisoner is kept in complete solitary confinement. Of the many ex-detainees and detainees' families from whom Amnesty International has received testimony, not a single case has been reported of a prisoner who was not held in solitary confinement. Initially, a detainee is subjected to continuous interrogation for long periods without sleep. Periods of continuous interrogation from 48 to 72 hours are common, and in one case of seven days. The detainee is held in a dimly lit, windowless cell with

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The following are three sample accounts that Amnesty International has received of the arrest and interrogation process in Malaysia.

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very poor ventilation infested with mosquitoes and other insects and not infrequently, even vermin. There is no furniture in the cell; the prisoner's bed consists of little more than a concrete platform with perhaps some wooden planks. After a few weeks some prisoners are issued with mattresses, but these are filthy, urine-stained and infested with bed bugs. Because of the poor ventilation, and the fact they many cells are underground, the prisoner's cell is extremely hot and uncomfortable, according to many prisoners often resembling an oven. These conditions are made worse by the complete denial to the prisoner of soap, toothbrush, towel and comb, or in many cases, any washing or toilet facilities whatsoever. After several weeks some prisoners are allowed to bathe, but they are not provided with a towel, and are forced to dry themselves in their clothes. Many prisoners develop serious bladder infections during their detention at Special Branch Holding Centers because of their lack of access to toilet facilities. There are no urinals or even a bucket in the cells so that a prisoner has to call the guard to go to the toilet. Many ex-detainees testified to Amnesty International that guards frequently refuse to allow prisoners to go to the toilet at night.*

Abdul Razak Ahmad is a lawyer and former Chairman of the Partai Sosialis Rakyat Malaya (Malayan People's Socialist Party):

"On 14 January 1975, at about 2.30 am, the Secret Police (officially known as the Special Branch) numbering about 10 people together with about 25 fully-armed members of the Federal Reserve Unit made their way to my house in a quiet residential area of Jalan Straits View, Johore Bahru. On arrival they jumped over the locked gate and banged noisily at the door of my house. I was woken up from my

peaceful sleep by the rude and loud noise which they made.

As soon as I opened the door I was immediately put under arrest. I was told that I was being arrested under the Internal Security Act, 1960.

The Secret Police then ransacked all the rooms in my house and took away periodicals, papers and files which belonged to Partai Sosialis Rakyat Malaya.

I was shocked by the arrest as I could find no reasons for the Secret Police taking such drastic action on me. While I was in detention I kept asking the Secret Police the reasons for my arrest but no reasons were forthcoming from them.

For further background see Aziz Ishak, Special Guest: The Detention in Malaysia of an Ex-Cabinet Minister, Oxford University Press, Singapore, 1977, p 148. The author was Minister for Agriculture from 1955-63 and was detained for over a year in 1965-66 and then released under restrictive conditions until 1971.

I had been in Johore Bahru for only about one year when I was arrested. Previous to that I was working in Kuala Lumpur with FELDA (Federal Land Development Authority) for about four years.

i was arrested when I was in the midst of defending 48 people who were charged for illegal occupation of State land

During the first month of my detention I was kept in a very small unlit room measuring about 6' X 5' and later I was moved to a slightly bigger unlit room measuring about 12' X 10'. During the whole period of the detention I was kept in solitary confinement. I was only allowed out of the room to go to the toilet or for interrogation.

I was given prison clothes which were normally worn for about a week before a new change of clothes was allowed. I walked barefoot as no slippers were provided. I slept on wooden planks with no mattress. The room was full of mosquitoes at night and there were no insecticides.

I was given breakfast consisting of two pieces of bread with butter and a glass of tea at 8 am daily. I was given my lunch at 12.45 pm and dinner at about 5.30 pm daily and the meals consisted of a plate of rice with curry.

I was interrogated nearly every day and sometimes I would be taken to a very dark room which was entirely painted in black. A lamp would shine right in front of my face. Normally about four or five interrogators would be present. There would be at least two interrogations a day.

The interrogations were also intended to brainwash me. I was always reminded that what I had been doing was wrong and that the Government was right in whatever it was doing and that the people were to be blamed if Government policies which were intended to benefit them were not carried out successfully.

During the interrogations I was asked of my association with the squatters of Tasek Utara and the students who were charged in Court and the reasons why I became their counsel. The interrogators also asked me in minute detail of my political activities and my life history. I told the interrogators that I was not responsible for the actions of the squatters or the students as I had not known them before. In fact when the trouble at Tasek Utara started I was away in Kuala Lumpur.

I had not been informed of the reasons for my detention even at the time of my release from detention on 14 March 1975."

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Lim Mah Hui was at the time of his arrest in 1975 a lecturer at the University of Malaya in Kuala Lumpur:

"I was picked up and put in a criminal lock-up and later in the same day I was taken by a group of Special Branch men to my residence where it was ransacked for 'subversive' documents. However none were available. After that I was left alone in solitary confinement for about three weeks before I was called up for interrogation.

Criminal suspects were allowed to share a same cell whereas political detainees were isolated individually in separate cells. The cell was about 8' X 10', and a wooden platform occupied half the space of the room. The platform proved to me more of a torture than a relief. It was filthy and infested with bugs. For the first week or so I was unable to catch more than two hours of sleep per night because most of the time was spent killing bugs. It proved impossible to sit without being bitten by bugs let alone lie or sleep. I asked for some insecticide but was not allowed any until about two weeks later.

We were fed with the same food that is given to the criminals. It consisted of a cup of black coffee, a piece of plain bread and a banana at 7 am. Lunch comes at 1 pm and consisted of a heap of rice, one tiny piece of fish, a sprinkling of vegetables and curry sauce. Dinner consists of the same things. Very often the fish or meat that is given is stale and inedible, which means often our diet consists only of starch. However, from time to time our relatives were allowed to bring in some extra food for us during their once a week visit.

A visit usually lasts about 15 minutes and at least one Special Branch man will be in the midst of us throughout the visit.

In the fourth week I was then called up for interrogation. The interrogation lasted for about 10 days with four or five hour sessions every day. Although no physical abuses were inflicted on me, threats were frequently made that we would be served with a detention order if we did not 'co-operate'. However our stay in the prison confirmed the fact that brutal beating and torture are very common in the process of 'interrogation' of suspects - both criminal and political detainees. Some of these were witnessed with our own eyes and some information from hints given by police personnel. We saw suspects brought back into the cells all beaten up and unable to sit or lie on their backs due to injuries sustained.

I was also not allowed a pillow or a decent blanket. The blanket given to me was a piece of cloth about 3' X 3' and again infested with bugs. I was not allowed any reading material for about three weeks. The process of keeping us isolated, of depriving us of reading material and subjecting us to harsh conditions is part of the process of trying to break down the detainees for 'confessions'."

Gurdial Singh Nijar, a lawyer, was also detained for 60 days in The following is his account of his experiences: 1975.

"The tiny 9' X_11' cell was dark and dingy. A dim light was switched on all the time. The walls were covered with cobwebs and urine marks - which probably accounted for the distinct stench in the room. The cell door - always locked had bars but was boarded over by a green board; only by squinting through the narrow slits between the door and the wall could one see outside into an even more dimly lit narrow corridor. A raised cement platform served as a bed: a stinking thick army blanket was the only bedding material supplied. There is nothing else in the cell. Cockroaches, the occasional mouse and mosquitoes were my constant cell-mates. At the end of the fourth cell was a moderately maintained toilet-cum-bathroom.

Like almost all the others, they brought me into the cell in the early hours of the morning (about 4 am) so that for days thereafter the whole sleep-routine was upset.

Besides, being shut up day and night all alone with nothing to do, no one to talk to, one kept sleeping all the time. Complete disorientation results. The sense of day and night is soon lost. One tires of excessive sleep. No opportunity to exercise outside these stifling conditions is given. Urinating at night is made difficult as guards who have to unlock the cell door are either asleep or loath to respond. Of necessity, one's only recourse is to urinate into plastic cups. For the initial 10-day period or so, no reading material was permitted. Even so, reading for too long soon becomes painfully difficult in the dim light. Visits by family members are shrouded with uncertainty. The visits, in the presence of a Special Branch officer, were often abruptly discontinued. Taken cumulatively, it is easy to see how debilitating, both physically and mentally, these conditions can be. Perhaps this is not unknown to the powers that be.

The 'food' served exacerbates the matter. A tasteless and cold coffee in a stained plastic cup, a huge chunk of dry, white bread and a banana comprise the breakfast. Lunch and dinner were 'nasi bungkus': usually rice (half-cooked once too often) salted or curried fish and mashed up vegetables. The 'menu' was monotonously repetitive."

Throughout the 60-day interrogation period the prisoner, as has been noted, is kept in complete solitary confinement. Moreover, the prisoner is not allowed access to either a lawyer or a doctor. Recently, one lawyer who enquired about a person detained for interrogation was told by the local head of the Special Branch that he should know that no legal access is permitted to persons held for interrogation under Section 73. Indeed, a prisoner is fortunate, if after three or four weeks he is allowed a 15-minute visit from his wife or other near relation. Many prisoners arrested under Section 73 of the Internal Security Act have been denied even this elementary right. Nor, for that matter are the families of detainees ever notified where their relative is detained.

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The Amnesty International delegates received a large number of complaints of this kind. The whole interrogation process seeks to induce in the prisoner severe mental and physical stress through solitary confinement and prolonged interrogation. As a recent report of the Malayan Bar Council noted, "Such methods of eliciting information constitute torture,"**

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Because of the complete lack of legal and medical safeguards, it is not surprising that ill-treatment and torture, both psychological and physical, of detainees often occurs during this 60-day period. On arrival at a Holding Center a detainee is allotted a "case officer" who is responsible for his interrogation.* The whole interrogation procedure, together with the solitary confinement the prisoner is always kept in, is meant to induce a feeling of complete disorientation in the prisoner and thorough dependence on his interrogators as his only point of human contact. Several prisoners have experienced mental breakdowns as a result of this interrogation and very many are willing by the end of the 60-day period to make "confessions", acknowledging that they were a "security threat" to the Government and sympathized with the aims of the illegal Malayan Communist Party (MCP). Amnesty International believes that these "confessions" are extracted from the prisoner through extreme pressure amounting to psychological torture and in some cases physical torture. Many prisoners are subjected to threats, not only against themselves but also against their families, if they do not co-operate with the Special Branch and make a "confession". Detainees, for example, born in Singapore or in China are often threatened with deportation if they do not co-operate.

As elsewhere, physical ill-treatment of detainees would seem to depend much on the social background of the prisoner. Educated and middle class persons are rarely beaten, but persons of working class background are frequently physically assaulted during interrogation. But all are exposed to the threat of physical ill-treatment or torture. X, whose testimony we cited earlier noted that:

"When I was taken out of the police van I was taken through an underground corridor and then led into a room which had all the markings of a torture chamber. The floor was simply black earth and the room gave me the impression that no stains or marks would be left behind. I was taken from the room to the cell that was to be my home for the next two months. I was never again taken to that room. The same day, after I had fallen asleep after six hours' interrogation, I was awakened by a plain clothes policeman who entered my cell and sat on the end of the concrete platform that served as my bed. He smoked a cigarette without speaking. Finally, he extinguished the cigarette and rising caught me by the arm saying, 'I hope you come through this allright.' I remember trembling with fear after he left as to what he meant."

Aziz Ishak, <u>op cit</u>, p 82ff.

Memorandum on Internal Security Act: Conditions of Detention of Persons held under the Internal Security Act, 1960 Memorandum submitted by the Malayan Bar Council to the Malaysian Government, 24 February 1979, p 2.

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Quite apart from the psychological torture prisoners endure during their 60 days' interrogation, Amnesty International has received repeated allegations and reports of physical ill-treatment of political detainees. Pik Hwa, the oldest female detainee at Taiping Detention Camp and now about 60 years old, was reportedly beated during her interrogation at Taiping Police Station before being transferred to the Taiping Detention Camp in 1976. The Amnesty International delegates also received reports that other female detainees had been stripped and beaten during interrogation.

Amnesty International is also gravely concerned that detainees from working class ethnic Chinese background who form the vast majority of detainees at Batu Gajah Special Detention Camp have been physically illtreated and beaten during interrogation. For example, Goh Kean Seng, a teacher at a Chinese language school before his arrest in March 1974, was beaten with a broom across his chest during interrogation as a result of which he still suffers chest pains. Cold water was also poured over him and he was forced to do exercises repeatedly. Other relatives of longterm detainees at Batu Gajah and Taiping Detention Camps have consistently stated that they found their detained family members to have lost considerable weight and to have developed serious ailments as a result of their treatment during interrogation. Oon Siew Tian, a member of the now defunct Labour Party, arrested in December 1972, was reportedly beaten up during interrogation and has been treated in hospital several times since for tuberculosis.

The apparent purpose of the ill-treatment, whether physical or psychological, that a detainee is forced to endure is to induce a mental and spiritual collapse on the part of the detainee. Many prisoners develop severe psychotic depressions as a result of their treatment during interrogation. S is a former high official of the Labour Party:

"My experiences during interrogation were most terrible. It is difficult to say what is most unbearable, but particularly the complete lack of contact with anybody other than the interrogators and the complete loss of direction and time that the prisoner suffers there have an enormously depressive effect on most prisoners. Apart from periods of interrogation the prisoner is never allowed out of his cell for more than 20 minutes a day to go to the toilet and to wash. The toilet and shower are completely open and everything is done to humiliate the prisoner so that he has no sense of self-respect. In the daytime the cell was like an oven attracting heat, whilst at night it was quite cold. At times during the day it would become so hot that it was almost impossible to wear any clothes.

Then suddenly one day I was given by watch back. It seemed somehow a link with the outside world and I really doubt whether I would have retained my sanity if I did not have it. I remember finding the food and the timing of the meals as a particular strain; it was almost as if you were living in yesterday. Breakfast was at 6 am, so early that you could hardly eat anything; lunch was not until 2 pm, by which time you were usually starving and dinner followed only two hours later at 4 pm. The guards would never let you keep any food, so that after dinner, one was not fed for fourteen hours.

The use of threats against the prisoner and his family during interrogation is both frequent and commonplace. Frequently these are used in an attempt to induce the prisoner to make a "confession". Thus in the case of the distinguished newspaper editor and writer, Samad Ismail, imprisoned since June 1976, reports have been received by Amnesty International that he and his family were threatened with deportation to Singapore, his place of birth, and possible imprisonment for life if he did not "confess". Other prisoners "confess" because they are promised release if they do so.** Indeed, Amnesty International has received several reports that Abdullah Majid, former Deputy Minister for Labour and Manpower,"confessed" on television in 1976 because he was promised immediate release if he did so.

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Mostly, the food was rice, often not properly cooked, with one salt-fish which was frequently rotten and the vegetable was usually half-cooked okra. Moreover, one was frequently disturbed at night so that it was impossible to maintain a proper sleeping pattern."

The monotony of the diet, the timelessness in which the prisoner is imprisoned, his complete isolation from the outside world and the continuing interrogation he has to undergo gradually have a mentally debilitating effect on all prisoners. Interrogation usually takes place in a brightly lit room with as many as four Special Branch officers grilling the prisoner at any one time. Sometimes the interrogators stand behind a battery of lights, while other interrogation rooms are air-conditioned to a temperature of 50 - 55 F, the temperature and humidity in the room being at such a level that the body does not recreate its own heat. Disorientation and constant harassment from the interrogators, who frequently change sometimes daily* - enhance the prisoner's feeling of complete helplessness at his predicament. As one ex-detainee remarked to the Amnesty International delegates, "You have a sense of terror ... you could die there and no one would know. When a man is humiliated like that, he becomes an animal with no self-respect."

Ex-detainee S noted, "I recall the first time I was taken from my cell to the interrogation room. My whole body was trembling. I was led through a darkened corridor and then into a fiercely lit room. There were six interrogators, all plain-clothes Special Branch men. Although I was always questioned by this group of six, usually in shifts of two for anything up to 12 hours, the officers would often change their names to induce further confusion."

Aziz Ishak, op cit, pp 116-121.

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CONCLUSION

Section 73 of the Internal Security Act gives to the police, in effect, virtually absolute powers to arrest and detain individuals for up to 60 days. Once in police custody the individual is completely defenceless and without any rights whatsoever. Invariably he is held in solitary confinement, totally cut off from family and friends in the outside world and denied access to legal counsel as well as outside medical treatment as a matter of course. It is impossible to estimate the number of persons subjected to 60-day solitary confinement and interrogation under the Internal Security Act, Section 73, but from information Amnesty International has received it appears by conservative estimate that several score and perhaps several hundred may be detained at any given time. The Malaysian authorities have never divulged information on this.

By any standards the treatment of detainees during these 60 days is cruel, inhuman and degrading and in complete violation of the United Nations Standard Minimum Rules for the Treatment of Prisoners*, which are generally recognized as the authoritative statement of international minimum standards. Internationally recognized standards emphasize that deprivation of liberty through detention is inherently punitive in itself. It must be stressed that detainees under the Internal Security Act have never received a fair and impartial adjudication of their guilt or innocence, and that, by definition, their detention is to be "preventive" not "punitive". The Standard Minimum Rules specifically recognize "Persons Arrested or Detained Without Charge" as a special category of prisoner who "are presumed to be innocent and shall be treated as such"** and who "shall benefit by a special regime"***, including the right to have "food procured at their own expense from the outside" $^{\pm}$, "to wear his own clothing" $^{\pm}$, "to procure at his own expense ... books, newspapers, writing materials"7, and "to be visited and treated by his own doctor or dentist"7.

Regrettably, Malaysian practice in cases of preventive detention under Section 73 makes a mockery of these internationally-established minimum standards, a mockery of the presumption of innocence, and, in sum, a mockery of the individual prisoner's right to basic human dignity. The entire regime of initial arrest, detention and interrogation is designed with the express objective of breaking the detainee's spirit by the infliction of harsh punishment measures, including psychological torture in virtually all cases and physical torture in some cases.

*	United Nations, N.Y. 36273,	, S
**	<u>Ibid</u> , Part II, C, 84(2)	
***	<u>Ibid</u> , Part II, C, 84(3)	
Ŧ	<u>Ibid</u> , Part II, C, 87	
Ī	<u>Ibid</u> , Part II, C, 88(1)	
4	<u>Ibid</u> , Part II, C, 90	
7	<u>Ibid</u> , Part II, C, 91	

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Before turning to prison conditions at Batu Gajah and at Taiping, it is necessary to note that although most political prisoners who have been served with detention orders are transferred to either Taiping or Batu Gajah detention camps, Amnesty International is gravely concerned that in recent years some detainees have continued to be kept in secret Special Branch Holding Centers long after they have been served with detention orders under Section 8(1) of the Internal Security Act. Whilst they remain at these centers they continue to be kept in complete solitary confinement under the same conditions that detainees are held in for 60 days' interrogation under Section 73 of the Internal Security Act. One case that has come to the attention of Amnesty International is

Kassim Ahmad, who was arrested in November 1976 together with a number of other prominent politicians. Kassim Ahmad is a former lecturer in Malay language and literature at the School of Oriental and African Studies of the University of London, who on his return to Malaysia became a schoolteacher and an active member of the Partai Sosialis Rakyat Malaya (Malayan People's Socialist Party). From November 1976 to August 1977, a period of nine months, he was kept in solitary confinement at an undisclosed Special Branch Holding Center in Kuala Lumpur. Throughout this period he was allowed no reading matter other than the Koran and his spectacles and his watch were taken away from him. He complained that his cell was poorly ventilated and thoroughly infested with mosquitoes. In August 1977 he was eventually transferred to Taiping Detention Camp where he remains imprisoned. He has lost considerable weight as a result of his treatment and is suffering from shingles and high blood pressure.

CHAPTER V

According to information given to the Amnesty International mission by the Permanent Secretary of the Ministry of Home Affairs, Tan Sri Osman Cassim, there were, in November 1978, 883 long-term detainees in Malaysia, that is individuals who had been served with detention orders under Section 8 of the Internal Security Act. In addition to this number there are approximately 50 persons detained under the Internal Security Act at a camp in Sibu, Sarawak (East Malaysia). The prisoners at Sibu have now been detained for several years and were formally part of a much larger group of political prisoners who were imprisoned at the Seven Mile Detention Camp near Kuching. Furthermore, as arrests under the Internal Security Act are occurring all the time in Malaysia, the number of long-term detainees at the time of writing (April 1978) is almost certainly much higher now. For example, Reuter reported from Kuala Lumpur on 15 April that 13 trade unionists who belonged to the Airline Employees' Union (AEU) had been served with two-year detention orders after having participated in a go-slow. Other arrests have undoubtedly occurred.

Of the 883 long-term political prisoners held without trial in peninsular Malaysia in November 1978, 100 were imprisoned in the Batu Gajah Special Detention Camp and the remainder, 783, in the Taiping Detention Camp. At least 89 of these prisoners had, as of November 1978, been imprisoned for more than five years. One detainee, Kong Hoi, has been imprisoned without trial in Batu Gajah since November 1964.

Another case known to Amnesty International of prolonged detention in solitary confinement at a secret Holding Center is that of Dr Syed Husin Ali, Professor of Sociology at the University of Malaya and one of Malaysia's most distinguished social scientists. Arrested in November 1974, Dr Husin Ali was held for 60 days in solitary confinement in Kuala Lumpur and then served with a detention order and transferred to Taiping Detention Camp. On 3 July 1976 Dr Husin Ali was removed from Taiping to a secret Holding Center in Kuala Lumpur. Efforts by his wife and lawyer to trace him were to no avail and the authorities refused to disclose his whereabouts. It was subsequently learnt that Dr Husin Ali was interrogated continuously for four days and nights, abused, spat upon and kicked. It was several weeks before his wife was at last allowed to visit him again, and then not at his place of detention, but at the Jalan Bandar (High Street) police station where Dr Husin Ali was brought in a closed van. Dr Husin Ali remained in solitary confinement at a secret Holding Center for over seven months. Eventually in late January 1977 Dr Husin Ali was transferred once again back to Taiping Detention Camp where he is now in his fifth year of imprisonment without trial.

Undoubtedly the most serious case known to Amnesty International of prolonged detention in solitary confinement at a secret Holding Center is that of the writer and journalist Samad Ismail. Considered by many to be the finest living writer in the Malay language, Samad Ismail was arrested in June 1976. Two weeks before his arrest, Samad Ismail was awarded Malaysia's highest literary award for his contributions in the fields of journalism and literary criticism.* He was given the award by the Prime Minister, Datuk Hussein Onn. The Malaysian authorities in justifying Samad's arrest charged that he had tried "to lower the resistance of the Malays against communist ideology." On 1 September 1976 Samad appeared on Malaysian television and "confessed" to being a secret communist. Throughout the period of his detention, now three years, Samad Ismail has been kept in solitary confinement at a secret Special Branch Holding Center. He has been denied all writing and reading material other than the Koran and receives only irregular visits from his family.

Amnesty International has been informed of other cases of individuals detained longer than 60 days in secret Special Branch Centers, and Tan Sri D.B.W. Good, Chairman of the Advisory Board, admitted to the mission delegates that a number of persons were being held for longer helping the Special Branch with their inquiries, "in which they were most anxious to assist."

Batu Gajah Special Detention Camp

Batu Gajah is a former British colonial prison built in the latter part of the last century. Since independence in 1957 it has been used to detain political prisoners. Conditions in the camp are exceptionally severe as a result of tough new regulations introduced on 10 March 1977.

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The citation read: "With all sincerity and respect we accord the highest recognition to Samad Ismail for his contributions and services in the literary field which has given meaning to the dignity of the nation and the people."

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According to the Malaysian Government Batu Gajah is used to imprison "hard-core" prisoners, yet both the Permanent Secretary, Tan Sri Osman Cassim and the Chairman of the Advisory Board, Tan Sri D.B.W. Good acknowledged to the Amnesty International mission delegates who visited Malaysia in November 1978 that none of the detainees at Batu Gajah had been imprisoned for terrorist activities or had committed acts of violence. Although Malaysia (or Malaya as it then was) faced a serious insurrection led by the Malayan Communist Party directed against the British colonial authorities between 1948-57 and a renewed wave of insurgency in 1974-76, the detainees at Batu Gajah were members of political parties which were legal and registered with the Government and which engaged in legitimate non-violent political activity. Most of the Batu Gajah detainees were members of either the Malayan Labour Party (now defunct) or the Partai Rakyat (People's Party, which later became the PSRM - the Malayan People's Socialist Party), two small leftwing parties which in the 1960s came together to form the Socialist Front. Other detainees have been arrested for legitimate trade union activities. Of the 100 detainees imprisoned at Batu Gajah, no fewer than 53 were arrested before 1971 and less than 15 have been sent to the prison since 1974. Conditions at Batu Gajah Special Detention Camp were tightened up considerably as a result of an amendment to the Internal Security Act which came into force on 10 March 1977 (see Appendix II, Internal Security (Detained Persons) (Amendment) Rules 1977). As a result of this ruling Batu Gajah was reclassified as a Special Detention Camp and all prisoners were detained in individual cells in solitary confinement for a minimum of 21 hours a day. In theory the 1977 amendment provides for prisoners to be allowed out for longer than this, but in practice no detainee at Batu Gajah has been allowed out of his cell for longer than three hours a day since 10 March 1977. Indeed on Sundays and public holidays, prisoners have been locked in their cells all day, so that there are occasions when a prisoner is not allowed out of his cell for as long as 72 hours. The prison commandant has justified this action in terms of "inadequate staffing over holiday periods". Ventilation in the cells is extremely poor and prisoners' families and ex-detainees have alleged constant harassment and humiliating treatment from the prison guards. Prisoners are allowed to receive only one letter and one visit every three weeks.

Medical conditions at the camp are grossly inadequate. A medical orderly visits the camp twice a week and any prisoner who is ill has to report to him. The orderly is an Indian and this presents severe problems for the detainees, 97 of whom are Malaysians of Chinese extraction. This problem is compounded by the fact that a sick prisoner has to be recommended by the orderly before he can see the camp doctor. The doctor, who visits the camp once a week,was, in 1978, a Bangladeshi on contract work in Malaysia and spoke only English. Prisoners have complained to the authorities on several occasions about the difficulties caused by this. In addition, prisoners are not allowed to receive traditional Chinese medicines. Given that the detainees experience considerable difficulties with the camp orderly and doctor and that many of them have great faith in traditional medicines, this can only be seen as an unnecessarily harsh and inhumane action by the authorities. A further problem related to medical treatment must be mentioned. When detainees leave the camp for whatever reason they must be handcuffed at all times. The prisoners regard this as particularly unjust and inhumane, and many of them refuse to go

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to hospital because of it. Those prisoners who are sent to hospital are handcuffed to the bed or to a guard even when they are undergoing surgical operations. Moreover, the cells themselves are small and poorly ventilated, measuring only 12' X 8' with only one window set high up in the cell wall. The door of the cell is made of wood and is 4" to 5" thick, so that, if a prisoner is ill, his calls for help can only be heard with difficulty.

Amnesty International has received repeated reports over the years of ill-treatment of prisoners at Batu Gajah prison both by the warders and by members of the Federal Reserve Unit (FRU), an elite riot brigade which has on several occasions been sent to the prison to deal with alleged prison disturbances. One such incident known to Amnesty International was on 27 November 1969. FRU troops were sent into the prison after prisoners had protested about conditions. Several prisoners were assaulted including one female detainee who was later transferred to Ipoh Hospital. This and later assaults on prisoners took place with the full knowledge and, in some cases, in the presence of the camp commandant Omar bin Mohammed Amin, whom prisoners have repeatedly accused of political bias and communal sentiment against the detainees. Similar incidents to that in November 1969 involving considerable and excessive use of force by the authorities are known to have taken place during hunger strikes at Batu Gajah on 26 May 1967 and on 25 March 1968. In both cases FRU troops were called to the camp after hunger strikes respectively of 16 and 21 days' duration. In May 1967, prisoners were tear-gassed and on both occasions clubs were used against the prisoners. In July 1968 and again in March 1969, FRU troops were also called to Muar detention camp (now no longer used for political prisoners) and several detainees were beaten.

These incidents pale however in comparison with the violence that occurred at Batu Gajah in December 1973. The incident arose on 29 December after prisoners at the camp had demanded a full inquiry into the death by suicide of Wong Sui Sang, a detainee at Taiping camp (see further below). The Batu Gajah camp commandant refused to meet with the prisoners' representatives and called FRU units to the camp. The FRU troops then proceeded to lock all the prisoners in solitary confinement using in the process considerable violence, clubbing some prisoners and using tear-gas against prisoners in Blocks B and C. The following morning, 30 December, the authorities deprived all prisoners of their rights to visits and to reading and writing material for three months. The prisoners protested in the only way now open to them, by staging a hunger strike.

From 29 December 1973 until 13 February 1974, when the prisoners ended their 47-day hunger strike, the Federal Reserve Unit took over the administration of Batu Gajah camp. The whole camp was kept in a state of virtual siege; all roads leading to the camp were blocked by police check points and vehicles and the public were forbidden to approach the outskirts of the camp. Inside the camp there were continual beatings of prisoners which are best recalled in the words of a former inmate:

"I will never forget those days. It is not a period I think I could live through again. There was not a day throughout the whole hunger strike when beatings did not take place. We were daily abused and threatened when we took our baths.

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It is quite clear that this terrorization of the prisoners at Batu Gajah took place with the full knowledge of the camp superintendent, Omar bin Mohammed Amin. In addition to the violence and intimidation that accompanied the FRU operations in the camp, the personal property of many prisoners including watches, clocks, pens and letters was confiscated during cell searches.

On 13 January 1974, all 168 political prisoners at Taiping Detention Camp went on hunger strike in sympathy with their comrades at Batu Gajah. In the morning of 14 January the 139 male detainees were transferred by road in FRU vehicles to Batu Gajah camp. On arrival, they entered the camp, not through the main gate of A Block, the usual entrance, but through a 300' long, narrow side lane, along both sides of which were stationed FRU troops and warders. The Taiping prisoners were forced to walk through these lines and were systematically beaten, kicked and clubbed with batons. All 139 detainees from Taiping were compelled to go through this gauntlet. An ex-Taiping detainee testified to the Amnesty International mission delegates:

The same afternoon, the newly arrived detainees from Taiping were subjected to another beating on their way to the bathrooms. Some seriously injured detainees who were unable to walk and had refused to take their bath were pulled out from their beds and assaulted. The following day, 15 January 1974, the same pattern of events repeated itself. Enforced bathing took place in the morning and the prisoners were again subjected to beatings before and after bathing. Within 24 hours of arrival at Batu Gajah, the Taiping detainees had been subjected to three beatings.

Night-time was the worst, hardly an evening went past without sleep being disturbed by the screams of a prisoner being beaten in his cell."

"When I arrived at Batu Gajah, I was beaten up by the riot squad as I descended from the van. This was in front of the small gate at the side of the main gate. One riot squad member led one detainee. I heard a lot of noise and shouting by detainees. They used truncheons to poke the stomach, side etc. They kicked us as well. The riot squad formed two lines and the detainees had to go through this line. There were about 20 vans with six to twelve prisoners in each van. There were about 40 FRU (riot squad) members present. The warden, Omar bin Mohammed Amin, as well as his assistant, Law Kim Fook, were present throughout the beatings and also participated in them. I was personally kicked and beaten with a truncheon. [was in great pain. Some prisoners were vomiting blood, others were shouting and screaming as they were beaten up. The following day I was beaten again."

The same day, 15 January, six seriously ill detainees from B Block were asked by the camp doctor to be admitted to the district hospital. The camp authorities promised that there would be no handcuffing either on the way to the hospital or on the sickbed, so the prisoners agreed to be hospitalized. However on arrival at the hospital, the prisoners were handcuffed to their beds by the escorting FRU troops. The prisoners

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objected strongly to this and at 9.30 pm they were transferred back to the camp. When they arrived back at B Block despite their considerably weakened state - the prisoners were now in the 18th day of their hunger strike - they were beaten severely by their FRU escort in the presence of the deputy superintendent of the camp, Law Kim Fook. On 5 February, the 38th day of the hunger strike, one detainee in B Block, Lim Yoke Wan, who was the last to come out to bathe that day, was severely assaulted by two FRU officers and two warders at about 3.37 pm. The following day, another detainee, Goh Siew Peng, who had been sent to hospital earlier after severe beatings, was again assaulted by two warders and officers and lost consciousness. This was the fourth time during the hunger strike that he was beaten up. Another detainee who saw Goh in hospital a few days later described him as unable to talk, and the hospital authorities, convinced that Goh would not live if he was again assaulted, refused to let him return to the camp.

Beatings were commonplace during the hunger strike and several warders took a prominent part in these brutal attacks. Amongst them were Zainal, the deputy superintendent of Taiping Detention Camp, and two senior officers of Batu Gajah camp, Anwaruddin and Mooi Chang Lian. As a result of these beatings several detainees at Batu Gajah suffered serious injury, including severe internal wounds and internal haemorrhaging. Three detainees, Han Yew Peng, Kong Hoi and Gunaratnam, were admitted to the district hospital with serious heart complaints. Two other prisoners, Oon Siew Tian and Lee Ah Ming were admitted to hospital with serious kidney complaints after beatings. Lee Ah Ming was later transferred from Batu Gajah prison to Ipoh General Hospital for emergency treatment. Another detainee, Lee Ching Yih suffered a severe nervous breakdown ofter the hunger strike and was sent to Tanjong Rambutan Psychiatric Center. Other prisoners who were sent to hospital as a result of beatings they received included Lee Ban Chian, Yap Bee Hui, Lim Choon Hwa, Chao Bee Poh and Goh Sao Nien. One detainee, Lim Joo was so severely beaten by two warders that he vomited blood for five days afterwards. Amnesty International has also learnt of the death of at least one detainee as a result of the assaults which took place during the hunger strike. Chong Kow Chai was released unconditionally in July 1974 from Batu Gajah. He died on 19 December 1974 from chronic renal failure. Chong had been beaten badly by the FRU in January 1974. The hunger strike ended on 13 February with the authorities agreeing to a restoration of prisoners' rights as they existed before the commencement of the strike. Throughout the period of their presence at Batu Gajah, the FRU troops removed their name and number badges to prevent identification by the prisoners.

The introduction of new regulations at Batu Gajah and the classification of the prison as a "Special Detention Camp" on 10 March 1977 evoked widespread discontent amongst the prisoners. At 4.20 on the morning of 10 March, the prison was surrounded by a large force of police and FRU troops who entered the camp, woke all the detainees and moved them to small individual cells. Their own cells were then systematically searched by Special Branch officers, who in the process confiscated many of the prisoners' personal belongings. For the next five days prisoners were allowed out of their cells for only 10 to 15 minutes twice a day to take a bath and empty their toilet buckets. For a further five months until August 1977 the prisoners were allowed out for two half-hour periods a day.

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As we have noted earlier, the effect of the regulations was to worsen even further the already grim conditions at Batu Gajah. Since August 1977, detainees have been locked in their cells for a minimum of 21 hours a day and are allowed to send a letter and receive a family visit only once every three weeks. Although in theory the new regulations provide for prisoners to be allowed out of their cells for up to a maximum of eight hours a day and to receive weekly visits, in practice since March 1977 no prisoner in Batu Gajah has been allowed anything more than the minimum that the regulations prescribe. In addition, the right of prisoners to receive overseas mail and to subscribe to newspapers and magazines has been withdrawn and their freedom to receive food from their families has been seriously curtailed. Amnesty International has received repeated and detailed complaints

from prisoners and their families about conditions in the Batu Gajah detention camp. Besides the grossly inhumane practice of keeping untried prisoners in solitary confinement indefinitely and the thoroughly inadequate medical treatment at the camp, there have also been many complaints about diet and harassment of the prisoners by the guards of the camp. Meals are served to the prisoners individually in their cells and the whole process of serving the prisoners their meals lasts more than two hours, so that by the time the last prisoners have received their meals, the food is cold and usually unpalatable. The food is of extremely poor quality and given that the prisoners are anyway in many cases in serious ill health this can only lead to a further deterioration of their condition. Amongst the complaints most common with prisoners are rheumatism, arthritis, kidney problems, stomach ulcers, tuberculosis, diabetes and heart conditions. Prisoners are frequently subjected to harassment from the guards in many forms. Loudspeakers have been installed in all three blocks of Batu Gajah and these have been used to disturb prisoners day and night. Prisoners' cells have been raided frequently at all times under the pretext of searching for clandestine literature. During these raids,

further hardship is caused by the confiscation of prisoners' belongings. At night prisoners' sleep is frequently disturbed by guards shouting and throwing stones on to the roof of the prison. The prison authorities have also installed bells in the camp with the original intention of signalling the time for guards to change shifts. These bells however are rung frequently and repeatedly, even at night. Furthermore, the construction of Batu Gajah is such that every time a cell door is opened it clanks and reverberates throughout the building, so much so, that one ex-detainee described it as like living in a tin drum. Amnesty International is gravely concerned that several detainees at Batu Gajah are seriously ill. One prisoner, Lim Joo, has suffered

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since 1974 from a kidney problem. Although the camp doctor has recommended an operation, Lim Joo has refused to be hospitalized because like other detainees he refuses the indignity of being handcuffed to a hospital bed. It is known that a number of other detainees - Chia Leong Seng, Han Yew Peng and Lee Ah Ming - are known to be in need of medical operations. Other prisoners are suffering from tuberculosis, exacerbated because the cells are damp and wet. Another prisoner with a known kidney problem, Chong Kim Yuen, is reportedly in such pain that his cries are audible throughout the prison at night.

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A not untypical medical history at Batu Gajah is that of Han Yew Peng. A former bus conductor, Han Yew Peng was arrested on 26 June 1971. On 29 December 1973, at the beginning of the Batu Gajah hunger strike, he was beaten by three FRU officers and warders. He was kicked in the stomach and struck in the back, chest and waist with cudgels. In mid-January 1974, he was sent to hospital and given dextrose and normal saline intravenous injections. He was discharged from hospital on 14 March 1974 still complaining of back and chest pains, as well as vomiting and diarrhoea. He was informed by the doctor that he was suffering from thyrotoxicosis, cardimyopathy and hypertension and advised that he required further medical treatment. In 1976, he was recommended for treatment at Ipoh General Hospital but refused because he was informed he would have to be handcuffed throughout any treatment. In September 1977, the medical officer at the Batu Gajah District Hospital where Han Yew Peng was treated as an outpatient said that she was no longer able to treat him and he needed an urgent operation. Han Yew Peng however has continued to refuse medical treatment unless the authorities give a guarantee that he will not be handcuffed. He has continually pointed out to the authorities that the handcuffing of prisoners when they go outside the prison for medical treatment or to attend a family funeral was only introduced a few years ago. In the meantime, Han Yew Peng's physical condition has continued to deteriorate. He suffers continually from pain and vomiting, his pulse count is 100-120 and his blood pressure is above 140/90. Further details of the medical conditions of Batu Gajah detainees are provided in Appendix IV.

In conclusion, it is worth stressing that in conversation with the Amnesty International mission delegates in November 1978, both Tan Sri D.B.W. Good, the Chairman of the Advisory Board and Tan Sri Mohammed Osman bin Samsudin Cassim, the Permanent Secretary of the Ministry of Home Affairs, confirmed that none of the detainees at Batu Gajah, all of whom are untried, was a "terrorist" or had been detained for violent activities. Both officials also acknowledged to the mission delegates that conditions at Batu Gajah were severe and indeed Tan Sri Osman Cassim described these conditions as "a necessary means of rehabilitation". Amnesty International firmly believes that the Batu Gajah Special Detention Camp should be closed at the earliest possible date and the prisoners held there released immediately and unconditionally.

Taiping Kamunting Detention Camp

Like Batu Gajah Special Detention Camp, Taiping Kamunting Detention Camp is situated in the state of Perak, some 300 kilometres north of the Malaysian capital, Kuala Lumpur. It is more than five hours by road from Kuala Lumpur and this presents great difficulties for families visiting detainees. Taiping Kamunting camp is a modern prison which, according to information given to Amnesty International by Tan Sri Osman Cassim, the Permanent Secretary of the Ministry of Home Affairs, held 783 detainees in November 1978, including about 200 women detainees. All these prisoners, like the 100 detainees at Batu Gajah, are imprisoned without charge or trial under the Internal Security Act.

In contrast to Batu Gajah, the prisoners at Taiping are not as a rule kept in solitary confinement. The camp holds both male and female detainees who are held in Kawasan or units, each unit holding approximately

30 to 50 prisoners. The number of prisoners held at Taiping has expanded considerably in recent years from about 170 in 1974 to approximately 800 at the time of writing (April 1979). This more than four-fold increase in numbers had led to considerable overcrowding in the barracks, with the prisoner population in most barracks doubling in number. For example, Kawasan 2, Perempuan (Female), held only 10 women prisoners in 1976 but by 1978 this number was increased to 25. The prisoners are held in barrack-like accommodation and in many of these barracks there is now gross overcrowding with the detainees' beds closely cramped together. Each Kawasan or unit is fenced off from other units by an aluminium and zinc fence. This tends to make the barracks even hotter than they would normally be and to make ventilation poor. Detainees have no contact with fellow-detainees in other Kawasans.

Medical conditions at Taiping, as at Batu Gajah, are completely inadequate. The attendant medical orderly speaks no Chinese although the vast majority of the detainees are of Chinese extraction. The prisoners are not allowed to receive traditional Chinese medicines. Amnesty International has received repeated reports that sick detainees have not received adequate treatment in the past and the situation has not changed to date. We have already noted above the prolonged hunger strike which took place in December 1973 to February 1974 at both Batu Gajah and Taiping camps. The hunger strike had been staged by the prisoners as a result of the death of a Taiping detainee, Wong Sui Sang also known as Wong Meng Kiew. Wong Sui Sang committed suicide on 29 December 1973 after being ill for three years from acute rheumatism and tinnitus. The inadequacy of medical conditions at the camp was commented on by the Coroner, Mr Loh Hop Bing, at the time President of the Taiping Sessions Court, who observed that:

"... On the evidence of this enquiry, only a mere hospital assistant was in charge of the clinic (i.e. the clinic attached to the Detention Camp) and a medical officer was sent for duty in the afternoon of every Wednesday only

.... The detainees were only allowed to see the doctor after going through the hospital assistant. This would appear to be a sufficiently cumbersome process. Moreover, the Wednesday weekly visits by the doctor for a few hours to attend to a population of 169 detainees in the whole camp would appear to be rather inadequate. It was indeed not the doctor's fault as he was merely receiving instruction issued by the higher authorities (to make these visits) and he could not go on a frolic of his own to make more frequent visits to the Camp, over and above the very specific ambit of the instruction emanating from the higher authorities. In order to remove or discontinue any grievance or allegation arising from the detainees, I would strongly urge upon the authorities concerned to adopt a more effective and efficient system whereby the visits by a medical officer could be increased in a manner commensurate with the medical complaints of the detainees and the process of going through a hospital assistant before seeing a doctor be completely abolished so that the detainees might avail themselves of the valuable consultation of a medically qualified practitioner"

(Emphasis added)

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Despite the Coroner's pointed remarks medical conditions at Taiping camp have not improved. Although the doctor now visits the camp twice a week the number of prisoners has quadrupled since 1974. The year after Wong Sui Sang's death, another prisoner at Taiping, Kok Yoke Wah, committed suicide after suffering a mental breakdown. The father of eight children, Kok Yoke Wah, had reportedly been beaten severely during interrogation and he was subjected to much mental anguish over the conditions of his family. Two months before his death, in November 1974, Kok Yoke Wah was visited at Taiping by Special Branch officers and he was interrogated again. After this interrogation he was in a state of considerable distress and suffered bouts of severe depression and told other prisoners that the Special Branch had threatened to hold him for life unless he made a confession. On 10 January 1975, Kok Yoke Wah took his own life. In the same year, 1975, at least four other detainees at Taiping suffered nervous breakdowns, one of them so severely that she was sent to Tanjong Rambutan Psychiatric Center.

Many of the detainees held at present in Taiping are known to be in extremely poor health suffering from a wide range of ailments, including nervous diseases, asthma, tuberculosis, rheumatism, heart ailments, kidney disorders and epilepsy. Moreover, it should also be borne in mind that many of the detainees have suffered considerably during interrogation at the hands of the Special Branch. In 1975 when the International Committee of the Red Cross visited Taiping several sick detainees were transferred to a local hospital before the arrival of the delegation. Amongst those transferred at the time of this visit was Liew Nyok Lan. Now aged about 25, Liew Nyok Lan suffers from severe rheumatism and mental depression. Her fellow-detainees have continually pressed the authorities for permission for her to see a specialist. Also transferred during the ICRC visit was a 19-year-old detainee, Low Kam Tai, who suffers from epilepsy. Another female detainee known to be seriously ill is Pik Hwa, a 60-year-old woman who suffers from acute rheumatism and is now the oldest woman in Taiping.

Prisoners at Taiping have also complained of the censoring of reading material and letters at the camp. Guards have frequently delayed both incoming mail and newspapers for detainees for several months. Moslem detainees at Taiping complain bitterly too of not being allowed to attend the mosque on Fridays, the Islamic holy day. Moreover, a number of prisoners who have used their stay in prison to write such as Professor Syed Husin Ali and Kassim Ahmad, Chairman of the Partai Sosialis Rakyat Malaya (Malayan People's Socialist Party) have had their writings confiscated by the camp authorities.

Nothing has contributed more to embittering detainees at Taiping in recent years that the introduction of a glass panel or divider to separate the detainee from his visitor. Since the glass divider contains only a few tiny holes, through which the parties are expected to speak to each other, the parties can barely hear each other. This is particularly difficult for the visiting parents who, in many cases are quite old. The same restrictions regarding handcuffing of detainees that apply to Batu Gajah Special Detention Camp, apply also to Taiping Kamunting.

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The Superintendents of both Batu Gajah and Taiping Detention Camp are invested with wide powers under the Internal Security (Detained Persons) Rules 1960. The Superintendent can, for example, deprive a detainee, almost indefinitely, of his or her privileges including the right to write or receive letters, and to receive visitors and reading material. The Superintendent also has power to order a detainee to be confined to a "punishment cell" on a "punishment diet". The offences for which such punishment is meted out are classified as either a "minor offence" or an"aggravated offence" but also, "any act, conduct, disorder or neglect which may reasonably be considered to be to the prejudice of good order or discipline." This considerable vagueness allows for much abuse of authority by the camp Superintendents. In 1975 the Superintendent of Taiping camp, Charan Singh, introduced new regulations making it punishable for 1) a detainee to show disrespect for warders; 2) a detainee to disobey a warder's order and 3) a detainee to speak loudly in the barracks. Any detainee who has violated the above regulations is liable to be punished in the following ways: a) being locked up in solitary confinement in the punishment cells on a bread and water diet; b) being denied his right to visits and correspondence for certain periods of time. Amnesty International has also received reports of prisoners being beaten and abused by warders at Taiping.

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CHAPTER VI

SOME INDIVIDUAL CASE HISTORIES OF DETENTION IN MALAYSIA

The following are a cross section of cases of individuals known to Amnesty International to be detained without trial under the Internal Security Act.

Dr Syed Husin Ali

Dr Syed Husin Ali was arrested in November 1974. He was educated at the University of Malaya and at the London School of Economics where he obtained his Ph.D in 1972. His thesis was subsequently published by Oxford University Press as Malay Peasant Society and Leadership. Dr Husin Ali's work on rural sociology in Malaysia enjoys a wide international reputation and he has attended several international symposia organized by UNESCO and ECAFE. He was appointed Professor of Sociology at the University of Malaya, Kuala Lumpur in 1972. For several years prior to his arrest he was an active member of the Partai Rakyat Sosialis Malaya (PSRM - Malayan People's Socialist Party) and since 1967 a member of its Central Working Committee.

After 60 days' interrogation at an undisclosed Special Branch Center in Kuala Lumpur Dr Husin Ali was transferred to Taiping Detention Camp. In 1976 he was returned to a Special Branch Holding Center in Kuala Lumpur where he was held in solitary confinement for six months and subjected to considerable ill-treatment (see also Chapter V). Thereafter he was transferred back to Taiping where he remains imprisoned.

Like other Moslem detainees at Taiping Dr Husin Ali is not allowed to attend the mosque on Friday. In his early years at Taiping Dr Husin Ali occupied his time by completing a study of rural inequality in the state of Kelantan. In the last few years however his writings have been confiscated by the Special Branch.

Tan Hock Hin

Tan Hock Hin has been detained for $11\frac{1}{2}$ years without trial. Before his arrest in July 1967 he was a schoolteacher and legislative councillor in Penang. He was formerly Assistant Secretary General of the Labour Party of Malaya. He is now 39 years of age.

Tan Hock Hin was arrested for taking part in demonstrations against United States intervention in Vietnam and for protesting against the Malaysian Government's decision to ban the United Malayan Estate Workers' Union. The Government held that such activities were "prejudicial to national security" and "promoted Communist United Front activities". Tan Hock Hin is now one of 89 prisoners who have been held for more than five years under the Internal Security Act.

Like all political prisoners in Malaysia, Tan Hock Hin has never been formally charged, and consequently has had no opportunity to challenge the Government's allegations against him in open court. He is detained at Batu Gajah Special Detention Camp.

Datuk Abdullah Majid was arrested in November 1976 together with five other leading politicians after an intense power struggle within the ruling United Malays National Organization. At the time of his arrest he was an MP representing UMNO and Deputy Minister for Labour and Manpower and had formerly been press secretary to Tun Razak, Prime Minister of Malaysia between 1972 and 1976.

For the first 60 days of his arrest he was held in Kuala Lumpur. He subsequently complained that during this period he was continually deprived of sleep and subjected to numerous threats to himself and his family. He was deprived of soap, toothbrush, comb and toilet facilities throughout his 60 days' interrogation. Interrogation lasted for lengthy periods of time, during which he was not allowed to go to the toilet. The only reading matter provided for him was the Koran. He is detained at Taiping Detention Camp.

Ong Loong Sheng was arrested on 16 May 1967 and is now detained at Batu Gajah Special Detention Camp. A graduate of Nanyang University, Singapore, he became Organizing Secretary of the United Malayan Estate Workers' Union in March 1967 and in this capacity helped to organize workers engaged in a strike at the Trinang Estate. One of the allegations cited by the authorities as proof of his support for "Communist United Front" activities was his possession of three books on Marxism. One of these books was written by an anti-Marxist and none of the books was proscribed at the time of his arrest.

At the time of his arrest in November 1976, Kassim Ahmad was Chairman of the Partai Sosialis Rakyat Malaya (Malayan People's Socialist Party), Educated at the University of Singapore, Kassim Ahmad was Lecturer in Malay Language and Literature at the School of Oriental and African Studies of the University of London from 1964 to 1966. On his return to Malaysia he became active in political life.

From the time of his arrest in November 1976 to August 1977, Kassim Ahmad spent nine months in solitary confinement at a secret Special Branch Detention Center in Kuala Lumpur. His wife was allowed to visit him fortnightly at another police station. During this period he was allowed no books other than the Koran and his spectacles and watch were taken away from him. At one point he was interrogated for three days and nights by six Special Branch officers.

Kassim Ahmad is now detained at Taiping Detention Camp. Since his arrest he has lost weight and he is now suffering from high blood pressure and shingles. During his first months at the camp he wrote a 76,000-word novel which has been confiscated by the Special Branch. He has also expressed the wish to write a doctoral thesis but the Ministry of Home Affairs has refused this request. Several of the allegations made against him as proof of his support for "Communist United Front" activities related to criticisms he had made of the Government in his

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Ong Loong Sheng

Kassim Ahmad

capacity as leader of a legal political party and to his possession at the time of his arrest of several Russian novels.

Chen Shek Voon

Chen Shek Voon was arrested on 11 March 1974 and is detained at Taiping Detention Camp. Educated at Borough Polytechnic, London, Chen Shek Voon worked as a teacher and as a journalist on a Chinese language paper, Sin Chew Jit Poh, prior to his arrest in 1974. Many of the allegations made against him in the grounds for detention referred to periods when he was not even resident in Malaysia.

<u>Oon Siew Tian</u>

Oon Siew Tian was arrested on 19 December 1972 in Penang and is now detained at Batu Gajah Special Detention Camp. He is a peasant farmer by occupation and was formerly active in the Labour Party of Malaya (LPM). Oon Siew Tian was badly beaten up during interrogation and again during the 1974 hunger strike at Batu Gajah.

He is suffering from tuberculosis and several skin complaints.

Law Kam Tai

Law Kam Tai was arrested in 1975 and is now detained in Taiping Detention Camp. She is now believed to be about 20 years of age. During her initial interrogation at Ipoh Police Station she was beaten and stripped on several occasions. Law Kam Tai is an epileptic and despite protests by her fellow-prisoners she has not received adequate treatment at Taiping.

Lim Choo Leong

Lim Choo Leong was arrested on 27 December 1967 and is now in his twelfth year of detention. He is detained at Batu Gajah Detention Camp. Before his arrest he was a hawker by occupation and was active in the Labour Party of Malaya. Lim Choo Leong was badly beaten up during the hunger strikes at Batu Gajah in 1968 and 1974. He still suffers from a liver complaint as a result of these beatings. Lim Choo Leong also has frequent attacks of rheumatism and nasal illnesses. He was arrested after taking part in demonstrations in 1967 organized by the Labour Party following the devaluation of the Malaysian dollar which led to a hartal (boycott of shops) in Penang.

Liew Yet Hua

Liew Yet Hua is a widow of over 60 years of age who is detained at Taiping Detention Camp. She was arrested in Taiping in 1977 and beaten during her 60 days' interrogation at Ipoh Police Station. She is in very poor health suffering from rheumatism and anaemia.

Samad Ismail

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Samad Ismail is one of Malaysia's leading intellectuals and writers. As a young man he was active in the nationalist movement and was twice

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imprisoned by the British. He was arrested in June 1976 and has since been held in solitary confinement at an undisclosed Special Branch Holding Center in Kuala Lumpur. At the time of his arrest he was Managing Editor of the New Straits Times, Malaysia's leading newspaper.

Several months after his arrest Samad Ismail made a confession on Malaysian television that he was a life-long communist. Amnesty International however believes this confession was only made under extreme duress and against a background of threats both to Samad Ismail and his family. Throughout his three years of solitary confinement he has been denied all reading material other than the Koran and he is not allowed to write to his family. Two weeks before his arrest he was awarded Malaysia's highest literary award by the Prime Minister, Datuk Hussein Onn (see Chapter V, Long-Term Detention).

Goh Kean Seng was arrested on 12 March 1974 and is detained at Batu Gajah Special Detention Camp. He is a graduate of the University of Malaya and worked as a teacher before his arrest. His arrest is believed to be connected with the leading role he played in the Chinese Language Society of the University of Malaya. During interrogation he was beaten severely and repeatedly and was also dowsed continually in cold water. He now suffers frequently from chest and nasal pains as a result of these beatings.

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Goh Kean Seng

Chan Kok Kit

Chan Kok Kit was one of the six prominent political figures arrested under the Internal Security Act in November 1976 (see also Datuk Abdullah Majid, above p.47). At the time he was assistant treasurer of the Democratic Action Party (DAP). The DAP has criticized the Government on issues of concern to the Chinese community from which it draws its main support. A number of other DAP members, including the party's Secretary General, Lim Kit Siang, have been held at various times under the ISA.

In the July 1978 parliamentary elections, in which the DAP emerged as the leading opposition party with 16 seats, Chan Kok Kit was elected member for the constituency of Sungei Besi with the largest majority obtained by any candidate. His party colleague, Chian Heng Kai, who like Chan is detained in Taiping Detention Camp, was re-elected in Batu Gajah constituency. The DAP leader, Lim Kit Siang, described the electoral victories of the two men as "a popular vote of confidence in them and a vote for their release". In January 1979, the detention order on Chan Kok Kit was renewed for a further two years.

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CHAPTER VII

THE DEATH PENALTY

An examination of the Malaysian Penal Code reveals that the following offences' may be punished by death: waging war against the Government (Section 121); intending hurt or death to or restraint of the Head of State (mandatory under Section 212A); perjury resulting in execution of a person indicted on a capital charge (Section 194); abetting the suicide of a person under 18 or an "idiot ... or insane or delirious person" (Section 305); kidnapping for murder or where the victim is placed "in danger of being murdered" (Section 364), and certain offences relating to mutiny in the armed forces (Section 132). An amendment to the Narcotics Act, approved by Parliament in April 1975, makes trafficking in narcotics a capital offence. The amended act also provides for life imprisonment and flogging for narcotics dealers. Before the amendment was adopted, the maximum penalty for offences under the Narcotics Act was seven years' imprisonment. By virtue of Section 275 of the Criminal Procedure Code 1970, a pregnant woman shall be sentenced, not to death but to life imprisonment. Section 277 of the same Code provides that execution be carried out by hanging.

In September 1975, in an attempt to deter "anti-government activities", the Government announced its intention of imposing the death penalty on persons found possessing firearms, ammunition and explosives in any area declared a "security area". In such cases, the accused may be charged under Sections 57, 58 or 59 of the Internal Security Act 1960. Section 57 restricts the possession of such material within any security area without lawful excuse - and the onus of proving the excuse lawful is placed on the defence. Section 58 proscribes consorting with a person in breach of Section 57. Section 59 proscribes, among other things, possessing, receiving or providing any supplies from or to any other person in circumstances "which raise a reasonable presumption that he intends or is about to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order ...".

The application of Section 59 is not confined to security areas. The death penalty is mandatory under Sections 57 and 59 (where the supplies consist of firearms, ammunition or explosives), and discretionary under Section 58. It does not apply to offences under Section 58(2) which include consorting in circumstances where there is no reasonable presumption that the public security may be prejudiced.

In October 1975, the Malaysian Government introduced new emergency regulations, known as the Essential (Security Cases) Regulations 1975. These remove basic legal safeguards in cases certified by the Public Prosecutor as "security cases". The new law shifts the burden of proof on to the defence. It also permits witnesses for the prosecution to give evidence in camera, by affidavit or even while wearing a mask in court. Under the new regulations, appeals in security cases can no longer be made to the Judicial Committee of the Privy Council in London, and trials are held in special courts, without a jury. In addition, the judges have had their discretionary powers taken away, and are now obliged to impose whatever was previously the maximum penalty permitted by law for the offence. Section 3(3) of these

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regulations reads: "Where a person is accused of or charged with a security offence, he shall, regardless of his age, be dealt with and tried in accordance with the provisions of these regulations and the Juvenile Courts Act 1947 shall not apply to such a person."

The incidence of communist insurgency threatening the security of Malaysia is the general explanation given by the Government when passing new laws such as the above, and increasing the number of offences liable to the death penalty. Official comment on the death penalty is rare. However, according to the BBC Summary of World Broadcasts, 24 November 1976, the Sultan of Selangor said that he would not grant clemency to anyone who had been sentenced to death. This was his conclusion after a briefing on the security situation in the State on 20 November 1976, at which the Chief Minister, the Chief Police Officer of the State, and the Commander of the Kuala Lumpur garrison were present.

A Reuters report of 18 April 1977 stated that a total of 13 people sentenced to death on various charges, including carrying illegal arms, were at that time waiting in prison for the sentences to be carried out. The cases below are among those reported in the press.

According to Agence France Presse, Kuala Lumpur, a Malaysian house painter, hanged on 6 January 1967 for shooting at two police officers (neither of whom had been hit by the shots), was the first person to be executed under a 1971 law increasing penalties for using firearms (item in the British newspaper, The Times, 7 January 1976).

A carpenter aged 32, Chai Yee Ken, was sentenced to death by the High Court on 14 December 1976, after being found guilty in February of that year of unlawfully possessing five pistols and 74 rounds of ammunition. According to the Malaysian newspaper, <u>New Straits Times</u> of 15 December 1976, his house was in a place which had been declared a security area on 11 February 1976. The newspaper also said that Chai had pleaded not guilty to the charges, which fell under Section 57 of the Internal Security Act.

At the end of March 1977, the Acting Deputy Public Prosecutor, Senior Federal Counsel P.M. Mahilingam, applied for the commital as a security case of Lim Woon Chong, aged 21, under the Essential (Security Cases) Regulations 1975. Lim, reportedly described as the leader of the Malaysian People's Liberation Army, was charged with the murder of the former Inspector General of Police in June 1974 and, together with another man, with the murder of the Deputy Commissioner of Police in Ipoh on 13 November 1975. The two men were due to be tried together for the latter murder in Ipoh in July 1977, and Lim was expected to be tried alone in the High Court on the first murder charge. Both men were also charged under the Internal Security Act with illegal possession of two pistols and seven rounds of ammunition.

The <u>Far Eastern Economic Review</u> correspondent in Kuala Lumpur, K. Das, reporting on these two cases on 8 April 1977, said that the number of people tried up to that date under the Essential Regulations was approximately 12.

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The awesome implications of the Essential (Security Cases) Regulations 1975 became a reality in August 1977, when a fourteenyear-old boy was sentenced to death in Penang for possessing a firearm. He was sentenced under the Internal Security Act and tried under the new emergency regulations. The presiding judge, Mr Justice Arulanandon, stated that "It must be made clear that any juvenile, that is, any person who has attained the age of criminal responsibility described in Section 82 of the Penal Code, that is ten and under the age of eighteen, is liable to be sentenced to death if he is convicted under the Internal Security Act."

The death sentence against the boy provoked grave disquiet in Malaysia and abroad. The Malayan Bar Council protested strongly against the court's decision and against the Internal Security Act and the Essential Regulations 1975 which gave rise to it. In October 1977 the boy had his sentence commuted to detention at the King's pleasure by the State Pardons Board. In the same month the Malayan Bar Council passed a motion advising members to refuse to handle cases tried under the Act as amended in 1975. The boycott, which is still in force, has been observed by most lawyers.

In January 1978, in an effort to circumvent the boycott, the Government introduced a Bill to allow foreign lawyers to handle cases under the Act. The Bill also disqualified members of the Malaysian Parliament and officials of trade unions and political parties from holding office on the Bar Council.

On 11 December 1978, the Judicial Committee of the Privy Council in London in the case Teh Cheng Poh v. the Public Prosecutor declared the Emergency (Essential Powers) Act 1975 invalid. On 25 January 1979, the Malaysian Government introduced the Emergency (Essential Powers) Act 1979 which validated the Essential Regulations of 1975.

According to one report, quoting the Straits Times of 28 April 1977, 15 people were sentenced to death for possession of firearms between 1975 and February 1977. The report stated that this figure was given by the Deputy Law Minister, Encik Rais Yatim, who also revealed that a total of 366 people had been arrested for possession or use of firearms without permission in the same period. Apart from the 15 sentenced to death, 77 were reported to have been sentenced to various terms of imprisonment, 40 released due to lack of evidence, and 234 cases were still pending before the courts. In July 1977, the Minister for Home Affairs, Tan Sri Ghazali Shafie, stated that a total of 47 people had been sentenced to death by the High Courts of Malaysia between the beginning of 1976 and the end of June 1977. However, at the time of writing, none of them has yet been executed.

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APPENDIX

On being asked to get in I was ushered into a tiny compartment and asked to sit on a wooden bench, just sufficient for one person. The Maria had four such compartments. Quite apart from the colour of the vehicle, black, the inside of the compartment was completely dark. There was only a small hole right at the top, to serve as ventilator. It was so shaped that one could not see anything outside. Just sitting there for the first time, I felt suffocated!

The Maria travelled fast with sudden jerks and jolts, almost making me sick. The rough ride lasted about thirty minutes, but it seemed hours. On occasions I felt we were climbing a steep gradient, and then again we would be skirting a hair-pin corner. Sudden stops three times knocked my head against the walls of the compartment. The man at the wheel (I could not see him) drove like a maniac trying to catch a train. I had a feeling of extreme nausea. Silently I prayed, and then felt better.

At long last we arrived. There was a long wait. Then the Maria reversed furiously as if going up a steep hill. Just as suddenly it stopped. I must have looked in pretty bad shape when a torchlight fell on my face. The driver uttered an unemotional apology. He seemed friendly, but looked afraid. When I finally got out I could hardly stand up straight. I wanted to vomit, but tried to prevent it, as it would be breaking my fast. In fact Imsak had not yet begun, but I did not know it then. However, I survived.

Officers then conducted me into what looked like the ground floor of a block of stone houses, walking past several locked rooms, until they came to an open one. There, a person I had known as a policeman some years ago asked me to remove my clothes to put on a kind of uniform. It was navy-blue, made of coarse cotton, fashioned like a pair of Chinese trousers. Reaching just below the knees, it had a shirt with short sleeves of the same colour and material, with a small pocket. Both pieces of clothing smelt of stale sweat, as if from an unclean body which had worn them unwashed for a long time. I was disgusted, but there was nothing I could do but put them on, at the same time trying not to show my distaste.

SPECIAL GUEST

The Detention in Malaysia of an Ex-Cabinet Minister

by

Aziz Ishak

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I pretended that this new life now forced upon me was one I was accustomed to. Keeping a cheerful face, I chatted with the Malay police officer about everything in general but nothing in particular. No

Aziz Ishak: Special Guest, The Detention in Malaysia of an Ex-Cabinet Minister, Oxford University Press, 1977, Singapore, pp64ff and 69ff.

responses at all; he listened to me silently. Then he, assisted by a Corporal and a Police Constable, all in mufti, started to draw up a list of my belongings. They said I could take nothing with me. I even had to surrender my spectacles. At this request, I protested strongly, as I am near-sighted. If they insisted, I said I had no choice but to surrender them, but they would be responsible if I fell down and hurt myself as a result. Reluctantly, they agreed to let me keep them, but also hinted that the final decision about the glasses would rest with the Case Officer, who would see me later on. Later I realized that the Malay officer at the reception room had no powers, except to check me in; he had to abide strictly by the rules. All "guests" were to be stripped of everything, even glasses. Anyone can imagine the physical discomfort, the strange and unusual feeling on having one's glasses taken away suddenly, after having become so accustomed to using them that they are a part of one's body. It was really terrifying! To become almost blind and completely lose your bearings. Ask yourself, would you like your "eyes" removed? They did not even allow me to brush my teeth. Then they took me through a labyrinth of lanes among blocks of barracks, stopping from time to time at innumerable gates. At each of these my conductors had to get permission before proceeding any further. I had no idea at all where I was.

Finally they ushered me into a cell. I said I would like to say my Suboh prayer for the dawning of the new day. The policeman replied that he would have to ask permission first for me to take the ud'uk (ablution). Meanwhile he locked me in. About fifteen minutes later he took me out again, leading me to a bathroom for my ablutions. Then, after being locked in for a second time I performed the <u>Suboh</u> prayer. This is a simple, short verse that welcomes the new day, the call of the muezzin that runs with the rising of the sun around the whole Muslim world from minaret to minaret.

> Allah is Great! Allah is Great! There is no God but Allah And Mohamed is His Prophet!

As the first streaks of light rim the sky, the impressive simple chant of the prayer rolls out, echoing in the air. Not only a hymn to God, but the dawn of a new day He has given to men. A short prayer, only twelve lines, which ends eloquently with a reminder of duty and a gentle rebuke.

> Come to Prayer! Come to Prayer! Prayer is better than sleep!

It struck me forcibly then how very true it was, realizing this as if for the first time. Only twelve hours ago, I thought, I was peacefully reading the Koran in my room, in my own home. Since then my whole life had altered. I had not slept for twelve hours. I was not with those I love, but 250 miles away, alone, in prison, in a cell. And I could not, did not want to sleep. Yes, prayer is better than sleep! And so I prayed with all my heart - or I tried to.

. . .

I could not sleep at all, not even during the day. In fact, I was

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hoping to be able to get sufficient rest before the interrogation that must inevitably come - when? So far I had not had a wink of sleep since leaving Penang. I did not know what would happen. That first day and night I will never forget. Anticipating that I would be called for interrogation early, I was trying to think of what to say. I imagined all manner of procedures, all kinds of questions - things I had read about in books, seen in films, or incidents related to me by people who had themselves been through the grill-mill before. Somehow, I was not afraid; in fact, quite confident. I had nothing to fear, except as a potential victim of murder. This thought kept prodding me. I knew that under present circumstances anything could happen to me, being very much aware of what human beings are capable of doing when their own wellbeing is threatened.

My cell had a cement floor; a raised slab of concrete served as my bed. It had a mattress of dirty, old khaki cloth full of holes; the filling was coconut fibre, which stuck out, pricking the skin all the time; it was no mattress at all. There was a blanket, too, but I do not remember it at that time. In the cell, there were mosquitoes everywhere, day and night. Twelve feet up, close to the ceiling, was a small hole my only ventilation. Alas, the mosquitoes did not seem to know or care the hole was there; they stayed close to me, and actively! As far as I remember now, the cell measured about twelve feet by ten. From time to time a tiny aperture in the steel door would glide open, and someone would take a peep at me. I could see only his eyes. Whenever I looked at the peeping tom, the aperture would shut abruptly. I had no idea what time it was, but only knew when it was day because the cell became very hot with the rays of the sun beating on it. If I had a request to make, I had to bang hard on the steel door. After a moment someone would peep through the aperture, and ask what I wanted. I wanted a bath, I told the "eyes". A voice said he would let me know. Nothing happened.

Later, when I guessed it was time for the <u>Suhor</u> prayer, I banged on the steel door again, asking permission to go out for my ablution. After waiting about half an hour I was let out, and told to hurry up about it! I asked for some soap. It was not allowed, I was told. Tooth-brush? No! Towel? Alas No! To every request - No! No! No! It seemed no one had any authority to grant me anything. After several polite requests, I surrendered, foregoing any wish to ask for anything any more. Those few young policemen who all said 'No', all of them seemed no more than twenty-three years of age; they were polite, but very neutral. I washed myself as best as I could with water in the bathroom-cum-lavatory. While doing so, I realised for the first time that one of the methods adopted for detainees was to demoralize them completely by design before arraigning them for interrogation. Obviously from my present experience this was normal practice. I could not believe it could really be true. I had not even been charged yet, so why this treatment? Why?

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APPENDIX II

INTERNAL SECURIT

INTERNAL SECURITY (DETAINED PERSC

In exercise of the powers conferred by Security Act 1960 the Minister makes the

These Rules may be cited as the Ir **L** • Persons) (Amendment) Rules 1977 and shal 10 March 1977.

The Internal Security (Detained Pe 2. in these Rules is referred to as the pri by inserting immediately after rule 87

"Detention 87A. (1) A person ordered in cell. detention camp shall be conf a punishment cell) either ir any one or more other detain (2) Such detained person

cell for exercise, visits or of not less than that specif (3) Every cell to be used

under this rule shall be ins Medical Officer as being sui

The Third Schedule to the principa 3.

(a) inserting immediately after in the column headed "Privil the following--

"PERIODS ALLOWED OUT OF CE

Not less than 3 hours as intendent in every 24 hour

(b) inserting immediately after in the column headed "Privi] the following--

"PERIODS ALLOWED OUT OF CE

Not less than 5 hours as m intendent in every 24 hour

inserting immediately after (c) in the column headed "Privil the following--

"PERIODS ALLOWED OUT OF CE

Not less than 8 hours as m intendent in every 24 hour

Made this 21st day of February 1977. (KHEDN.O. 7/155; PN. (PU2) 216.)

APPENDIX III

TY ACT 1960		List	of
SONS) (AMENDMENT) RULES 1977			Na
section 8 of the Internal he following rules: Internal Security (Detained all come into force on the	Act 82	1. 2. 3.	KO CH CH
Persons) Rules 1960, which rincipal Rules, are amended of the following	New rule 87A. L.N. 189/60	4. 5. 6.	ON WA TA
to be detained in a special nfined in a cell (not being individually or together with ined persons.		7. 8. 9. 10.	NG LI HO NG
n shall be allowed out of his or otherwise for a total perio ified in the Third Schedule da ed for the purpose of confinem ispected and certified by the itable for such purpose.".	ily.	10. 11. 12. 13. 14.	EN TA WA HO
pal Rules is amended by the paragraph headed "PAY" leges" under "FIRST STAGE"	Amendment of Third Schedule	15. 16. 17. 18.	QU NG R.
CELL may be permitted by the Super- irs."; the paragraph headed "PAY"		19. 20. 21.	LI HA YE
lleges" under "SECOND STAGE" CELL may be permitted by the Super-		22. 23. 24.	LI CH LO
rs."; and the paragraph headed "PAY" leges" under "THIRD STAGE"		25. 26. 27. 28.	NG LC GA KH
may be permitted by the Super- irs.".		29. 30. 31.	SI YI MA
M. GHAZALI SHAFIE, Minister of Home Affai		32. 33. 34.	TE YE L]

August 1978

List of Political Detainees at Batu Gajah Special Detention Camp

Name	Date of Detention	Date of Birth	Occupation/Affiliat
KONG Hoi	28.11.64	1941	Labour Party
CHEANG Ah Nyok	27.6.66	1940	Labour Party
CHAI Kow Pai	11.11.66	1942	Labour Party
ONG Loong Sheng	16.5.67	1943	Unionist
WANG Ah Wah	5.6.67	1947	Labour Party
TAN Hock Hin	8.7.67	1940	Labour Party
NG Wei Siong	31.7.67	1940	Labour Party
LIM Choo Leong	27.12.67	1947	Labour Party
HO Kah Ping	16.7.74	1946	Labour
NG Kooi Sang	16.6.68	1942	Old Boys' Associati
ENG Kwee Ba	16.6.68	1942	Worker
TAN Wa Ping	16.6.68	1946	Store-keeper
WAH Kah Onn	9.11.68	1946	Nanyang University
HOOI Chin Han	12.12.69	1937	Partai Rakyat
QUEK Cho Hung	6.4.70	1944	Nanyang University
NG Yeok Pak	30.6.70	1944	Labour Party
R. GUNARATNAM	15.11.70	1946	_
S.N. RAJA	16.11.70	1938	Unionist
LIM Tong Aun	24.11.71	1950	Worker
HAN Yew Peng	26.6.71	1948	Bus Conductor
YEH Choon Sang	9.8.71	1942	Nanyang University
LIM Ku Huat	9.8.71	1953	Rubber Tapper
CHAI Koo Khook	28.8.71	1943	Partai Rakyat
LOH Swee Tiong	8.8.72	1953	Worker
NG Teo Huan	18.8.72	1947	Shopkeeper
LOW Ming Leong	12.10.72	1944	Rubber Tapper
GAN Kok Ching	-	-	
KHOO Swee Yong	-		Graduate of Univer
SIOW Fook Sin	-	-	
YIP Yoon Hing	21.11.66	1941	Labour Party
MAK Siang	21.11.66	1934	—
TEH Yong Wah	27.11.67	1943	—
YEO Niang Ping	29.8.68	1946	Labour Party
LIEW Han Tai	9.11.68	1946	

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Name

35. CHU Ah San 9.11.68 36. LOW Chin Chow 9.11.68 37. LEE Ah Ming 1969 38. WONG Fook Hin 30.5.69 39. LIM Joo 31.12.69 40. LAI Nam 20.8.70 41. PHUA Kee Nor 30.8.70 42. YONG Chu Soon 30.8.70 43. GOH Cher Neo 31.8.70 44. S. THURAINATNAM 13.11.70 45. TAN Hi Yok 23.4.71 46. YANG Kong Chow 23.4.71 47. ONG Kee Nam 23.4.71 48. THAM Siew Kee 24.4.71 49. CHEANG Leong Seng 26.4.71 50. TONG Hock See 26.4.71 51. MA Hong Wah 26.8.71 52. LIM Yong Kwei 1.9.71 53. WONG Fei Loy 24.9.71 54. CHANG Yok Lin 25.9.71 55. MAN Tong Keong 30.9.71 56. WAN Ah Bah 2.11.71 57. LEE Kam Weng 22.11.71 58. CHONG Kim Yuen 1.2.72 59. WONG Yong Huat 24.4.72 60. CHING Kee Ken 16.6.72 61. OON Siew Tian 19.12.72 62. CHEE Siew Ming 9.1.73 63. LEE Peng Kin 16.2.73 64. CHEONG Kok Weng 27.2.73 65. PANG Chin Fai 25.2.73 66. FUN Teck Chu 11.7.73 67. WONG Kued Tong 26.7.73 68. CHAI Pat 24.8.73 69. LOH Ah Kow 20.10.73

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Date of

Detention

Date of Birth	Occupation/Affiliation	Name	Da Det
1945		70. YAP Kok Ann	1.1
1945		71. LEE Chin Aik	16.
1946	Labour Party	72. LIM Huat	197
1948	-	73. GOH Kean Seng	12.
1939	Unionist	74. YEO Kok Keong	197
1943		75. CHAN Woon Wah	197
1951		76. CHIN Ah Kau	197
1951	-	77. LOH Yew Kong	197
1950	_	78. WAI Leong Fei	
1930	-	79. WONG Sen Loong	
1946		80. CHONG Ah Lai	-
1942	-		
1939	-		
1945	Labour Party	82. TEO Loong Hock 83. LIEW Chun Fatt	-
1949	Worker	84. YAP Kuan Fatt	
1949	Worker	85. WAN Ah Chai	
1947	Labour Party		
1945	← -	86. CHAN Ching Fatt 87. CHONG Sim	_
1939		88. CHAN Kam See	-
1943			20.
1946	Partai Rakyat	89. CHIA Pui Seng	_
1954		90. LEE Yeng Seng	
1952		91. HONG Young Ling	
1951		92. WONG Chui Leang	-
1939	Rubber Tapper		
1943	Labour Party		
1947	Labour Party		
1945			
1942			
1950		August 1978	
1940			
1939	Labour Party		
1951			
1942			
1948	—		

Date of Date of Occupation/Affiliation Birth Detention 1.11.73 D. YAP Kok Ann 1948 -LEE Chin Aik 16.12.71 1942 Labour Party 2. LIM Huat 1974 1941 -12.3.74 3. GOH Kean Seng **19**50 University of Malaya 4. YEO Kok Keong 1976 -↔ 5. CHAN Woon Wah 1976 ----1975 6. CHIN Ah Kau --1975 7. LOH Yew Kong ----8. WAI Leong Fei ---9. WONG Sen Loong ----

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O. CHONG Ah Lai ------31. SHEE Kong Chong ------— 2. TEO Loong Hock -----— 3. LIEW Chun Fatt -------34. YAP Kuan Fatt -----35. WAN Ah Chai -----36. CHAN Ching Fatt --**** 37. CHONG Sim -•••• -38. CHAN Kam See 20.7.73 1950 -89. CHIA Pui Seng -----0. LEE Yeng Seng ---91. HONG Young Ling -----

APPENDIX IV

Health Conditions of Some of the Political Detainees

at Batu Gajah Special Detention Camp

WANG Ah Wah (see Appendix III No. 5)

Pain in the right side of the lumbar spine, occasionally urine is not clean, fatigues easily, often has low grade fever, right sciatic pain on movement.

NG Kooi Sang (see Appendix III No. 10)

Had several years of otitis media with hearing loss in the left ear. Low back pain, passing filthy urine, no evidence of swelling in the face and the limbs.

HOOI Chin Han (see Appendix III No. 14)

Had bronchial asthma for more than 10 years. The asthmatic condition waxed and waned, but it needed two tablets of medicine administered daily by the hospital to control. After a variable period (three to four months or six to seven months), the condition became exacerbated leading to hospitalization. With drips, injections and medicine the condition improved slowly.

HAN Yew Peng (see Appendix III No. 20)

Chronic low back pain, excruciating pain in the precordium, smoking urine. Hypertension On examination of urine by doctor, large quantity of sediments were detected. Was given diuretics and some anti-inflammatory drugs

MAK Siang (see Appendix [II No. 31)

Already had low back pain during 10 years of detention in the camp. Later the pain resulted in sleep disturbances which in turn aggravated the pain, thus setting up a vicious circle. At times, it was so severe that bending or straightening of the spine was made impossible and bed rest was imperative. At present often has slight pain, body tiredness, lethargy, anaemia, giddiness, weakness in the lumbar region of the back.

TEH Yong Wah (see Appendix III No. 32)

Was told by doctor he had ischaemic heart disease (IHD), two years ago. Left chest pain (pain in the left chest), chest discomfort, short of breath.

LOW Chin Chow (see Appendix III No. 36)

Nasal infection: nasal obstruction, either left or right or both sides. Had mucous discharge ceaselessly, sometimes it turned yellowish; frequent sneezing. Also suffers from tinnitus and headaches. Backache: unable to sit longer than 10 minutes before it develops pain and numbness.

colics.

CHEAH Leong Seng (see Appendix III No. 49)

Gastric problem, nasal problem, low backache. Had some sediments in the urine. Heart trouble (chest discomfort).

Pulmonary disease. Dermatitis (foot). Backache, occasionally became numb.

PANG Chin Fai (see Appendix III No. 65)

Before 1961, he suffered from severe coughing. In August 1961, cardiac surgery was undertaken with no alleviation of the symptom of coughing. Again in 1963, a lobectomy of lung was done. Following that the coughing became episodic. Body weakness. Had nasal infection. In early 1975, started coughing again with production of large amounts of sputum and strenuous breathing; no improvement with medicines and injections.

LIM Joo (see Appendix III No. 39)

Rhinitis. Renal Stone. Low back pain, urinary sediments. Renal

LAI Nam (see Appendix III No. 40)

In mid-October 1975, developed severe pain in the back and went to hospital. X-ray was taken and urine examined, but no results. Now the pain is still there though of less intensity.

MA Hong Wah (see Appendix III No. 51)

Gastric trouble. Rhinitis. Backache.

OON Siew Tian (see Appendix III No. 61)

GOH Kean Seng (see Appendix III No. 73)

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Sneezes, discharging large amount of clear watery mucous especially before sleep and on waking up. Nose blocked one side, sometimes both sides. Has difficulty in breathing so much so that mouth breathing is necessary. During hours of sleep, postnasal drips so severe that both the nose and mouth are blocked, very disturbing to sleep.

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APPENDIX V

TAIPING DEATH INQUIRY NO. 7/74

Inquiry into the death of WONG SUI SANG alias WONG MENG KIEW, aged 34 years, who is stated to have been found hanging in Kem Tahanan Politik, Batu 4, Kamunting, Taiping, at about 6.50 am on 29 December 1973.

Finding of the Court

On 29.12.73, at about 6.30 am, a political detainee named Wong Sui Sang of the (Kamunting) Detention Camp, Taiping, was found in a hanging position.

Section 334 of the Criminal Procedure Code provides:

"When any person dies while in the custody of the police or in a mental hospital or prison, the officer who had the custody of such person or was in charge of such mental hospital or prison, as the case may be, shall forthwith give intimation of such death to the nearest Magistrate, and such Magistrate or some other Magistrate shall in the case of a death in the custody of the police, and in other cases may, if he thinks expedient, hold an inquiry into the cause of death."

The word "prison" has not been defined in the Criminal Procedure Code, but in its popular and natural meaning, it includes a place of detention such as, the political detention camp in Kamunting.

As the death of Wong Sui Sang occurred in the detention camp, section 334 of the Criminal Procedure Code has vested in the court a discretion to hold an inquiry with a view to establishing as to "when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of such death" (section 337, ibid.).

I have analyzed the evidence of this inquiry with considerable care and now I shall give a summing up on the finding of facts in this case.

A warder (Deponent No. 1) in charge of Compartment 7 consisting of 21 detainees of the Camp was on normal rounds on 29.12.73 at about 6.20 am when he discovered that one of the detainees, later identified as Wong Sui Sang, was missing from their morning exercises. The warder's efforts to search this missing detainee in various corners including the dormitory, toilet and dining hall of the compartment had proved futile.

On his way to the dining hall the warder heard a shout of "Hantu" emanating from detainee Chin San Thong (Deponent No. 16) who informed the warder that Wong Sui Sang the missing detainee (hereinafter referred to as the deceased) had been found hanging in the store adjoining the dining hall. The warder also saw some of the detainees in the act of taking down the body of the deceased and placing it on a table in the dining hall. On seeing all this, the warder contacted the camp telephone operator (Deponent No. 4) who in turn contacted his senior officer (Deponent No. 3).

At about 6.45 am the Deputy Superintendent of the Camp (Deponent No. 3) arrived at the scene, and he checked the pulse of the deceased. Subsequently, he informed the hospital assistant (Deponent No. 2) of the incident. The officer in charge of the Police District, Taiping (Deponent No. 6) and the learned Magistrate, Taiping (Deponent No. 5) were also informed of the incident.

Both deponent No. 5 and No. 6 together with Dr Tai (Deponent No. 7) arrived at the Camp at about 8.00 am. The learned Magistrate and the OCPD who viewed the body of the Deceased were questioned by the detainees as to their authority and identity.

The learned Magistrate found that there was a constriction mark around the neck of the Deceased and it went to the point below the ears. The OCPD found a wire loop tied to the beam of the roof in the store-room in which the Deceased was found hanging and he instructed the investigating officer (Deponent No. 10) to carry out the investigation. The IO recovered the wire loop from the beam of the store-room.

The IO made a reasonably thorough investigation into the case and carried out an experiment to ascertain if it was possible for a person of his height (5 feet 8 inches) to climb up to fix the wire loop at the beam of the store-room and such an experiment had proved positive. He classified the case as suspected suicide but he did not know as to how the Deceased came by his hanging position.

There was a Chinese letter which was identified by Wong Kam Soo (Deponent No. 13) and Wong Cheng (Deponent No. 14) who are the brothers of the Deceased, as a letter written by the Deceased. The brothers of the Deceased were familiar with the writing of the Deceased and I therefore hold that such identification was a positive indication that the Deceased was the author of the Chinese letter tendered in Court. This letter contained very vital information of a decisive character determining as to why the Deceased had chosen to end his life rather prematurely and abruptly. I shall deal with this letter at greater length in the later part of my finding.

Three detainees of the Camp (Deponents No. 15, 16 & 17) had testified there was a hunger strike in the Camp for a certain period including the day when the Deceased was found hanging. These three detainees had aired some grievances including the poor medical facilities in the Camp.

There was a hospital assistant (Deponent No. 2) who though resident in the Camp visited the compartments once or twice a week. The medical officer Dr Tai (Deponent No. 7) was attached to the Taiping General Hospital and was instructed to visit the Camp only once a week, viz every Wednesday afternoon from about 2.00 pm to 4.00 pm, with extension right up to well past 5.30 pm in order to attend to the medical complaints of the detainees.

However, the detainees were not allowed to see the doctor unless they were first seen by the hospital assistant whose power of veto was almost invariably conclusive. If the hospital assistant did not recommend that a particular detainee had been effectively rendered helpless.

Another grievance proferred by the detainees was that in the event of their request to be sent to the General Hospital for medical attention, the reply by the Camp authority was that there was neither escort nor transport.

In view of all this, the detainees have acquired increasing frustrations and mental torture as their access to a medically qualified doctor was by no means easy owing to the fact that they have to satisfy the hospital assistant of the nature of their sickness in order to warrant seeing a doctor.

The representation made by the detainees to have a resident doctor in the Camp was not acceded to. In that event, it would appear that the detainees would have to content themselves with a mere hospital assistant who though considerably experienced had no higher qualification to partake in the active practice of the medical intricacies and ramifications.

Whenever the detainees consulted the hospital assistant, they were merely prescribed medicine two or three days after consultation and whenever any injection was felt necessary the syringe was not properly sterilized. The hospital assistant had often advised the detainees not to worry about their health, but the detainees felt that such a remark was an insult to them.

In this connection, with a view to seeing the actual conditions myself, accompanied by the Deputy OCPD ASP de Silva, Mr Gamany, Camp and Court officials, I visited the Camp on 8.4.74.

I went round Compartment No. 7, the store-room, the library, the dormitory and the clinic. I have found them up to date and the facilities were indeed quite adequate on the day of my visit. The Camp authorities must be greatly commended for maintaining all these facilities up to date.

However, it must be stated as a fact that a well-equipped clinic needs the necessary manpower to manage the tools of the medical practice in order to make the functioning of the clinic a more realistic place of giving medical treatment.

The detainees were only allowed to see the doctor after going through the hospital assistant. This would appear to be a sufficiently cumbersome process. Moreover, the Wednesday weekly visits by the doctor for a few hours to attend to a population of 169 detainees in the whole camp would appear to be rather inadequate.

It was indeed not the doctor's fault as he was merely receiving instructions issued by the higher authorities (to make these visits) and he could not go on a frolic of his own to make more frequent visits to the Camp, over and above the very specific ambit of the instruction emanating from the higher authorities.

In order to remove or discontinue any grievance or allegation arising from the detainees, I would strongly urge upon the authorities concerned to adopt a more effective and efficient system whereby the visits by a

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medical officer could be increased in a manner commensurate with the medical complaints of the detainees and the process of going through a hospital assistant before seeing a doctor be completely abolished, so that the detainees might avail themselves of the valuable consultation of a medically qualified practitioner.

In my considered opinion, these recommendations are indeed in line with the national and <u>public</u> interest as the provision of more frequent, speedy and ready medical consultation will remove any justification on which the detainees could be expected to raise their complaints in so far as medical facilities are concerned.

The Minister of Defence has, in his wisdom, made a set of rules under Section 8 of the Internal Security Act 1960 to govern inter alia, the care and welfare of the political detainees and such Rules are embodied in the Internal Security (Detained Persons) Rules 1961, wherein under Rule 8(1), it is the duty of the Minister of Health to appoint a medical officer and a dental officer for each place of detention and if the circumstances do not permit the Minister making such an appointment, the Minister may appoint any registered medical practitioner or any registered dentist to be the Medical Officer or Dental Officer of any specified place of detention: Sub-rule (2).

Whenever a Medical or Dental Officer is, owing to some illness or temporary absence or for other sufficient reasons, unable to perform his duties, the Superintendent of the Detention Camp shall arrange with the Medical Department locally or through the Director of Medical Services that such duties shall be performed by a member of the Staff of the Medical Department.

On the evidence of this inquiry, only a mere hospital assistant was in charge of the clinic and a medical officer was sent for duty in the afternoon of every Wednesday only.

No dental officer appears to be on duty at the Kamunting Camp.

Rule 52 provides that the medical officer shall, if necessary attend at the place of detention daily. Rule 53 requires that a Case Book and Journal relating to the name, disease, state and treatment of every sick detained person shall be maintained. The procedure in the event of the occurrence of the death of a detainee is laid down in Rule 59 whilst Rule 64 makes the necessary arrangement for the removal of the detainee to a Government Hospital if he should be seriously ill.

These Rules are rules of prudence and should be strictly complied with as they are absolutely essential for the proper care and custody of the detainees who would then find no sufficient justification for any allegation, complaint or imputation. Indeed these rules which are made by the then Hon'ble Minister of Defence, Tun Abdul Razak who is now our Prime Minister, can only have sanction and significance if they are scrupulously followed and implemented by all concerned.

As the death had occurred in a detention camp, the medical authorities had taken special care and attention in having the post mortem conducted by two medical officers of some standing including a specialist in clinical pathology (Deponent No. 19). The post mortem was indeed

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an extensive and comprehensive one. The external findings of the post mortem indicated that there was a cause of the death was asphyxia from hanging. From the medical hanging. In this connection, I must emphasize that the court can only give a The Court must not give a finding which is against the weight of from any bias, interest or prejudice. standing buzzing, or medically tinnitus, in his ears. inability to endure or tolerate these physical sufferings. From the letter of the Deceased as a whole, it could be reasonably My finding of the fact that the Deceased had, of his own volition, hanged himself or in legal language, the Deceased had committed

cause of death was asphyxia due to hanging.

There was no evidence of hatred occasioned by anybody, either the prison officials, the police or the detainees against the Deceased. There was no evidence to impute or attach any criminal responsibility or liability to anybody whatsoever.

The Deceased's intention to cause his own death and the factors

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constriction mark just above the thyroid cartilage slanting upward on either side, particularly reaching up to a mark of depression corresponding to a point of suspension, about 7 cm from the right ear. The evidence, it is eminently clear that the Deceased came to his death by

There was some suggestion from the Deceased's family that the Deceased came by his death through the neglect of the authorities. However, this suggestion was not supported by sufficient evidence as to where the neglect was occasioned. This suggestion is indeed too remote to be accepted as the real and conclusive cause of death of the Deceased.

finding which is extracted from the evidence itself and if there is no such evidence, the Court is unable to import extraneous circumstances. evidence. The Court's duty is to act judicially and judiciously, free

The question as to how the Deceased came by his hanging position is evident from the last letter which the Deceased had written in his own handwriting. In this letter, the Deceased, amongst other things, had expressed a considerable degree of mental uneasiness due to the out-

He had seriously blamed what he called the puppet reactionary regime for the poor medical facilities. He was not devoid of worries and mental tortures. He had also expressed a depth of hatred against his own concept of reactionaries. Indeed, in view of all these shortcomings and depressions, he had manifested his intention to end his life in a premature and abrupt manner, as he has further expressed his

concluded that the Deceased was no longer interested in life and this state of affairs had no doubt prompted him to accelerate his untimely death by hanging himself from a wire loop tied to the beam of the store-room adjoining the dining hall in Compartment No. 7 of the Kamunting Detention Camp on 29.12.73 in the small hours of the morning.

suicide, was supported by the medical findings of two doctors who had conducted the post mortem with an open mind and who concluded that the

contributing towards the formation of such intention was evidently in his own last letter. He has effected his intention to cause his own death by hanging himself. In the circumstances the Verdict of the Court shall be one of SUICIDE and the Cause of Death shall be ASPHYXIA from hanging.

Dated this 12.4. 1974 at Taiping.

LOH HOP BING, President Taiping Sessions Court.

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