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Malaysia

Prime Minister Badawi's visit to the USA, France and the UK

Some concerns and recommendations

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Malaysian Prime Minister Abdullah Badawi is set to visit USA, France and the UK to hold discussions with President Bush on 19 July, President Chirac on 21 July and Prime Minister Blair on 23 July 2004. In this context, Amnesty International urges the respective host governments, media, non-governmental organisations and other individuals to take this opportunity to relay the following selection of human rights concerns and recommendations to Prime Minister Badawi and his delegation.

These concerns include detention without trial; the risk of ill-treatment and torture; and the politically motivated misuse of laws represented in particular by the cases of former deputy Prime Minister **Anwar Ibrahim** and his adopted brother, **Sukma Darmawan**

“War on Terror” - Detention without trial in Malaysia

Amnesty International has campaigned for decades against the misuse of Malaysia's Internal Security Act (ISA), which allows for indefinite detention without trial. Since the 1960's the authorities have repeatedly used the ISA to detain people peacefully expressing their religious and political beliefs, including opposition activists, students, journalists, religious clerics and trade unionists. 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.

Prime Minister Badawi, in his capacity as Home Minister, continues to sign detention orders that keep alleged “terrorists” detained for years without charging them with a recognisable offence. Although Amnesty International recognises the right of every state to ensure national security, it should not be to the detriment of fundamental international human rights

principles, including the right 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.

Amnesty International believes that Prime Minister Badawi should delay no further in acting on the recommendations of Malaysia's own Commission on Human Rights (Suhakam) which has called for repeal and reform of the ISA, including the restoration of the right of effective judicial review of ISA detention orders.

Such a move would represent a significant step in restoring respect for key human rights principles which have been undermined internationally in the context of the global "war on terror". It would reinforce the support for the rule of law and international human rights inherent in the June 2004 decision of the US Supreme Court which affirmed the right of suspected "terrorists" held under executive powers at Guantanamo Bay to judicially challenge the lawfulness of their detention.

ISA arrests, the risk of ill-treatment or torture, and Kamunting Detention Centre

Those arrested under the ISA since 2001 include those allegedly involved in domestic or regional Islamist "extremist" groups, including *Kumpulan Mujahidin Malaysia* (KMM), Malaysia Mujahidin Group, and a Southeast Asian network *Jemaah Islamiah* (JI) reportedly linked to the 2002 Bali bombings and *al-Qa'ida*.

At least 80 alleged members of these groups have been issued two year detention orders and these orders are routinely extended without explanation. On 11 June 2004, one day before their extension order expired, eight detainees, **Azmi Khan Mahmood, Jaafar Saldin, Mat Sah Satray, Mazlan Ishak, Shakom Shahid, Shamsuddin bin Sulaiman, Syed Ali Syed Abdullah** and **Yusrin Haiti** were transferred from Kamunting Detention Centre to a police station in Kuala Lumpur where they were again interrogated. All had their ISA detention orders renewed for another two years.

Amnesty International calls on Prime Minister Badawi to immediately:

- Charge all ISA detainees with recognizable criminal offences and grant them the right to a fair trial or else release them
- Implement the recommendations for the repeal and amendment of the ISA made by the Malaysian Human Rights Commission (Suhakam)

Torture and ill-treatment

The ISA allows police to arrest, without evidence or a warrant, any person they believe may pose a threat to national security. Detainees can be then be held under incommunicado police custody for a 60-day "investigation" period, before being issued a ministerial detention order and transferred to Kamunting Detention Centre. They are at particular risk of ill-treatment and torture during this initial 'investigation' period.

Over two decades 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. 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 the detainees' 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 light of such patterns of abuse, concern for the well being of suspected Islamist ‘militants’ in the period after arrest under the ISA remains acute. Amnesty International calls on Prime Minister Badawi 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;
- Ensure all complaints of torture or ill-treatment are promptly and impartially investigated and those found responsible brought to justice.
- Ensure that detention conditions meet with all requirements of health; due regard being paid to climatic conditions and particularly to minimum floor space, lighting and ventilation.

Anwar Ibrahim: politically motivated prosecutions and unfair trials

In 1998, Anwar Ibrahim, former Deputy Prime Minister and Finance Minister of Malaysia, was detained on politically motivated charges of abuse of power and sodomy. After two separate trials that failed to meet international standards of fairness he was sentenced to six years for abuse of power and nine years for sodomy. His adopted brother, Sukma Darmawan, was also charged with sodomy and of “aiding” Anwar to commit sodomy. Sukma Darmawan was sentenced to six years’ imprisonment and four strokes of the *rotan* cane. Malaysia’s highest court, the Federal Court, is currently considering Anwar Ibrahim and Sukma Darmawan’s final appeal against their sodomy convictions: a ruling is expected imminently.

Amnesty International considers Anwar Ibrahim to be a prisoner of conscience, detained because of his dissenting political activities and the challenge he posed to government leaders. The organisation is gravely concerned that Sukma Darmawan was prosecuted solely to secure a conviction against Anwar Ibrahim, and that he was subjected to ill-treatment to coerce a confession.

The organisation remains concerned that the existence of certain laws in Malaysia allows the authorities to use alleged homosexuality as a pretext for arresting political opponents. Not only do accusations under such laws allow the discrediting of political opponents in cultures where homosexuals face discrimination, but they can also result in their arrest and imprisonment thereby removing them from further participation in political life.

Anwar Ibrahim’s health concerns

Anwar Ibrahim’s health has deteriorated during imprisonment. He has suffered increasing pain from an existing spinal injury, apparently aggravated by the serious assault on him by the former national police chief in 1998. At times Anwar Ibrahim has moved only with difficulty and required injections of painkillers. Due to limited mobility, he has complained that his muscles have weakened and he has begun to lose sensation in his left foot. In July 2004 Anwar Ibrahim reported problems with his bladder function. Amid concerns of possible damage to his kidneys, initial medical examinations found that his bladder complaint was linked to deterioration in his spinal condition and that swelling of the kidneys had occurred.

Independent medical experts have previously recommended that Anwar Ibrahim undergo endoscopic microsurgery and have advised that the best prognosis for recovery would be for

the operation to be conducted at a specialised spinal surgery available outside Malaysia. In 2001 Malaysia's Human Rights Commission (Suhakam) asserted Anwar Ibrahim's right as a patient to make an informed choice about the medical treatment he wishes to undergo, and noting that there were no relevant prohibitions under Malaysian law, called for him to be allowed to travel abroad to receive the recommended specialised medical treatment.

Amnesty International considers Anwar Ibrahim and Sukma Darmawan to be prisoners of conscience and is calling for their immediate and unconditional release.

Amnesty International is concerned at recent reports of a further deterioration in Anwar Ibrahim's health and calls on the authorities to immediately provide the medical treatment he needs, including transfer to hospital. The organisation urges the authorities to accept Suhakam's recommendation to exercise without restriction his right to seek the medical treatment of his choice, in accordance with the recommendations of his medical advisors.

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