

# MALAYSIA

## The arrest of Anwar Ibrahim and his political associates An update

9 November 1998

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

Still detained:

**Anwar Ibrahim**, Former Deputy Prime Minister and Finance Minister

**Ruslan Kassim**, President of Negri Sembilan state United Malays National Organization (UMNO) Youth

**Abdul Malek Hussein**, UMNO member, former *Parti Islam SeMalaysia* (PAS) opposition party youth leader

Released:

**Ahmad Zahid Hamidi**, UMNO National Youth Chief

**Ahmad Azam Abdul Rahman**, President of ABIM (a Muslim youth organization)

**Mukhtar Redhuan**, Deputy President ABIM

**Shaharuddin Badaruddin**, Secretary General ABIM

**Abdul Halim Ismail**, Deputy National President ABIM

**Tamunif Mokhtar**, Division Head of Cheras state UMNO

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

**Kamaruddin Mat Noor**, State assemblyman for Semarak, Kelantan

**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 Pant

**Dr Zamri Abdul Kadir**, Head, Lumut state UMNO Youth

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

**Shaari Sungip**, President, Jamaah Islah Malaysia (JIM - an Islamic non-governmental organization)

(as of 6 November 1998)

## AMNESTY INTERNATIONAL'S CONCERNS

### 1. Prisoners of Conscience

Anwar Ibrahim and the 17 men listed overleaf were arrested and held without charge under the Internal Security Act (ISA). All were arrested between 20 and 29 September 1998, except Shaari Sungip, who was arrested on 12 October.

On 14 October the authorities announced that Anwar Ibrahim, arrested on 20 September, was no longer held under the ISA, but had been transferred from Bukit Aman federal police headquarters to Sungai Buloh prison, where he remains remanded in custody pending the outcome of his trial on sodomy and corruption charges. By 27 October, 15 of the other ISA detainees had been released.

Amnesty International believes **Anwar Ibrahim, Ruslan Kassim** and **Abdul Malek Hussein** 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.

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Amnesty International also considers two other detained Anwar associates to be prisoners of conscience and is calling for their immediate release. These are,

**Sukma Darmawan** (37, Indonesian-born businessman and Anwar's adopted brother)  
**Dr Munawar Ahmad Anees** (50, Pakistani academic, editor of *Periodica Islamica* and several Islamic journals).

The two men were detained and later 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 were 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.

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Amnesty International also considers businessman and Anwar associate **S. Nallakaruppan**, arrested under the ISA in July 1998, and currently on trial on charges of illegally possessing ammunition, to be a possible prisoner of conscience, and is calling for him to receive a free and fair trial. S. Nallakaruppan stated in an affidavit that he had been physically and mentally pressurized to sign statements implicating Anwar Ibrahim in criminal offences.

## **2. The trial of Anwar Ibrahim**

Anwar Ibrahim's trial on five charges of sexual impropriety<sup>1</sup> (sodomy) and five charges of corruption<sup>2</sup> opened on 2 November. The charges of corruption relate to accusations that Anwar Ibrahim abused his ministerial office by directing two senior police officers to interfere with the interrogation of two witnesses related to the sodomy cases. Anwar Ibrahim was denied bail, on the basis that he might interfere with witnesses.

Amnesty International believes Anwar was detained, and has now been brought to trial on account of his non-violent political activities and expression of dissent within the government. The organization believes the timing and manner of the filing of charges against him reflect political motives, and that the charges are being used by authorities as a pretext to remove Anwar from further participation in public life.

A number of organizations, including the International Commission of Jurists, Human Rights Watch and Amnesty International have sent observers to Anwar's trial. Amnesty International is monitoring the trial to examine the nature and basis of the evidence brought against him, and to assess the proceedings in light of international standards on fair trial, including the presumption of innocence of the accused. Amnesty International has sent representatives to attend the court sessions.

At the opening of the trial, presiding judge Justice Augustine Paul denied a request for a watching brief for members of the Malaysian Bar Council, and special observer status for non-governmental organizations, including Amnesty International, wishing to observe the trial, stating "*Under our law, we have no right to grant this. This is a big insult to the court. It gives the impression that the court may not be dispensing justice. This is totally wrong...*". While trial observers are allowed to attend as members of the public, concerns have been raised with the Malaysian authorities as to whether the trial could truly be considered open, given reports of the apparently arbitrary denial of access to some individuals or organizations. However by 4 November all non-governmental organizations and

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<sup>1</sup> Section 377 B of the Penal Code

<sup>2</sup>Section 2 (1) of the Emergency ( Essential Powers) Ordinance No. 22, 1970

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diplomatic representatives wishing to observe the trial were reported to have gained access to the court.

### **3. Incommunicado detention, ill-treatment, and the need for legal, medical and family access**

Amnesty International remains concerned that detainees held under the ISA and other legislation are held at times incommunicado at unknown locations, and that they 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...’.

After being transferred to Sungai Buloh prison on 14 November, Anwar was placed in solitary confinement and subsequently allowed weekly family visits and access to his lawyers.

In an affidavit submitted to his lawyers **Dr. Munawar Anees** also protested his handling by police - which constituted degrading treatment - while being held in incommunicado detention. After being arrested under the ISA on 14 October, Dr Anees was driven, blindfolded and handcuffed, to an unknown location. He stated he was made to strip, insulted and shaved bald and held for one day in a solitary confinement cell without bedding, in which the lights were left continuously. He was repeatedly blindfolded and handcuffed when taken from his cell to be interrogated which he described as “*systematic humiliation... to the extent that I ended up... a shivering shell of a man willing to do anything to stop the destruction of my being*”. As he was arrested Dr Anees had complained of chest pains. He was not taken to hospital until a day later and, after his trial and conviction, was transferred from Kajang jail to a hospital coronary rehabilitation ward where he was given access to

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lawyers and family members. While in the ward Dr Anees was reportedly verbally pressured by police officers not to appeal his sentence.

**Sukma Darmawan**, was detained under the Criminal Procedure Code for police investigation on 4 September and held incommunicado for 15 days. Amnesty International is gravely concerned at reports that Sukma may have suffered severe physical and psychological pressure and ill-treatment, including being stripped naked in a very cold room, beaten and threatened with indefinite detention under the ISA. After his trial and conviction, in an unexplained move, he was transferred from Kajang jail back to incommunicado detention at Bukit Aman federal police headquarters where he has been denied access to lawyers appointed by his family.

Both Dr. Munawar Anees and Sukma Darmawan have made unsuccessful *habeas corpus* applications for their release from custody, and are appealing their sentences.

- < Amnesty International remains concerned that a number of detainees remain in incommunicado detention, some at unknown locations.
- < Amnesty International believes that incommunicado detainees remain at particular risk of ill-treatment and urges that they be given immediate and regular access to independent lawyers, medical personnel, and members of their families.
- < Amnesty International calls for prompt, independent and full investigations into the reported ill-treatment of Anwar Ibrahim, Munawar Anees and Sukma Darmawan, for the findings to be made public, and for those found responsible to be brought to justice.

#### **4. Violations of the right of assembly, association and peaceful protest**

Anwar was arrested at his home on 20 September after police dispersed a 7,000-strong rally of his supporters, who were marching peacefully towards Prime Minister Mohamad Mahathir's residence, by shooting water cannons and teargas at the crowd.

Since then regular peaceful demonstrations have continued, mainly in central Kuala Lumpur, in support of Anwar and in favour of his calls for broad political and social 'reform' - despite government declarations of a nationwide ban on all 'pro-reform' rallies.

Police armed with water cannons, teargas, shields and batons have repeatedly broken up demonstrations, usually having ordered protesters to disperse on the grounds that the gathering did not have the required police permit and constituted an illegal assembly. Concern

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has grown at the methods applied by the police, including use of excessive force, to disperse peaceful rallies. Hundreds of protesters have been detained amid reports of ill-treatment during and immediately after arrest, and whilst in police station detention cells ('lock-ups').

At one peaceful rally near Dataran Merdeka (Freedom Square) central Kuala Lumpur on 28 September eyewitnesses reported police beating, kicking and slapping demonstrators and bystanders while dispersing the rally. Mr Tian Chua, the chairman of the Coalition for People's Democracy (*Gagasan* - an alliance of political and social activist groups supportive of reform calls), observed the rally and was amongst those arrested and subsequently 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.

On 24 October, after a series of rallies in preceding weeks, police again used excessive force, including water cannon spray containing chemical irritant, to break up a peaceful demonstration in central Kuala Lumpur. Protesters and bystanders were reportedly kicked and beaten with fists and cane batons. Later that evening violent clashes between police and protesters broke out in the central city district of Kampung Bahru. Two policemen and 12 demonstrators were injured as, for the first time, protesters responded to police clearance operations by throwing stones and bricks. At least 240 people were arrested during the course of the day.

Those arrested during demonstrations have had their access to legal counsel restricted or denied in the period prior to remand hearings on charges of illegal assembly or rioting, especially when these hearings were held in police stations rather than in courthouses.

At the remand hearings the majority of detainees have been released on bail by magistrates, pending possible trial under the Police Act or Penal Code - which allow maximum punishments of imprisonment for six months or a year respectively. However magistrates have at times ordered detainees to be remanded in custody for periods from five to fourteen days, for further police investigation.

The authorities have also moved to restrict the right of assembly in indoor forums and other peaceful gatherings. On 24 October police ordered the dispersal of a meeting held at the Malaysian Trade Unions Congress headquarters in Kuala Lumpur to discuss repeal of the ISA. Participants were given ten minutes to leave or else face arrest.

Officials have also threatened to apply the Societies Act, allowing imprisonment of up to five years for those found guilty of managing unregistered societies, against those linked to the recently formed Malaysian People's Justice Movement (*Gerak*) -- a group comprising a cross-section of opposition political parties and non-governmental organizations who seek the repeal of the ISA.

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The Malaysian authorities have also threatened to invoke the Universities and University Colleges Act, which prohibits students from involvement in opposition political activities. The Education Ministry has stated that it has identified a number of students involved in the reform movement, and that authorities at Universiti Kebangsaan Malaysia (UKM) and the Universiti Teknologi Malaysia have suspended students or written “show cause” letters to students requiring that they answer for their behaviour or be suspended or expelled.

- < Amnesty International urges the Malaysian government to respect the right of Malaysians to engage in peaceful association, assembly and protest.
- < 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.<sup>3</sup> These standards state *inter alia* that force should only be used when strictly necessary, and only to the minimum extent required under the circumstances.
- < Amnesty International urges that all those detained in connection with demonstrations be given full and prompt access to legal counsel, that any incidents of ill-treatment allegedly occurring whilst in police custody be swiftly and impartially investigated, and that those found responsible be brought to justice.

## 5. 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.

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<sup>3</sup>Code 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 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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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. All were subsequently released, but reportedly subjected to ISA restriction orders curtailing their freedom of movement and association.

In November 1997 ten men were arrested under the ISA on account of their Shi'a Islamic beliefs. Amnesty International considers the seven who remain in detention to be prisoners of conscience, held solely for their peaceful practise of religious beliefs, and is calling for their immediate and unconditional release. The seven are **Professor Lutpi Ibrahim**, professor in Islamic studies at the University of Malaysia, **Fadzullah Shuib**, lecturer at Mara Institute of Technology, **Syed Sulaiman bin Syed Hassan**, **Zainal Adam**, **Said Muda**, **Ustaz Abdul Hassan** and **Che Kamarulzaman Che Ismail**. Government minister Abdul Hamid Othman stated that such use of the ISA was appropriate as "*religious disharmony is a national threat which places the country's political and economic development at an unsafe position*". The detainees have reportedly been placed under pressure in detention to renounce their beliefs.

Under a 1989 amendment to the ISA, *habeas corpus* applications on behalf of detainees held under the ISA may only be allowed if authorities have not observed the specified procedures for detention. Professor Lutpi Ibrahim and Fadzullah Shuib were released on 23 December 1997, after the High Court allowed a *habeas corpus* application and ruled their detention to be invalid. The two men were immediately rearrested by police under the ISA. **Badrol Baharom**, **Paharuddin Mustapha** and **Wan Hanafi Mustapha**, also detained under the ISA in November 1997, in connection with holding Shi'a beliefs, have been released but remain under ISA restriction orders curtailing their freedom of movement and association.

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, four people were detained under the ISA for allegedly spreading false rumours, through the Internet, of riots in Kuala Lumpur. They were later charged under the Penal Code, which carries a maximum penalty of two



years' jail, a fine or both. The accused 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,

- < 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, the Societies Act and the Printing Presses & Publications Act, to curb freedom of expression and association. Dissenting political voices, NGO workers and others are all vulnerable to prosecution and imprisonment for peacefully expressing their opinion.

Recent events in Malaysia follow other prominent cases involving the government's selective application of restrictive laws and apparent misuse of judicial procedures, in particular the imprisonment in August 1998 of opposition parliamentarian and prisoner of conscience **Lim Guan Eng** for sedition and printing 'false news' and the continuing trial of **Irene Fernandez**, charged for printing 'false news' about ill-treatment of detainees in camps for migrant workers.

#### **Irene Fernandez**

Irene Fernandez, director of *Tenaganita*, a non-governmental organization campaigning for women's rights, returns to court on 10 November 1998, to face charges relating to her documentation of allegations of ill-treatment, sexual abuse and denial of adequate medical care of migrant workers, held as alleged illegal immigrants in detention camps. She has been charged with allegedly publishing 'false news' in the report, and if found guilty may be imprisoned for up to three years' imprisonment. Amnesty International is concerned that Irene Fernandez is being prosecuted solely on account of her peaceful activities as a human rights activist. If convicted, the organization would consider her a prisoner of conscience, and call for her immediate and unconditional release.

### **Lim Guan Eng**

Opposition parliamentarian Lim Guan Eng is serving an 18-month sentence at Kajang Prison having been imprisoned on 25 August 1998. He has been jailed on account of his criticisms of the Malaysian government's handling of allegations of statutory rape made against the former Chief Minister of Malacca, Tan Sri Abdul Rahim Tamby Chik, in 1994. He was charged and sentenced under the Printing Presses & Publications Act for '*maliciously printing false news*', and under the Sedition Act for '*causing public disaffection with the administration of justice*'. Amnesty International believes the arbitrary and selective application of these laws against Lim Guan Eng reflects political motives, and that the government's successful legal appeals for the imposition of a custodial sentence to replace the fines originally imposed by the High Court were designed to remove a prominent political critic from participation in public life. Amnesty International believes Lim Guan Eng to be a prisoner of conscience and is calling for his immediate, unconditional release.

Amnesty International believes that these cases, the recent ISA arrests and Anwar Ibrahim's trial threaten to 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

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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 subsequently arrested and brought charges under the Penal Code against 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 17 of Anwar's supporters perceived by the government to have potential political influence within the UMNO ruling party and the wider Malay Muslim community.

By 27 October, 15 of the 17 detainees had been released without charge, having been interrogated while held incommunicado. Only Anwar was served with criminal charges in a move which appears intended primarily to undermine his 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 was politically motivated.

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 order 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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