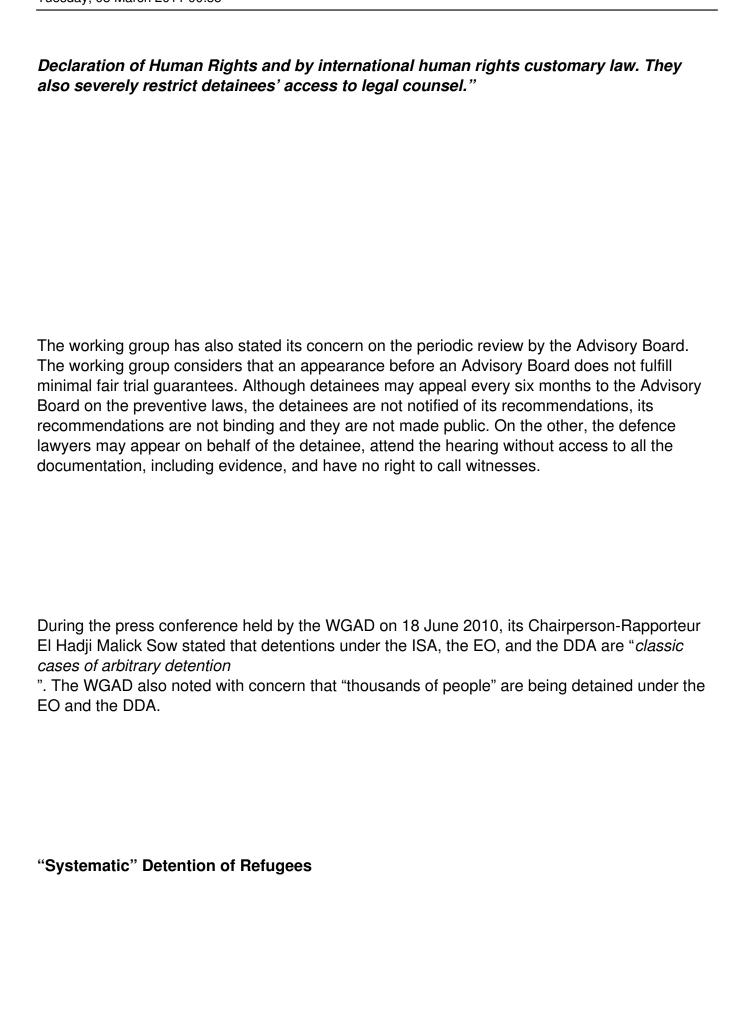


The findings and recommendations of the United Nations Working Group on Arbitrary Detention (WGAD) from its visit to Malaysia from 7 to 18 June 2010 have added to the long list of recommendations and concerns pertaining to the Malaysian government's legislations, policies and practices of arbitrary detention. Suara Rakyat Malaysia (SUARAM) has despatched Ms Temme Lee, SUARAM Secretariat member to make interventions at the UN Human Rights Council after the mission report presented by the WGAD [1] . SUARAM supports the recommendations made by the working group to the Malaysian government.

## "Classic Cases of Arbitrary Detention" under the ISA, EO, DDA, RRA

In their mission report, the WGAD states that it is "seriously concerned" about the existence and enforcement of laws which provide for detention without trial in Malaysia, namely the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance (EO), the Dangerous Drugs (Special Preventive Measures) Act (DDA), and the Restricted Residence Act.

"(These laws) impede the detainee's right to a fair trial, consecrated in the Universal

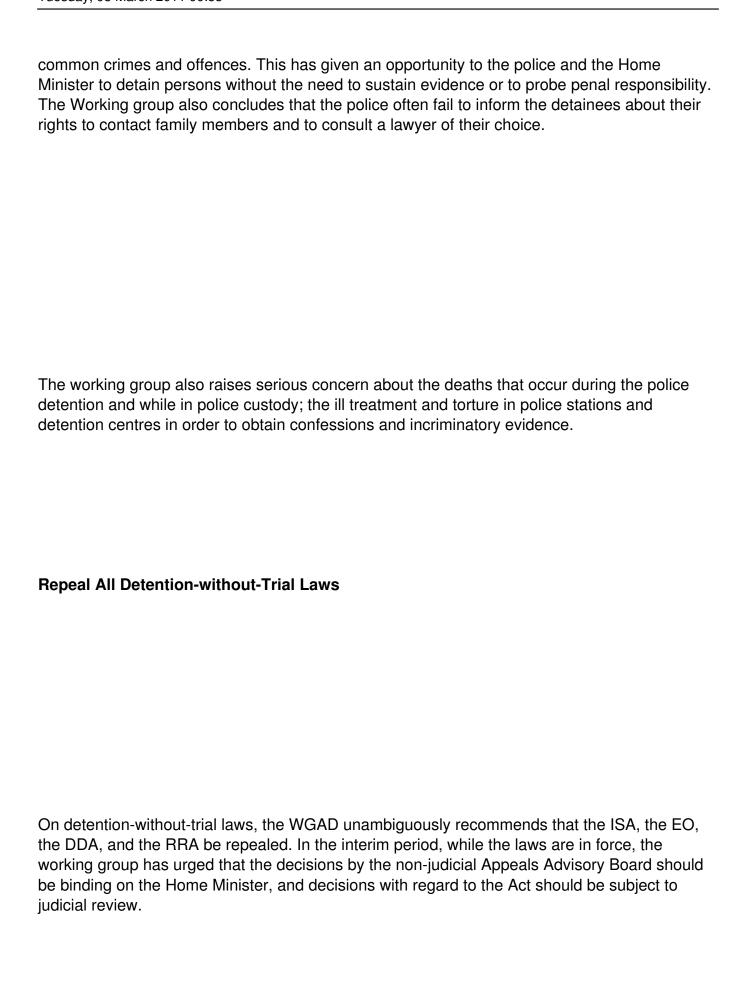


Also of concern to the WGAD is the detention of refugees and asylum seekers. The WGAD's Chairperson-Rapporteur has described the detention of refugees as "systematic", noting that even refugees who are in possession of identity cards issued by the United Nations High Commissioner for Refugees are not exempt from arrests and detentions.

Malaysia's non-ratification of the 1951 Convention on the Status of Refugees and non-recognition of the status of refugees and asylum seekers have resulted in the detention of many refugees under immigration laws in Malaysia for their alleged "illegal presence" in Malaysian territory. The WGAD notes that detainees who have served prison sentences under Immigration laws are often held in immigration detention centres for an indefinite period while awaiting deportation to their countries of origin.

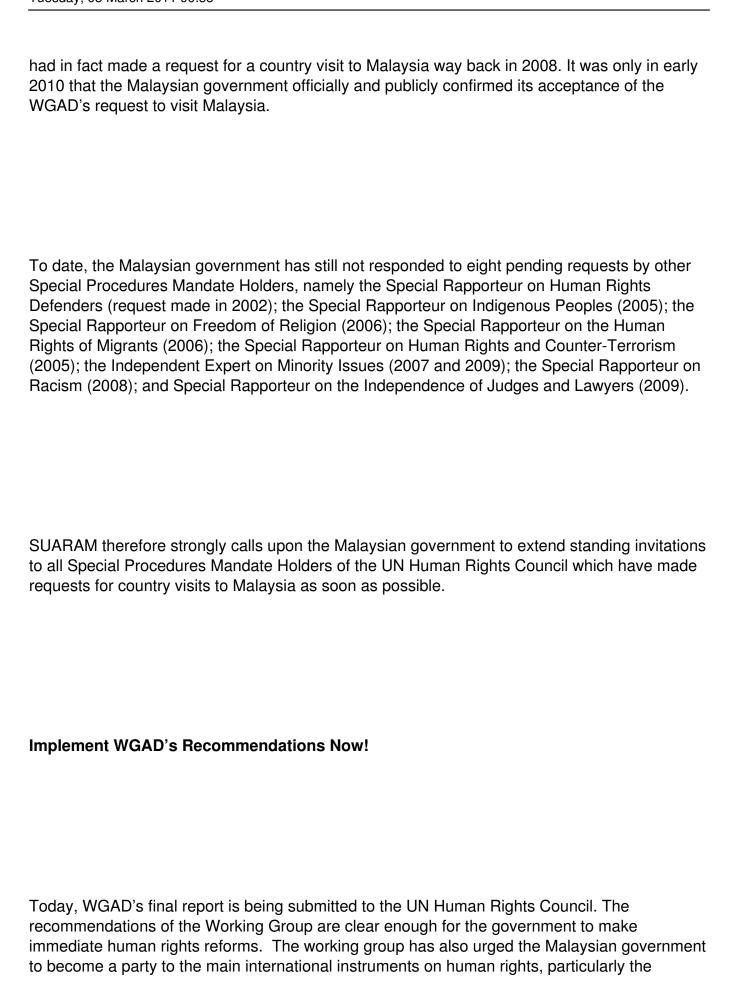
Police Force: Excessive Power leads to human rights violations

The working group has also expressed concern over the excessive power given to the police force in Malaysia particularly under the preventive laws. The working group is of the view that the excessive power given to the police has led to their eluding the normal penal procedure for



SUARAM thus calls upon the government to re-think the proposed amendments to all the detention-without-trial laws in the light of the latest WGAD's recommendations. The ISA, the EO, the DDA, and the RRA must be repealed forthwith; the government should immediately end all arrests under the detention-without-trial laws, and release all those currently detained under these laws or charge them in a fair and open court.
End Detention of Refugees, Asylum Seekers and Other Vulnerable Migrants
On the detention of immigrants, the WGAD states that:
"Detention of immigrants should be decided upon by a court of law, on a case by case basis, and pursuant to clearly and exhaustively defined criteria in legislation, under which detention may be resorted to ."
The WGAD stresses that immigrants should have an effective remedy to challenge the necessity and legality of their detention at any time; that immigration detention should not be applied to refugees, asylum seekers and vulnerable groups of migrants, including unaccompanied minors, families with minor children, pregnant women, breastfeeding mothers, elderly persons, persons with disabilities, or people with serious and/or chronic physical or mental health problems.

Tuesday, 08 March 2011 00:55 -	Working Group on Arbitrary Detention: Implement Recommendations
	Malaysian government to ratify the 1951 Convention on the
_	endation which has been made on numerous occasions by obserstates during the Universal Periodic Review of Malaysia in
nd to stop arresting refugees	overnment to immediately implement these recommendations is, asylum seekers and other vulnerable groups of migrants. The concrete timeframe for the ratification of the 1951 Convention on
vite UN Experts in Other A	reas Too
vito on Exporto in other Al	
•	ndate Holders of the UN Human Rights Council can only visit a ent's invitation, SUARAM would like to point out that the WGAD



International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination, (CERD), the Convention relating to the Status of Refugees and the Protocol there to, the Convention relating to the Status of Stateless Persons, the Convention on the Reduction of Statelessness and the Rome Statute of the International Criminal Court (ICC).

Similar recommendations have already been made by other bodies such as the Human Rights Commission of Malaysia (SUHAKAM), the Royal Commission on the Police, and UN member states. As such, there is no justification for the government to delay implementing these recommendations immediately, especially when Malaysia currently has a seat in the Human Rights Council.

The Malaysian government's attitude toward these recommendations of the WGAD will be an indication of either its commitment to human rights or otherwise, its sheer hypocrisy while sitting in UN Human Rights Council.