

AMNESTY INTERNATIONAL

OP-ED

AI Index: ASA 28/007/2013
11 September 2013

Awaiting Justice in Malaysia

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The article was first published in Wall Street Journal's Asia edition on 11 September 2013:
http://online.wsj.com/article/SB10001424127887323595004579064560176938696.html?mod=WSJASIA_hpp_sections_opinion

An increasing number of deaths in police custody indicates deeper law and order issues.

When P. Karuna Nithi died in police custody in Negeri Sembilan, central Malaysia, on June 2, the local police chief immediately denied any "foul play." But then the autopsy showed 49 injuries on Nithi's body. Most of the injuries were bruises apparently caused by a blunt object to the chest and limbs, according to the autopsy report cited in media.

For Nithi's family, who say they saw blood coming out of his head when they identified the body, the denial of foul play was difficult to accept. They suspected that he had died after a police beating. But while Nithi's family, Amnesty International and others have called for an independent investigation into his death, the authorities have yet to publicly commit to do so. The autopsy listed his cause of death as "fatty liver."

Nithi's tragic death raises difficult questions. Reports received by Amnesty International suggest that Malaysia has seen a shocking number of deaths in police custody in recent years, many as a result of torture or other ill-treatment. The Malaysian Parliament has recorded more than 230 deaths in custody since 2000, and the number is growing.

According to official government figures, nine people held by the police died in the entirety of 2012, while 12 people have already been reported dead as of June 2013. Those found dead had been suspected of a range of crimes, not just violent ones—but like Nithi, who was arrested for alleged domestic violence, the majority of deaths in custody since early 2012 were Malaysians of Indian descent.

In recent weeks, a string of deadly shootings and other violent crimes across Malaysia has sparked an intense debate about the efficacy of the country's police force. In response to the turmoil, government hardliners have called for the return of draconian colonial-era laws that prioritize stability over human rights. But the human rights of criminal suspects cannot be sacrificed for law and order, not least when the police's own conduct towards detainees is still so questionable.

In an open letter this July, Amnesty International and the rights group Suara Rakyat Malaysia (SUARAM) urged authorities to go beyond paying lip service to the issue and put in place concrete mechanisms to end police abuse. Yet it's not clear if the National Front government is taking seriously the alarming rise of deaths in custody.

For example, in June it announced plans to establish centralized police lockups in state capitals, and permanent coroner's courts. This would keep criminal suspects out of the smaller local jails where monitoring abuses is more difficult and establish a new system of

accountability when inmates die. Facing mounting public outcry, Prime Minister Najib Razak also announced a new task force, led by the Inspector General of the Police Khalid bin Abu Bakar, to establish measures to prevent further deaths in custody.

But the government has established similar task forces at politically opportune moments in the past, only to accomplish very little afterward. The Enforcement Agency Integrity Commission, a body established in 2009 to handle public complaints against government bodies including the police, has not been given enough resources for its broad mandate, nor has it investigated any past cases of custodial deaths. And notably, the new task force does not have power to investigate past cases of deaths in custody.

Malaysia needs a genuinely independent oversight body that has the power to investigate cases on its own. This body must be accountable to Parliament and the public, and be given enough resources to investigate claims thoroughly and promptly.

The proposed coroner's court must be fully independent and impartial, with wide investigative authority so as not to rely exclusively on police-supplied evidence. Likewise, police must strengthen procedures around arrest, in particular the systematic gathering of data like the detainee's time of arrest, place of detention and the identity of the arresting officers. Granting Malaysia's Human Rights Commission and other independent inspection panels regular access, including unannounced visits to all detention facilities, also would go a long way toward preventing human rights violations against detainees.

It is equally crucial that previous deaths in custody are thoroughly investigated so that the exact circumstances surrounding the deaths are known and that perpetrators are brought to justice. For the 12 deaths recorded this year, only four policemen are known to have been charged, all related to a single case, and only after significant public outcry and pressure arose from human rights groups. This is an appalling record, and shows the limits of the current system. It sends the message that detainees are at risk in police custody due to the lack of protection mechanisms, and that the Malaysian police are above the law and will be able to get away with torture or murder.

In a landmark ruling from June this year, a High Court awarded damages to the family of Ananthan Kugan, a young ethnic Indian who died of a beating in custody in 2009 after his arrest for allegedly stealing a car. The judge overseeing the case, V.T. Singham, called on Malaysian police to protect detainees and not to abuse their powers: "Custodial death should not become the rule of the day. [...] If custodians of the law themselves indulged in committing such crimes, then no part of the society is safe and secure." The defendants, which include the current Inspector General of Police, are appealing this court ruling.

In late October, Malaysia's human rights record will be scrutinized by the U.N. Human Rights Council in Geneva. Hopefully the government will make concrete inroads into the fight against police abuse by then, and there will be no more deaths like Nithi's.