

MALAYSIA

The arrest of Anwar Ibrahim and his political associates

3 October 1998

Prisoners of Conscience arrested under the Internal Security Act (ISA)

Still detained:

Anwar Ibrahim, Ex-deputy Prime Minister and Finance Minister

Ruslan Kassim, President of Negri Sembilan state UMNO Youth

Kamarudin Jaafar, Chairman, Institute for Policy Research

Amidi Abdul Manan, President, National Muslim Students Association

Prof. Dr. Siddiq Baba, Student Affairs Rector, International Islamic University

Asmon Ismail, State assemblyman for Pantii

Dr Zamri Abdul Kadir, Head, Lumut state UMNO Youth

Abdul Malek Hussein, *Parti Islam SeMalaysia* (PAS) opposition party member

Zulkifli Nordin - Lawyer, member of Anwar Ibrahim's legal team.

Released 30 September:

Ahmad Zahid Hamidi, United Malays National Organisation (UMNO) Youth Chief

Ahmad Azam Abdul Rahman, President of ABIM (a Muslim youth organisation) -

Mukhtar Redhuan, Deputy President ABIM

Shaharuddin Badaruddin, Secretary General ABIM

Abdul Halim Ismail - Deputy National President ABIM

Released 1 October:

Tamunif Mokhtar, Division Head of Cheras state UMNO

Ahmad Shabrini Mohamad Sidek, Secretary-General of National Muslim Students Association

Released 3 October 1998:

Kamaruddin Mat Noor, State assemblyman for Semarak, Kelantan

(as of 3 October 1998)

AMNESTY INTERNATIONAL'S CONCERNS

1. Prisoners of Conscience

The 17 men listed above were arrested and held without charge under the Internal Security Act (ISA) between 20 and 29 September 1998. By 3 October eight of the prisoners had been released, with nine remaining in detention. Amnesty International believes them to be prisoners of conscience detained solely for their non-violent political activity, expression and association.

➤ Amnesty International calls for their immediate and unconditional release.

Amnesty International also considers two other detained Anwar associates, **Sukma Darmawan** and **Munawar Ahmad Anees** to be prisoners of conscience, and is calling for their immediate release. The two men were arrested and charged under the Penal Code with ‘unnatural offences against the order of nature’ and on 19 September were each sentenced to six months in prison after pleading guilty to ‘allowing themselves to be sodomised’ by Anwar. Amnesty International believes the filing of the charges was politically motivated and is gravely concerned at reports that the men were denied a fair trial and may have been ill-treated to coerce confessions. On 29 September the two men retracted their confessions, stating that they had not been given voluntarily, and appealed the sentences.

Amnesty International considers businessman and Anwar associate **S Nallakarupan**, arrested under the ISA in July 1998, and facing charges of illegally possessing ammunition, to be a possible prisoner of conscience and calls for his speedy and fair trial.

2. Incommunicado detention, ill-treatment and the need for immediate access

Amnesty International remains concerned that the ISA detainees, while held incommunicado at unknown locations, are at increased risk of ill-treatment in the course of aggressive, prolonged and disorientating interrogation. Questioning of ISA detainees in the past have caused conditions of aggravated mental and physical distress induced by sleep deprivation, threats, slaps and punches and by prisoners being forced to stand for prolonged periods under excessively cold air-conditioners.

On 29 September Anwar Ibrahim was brought to court after being in incommunicado detention for nine days. He showed visible signs of ill-treatment including a swollen eye and a bruised arm. He complained that after his arrest he was handcuffed and blindfolded and that the police then “*beat him severely, causing serious injuries*” until he “*virtually passed out until the next morning*”. He was not allowed to see a doctor until the fifth day of his detention.

Anwar Ibrahim lodged a formal complaint over beatings he received while in custody and the court granted a request for doctors to examine his injuries. A doctor who examined him on 29 September released a medical report stating that Anwar had been assaulted ‘over the left forehead and neck and received blunt trauma that resulted in residual bruises over the left upper and lower eyelids...’.

- Amnesty International remains gravely concerned that Anwar Ibrahim and his associates are being held in incommunicado detention, and that the whereabouts of all the detainees are not known.

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- Amnesty International believes the detainees remain at risk of ill-treatment and urges that they be given immediate access to independent lawyers, medical personnel, and members of their families.
 - Amnesty International calls for a prompt, independent and full investigation into the reported ill-treatment of Anwar Ibrahim, and for those found responsible to be brought to justice.

3. Violations of the right to assembly and police actions against demonstrators

Public rallies have continued in support of Anwar and in favour of his calls for broad political and social 'reform'. On 20 September 1998, police violently dispersed a 7,000-strong demonstration of Anwar's supporters, who were marching peacefully towards Prime Minister Mahathir's residence, by shooting water cannons and teargas at the crowd. At peaceful demonstrations on 20 and 21 September it is believed that at least 126 persons were arrested. Most were later released on bail after being charged with participating in an illegal assembly, which carries a maximum penalty of up to six months in prison. On 22 September riot police and back-up forces surrounded Anwar Ibrahim's house and dispersed hundreds of his supporters.

In spite of a subsequent nationwide ban on all further 'pro-reform' rallies, demonstrations continued on 25 September, when police entered the National Mosque in Kuala Lumpur to disperse a crowd expressing support for Anwar, and on 28 September in the streets of central Kuala Lumpur. At least 75 people were detained on 28 September and eye-witnesses stated that demonstrators were beaten during and after arrest. Mr Tian Chua, the chairman of the Coalition for People's Democracy (a newly-formed alliance of political and social activist groups supportive of reform calls), observed the rally and was amongst those arrested and released on bail. He lodged an official complaint stating that he was beaten in a police truck with batons and later kicked and beaten while in detention. Four lawyers from a legal aid centre were reportedly denied access to those arrested while they were in detention.

- Amnesty International urges the Malaysian government to respect the right of Malaysians to engage in peaceful demonstrations and assemblies.
- Amnesty International calls on the Royal Malaysia Police to exercise maximum restraint in their treatment of demonstrators, and to act at all times in accordance with international standards relating to the use of force and firearms by law enforcement officials.¹

¹Code of Conduct for Law Enforcement Officials, Adopted by the General Assembly of the United Nations on 17 Dec 1979 (resolution 34/169); Basic Principles on the Use of Force and

4. The Internal Security Act

The ISA empowers police to arrest without a warrant any person suspected of acting in 'any manner prejudicial to the security of Malaysia'. Police can question them for a period of up to 60 days before a Minister signs a detention order of up to two years, renewable indefinitely. Detention orders are not open to judicial review and *habeas corpus* petitions have proved ineffective.

Amnesty International has repeatedly protested the use of the ISA as falling short of international standards on the right to fair trial, and the right to peacefully express opinion free from the threat of arbitrary arrest and detention.

In 1987, over 100 people, including prominent politicians, trade unionists, Chinese educationalists, Islamic teachers and church and community workers were arrested under the ISA, accused of provoking racial and religious tensions. At least 40 of those given two-year detention orders were adopted by Amnesty International as prisoners of conscience.

In early 1996 the government announced that there were no longer any 'political' detainees held under ISA and that all remaining ISA detainees, reported to number over 200, were held for offences involving passport and identity paper forgery. However in mid-1996 18 former members of the banned *Al Arqam* Sunni Islamic sect were detained, and nine were served two-year detention orders. In November 1997 seven Shia Muslim "deviationists" were detained for 'activities prejudicial to national security and Muslim unity', and in April 1998 two persons were arrested under the ISA for allegedly instigating riots in the immigration detention camps in March, when large numbers of Indonesians from Aceh province tried to resist forcible deportation to Indonesia. One of these men was released after being detained incommunicado for 60 days without charge or trial, while the other has been ordered detained for two years. In August 1998, two persons were detained under the ISA for allegedly spreading false rumours of riots in Kuala Lumpur. They were charged on 24 September under the Penal Code which carries a maximum penalty of two years' jail, a fine or both. The men pleaded not guilty. Police have also threatened to use the ISA to detain local financial traders suspected of 'economic sabotage' and people suspected of starting forest fires.

Amnesty International continues to call for,

Firearms by Law Enforcement Officials, Adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders on 7 Sept 1990. The term Law Enforcement Officials includes military or security forces exercising police powers.

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- the ISA to be amended so that it no longer allows for those who peacefully express religious or political beliefs to be arrested and imprisoned;
 - the ISA to be amended so that those suspected of threatening national security have the opportunity to defend themselves before a court of law, and are not held incommunicado at unknown locations.

BACKGROUND INFORMATION

Freedom of Expression in Malaysia

Amnesty International has long-standing concerns that the Malaysian government has used existing restrictive legislation, including the ISA, the Sedition Act and the Printing Presses & Publications Act, to curb freedom of expression. Dissenting political voices, NGO workers and others are all vulnerable to prosecution and imprisonment for peacefully expressing their opinion.

Recent events in Malaysia come on top of other prominent cases involving the government's selective application of restrictive laws and apparent misuse of judicial procedures, in particular the imprisonment of opposition parliamentarian and prisoner of conscience Lim Guan Eng, now entering the fourth week of a 18-month sentence, for sedition and printing 'false news', and the trial of women's rights activist Irene Fernandez, charged for publishing 'false news' about the ill-treatment of detainees in camps for migrant workers.

Amnesty International believes these cases and the recent ISA arrests will intensify the chilling effect on freedom of expression in Malaysia as those in power signal that the space for dissenting political opinion is limited, and that the penalties for alleged transgressions are severe.

More and more Malaysians, including politicians, lawyers, social and human rights activists and ordinary citizens, have stressed how recent government actions against Anwar and his associates pose a threat to the rights of all in Malaysia

Amnesty International continues to call on the Malaysian authorities to ensure that Malaysian law is applied at all times in accordance with the basic human rights principles, enshrined in the Malaysian Constitution and in international human rights instruments, and is not misused to detain or imprison people solely for the non-violent expression of critical political views.

Government actions against Anwar Ibrahim and the 'reform' movement

Prime Minister Mahathir Mohamad dismissed Anwar Ibrahim from his posts as Deputy Prime Minister and Finance Minister on 2 September 1998. The next day the police announced publicly that Anwar was under criminal investigation, and lodged at the High Court a number of affidavits alleging that Anwar had been involved in acts of sexual misconduct, tampering with evidence, bribery and threatening national security. Although the allegations were unsubstantiated, and Anwar had not been formally charged, the full contents of the affidavits were publicly released. Amnesty International believes that this action was politically motivated and an improper use of judicial procedures. The affidavits received extensive, one-sided coverage in the local press. Anwar denied all the allegations.

The Attorney-General then stated that, subject to investigations, Anwar could be charged under the Internal Security Act (ISA), the Official Secrets Act (OSA), the Penal Code, the Women and Girls Protection Act and the Prevention of Corruption Act.

Police then arrested and brought charges under the Penal Code against two of Anwar's associates, Sukma Darmawan and Munawar Ahmad Anees, who pleaded guilty of being sodomised by Anwar and were each sentenced to six months in jail. On 29 September the two men retracted their confessions, saying that they were not given voluntarily.

Despite the criminal charges facing him, public rallies in support of Anwar and of 'reform' gathered momentum. On 20 September Anwar led some 30,000 demonstrators through the streets of Kuala Lumpur and called on Prime Minister Mahathir to resign. Later that night Anwar was arrested at his home, not on criminal charges able to be challenged in court, but under the ISA.

The political motives behind the criminal investigation of Anwar were highlighted as the ISA was also used to detain sixteen of Anwar supporters perceived by the government to have potential political influence within the UMNO ruling party and the wider Malay Muslim community.

By 1 October seven of these men, having been interrogated while held incommunicado, were released without charge. Of the seven remaining ISA detainees only Anwar was served with criminal charges in a move which appears intended primarily to undermine Anwar's public support. The charges filed in court on 29 September related only to allegations of sodomy and corruption and not to the political charges previously threatened, including sedition and treason. His arrest under the ISA therefore conflicts with the nature of the sexual and corruption charges now announced, indicating that his detention is politically motivated. In addition despite the bailable nature of the offences with which Anwar was charged, bail was refused on the grounds that he was being detained under the ISA.

In addition, on 23 September the authorities moved to further intimidate Anwar's supporters by issuing a restriction order under the ISA against Anwar's wife, Dr Wan Azizah, prohibiting her from speaking at public rallies or holding 'political' gatherings at home. Police roadblocks have been erected around her house and access is limited to close relatives, lawyers and invited journalists. If Wan Azizah breaks the terms of the restriction orders she faces detention without trial. She has also been summoned by the police on three separate occasions for questioning in relation to comments she made about the physical safety of her husband whilst in custody and may be charged under the Sedition Act.

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