



[Under embargo until Saturday 1st August 2009 0h01 Kuala Lumpur time]

PRESS RELEASE

MALAYSIA: The Internal Security Act (ISA) should be repealed

Kuala Lumpur – Geneva - Paris, 1st August 2009. On the occasion of the anniversary of the enactment of the Internal Security Act (ISA), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH) and their member organisation in Malaysia, Suara Rakyat Malaysia (SUARAM), jointly call on the Government of Malaysia to take all necessary steps to repeal this law and release all remaining individuals detained under the ISA.

Building on the positive changes that have occurred in 2009 with the release of 34 ISA detainees from Kamunting detention camp, among them at least five human rights defenders¹, the Government should not rest on these measures but act beyond “a comprehensive study to review ISA”², as stated in its response to the United Nations Human Rights Council in the framework of the Universal Periodic Review (UPR).

The ISA was originally enacted in 1960 to succeed emergency laws aimed at combating the communist insurgency during the 1940s and 1950s. It has since been used against those who commit acts deemed to be “prejudicial to the security of Malaysia”, or threatening to the “maintenance of essential services” or “economic life”. These vaguely defined security concerns have led to the frequent use of the law against people peacefully expressing their religious and political beliefs, as well as a number of human rights defenders (*see 2007 and 2009 Annual Reports of the Observatory for the Protection of Human Rights Defenders*).

OMCT, FIDH and SUARAM recognise that one of a government’s primary duties is to ensure the security of its citizens. Nevertheless, security should not be used as a pretext to undermine the fundamental rights and guarantees enshrined in international human rights law.

Our organisations recall that the ISA has facilitated human rights abuses, including the practice of torture and other forms of ill-treatment. “The law, which allows for arrest without warrant and indefinite detention without trial, violates internationally recognised human rights standards, and should be repealed”, said Ms. Souhayr Belhassen, President of FIDH.

As underlined by Mr. Eric Sottas, Secretary General of OMCT, “Security is not an end in itself, and certainly not an end which justifies curtailing the very rights which it is meant to guarantee, and the enjoyment of which constitute its *raison d’être*”.

According to SUARAM, “The secrecy and unscrupulous practice that surrounds the use of the ISA goes against the principles of justice, truth and transparency. It again exhibits the true colour of the ISA, which is extremely arbitrary and has nothing to do with national security”.

On this particular day, OMCT, FIDH and SUARAM specifically wish to recall the situation of Mr. **Adbullah bin Daud** (detained in 2001), Mr. **Mat Sah Bin Mohd Satray** and Mr. **Shamsuddin bin Sulaiman** (both detained in 2002), all three deprived of liberty without charges by the Malaysian

¹ See Urgent Appeal MYS 002 / 0408 / OBS 061.3 of the Observatory for the Protection of Human Rights Defenders, an FIDH-OMCT joint programme.

² Response of the Government of Malaysia to the recommendations listed under paragraph 106 of the outcome report of the Universal Periodic Review of Malaysia, June 2009.

Government under the ISA for more than seven years at Kamunting detention camp. None of them has been given the opportunity of a fair trial before an independent judicial authority.

In 2003, the United Nations Working Group on Arbitrary Detention considered that administrative detention on such grounds, even when in conformity with a domestic law, constitutes a violation of the right to a fair trial by an independent and impartial judicial authority. It consequently considered that the detention under such conditions was arbitrary³.

For purposes of remedying this situation of injustice, OMCT, FIDH and SUARAM urge the Government of Malaysia to take the necessary steps to repeal the law in order to respect fundamental rights and freedoms, and release all the remaining individuals detained under the ISA in the absence of valid legal charges that are consistent with international legal standards, or if such charges exist, bring them before an impartial and competent tribunal and guarantee their procedural rights at all times.

OMCT, FIDH and SUARAM further call on the Government and the police force to uphold its commitments, to put an immediate end to the continued crackdown on freedoms of the Malaysian civil society, notably in line with the UN Declaration on Human Rights Defenders. We call upon the Malaysian Government to authorise the rally that will be held against the ISA on 1st August 2009 in Kuala Lumpur and condemn any form of repression of the upcoming peaceful protests. Our organisations also demand that the Malaysian Human Rights Commission (SUHAKAM) plays its role and monitors the general situation to be peaceful and calm on 1st August 2009.

Finally, SUARAM, FIDH and OMCT renew their call on the Malaysian Government to sign and ratify without delay, and thereafter effectively implement the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the Optional Protocol to this Convention. Our organisations recall that the victims of torture and other forms of ill-treatment must be ensured the right to an effective remedy for the human rights violations suffered as well as the right to full redress, including compensation and rehabilitation. In the present situation, however, which is characterized by a climate of persisting impunity, victims of such practices fail to obtain justice. Yet justice is instrumental for the victims' dignity to be restored.

Contact:

SUARAM: Nalini. E: Tel. + 6 03 7784 3525, Email: suaram@suaram.net

OMCT: Alexandra Kossin: Tel. +41 22 809 49 39, Email: omct@omct.org

FIDH: Karine Appy: Tel. +33 1 43 55 14 12, Email: kappy@fidh.org