

External Briefing

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Malaysia: Human Rights Under Threat -- the Internal Security Act (ISA) and other restrictive laws

Background

Since the 1970s Amnesty International has raised serious concerns that fundamental human rights enshrined in the Malaysian Constitution and international human rights law are threatened by the Internal Security Act (ISA), which allows indefinite 'preventive' detention without trial, and by a broad array of other laws restricting rights to freedom of expression, assembly and association. Many of these laws were inherited from the British former colonial government and subsequently tightened incrementally. Their application has been both politically-motivated and selective, with those targeted including political or social activists, academics, students, journalists, trade unionists and other peaceful members of civil society perceived by the government as threats.

1998: The arrest of Anwar Ibrahim and 'reformasi' supporters

Hopes that the use of such laws might diminish as Malaysia continued a rapid process of development were undermined in 1998 following the dismissal of former deputy Prime Minister Anwar Ibrahim. Amid the emergence of a broad-based opposition coalition calling for political and social reform (reformasi), Anwar Ibrahim and over twenty of his associates were detained under the ISA and hundreds of people participating in peaceful demonstrations were arrested and charged with illegal assembly. The vulnerability of detainees to torture or ill-treatment were again highlighted as Anwar Ibrahim and scores of peaceful demonstrators were assaulted by police.

Anwar Ibrahim was later charged and found guilty of abuse of power and of sodomy. Amnesty International declared him a prisoner of conscience, concluding that the charges were politically-motivated and a

pretext to remove him from political life. His subsequent trials were unfair in several respects, including public statements by government leaders which undermined his right to be presumed innocent, the torture or ill-treatment of alleged witnesses to coerce confessions and the intimidation of defence lawyers.

2000: Restrictive laws target the opposition

In 2000 other restrictive laws including the Sedition Act and the Official Secrets Act were used to charge journalists, publishers and leading members of opposition parties. Karpal Singh, one of Anwar Ibrahim's defence lawyers, was charged with sedition for statements he made in court. Trials are continuing. The government also used powers under the Printing Presses and Publications Act to arbitrarily deny permits for opposition publications or to restrict their circulation.

2001: Opposition activists detained under ISA

In April 2001, 10 political activists, most of them senior members of the opposition party Keadilan (led by Dr Wan Azizah the wife of Anwar Ibrahim) were arrested under the ISA. Under the Act detainees can be held incommunicado for up to 60 days for police 'investigation' after which the Minister of Home Affairs can issue detention orders of up to two years, renewable indefinitely. Denied their right to a trial, held incommunicado and refused access to lawyers, family members and independent medical attention, the 10 detainees were interrogated for prolonged periods. The authorities claimed to be investigating reports that they had plotted to overthrow the government by 'militant means' including violent demonstrations. No evidence to support these allegations were made public. In June the Home Minister signed two-year ISA detention orders for six of the detainees - Tian Chua, Mohd Ezam Mohd Nor, Saari Sungip, Badrul Amin Baharom, Lokman Nor Adam and Hishamuddin Rais. Amnesty International declared them pri

soners of conscience and is calling for their immediate and unconditional release. The other four detainees were released.

In August 2001 ten other people, including at least seven members of Malaysia's main opposition party, the Parti Islam SeMalaysia (PAS), were also arrested under the ISA amid accusations of links with a local Islamic 'militant' group, allegedly connected to international terrorists, who reportedly had undergone religious and military training in Afghanistan and planned to overthrow the Malaysian government by force in order to set up an Islamic state. After being held incommunicado for over 50 days nine of those arrested, Ahmad Tajuddin Abu Bakar, Solehan Abdul Ghafar, Alias Ngah, Zainun Ismail, Abu Bakar Che Doi, Asfawani Abdullah, Ahmad Pozi Darman, Mohd Lothfi Arifin and Nik Adli Nik Abdul Aziz were issued two-year detention orders. Amnesty International called for the detainees, as possible prisoners of conscience, to be charged with a recognizable criminal offence or else be immediately released.

The authorities linked the arrests in August and the arrest in October of six others (mostly religious teachers at Islamic schools), with the ISA detention of at least six alleged 'Islamic extremists' in June 2001 who were accused of involvement in various crimes including bank-robberies, murder and the bombing of churches and temples. At least three of those detained in June, Mural Halimmudin Hassan, Mohd Azian Abdul Rahman and Mohamat Iqbal Abu Jibril, were reportedly issued two year detention orders.

Following the 11th September attacks on the World Trade Centre and Pentagon in the US senior government figures justified the use of the ISA as a preventive measure against suspected terrorists and 'extremist groups'. In this context Amnesty International expressed its concerns that, in Malaysia and elsewhere, security legislation, often excessively

vague and broadly-worded will to be used increasingly to criminalize peaceful activity which is entirely unrelated to politically motivated violence. The organization reiterated its call for the ISA to be repealed or amended so that those suspected of threatening national security have the opportunity to defend themselves in a court of law in proceedings that meet international standards of fairness, and are not subjected to torture or ill-treatment.

Students and academics under threat

Malaysian students and academics wishing to engage in political activities face severe restrictions under the Universities and University Colleges Act (UUCA). According to the act, students may be imprisoned for six months and fined if they are active in any political party, society, or trade union without their university's permission. Prime Minister Mahathir Mohamad has rejected calls for a review of the Act, accusing the opposition of subverting students against the government and warning students they faced expulsion or the denial of financial assistance if they took part in 'anti-government activities'.

Although no prosecutions leading to imprisonment under the UUCA have been reported in recent years, university authorities continue to threaten use of the Act and have initiated disciplinary proceedings against students, leading to suspension or expulsion from their course. Academics are also risk at dismissal for involvement in peaceful political activity. In October 2001 the Education Minister announced that 61 university lecturers had been dismissed, transferred or issued with warnings for alleged 'anti-government' activities. Students and teachers have also been penalized under the Police Act for participating in demonstrations calling for political reform.

In June 2001 following the arrest of seven students for participating in a peaceful demonstration a number of students were expelled or suspended from their universities. In addition, in July two

student activists supportive of reformasi were arrested under the ISA and accused of 'threatening national security'. After being held incommunicado for 10 and 23 days respectively the students were released.

In August 2001 a high-school teacher was charged with sedition for setting an examination question addressing the effectiveness of the Malaysian judiciary.

The risk of torture and ill-treatment

Amnesty International remains deeply concerned that the Malaysian authorities have repeatedly failed to investigate reports of the torture or ill-treatment by police of ISA detainees, ordinary criminal suspects and those arrested during peaceful demonstrations.

In the past detainees held under the ISA have been assaulted, forced to strip, deprived of sleep, food and water, told that their families would be harmed, and subjected to prolonged aggressive interrogation to coerce them to confess. During the 60-day investigation period ISA detainees are usually held in solitary confinement, in a windowless cell where they lose all sense of time. Within a context of actual or threatened physical assault the interrogation procedure is designed to induce a feeling of complete disorientation and dependence on the interrogators as the only point of human contact. The sense of helplessness is exacerbated by their knowledge that no judicial or legal intervention is permitted and that family visits are entirely at the discretion of their interrogators. Several former detainees have suffered mental breakdowns as a result of prolonged intense psychological pressure during interrogation.

In 1998 several associates of Anwar Ibrahim were imprisoned after being coerced by police to confess to having had sexual relations with

him. They made credible, consistent allegations of torture or ill-treatment in police custody, saying they were blindfolded, stripped naked, slapped, subjected to humiliating verbal abuse, forced to simulate homosexual acts and threatened with indefinite detention.

In light of such patterns of abuse concern for the well-being of those arrested under the ISA in 2001 was acute. Initial reports indicate that most of the detainees were subject to threats and intense disorientating psychological pressure at times amounting to torture.

Demonstrators have also been subjected to violent assaults, including beating, kicking and 'whipping' with rotan canes either during dispersals of peaceful protests or after arrest in police cells. No official investigations are known to have been initiated into any of these violations and no police officers have been brought to justice.

In July 2001 Suhakam (the Human Rights Commission of Malaysia inaugurated in April 2000) conducted its own formal inquiry into a large-scale demonstration which had been violently dispersed by police in November 2000. The Commission concluded that the police had been responsible for human rights violations including assaults on demonstrators and detainees, failing to facilitate proper medical attention and coercing confessions. The Commission made detailed recommendations related to the proper policing of public assemblies and called for police officers who used excessive force to be identified and held to account. Senior government figures responded by calling the report 'biased and idealistic' and influenced by 'western liberal thinking'. It remains uncertain whether the Commission's specific recommendations will be addressed by the authorities in the future.

Amnesty International calls on the Government of Malaysia to respect and uphold fundamental human rights enshrined in the

Malaysian Constitution, the Commonwealth Harare Principles and international human rights law. The organization:

- calls for those detained under the Internal Security Act (ISA) be released immediately or otherwise charged with a recognizably criminal offence. Persons who are suspected of threatening national security should have the opportunity to defend themselves before a court of law in proceedings that meet international standards for fair trial;*
- urges the Malaysian authorities to guarantee that any detainee held under the ISA or other legislation is not subjected to physical or psychological torture or other ill-treatment in detention. All complaints of torture or ill-treatment must be promptly and impartially investigated and those found responsible brought to justice;*
- calls for detainees not to be held incommunicado and to be allowed immediate and regular access to lawyers, their families and independent medical attention;*
- urging that the ISA and other restrictive legislation be repealed or amended so that it no longer allows for the detention of those exercising their right to peaceful freedom of expression, association or assembly.*

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