

MALAYSIA

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 45TH SESSION OF THE UPR
WORKING GROUP, JANUARY/FEBRUARY 2024

CONCERNING IMMIGRATION DETENTION

Joint submission by

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

ABOUT ASIA PACIFIC REFUGEE RIGHTS NETWORK

The Asia Pacific Refugee Rights Network (APRRN) is an open and growing network consisting of more than 240 civil society organisations and individuals from 28 countries committed to advancing the rights of refugees in the Asia Pacific region.

APRRN aims to advance the rights of refugees and other people in need of protection through joint advocacy, capacity strengthening, resource sharing, and outreach. APRRN envisions a region in which all people in need have equal and adequate access to assistance and protection, and to timely durable solutions. We envision a region in which refugee communities, civil society, UNHCR, States (including those outside the region) and other actors collaborate effectively towards the common purpose of protection.

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CONCERNING IMMIGRATION DETENTION

1. INTRODUCTION

- 1.1 This submission for the fourth cycle of the Universal Periodic Review (UPR) of **Malaysia** has been prepared by the **Global Detention Project** (GDP), a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status; and the **Asia Pacific Refugee Rights Network** (APRRN), a network consisting of more than 240 civil society organisations and individuals from 28 countries committed to advancing the rights of refugees in the Asia Pacific region.
- 1.2 This submission focuses on human rights concerns with respect to migration-related detention in Malaysia.

2. CONTEXT

- 2.1 Malaysia's immigration enforcement regime—including detention, forced removals, criminal prosecution, and corporal punishment—is one of the world's more punitive, arbitrary, and harmful systems.
- 2.2 Unauthorised entry and stay in Malaysia are criminalised and migrants often serve time in prisons before being transferred to one of several "immigration depots" while awaiting deportation. There is no limit to the amount of time migrants can be held in administrative detention; there are reports of people remaining in detention for years, including refugees.ⁱ
- 2.3 Malaysia continues to detain children despite its stated commitment to work to end the detention of unaccompanied or separated children as well as the growing global consensus that immigration detention is inherently harmful to children and thus is in all cases a breach of the Convention on the Rights of the Child's best interests principle, as the Committee on the Rights of Child underscores in its General Comment No. 23/No.4 (2017). As a signatory to the ASEAN Declaration on the Rights of the Child in the Context of Migration, Malaysia is obliged to implement non-custodial, community-based alternatives for children in immigration detention. Although Malaysia launched a pilot alternative to detention program for unaccompanied and separated children in 2022, the pilot project has stalled. A new initiative announced by the Minister of Home Affairs in February 2023 aims to shift all detained children into alternative care arrangements. However, to date no children have been released.

- 2.4 Despite its poor human rights record, Malaysia continues to be an important destination for migrants and asylum seekers from across Southeast and South Asia. UNHCR data indicates that in 2022, Malaysia hosted 134,554 refugees, 47,433 asylum seekers, and 115,169 stateless persons.ⁱⁱ The Migration Data Portal indicates that as of 2020, Malaysia had approximately 3.5 million international migrants, representing nearly 11 percent of the country's total population.ⁱⁱⁱ
- 2.5 Rohingya refugees fleeing genocide in Myanmar are amongst the more persecuted groups in Malaysia. Their extreme precarity is severely accentuated by their statelessness, which is a result of Myanmar's stripping them of their nationality.^{iv} Considered "illegal" or "prohibited" immigrants under Malaysia's Immigration Act, they are detained upon arrival in the country and denied access to UNHCR or registration procedures.^v Suffering extreme economic hardship and burgeoning xenophobic sentiment, Rohingya communities have been the target of large scale immigration raids, leading to a growing detainee population. Some observers estimate that the average length of detention for Rohingya is two years.^{vi}
- 2.6 Among its more notorious immigration enforcement practices is its policy of caning non-citizens prosecuted for unauthorised presence in the country. A legacy of British colonial rule, caning was introduced in the Immigration Act in 2002 to deter unlawful migration. Denounced as a form of torture by Amnesty International^{vii} and as "anachronistic and inconsistent with a compassionate society in a developed nation" by the Malaysian Bar Association,^{viii} caning is applied to adult males between 18 and 50 years old and leaves permanent physical and mental scars. Several thousand foreign national prisoners may be caned each year, including nearly 6,000 in 2013.^{ix} Rohingya refugees have also been subject to caning, although recent High Court rulings have spared some refugees from this punishment.^x
- 2.7 Procedural standards are reportedly very poor. Immigration detainees are rarely informed of the reasons for detention in a language they understand and they have scant access to legal counsel. Some UNHCR refugee cardholders detained in immigration "depots" can be released subject to the government's discretion but the UN refugee agency has since 2019 been blocked from visiting refugees in these detention centres.
- 2.8 Many non-citizens detained in Malaysia are victims of trafficking. The country has repeatedly been accused of failing to implement measures aimed at identifying trafficking victims, including during enforcement raids.^{xi} Because there is no vulnerability screening process, trafficking victims must "self-identify" in order to access legal and social support. According to the U.S. State Department, "Because of inconsistent identification efforts, authorities continued to inappropriately penalize trafficking victims for immigration and 'prostitution' violations."^{xii}
- 2.9 The Malaysian Passport Act empowers immigration and police officers to "lawfully detain" persons unlawfully entering Malaysia on board vessels during the period that the vessel is within Malaysia or the territorial waters thereof. However, little or no information about the frequency of the application of this measure appears to be available.
- 2.10 Malaysia is not a signatory to the 1951 Convention Relating to the Status of Refugees and it has failed to adopt legislation recognising the legal status of asylum seekers

and refugees, who are thus considered “illegal immigrants” under the Immigration Act 1959/1963.

- 2.11 Health care is limited or absent in detention centres, which faced severe health crises after the onset of the COVID-19 pandemic. With the onset of COVID-19, the government assured undocumented migrants that they would not be arrested if they came forward for testing for COVID-19. However, subsequent mass testing of migrants in certain “Enhanced Movement Control Order” (i.e. strict lockdown) areas resulted in mass arrests and immigration raids, which included asylum seekers pending registration by UNHCR and UNHCR cardholders whose registration had expired and could not be renewed due to lockdown. These people were detained in immigration detention centres, where clusters of COVID-19 later appeared, extending the public health emergency brought on by the pandemic.^{xiii}

3. FACTS AND FIGURES

- 3.1 According to data provided by various official and non-governmental sources, which has been collected and maintained by the Global Detention Project,^{xiv} Malaysia regularly has on average some 15,000 non-citizens—including children, victims of trafficking, and refugees—in detention on any given day. In May 2020, there were an estimated 13,000 immigration detainees; in April 2022, more than 17,000; and in July 2023, some 16,000.^{xv}
- 3.2 Women and children comprise a significant portion of the immigration detainee population. According to the Malaysian Immigration Department, among the more than 17,000 people in immigration detention on 26 April 2022, there were 12,895 men, 3,211 women, and 1,528 children.^{xvi} More recently, during a single day in May 2023, there were 11,068 people in immigration detention centres, including 8,427 men, 1,775 women, 542 boys, 427 girls.^{xvii}
- 3.3 According to media reports some 68,000 people were placed in immigration detention in 2013, including mainly Burmese, Indonesians, and Bangladeshis.^{xviii} This number increased to nearly 87,000 in 2016, and decreased to some 47,000 in 2017.^{xix}
- 3.4 Hundreds of people have died in immigration detention in recent years. According to one report from 2022, between 2018 and February 2022, there were 208 deaths in immigration detention centres.^{xx} A more recent study, published in May 2023, reports: “Between 2014 and mid-2022, 568 deaths were reported in immigration detention centres. In 2022 alone, 153 people, including seven children died. ... The government has reported that over the time period of 2015 and mid-2022, Covid-19, tuberculosis, heart disease, kidney disease, pneumonia, and cancer were among the causes of death of people in immigration detention. No further information about the causes of deaths is publicly available.”^{xxi}

4. DETENTION LAWS, REGULATIONS, AND CONDITIONS

- 4.1 Malaysia’s Immigration Act provides criminal penalties for anyone who irregularly enters the country, including a fine of up to RM 10,000, imprisonment for up to five years, and (if the individual is an adult male) up to six strokes of the cane.
- 4.2 Refugees and asylum seekers are subject to detention, despite the existence of policies that are intended to protect them from these measures. According to one

recent report: “Refugees and people seeking asylum who are registered with UNHCR hold a form of de facto status in Malaysia that provides only precarious and ad hoc protection against arrest, detention, and refoulement. The Attorney General’s Circular and National Security Council Directive 23 (MKN 23) are two policies that inform this de facto status of UNHCR card holders. These policies are not publicly available, have not been codified, and are inconsistently applied.”^{xxii} Moreover, as UNHCR registration can itself take years (the COVID-19 pandemic, for example, created a significant backlog of people awaiting registration or an RSD interview), refugees remain at risk of arrest and detention, and are often too afraid to go outside. In 2022, the Malaysian government announced that it intends to shut down UNHCR and take over refugee management in the country^{xxiii}—a development that would exacerbate refugees’ vulnerability in the country.

- 4.3 Immigration laws do not protect children from detention. While the Immigration Regulations provide for accompanied children under the age of 12 to be detained with either of their parents, there is no formal age assessment in place. Instead, age is assessed by physical appearance. The definition of “child” also varies from centre to centre—some facility management consider children to be anyone under 18, while others consider them to be under 12.^{xxiv}
- 4.4 Non-nationals can be detained indefinitely, as Malaysian legislation does not set a detention time limit. Section 34(1) of the Immigration Act states that persons can be detained “for such a period as may be necessary” for their removal.
- 4.5 There are few administrative or judicial channels that immigration detainees can pursue to challenge their detention. Section 59 of the Immigration Act restricts an individuals’ ability to be heard by the Minister or Director General regarding any matter under the Immigration Act, and 59A restricts judicial review of any acts or decisions except those relating to compliance with a procedural requirement.
- 4.6 Conditions inside the country’s detention facilities are known to be inhumane. Detainees are exposed to severe overcrowding, inadequate nutrition, limited health care, and poor sanitation and hygiene levels. There are numerous reports of detainees being physically ill-treated, as well as experiencing verbal and psychological abuse.^{xxv} Recreational activities are not provided, and detainees are instead forced to sit in their cells all day long—with the exception of a short 30 minute break for exercise. Similarly, no play activities are provided for children.^{xxvi} Poor conditions in detention facilities were highlighted in April 2022, when hundreds of detainees escaped the Sungai Bakap temporary detention centre reportedly in protest of conditions, during which seven people lost their lives.^{xxvii}
- 4.7 The impacts of these poor conditions are wide and varied. A 2022 study by a coalition of civil society groups found detainees commonly suffered from skin diseases, diarrhoea, stomach ulcers, and fever, and that women—especially breastfeeding women—were commonly malnourished.^{xxviii} Numerous deaths have also been reported inside detention centres. Between 2014 and mid-2022, 568 people died. According to the government, among the main causes of death were COVID-19, tuberculosis, heart disease, kidney disease, pneumonia, and cancer.^{xxix}

5. TRANSPARENCY AND OVERSIGHT

- 5.1 Malaysia does not publicly release disaggregated data concerning migration-related detention. Detention statistics that are available often emerge through parliamentary procedures. However, while some available data is disaggregated by age, gender, nationality, and ethnicity, there is no data concerning “medical vulnerabilities, disabilities, sexual orientation, legal status, employment status, literacy, or socio-economic context.”^{xxx} A recent report about the detention of refugees in Malaysia noted that Malaysian government officials refused to be interviewed for their study. “Despite several attempts to engage with officials – in particular, from the Immigration Department, Ministry of Home Affairs, Ministry of Women, Family and Community Development, the Ministry of Foreign Affairs, and the National Security Council – all either failed to respond or denied the interview request.”^{xxxi}
- 5.2 Malaysia’s detention practices also occur with little or no external monitoring, which enables abuses and prevents accountability. Civil society organisations are prevented from visiting people in immigration detention, and in 2019, Malaysia suspended UNHCR’s regular access to sites of detention.
- 5.3 Critics of the country’s detention practices, as well as whistleblowers, have faced reprisals including arrest and, in the case of migrants, cancellation of permits, detention, and deportation. In 2020, Malaysia cancelled the visa of a migrant worker who spoke to Al Jazeera, criticising Malaysia’s detention of undocumented migrants. Authorities reportedly undertook a nationwide manhunt to find the migrant worker, detained him for a month, then deported him and permanently banned him from re-entering the country.^{xxxi} Al Jazeera’s offices were additionally raided and seven journalists summoned for questioning, two of whom were refused renewals of their work permits.^{xxxi}

6. RECOMMENDATIONS DURING THE 3RD CYCLE

- 6.1 During the 3rd cycle of the Universal Periodic Review (40th session, February/March 2019), Malaysia supported several recommendations relevant to the human rights of migrants, refugees, and asylum seekers. However, the specific issue of immigration detention did not garner recommendations. Relevant recommendations included:
- Consider or move towards ratifying key human rights instruments including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Latvia, Turkey, Chile, Philippines, Iraq, Kazakhstan) (paras. 151.24, 151.9, 151.26, 151.31, 151.5, 151.6)
 - Increase efforts to prosecute and convict human traffickers, including complicit officials; protect victims; and reduce migrant workers’ vulnerability to debt bondage (USA) (para. 151.119)
 - Ensure all foreign workers have the right to full access to justice and legal remedies (Bangladesh) (para. 151.149)
 - Continue to take further necessary measures to ensure protection of the rights of migrant workers (Nepal) (para. 151.267)

- Take necessary measures to prevent and punish all forms of violence against migrant workers, including hate crimes and racism (Myanmar) (para. 151.266)
- 6.2 During the same cycle of the UPR, Malaysia received several relevant recommendations that it merely noted, including:
- Take legislative or administrative measures, including ratifying the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, to provide legal status to refugees and asylum seekers to allow them to reside, work and access education and health care in Malaysia (Canada) (para. 151.42)
 - Ensure asylum-seeking and refugee children have access to education (Honduras, Greece, Afghanistan) (paras. 151.197, 151.251, 151.268)
 - Ensure that all migrant workers and their families have access to medical services, including for sexual and reproductive health (Honduras) (para. 151.263)
 - Amend legislation used to arbitrarily detain individuals without trial (UK, Spain) (paras. 151.126, 151.141)

7. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS INSTRUMENTS

- 7.1 Several UN human rights bodies have assessed Malaysia's treatment of asylum seekers, refugees, and migrants and provided relevant recommendations:
- In 2018, the UN Committee on the Elimination of Discrimination against Women (CEDAW) issued several recommendations directly related to the country's immigration detention practices. These included adopting national legislation that codifies the principle of non-refoulement; ensuring full access to asylum procedures; establishing alternatives to detention; taking concrete steps to ensure that detained women and girls have access to adequate hygiene facilities and material necessities and are protected from gender-based violence; and ensuring that migrant women—particularly undocumented migrant women—, women confined in immigration detention centres, and asylum-seeking and refugee women have access to justice and recourse to effective remedies.^{xxxiv}
 - The CEDAW committee also urged the country to immediately repeal the directive requiring public hospitals to refer undocumented migrants and asylum seekers to the Immigration Department when they seek care – a practice that it warned has “serious consequences for maternal, foetal and infant mortality and morbidity as women are deterred from seeking essential health-care services for fear of arrest and detention.”
 - During the same review, the committee also noted its concern regarding the treatment of victims of trafficking in the country—including the lack of a formal and uniform identification procedure for victims of trafficking, which leads to the punishment of victims for violating immigration laws. The committee thus encouraged the country to ensure that victims are not punished and instead obtain effective protection.^{xxxv}

8. RECOMMENDATIONS FOR CONSIDERATION DURING 4th UPR CYCLE

- 8.1 **Arbitrary detention of migrants, refugees, asylum seekers, stateless persons, and victims of trafficking:** Malaysia must implement a series of legal and policy reforms in order to ensure that immigration detention is always a measure of last resort, based on an individual assessment of each case that establishes the necessity and proportionality of each detention decision. This requires establishing fair and

effective screening processes assessing individual and family vulnerabilities and resiliencies, and systematically consider the viability of non-custodial, alternatives to detention measures before issuing a detention order. Importantly, the detention of any at-risk or vulnerable person is arbitrary in nature, and thus represents a breach of Malaysia's human rights obligations (see additional recommendations about specific groups below). As the UN Working Group on Arbitrary Detention affirms in its "Revised Deliberation No. 5 on deprivation of liberty of migrant": "Detention of migrants in other situations of vulnerability or at risk, such as pregnant women, breastfeeding mothers, elderly persons, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, or survivors of trafficking, torture and/or other serious violent crimes, must not take place."

RECOMMENDATIONS

8.1a *Establish fair and effective screening measures to identify all at-risk or vulnerable people and ensure that once they are identified that they are removed from immigration enforcement procedures and their care and case management is taken over by appropriate social welfare institutions.*

8.1b *Ramp up the development of non-custodial alternatives to detention, focusing on housing in the community, to ensure that all detention decision-making procedures fully incorporate assessment of the viability of non-detention measures before a detention order is issued.*

8.1c *Impose a time limit on detention and ensure detainees have the ability to challenge the grounds of their detention before a court or other competent, independent and impartial authority.*

8.1d *Provide all detainees with access to legal aid, and extend access to the domestic legal aid scheme to all non-citizens, regardless of nationality or status.*

8.2 Arbitrary criminalization of migrants: Malaysia's prosecution and imprisonment of non-citizens for breaches of immigration laws is excessive, disproportionate, and thus arbitrary. This has been clearly established by the UN Working Group on Arbitrary Detention in its "Revised Deliberation No. 5 on deprivation of liberty of migrant," which provides: "The irregular entry and stay in a country by migrants should not be treated as a criminal offence, and the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows. Migrants must not be qualified or treated as criminals, or viewed only from the perspective of national or public security and/or health."

RECOMMENDATIONS

8.2a *Amend all relevant immigration and criminal laws to disallow the prosecution of non-citizens for violations of immigration entry and stay provisions.*

8.2b *Immediately cease caning and all other forms of corporal punishment for people who have violated immigration laws.*

8.3 Detention of children: Malaysia's detention of migrant and refugee children is a breach of the best interests principle enshrined in the Convention on the Rights of the

Child, which the Committee on the Rights of Child has repeatedly unscored, including in its General Comment No. 23/No.4 (2017), which affirms that “children should never be detained for reasons related to their or their parents’ migration status and States should expeditiously and completely cease or eradicate the immigration detention of children. Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice.” In the General Comment, the Committee insists that all migrant children, including their families, must be removed from detention procedures. Instead, “States should adopt solutions that fulfil the best interests of the child, along with their rights to liberty and family life, through legislation, policy and practices that allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved and the children’s best interests are assessed, as well as before return. When children are unaccompanied, they are entitled to special protection and assistance by the State in the form of alternative care and accommodation in accordance with the Guidelines for the Alternative Care of Children.”

RECOMMENDATIONS

8.3a *Cease the immigration detention of children and provide appropriate non-custodial accommodation for children and their families, in line with the recommendations provided in the CRC/CMW General Comment No. 23/No.4.*

8.3b *Adopt laws that abolish the immigration detention of children and families.*

8.3c *Withdraw all reservations under the UN Convention on the Rights of the Child to better protect refugee and asylum seeker children in Malaysia.*

8.3d *In the interim, until laws are adopted explicitly prohibiting the detention of children and/or their families, Malaysia must ramp up use of alternatives to detention measures and release children and families so that they are housed in the community pending outcome of their immigration or asylum procedures. For those who remain in detention, Malaysia must ensure the non-separation of families in detention centres and that children are never detained with adults who are not family members.*

8.4 Detention of women: Malaysia’s immigration detention of women—including refugees and asylum seekers as well as those with specific needs such as pregnant and lactating women—is in breach of its obligations under Articles 1, 2, 5(a), 12 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Committee General Recommendation 32, which places an onus on CEDAW state parties to ensure that refugee and asylum seeker women within their jurisdiction are not exposed to violations of their rights under CEDAW.

RECOMMENDATIONS

8.4a *Cease the immigration detention of women who are refugees or asylum seekers, as well as women with specific needs such as pregnant and lactating women.*

8.4b *Provide adequate facilities and services that meet the specific needs of women in detention, including effective screening for vulnerabilities and gender sensitivity training for staff at detention centres.*

8.5 Detention of victims of trafficking: Malaysia's failure to provide vulnerability screening and to actively work to identify victims to trafficking is leading to the arrest and detention of non-citizens in breach of the non-punishment principle, a fundamental norm at the heart of anti-trafficking treaties and laws that is intended to prevent the punishment of people for being victims of crimes. Both criminal punishment and administrative detention are measures that run afoul of this principle, which is highlighted by the Special Rapporteur on Trafficking in her report to the UN Human Rights Council, "Implementation of the Non-Punishment Principle."^{xxxvi} The non-punishment principle is also guaranteed in the 2015 ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), Article 14(7) of which requires states to "consider not holding victims of trafficking criminally or administratively liable." A 2022 report for ASEAN also highlights that "Article 13 of the 2012 ASEAN Human Rights Declaration (AHRD) explicitly affirms that no one shall be subject to trafficking in persons, and Article 2 sets out the principle of non-discrimination on the basis of race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth disability or other status, which is very important in the application of the non-punishment principle for victims of trafficking."^{xxxvii}

RECOMMENDATIONS

8.5a *Cease the immigration detention of all victims of trafficking and provide necessary social and legal assistance, as well as protections from their traffickers.*

8.5b *Establish effective vulnerability screening and work to actively identify victims of trafficking.*

8.5c *Ensure that all asylum seekers and refugees who are trafficking survivors can access adequate services and protection. This includes access to UNHCR and trafficking (TIP) facilities and protection from deportation in accordance with the principle of non-refoulement.*

8.5d *Enable the full implementation of 2015 amendments to the anti-trafficking law to allow, inter alia, freedom of movement and the right to work, preventing against the de facto detention of trafficking survivors in government TIP facilities.*

8.5e *Reform domestic law provisions to distinguish smuggled migrants from trafficking survivors.*

8.5f *Enhance enforcement efforts to ensure traffickers are prosecuted and punished according to international standards, and immediately stop the criminalization of trafficking survivors for violation of immigration and labour laws.*

8.6 Detention of refugees and asylum seekers: Malaysia's ongoing detention and prosecution of people fleeing war and persecution, in particular stateless Rohingya

people, underscores the country's lack of respect for fundamental human rights and humanitarian norms.

RECOMMENDATIONS

8.6a *Develop a comprehensive legal and formal framework for the identification, protection and processing of refugees and asylum seekers, to provide them with due legal status and recognition in line with international standards.*

8.6b *Ratify the Refugee Convention and Protocol, and enact/amend relevant national laws to incorporate the provisions.*

8.6c *Reform the Immigration Act to legally exempt asylum seekers and refugees from arrest, detention, and prosecution for irregular entry.*

8.6d *Institute screening and assessment procedures to enable refugees and asylum seekers to be clearly identified and their individual circumstances assessed.*

8.6e *Provide UNHCR unfettered access to all detained refugees and asylum seekers.*

8.6f *Provide asylum seekers and refugees in detention with access to legal aid, and extend access to the domestic legal aid scheme to all non-citizens, regardless of nationality or status.*

8.6g *Immediately cease the arrest and detention of Rohingya, whose stateless condition makes them vulnerable to arbitrary detention that exceeds all grounds of necessity and proportionality.*

8.6h *Increase access for stateless refugees to durable solutions such as resettlement, integration, and safe and voluntary repatriation, including by providing specific pathways and routes to overcome the barriers encountered by stateless people.*

8.6i *End all policies denying asylum seekers entry at frontiers, including push-back policies against boat arrivals.*

8.6j *Ensure adequate reception facilities to all asylum seekers upon arrival.*

8.7 Conditions and operations at detention centre

RECOMMENDATIONS

8.7a *Urgently implement Malaysia's commitments addressed in previous UPR cycles to improve its detention infrastructure and ensure that detention conditions are in line with international standards.*

8.7b *Take concrete measures to eradicate all forms of abuse of detainees.*

8.7c Urgently implement Malaysia's commitments during previous UPR cycles to ensure universal access to affordable health services for poor, marginalized, and vulnerable groups, including by removing prohibitively expensive fees and charges, and ensure that these reforms are extended to people in immigration detention centres.

8.8 Transparency and accountability

RECOMMENDATIONS

8.8a Provide unimpeded access to detention centres by UNHCR and other international organisations with detention monitoring mandates.

8.8b Provide unimpeded access to immigration detention centres and sufficient resources to SUHAKAM so that the human rights commission can meaningfully carry out its monitoring work.

8.8c Ensure access to other stakeholders to provide necessary services, including inter alia legal assistance, psychosocial, and medical services.

8.8d Ensure that data on the numbers of persons held in immigration detention is systematically collected and publicly disseminated, and is disaggregated by age, gender, nationality, migration status, ethnicity, and grounds for detention, and includes statistics on death, suicides, self-harming, and health-related problems amongst detainees.

ENDNOTES

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