

Malaysia

Nasharuddin Nasir: detained without trial in the “War on Terror”



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Nasharuddin Nasir, a former fishmonger, is one among at least 80 alleged Islamist “militants” detained without trial under the Internal Security Act (ISA), a law that has been condemned worldwide for allowing indefinite detention without charge or trial. The ISA empowers the police to detain anyone they think may be a threat to national security for a period of 60 days. During this initial “investigation” period, Amnesty International has recorded persistent reports of ISA detainees being 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 or to elicit information. After this period, the Home Minister can choose to hand down a two year detention order renewable indefinitely.

Amnesty International has campaigned for decades against the misuse of the ISA, which has been repeatedly applied by the Malaysian authorities to detain people peacefully expressing their religious and political beliefs, including opposition activists, students, journalists, religious clerics and trade unionists. Although Amnesty International recognises the right of every state to ensure national security, the organization opposes the use of the ISA as it violates fundamental international human rights principles, including the rights to liberty of the person, freedom from arbitrary arrest, to be presumed innocent and be granted a fair and open trial in a court of law.

Since September 2001, the government has increasingly defended and justified the ISA as a necessary tool in the “War on Terror”. Hundreds of alleged Islamist “militants” have been arrested under the ISA since 2001. Of those arrested, at least 80 have been issued two-year detention orders and held without charge at Kamunting Detention Centre in Perak state.

Nasharuddin Nasir was arrested under the ISA in April 2002 along with 13 other individuals, ten of whom still remain in detention, on suspicion of alleged links with a domestic Islamist “extremist” group, *Kumpulan Mujahiddin Malaysia* (KMM- Malaysian Mujahiddin group). An order for their two year detention was signed by the then Deputy Prime Minister, Abdullah Badawi.

On 8 November 2004, Nasharuddin Nasir's two year detention order will expire. Prime Minister Badawi, in his capacity as Minister of Internal Security, will decide whether to renew his detention for another two years or else release him.

Habeas Corpus petition

Nasharuddin Nasir is one of the ISA detainees who have challenged their detention orders through legal means by submitting an Habeas Corpus application, a judicial order to bring the detainee to court in order to determine the lawfulness of his detention. In November 2002, a High Court ordered Nasharuddin Nasir's release, having found that his arrest and detention order were unlawful, and that the police had failed to provide any evidence to support claims that he was a member of KMM. However he was re-arrested under the ISA on the following day, and given another two-year detention order.

Hopes that the courts would again intervene to secure his release were further undermined in August 2003 when the Federal Court (Malaysia's highest court) upheld an appeal by the Attorney General against the High Court order on the basis that the courts should not review the decisions of the executive in matters of national security.

Health problems

Nasharuddin Nasir has been in detention ever since his arrest in 2002 and is now suffering from health problems. Since March 2004, he has reported serious pain in his hip causing him great difficulty standing up and walking normally. His requests to the authorities to allow him to visit a hip specialist, have reportedly been repeatedly denied. In May 2004, his lawyers wrote to the Malaysian authorities calling on them to grant Nasharuddin access to a specialist who could conduct appropriate medical check-ups, including X-Rays.

Other ISA detainees

On 11 June 2004, eight detainees arrested at the same time as Nasharuddin Nasir, **Azmi Khan Mahmood, Jaafar Saldin, Mat Sah Satray, Mazlan Ishak, Shakom Shahid, Shamsuddin bin Sulaiman, Syed Ali Syed Abdullah and Yusrin Haiti** were sent with him to a Police Remand Centre in Kuala Lumpur, where they were interrogated in relation to their alleged links with Islamist "militant" organizations. The detainees were not told of the reasons for the transfer nor the place where they would be transferred. They were reportedly interrogated by Special Branch police officers who tried to make them confess that they were members of Jemaah Islamiyah (JI).

The next day, the Deputy Home Minister announced that the eight men and two other detainees arrested with them, **F. Muchlis Abdul Halim Ferry** and **Agungdiyadi Ahmad Bynyamin**, were given two year detention orders.

ACTION! Please send letters **before 8 November 2004** to Prime Minister Abdullah Badawi-Minister=s Department, Federal Government Administration Centre, Bangunan Perdana Putra, 62502 Putrajaya, Malaysia - Fax: 0060 3 8888 3344:

- Expressing concern at the continued detention without trial of **Nasharuddin Nasir, Syed Alid Syed Abdullah, Shamsuddin bin Sulaiman, Mat Sah Satray, Shakom Shahid, Yusrin Haiti, Mazlan Ishak, F. Muchlis Abdul Halim Ferry, Agungdiyadi Ahmad Bynyamin, Azmi Khan Mhamood, Jaaffar Saldin** and of at least 70 other ISA detainees at Kamunting Detention Centre;
- Urging him to charge them and all other ISA detainees with a recognizable criminal offence and to respect the right to a fair trial, or else release them.
- Calling on him to allow Nasharuddin Nasir to exercise without restriction his right to seek medical treatment of his choice, and ensure that detention conditions meet with all requirements of health; with due regard being paid to climatic conditions and particularly to minimum floor space, lighting and ventilation.
- Expressing grave concern at credible reports of ill-treatment of ISA detainees during the first 60 days of detention, and calling on him to ensure that any detainee held under the ISA or other legislation is not subjected to torture or other ill-treatment; and ensure all complaints of torture or ill-treatment are promptly and impartially investigated and those found responsible brought to justice.
- Calling for repeal or reform of the ISA, as recommended by the Malaysian Human Rights Commission (Suhakam), so that it no longer violates internationally agreed human rights standards.