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Of human rights and detention

A United Nations group tabled its report on detainees in Malaysia after visiting detention centres and interviewing inmates. The Malaysian Government has two years to act on the report and its recommendations.

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MALAYSIA will have two years to implement recommendations made by the United Nations Working Group on Arbitrary Detention after its final report is accepted by the Human Rights Council (HRC).

The report of the fact-finding mission was presented to the HRC in Geneva yesterday.

The four-member delegation that had been here from June 7 to 18 at the Government's invitation, had visited detention facilities and interviewed detainees in confidence.

Describing the process at the HRC, Bar Council's Human Rights Committee chairman Andrew Khoo said its members could make comments and ask questions following the presentation of the report.

"Malaysia will then have the opportunity to respond," said Khoo.

Asked whether Malaysia could challenge for errors, he said it would have had sight of a draft to check for inaccuracies.

"After the report is adopted by the HRC, Malaysia will be given two years to implement the recommendations," he said, adding that Forum Asia, through its Malaysian member Suaram, would be making a statement during the discussions.

The Government's response will be of great interest since DAP chairman Karpal Singh had said on Saturday that older prisons and lock-ups in Malaysia were so overcrowded that they were unfit for habitation and needed the attention of a Royal Commission of Inquiry.

Also, when they released the initial findings here last June, Home Minister Datuk Seri Hishammuddin Tun Hussein had taken umbrage at certain groups for ignoring the positive findings and instead latching onto the revelation that almost all detainees under preventive laws interviewed had said they were tortured by police to obtain confessions or

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evidence.

The delegation to Malaysia comprised the Working Group's Chair-Rapporteur El Hadji Malick Sow from Senegal, member Roberto Garreton (Chile) and two members of its Geneva secretariat.

A statement of their findings at the conclusion of their mission is on the website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10176&LangID=E>.

While they were pleased to find a decrease in Internal Security Act (ISA) detainees, Malick said 1,535 had died in prisons, rehabilitation centres and immigration detention centres between 2003 and 2007.

"Eighty-five others died in police custody. Most occurred in hospitals and they include a high number affected by HIV/AIDS," he said, adding that inquests must be held in every case of death as soon as is possible.

The group noted that there were no complaints about the treatment by prison and detention centre guards.

However, they found that the Lenggeng Detention Centre suffered from "overcrowding, poor sanitation and inadequate medical care", which helped transmit communicable diseases, particularly skin diseases.

He reminded the Government of its obligation to guarantee the right to safety of all foreigners, particularly when deprived of their

liberty.

Malick said the excessive powers given to police and Rela had facilitated the detention of many at immigration detention centres, including those with UN cards from the High Commissioner for Refugees.

They recommended that the ISA, Emergency (Public Order and Prevention of Crime) Ordinance, Dangerous Drugs (Special Preventive Measures) Act and the Restricted Residence Act be repealed or amended to conform with the UN Declaration of Human Rights.

Malick said that they had found – at centres reserved for detainees under these laws – even those charged with common offences when they should be dealt with under the regular penal procedure.

Among other concerns were:

> The police could, in some cases, arrest without a warrant and that magistrates routinely extended the initial 24 hours detention; and

> Detainees under the preventive laws were not told of their right to contact relatives or consult a lawyer but if they knew, some police officers would say that the latter would "make their situation more complicated."

Malick said the detention situation would improve if the judiciary were fully independent, based on the principle of separation of powers and composed of independent and impartial judges and magistrates.



Taking 'em to task: The United Nations Working Group on Arbitrary Detention sharing their thoughts at Wisma UN last year. From right are Garreton, Malick Sow and group member Kamal Malhotra.