

ARBITRARY DETENTION

RECOMMENDATION TO MALAYSIA

- *Amend and repeal*, in line with international human rights standards, all laws that permit arbitrary detention, namely the Security Offences Special Measures Act 2012 (SOSMA), the Prevention of Crime Act 1959 (POCA) and the Prevention of Terrorism Act 2015 (POTA)

3RD UPR CYCLE RECOMMENDATIONS

In 2018 for the 3rd UPR cycle, Malaysia:

- Partially accepted two recommendations on *amending and/or repealing* laws used to arbitrarily detain individuals, including the Security Offences (Special Measures) Act 2012 (SOSMA), the Prevention of Crime Act 1959 (POCA) and the Prevention of Terrorism Act 2015 (POTA)
- Fully accepted one recommendation to accelerate consultations to review SOSMA, POCA and POTA

NATIONAL EFFORTS TAKEN

Commitments were undertaken from time to time.

- 2018: allegedly developed new standard operating procedures for case management as an interim measure pending amendment or repeal of SOSMA. Also promised to table amendments to SOSMA, POCA and POTA
- 2023: 13 stakeholder engagements, including with civil society. Currently reviewing proposed amendments, including provisions related to bail

HUMAN RIGHTS VIOLATIONS OF ARBITRARY DETENTION LAWS

- Bypass of judicial oversight and due fair trial processes (e.g., no bail granted by default, bypass of evidentiary standards, indefinite incarceration)
- Enhanced vulnerability to torture and abuse by authorities whilst in detention; chain remand
- Long-term socioeconomic impact on especially families of detainees:
 - Financial insecurity, due to disproportionate increase in detention-related expenditure, loss of employment and in some cases increase in debt. This state persists even after the detainee is acquitted, with continued difficulty in securing employment and accessing financial services.
 - Deterioration in mental and emotional wellbeing of children of detainees. This, in some cases with peer bullying as an additional contributing factor, directly jeopardises these children's access to education.
 - Disintegration of familial structure due to deterioration in familial relationships, in cases leading to divorce. This is also perpetuated by ongoing stressors such as societal stigma and its effects on quality of life (e.g., need to change living environments).

For more information, contact Jernell Tan at: documentation@suaram.net

Link to our UPR Report:
<https://shorturl.at/dyQZ4>

