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HAK ASASI UNTUK SEMUA

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HUMAN RIGHTS COMMISSION OF MALAYSIA

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HUMAN RIGHTS COMMISSION OF MALAYSIA ANNUAL REPORT 2009

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CHAPTER 1

CHAIRMAN'S STATEMENT

Nine years have passed since the Human Rights Commission of Malaysia (SUHAKAM) was established with a strong mandate to protect, promote and monitor human rights in the country. In that period of time SUHAKAM has gone a long way to fulfill its obligations by providing human rights education and promoting human rights to raise public awareness of their importance and prevent human rights violations, in addition to carrying out investigations and remedies of complaints filed with it. At the same time it experienced many challenges and endured harsh criticism from certain quarters; it also received encouragement.

I am very happy to be able to report that today the concept of human rights is no longer so foreign to the people. Human rights is known to a wider spectrum of the population and the people are now exercising their fundamental human rights more than ever before. The disadvantaged and minorities who have nowhere or no one to turn to would appear to consider SUHAKAM to be an avenue of last resort when the administration of law and justice fails them.

The essence of a national human rights institution lies in its independence. Its independence should not and cannot be abandoned. If the Commission is not independent of the Government's administration, it would not be able to fulfill its role as a human rights protector.

2009 has been especially significant for SUHAKAM. The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in Geneva had subjected SUHAKAM to review as a Status 'A' National Human Rights Institution. During the year, the Commission succeeded in convincing the Government to amend the Human Rights Commission of Malaysia Act 1999 which was said to be at the crux of the deficiencies.[1] Furthermore, this marks the final reporting year of the current Commissioners.

When we first took office, our top priority was to improve human rights in the country and ultimately to bring Malaysia up to par with international standards. Towards this end we held consultations and dialogues with various stakeholders, conducted public inquiries on complaints of human rights violation, conducted research on land rights of indigenous peoples, and organised forums and roundtable discussions on human rights issues. We recommended the repeal of the Internal Security Act 1960 (ISA), review of the Printing Presses and Publications Act, Section 27 of the Police Act and the Official Secrets Act, and abolition of the death penalty and natural life sentence. We advocated incorporation of human rights standards in legislation, policy and practice; the introduction of a

[1] On Jan 22, 2010, the ICC confirmed that SUHAKAM remains on Status 'A'. This is affirmation that SUHAKAM is a mature, independent Human Rights Institution that complies with the Paris Principles and has fulfilled its mandate to promote, monitor and protect human rights in the country.

National Human Rights Action Plan; that major bills should be referred to a Select Committee of Parliament and State Assembly; and the right to citizenship, development and a free and fair election. We also urged the Government to accede to and observe various human rights instruments and treaties, and protect the vulnerable groups and minorities. It remains, however, a challenge to encourage the Government to implement our recommendations, which by their nature are not generally high on the political agenda.

SUHAKAM has never failed to present its Annual Report to Parliament on time as it is required to do by Section 21(1) of the Human Rights Commission of Malaysia Act 1999, over the last nine years. But none of those reports was ever debated. As an advisory body without executive power there is nothing that SUHAKAM can do to ensure the Government's response and action to what it recommended. Human rights violations continue to occur.

This is not to say that the Government has not taken any positive action to protect and uphold human rights. We are aware that in 2001 the Government amended the Federal Constitution to include 'gender' as one of the grounds prohibited from discrimination; that it has improved conditions in detention centres and Police lock-ups; ratified the convention against corruption; enacted the Anti-Trafficking in Persons Act 2007 and the Persons with Disabilities Act 2008; addressed the plight of the poor, persons with disabilities, and victims of trafficking; improved public housing and access to healthcare; and made education compulsory and free. The Government has also announced its decision to amend the ISA but at the time of writing, we have not seen the Amendment Bill. It is our hope that the changes to be made to the Act will comply with human rights principles and minimise the likelihood of abuse.

The issues that preoccupied SUHAKAM in 2009 were almost the same that greeted us in all the preceding years, namely Police inaction, abuse of power, excessive use of force, selective investigations, deaths in Police custody, selective enforcement of the law, ISA, arbitrary arrest and detention, denial of rights to ancestral land, issues relating to religious converts, and the right to freedom of peaceful assembly and fair election. We found some of the complaints to be legitimate and we advised the relevant agencies of our findings with recommendations for redress. It would appear that to many Government employees the Universal Declaration of Human Rights is very remote from their everyday working lives.

We live in society based on rights. Rights of every human beings are very precious and important. Human rights violations can never be accepted and can never be a good thing for the people and the country. The public has the right to information, not to be kept in the dark about wrong-doings by virtue of the Official Secrets Act or on the pretext of 'public interest' or 'national security'.

Freedom of peaceful assembly is both an expression of individuality and an essential element of democracy. It is among the fundamental rights enshrined in the Constitution and one of the

requirements for an open and diverse society in which various opinions are tolerated. Constructive criticism should not be taken as anti-Government; it may be helpful. Therefore, at assemblies the Police should act proportionately without violating the fundamental right to assembly. They should also co-operate with the participants by allowing it and making it as peaceful as possible. Difference in status, sex, religion or political affiliation must not provide for discrimination of rights. No one should be allowed to take the law into his own hand. It must not be that the guilty go unpunished, the dishonest rewarded and the custodians of the law become law breakers. The Court should strive in every case to determine what is right rather than who is right.

The term of the current Commissioners will end on April 23, 2010. There will be a complete change of Commissioners. The many recommendations that have been made and not fully implemented by the Government remain valid and it is our fervent hope that they will be taken up afresh by the new Commissioners.

There is no end in the journey of promoting and protecting human rights. Eleanor Roosevelt, the Chairperson of the drafting committee of the Universal Declaration of Human Rights said it best, "Promoting respect for human rights is a fulfilling - but never fulfilled - obligation". SUHAKAM has done a lot and come far in promoting awareness in the promotion and protection of human rights. But there is still much to do. Promotion and protection of human rights should not be left to SUHAKAM alone. We need an alliance for human rights, a partnership linking SUHAKAM, the Government and civil society, working together helping people to realise their rights. SUHAKAM will fulfill its responsibilities as a resort that those who cherish human rights can turn to.

Finally, I would like to sincerely thank those whom I have had the great pleasure and honour of working with during the tenure of my service, not only to my fellow Commissioners but also Government agencies, the Judiciary, members of the Bar, academia, community leaders, non-governmental organisations, civil society groups and the mass media. I owe them all a huge debt of gratitude. I wish also to express my appreciation and gratitude to the devoted staff members of SUHAKAM who are in service now and to those who have left to advance their careers, for their intellectual contribution, loyalty and above all for their outstanding commitment to human rights without which it would not have been possible for SUHAKAM to fulfill its challenging mandate of promoting, protecting and monitoring human rights in Malaysia.

TAN SRI ABU TALIB OTHMAN
Chairman
Human Rights Commission of Malaysia

CHAPTER 2

REPORT OF THE HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP

The Education Working Group (EWG) continued its focus on awareness programmes targeting the right to education; rights of children; human rights among university students; rights of women; and human rights education for law enforcement agencies.

During the year, too, SUHAKAM launched a pilot programme on 'Human Rights Best Practices in School', and began the first round of workshops for undergraduates in public universities.

1. RIGHT TO EDUCATION

(a) Human Rights for Orang Asli Children

Everyone has the right to education, as Article 26 of the Universal Declaration of Human Rights (UDHR) states. Such education shall be directed to the full development of the human personality and to strengthening respect for human rights. Article 28 of the Convention on the Rights of the Child (CRC) recognises the right of the child to education on the basis of equal opportunity.

On the domestic front, the Federal Constitution and the Education Act 1996 confer on children the right to education. At international level, the United Nations Declaration on the Rights of Indigenous Peoples and the ILO Convention (No 169) concerning Indigenous and Tribal Peoples in Independent Countries, also emphasise the child's right to education.

The right to education is further addressed in the 4A framework:[1]

- **Availability:** that education is free and Government-funded (at least at the primary level) and that there is adequate infrastructure as well as trained teachers to support the delivery of education

- **Accessibility:** that the system is non-discriminatory and accessible to all, and that pro-active steps are taken to include the most marginalised

[1] The framework was developed by Katarina Tomasevski, the former UN Special Rapporteur on the Right to Education.

- **Acceptability:** that the content of education is relevant, non-discriminatory, culturally appropriate and of quality; and that the school itself is safe and teachers are professional in outlook

- **Adaptability:** that education can evolve with the changing needs of society and contribute in challenging inequalities such as gender-based discrimination; and that it can be adapted to be relevant in the context of local needs and conditions

SUHAKAM has been working since 2002 on ways to improve the education of Orang Asli children. It has organised visits to settlements and held workshops, seminars, meetings and outreach programmes to identify the status of the children's right to education. Based on the findings, it is clear that the Orang Asli face many challenges in accessing formal education, when examined from the 4A perspective.

(i) Availability

- Poor infrastructure and equipment: Many Orang Asli schools lack infrastructure and basic equipment like tables and chairs, while computers and books are of inferior quality. There are delays in the delivery of equipment and aid to schools especially when acutely needed at the beginning of the school year.

- Financial and other forms of aid: There seem to be inconsistencies in the distribution of aid from the *Kumpulan Wang Amanah Pelajar Miskin* (KWAPM), a trust fund for needy students. This has caused much dissatisfaction in the Orang Asli community. Similar problems have been noted in procedures for the distribution of minor scholarships, school uniforms, equipment and funds from the Department of Orang Asli Affairs (JHEOA) and the Takaful insurance scheme.

- Meals: Breakfast and lunch are provided by JHEOA to encourage children to attend school. However, the community has complained that the quality of food is poor and is not nutritious. At times, children have fallen sick after consuming the food. The Ministry of Education, meanwhile, provides one meal during recess.

(ii) Accessibility

- Transportation: The lack of reliable services is among reasons for absenteeism and the high drop-out rate. The problem is acute especially in remote areas because transport operators are not willing to enter areas that are not easily accessible.

- Personal documents: There is a long-standing problem over the issuance of birth certificates and MyKad to Orang Asli children. Without these documents, they find it difficult to obtain aid to meet educational needs and, therefore, do not attend school.

- Children who are not in school: SUHAKAM was unable to obtain official statistics on children who are not in school, as no agency is monitoring the situation. However, anecdotal evidence reveals that some children live in very remote areas and others lack documents or means of transportation, while some parents hold back their children from going to school for various reasons.

Orang Asli children walking back from school in Grik, Perak

(iii) Acceptability

- School administrators and teachers: It has been observed that some principals and teachers lack the knowledge and skills to deal with the Orang Asli community. As a result the children feel marginalised and either absent themselves from school or drop out of the system.

- Teaching and learning environment: There is a gap in the performance of Orang Asli children and those in the mainstream of society. The Orang Asli children lag in terms of literacy and numeric skills. SUHAKAM has been informed that there is difficulty understanding the lessons due to the language barrier, especially among Year 1-3 children in remote schools, as teaching is conducted in Bahasa Malaysia. Furthermore, there is not much reference to the Orang Asli culture and way of life in the educational materials. As a result, schooling appears meaningless and they lose interest in learning.

- Attitude of Orang Asli parents and students: Their lackadaisical attitude towards schooling compounds the problem. Some parents do not pay much attention to their children's education even though they know that financial and other forms of help are available. Some children have openly admitted that they do not have any interest in attending school. There are also parents and children who do not appreciate the assistance provided. They do not take good care of text books and writing materials, among other items.

- Attitude of the officers and responsible parties: The attitude of some of the officers dealing with the Orang Asli is of major concern. They are found to be lacking in commitment, knowledge and skills. This has hampered the implementation of programmes and delivery of education to Orang Asli children.

(iv) Adaptability

- Special Curriculum: The Ministry of Education has formulated a special integrated curriculum for Orang Asli and Penan students – *Kurikulum Bersepadu untuk Murid Orang Asli dan Penan.* However, this has only been implemented in 12 schools nationwide to date. The curriculum is designed to attract more children to school, to master the 3Rs. With this in view, the curriculum could have paid more attention to the cultural aspects of life among indigenous peoples.

SUHAKAM'S RECOMMENDATIONS

(i) Transportation
JHEOA should increase efforts to resolve this problem especially in remote areas. It is also recommended that JHEOA establishes a transportation unit to minimise problems for children.

(ii) Personal documents
As has been done in Gua Musang (Kelantan) and Grik (Perak), JHEOA could expand its joint-venture programme with the National Registration Department in issuing birth certificates and MyKad to the Orang Asli community.

(iii) Infrastructure and equipment
JHEOA and the Ministry of Education could work together to re-evaluate and improve the distribution system of aid to Orang Asli schools. This would improve quality and prevent delays.

(iv) Financial and other forms of aid
Agencies such as the Ministry of Education and JHEOA have to make clear their policies to all parties, on the distribution of KWAPM funds and other forms of aid, in order to eliminate inconsistencies.

(v) Meals

SUHAKAM recommends that the provision of all meals – at breakfast, recess and lunch – be coordinated by a single agency, such as the Ministry of Education. This is to ensure the food is nutritious and safe for consumption.

(vi) Teaching and learning environment

All relevant agencies under the Ministry of Education should consider the unique needs of Orang Asli children and re-evaluate the approach to the curriculum, co-curricular activities, performance assessment, teaching materials and learning culture.

(vii) Special Curriculum

The Ministry of Education should make an effort to extend the Special Curriculum to all Orang Asli schools. It is also time for the Ministry to prioritise aspects of Orang Asli culture and language in the curriculum.

(viii) School administrators and teachers

Those assigned to Orang Asli schools need to be specially trained to enhance their understanding, knowledge and skills in dealing with matters related to the community.

(ix) Attitude of Orang Asli parents and students

They must be persuaded to realise the importance of education. The JHEOA and Ministry of Education could conduct more programmes aimed at changing their mindset.

(x) Attitude of the officers and responsible parties

JHEOA and Ministry of Education should ensure that their officers and staff at the levels of policy making and implementation understand Orang Asli needs in education.

(xi) Children who are not in school

JHEOA and the Ministry of Education should keep track of students who are not in school. The information is crucial so that the Government can take steps to see that the children return to school, in line with the policy on compulsory education at primary level.

(xii) United Nations Special Rapporteur's recommendation

The Ministry of Education has established a special unit to standardise all needs relevant to the education of indigenous peoples, as suggested by the UN Special Rapporteur on the Right to Education. SUHAKAM suggests that the Ministry's Special Education Division redoubles its efforts to resolve education-based issues affecting the Orang Asli.

(b) Other Concerns in Education

(i) Caning

SUHAKAM remains concerned over the use of caning to discipline students. Caning is still regarded by some schools as the best way to punish students. The Sarawak Teachers Union has even proposed a comprehensive review of the policy on corporal punishment to include caning for girls.

SUHAKAM would like to reiterate that schools should look for more student-friendly alternatives in meting out punishment. A more sensitive approach, such as community service, and more inclusive programmes should be found to address discipline, toward a more effective solution in the long term.

(ii) Education for persons in detention

The Prison Rules 2000 (Rule 151) authorise the Prison Department to provide education for young offenders and juveniles. In January 2008, the Ministry of Education and the Department took the positive step of introducing the Integrity School programme for children under detention. SUHAKAM lauds the move.

The programme is also in line with the recommendations of the UN Special Rapporteur. He perceives that learning through meaningful educational programmes is a tool for change and helps in the detainees' rehabilitation and reintegration process.

Such schools have been set up in six prisons and two Henry Gurney Schools to date (Table 1). The programme is offered to detainees aged between 13 and 21 years. Teachers from the Ministry of Education are seconded to the Prison Department to teach, based on the regular school syllabus.

The detainees are allowed to sit the three main public examinations – PMR, SPM and STPM. Some students are pursuing degree programmes offered by local universities, with one studying law. SUHAKAM is studying the programme with a view to submitting its views at a later date.

Table 1: Location of Integrity Schools

NO.	REGION	LOCATION
1.	North	Sekolah Integriti Sungai Petani, Kedah
2.	Central	Sekolah Integriti Kajang, Selangor
3.	East	Sekolah Integriti Marang, Terengganu
4.	South	Sekolah Integriti Kluang, Johor
5.	Sabah	Sekolah Integriti Kota Kinabalu, Sabah
6.	Sarawak	Sekolah Integriti Kuching, Sarawak
7.	South	Sekolah Henry Gurney Telok Mas, Melaka
8.	Sabah	Sekolah Henry Gurney Keningau, Sabah

2. RIGHTS OF THE CHILD

(a) 'Human Rights Best Practices in School' Programme

After several years of collaboration with the Ministry of Education, EWG has embarked on a programme to ensure the sustainability of human rights practices in schools. There is a need to instil the human rights culture among students, teachers, administrators and the school community as a whole, since acts of indiscipline – such as rudeness, vandalism and bullying – continue to occur, alongside instances of mistreatment of students.

The 'Human Rights Best Practices in School' programme was launched in June to integrate human rights values and principles into school life. This aims to shape an environment in which human rights are not only taught and learned, but practised, respected and promoted. It takes a 'whole school' approach focusing on four main areas – the curriculum; extracurricular activities and the school environment; school governance; and student affairs. The ultimate objective is to produce young people who can be effective activists on human rights issues. In short, it promotes a culture of human rights.

The pilot programme involves five secondary schools in different states, selected by the Schools Division of the Ministry of Education. These are SMK Sultan Abdul Aziz, Teluk Intan, Perak; SMK Taman Tun Dr Ismail, Kuala Lumpur; SMK Seksyen 9, Shah Alam, Selangor; SMK Munshi Abdullah, Melaka; and SMK Datuk Mansor, Bahau, Negeri Sembilan.

Each school is encouraged to plan its human rights programme to:

- provide awareness to students on human rights;
- strengthen ties and improve interaction among all students
- develop and increase knowledge of human rights and children's rights through activities;
- encourage development of the human rights culture throughout the school; and
- set an example for other schools to follow.

To familiarise the participating schools with the basic principles and concept of human rights, SUHAKAM held a workshop from May 20-21 for their representatives. They agreed that implementation should involve every member of the school community. In drafting their respective master plans, they were allowed to include a number of ongoing activities but had to strengthen these with human rights elements.

SUHAKAM is concurrently conducting guidance-based visits to all five schools. They have already organised a number of activities on human rights and educational rights. Among these are the launch of the 'Best Practices' programme, display of CRC and UDHR articles around the school, and holding of talks and quiz contests on human rights.

Students from the five schools involved in the 'Human Rights Best Practices' programme

SUHAKAM organised a follow-up workshop for these schools from Nov 11-12. Based on the CRC, this sought to reinforce their understanding of human rights and implementation of the 'Best Practices' programme. Five students from each school, together with the coordinating teachers, attended the workshop. Their main output was an action plan, to be incorporated into the master plan drawn up earlier.

(b) Human Rights in Religious Schools

Continuing the workshop series held in the northern region (2007), and southern and central regions (2008), two more were held in Sabah and Sarawak during the year:

- In Kota Kinabalu, Sabah, (July 10-12) with 39 participants from Semporna, Tawau, Ranau, Kota Belud, Papar, Inanam, Sandakan and Kota Kinabalu

- In Kuching, Sarawak, (Nov 6-8) with 22 participants from five schools around the capital city

The objective is to harmonise human rights values with Islamic teachings and practices by creating a platform for participants to reconcile their religious perspectives with human rights understanding.

The workshops introduce the importance of children's rights under the CRC, and their significance in relation to human rights principles. Practical and constructive discussions are assembled by referring to the 1981 Cairo Declaration on Human Rights in Islam.

A positive response was recorded from the latest workshops, with the majority agreeing that the CRC is a practical and sensible guide for teachers as it assists them to:

- Help children to meet basic needs and to expand opportunities to reach their full potential

- Teach the value of respect for, and appreciation of, the rights of teachers, parents and children

- Protect the rights and dignity of the child when dealing with discipline issues or social problems in school

An activity in progress at the CRC workshop for religious school teachers in Sarawak

ISSUES AND RECOMMENDATIONS

Issues Raised by Participants

- The right of the child to make decisions and express opinions especially in choosing the subject-stream
- The right of the child to stay with parents instead of being forced to stay in a hostel
- The right of the child to fit and proper accommodation in hostel and school, as well as other facilities such as a multipurpose hall
- Increase in discipline cases, as seen in cases of assault, bullying and threatening of peers
- Rising incidence of child abuse, particularly sexual abuse, and the reluctance of most parents to report incidents
- Increase in absenteeism due to lack of interest or awareness of the importance of education, especially among children from indigenous and minority communities or poor families

Participants' Recommendations

- Teachers should help students and their parents by discussing and exchanging views before selecting the subject-stream. This will help the child's personality, talent, and mental and physical abilities to develop to the fullest potential.

- Teachers and parents must respect the rights of children and take their best interests into consideration in making decisions.

- School administrators should ensure that the environment (in the hostel or classroom) is conducive for children to develop and progress to the best of their ability.

- Parents should take greater interest in their children's activities and provide proper care and guidance.

- Teachers who are counsellors should ensure security and privacy for the child in conducting counselling sessions. This is important in establishing trust so that the child is persuaded to share problems.

3. HUMAN RIGHTS EDUCATION IN TERTIARY INSTITUTIONS

Student groups have continued to voice grouses about violation of their rights. In spite of amendments in 2008 to the Universities and University Colleges Act 1971 (UUCA), there is limited freedom for students to participate in political matters, as they remain barred from associating with organisations deemed unsuitable by campus authorities.

Some groups have alleged that conditions and rules are imposed during campus elections, thereby limiting participation in the contest. Other complaints relate to mistreatment by security officers, confiscation of students' property such as laptops and documents, and arbitrary searches of hostel rooms.

During the year, SUHAKAM organised the first in a series of human rights workshops for students from public universities. In the long run, SUHAKAM hopes to work closely with universities and colleges in integrating human rights into the curriculum.

Student leaders learning about human rights principles

The workshop is designed to sensitise students to human rights issues and help them realise their responsibility as future leaders. They are introduced to international human rights issues, which are linked to relevant issues in Malaysia. The students are given the opportunity to express their opinions on such issues.

The first workshop from Sept 5-6 was for student leaders from the International Islamic University. The second was held from Sept 12-13 for student leaders from Universiti Malaya, Universiti Putra Malaysia, Universiti Technology Mara, Universiti Kebangsaan Malaysia, Universiti Sains Islam Malaysia and Universiti Perguruan Sultan Idris.

As part of the programme, a forum was held with the theme *Mahasiswa Lantang, Mahasiswa Berkaliber* (Outspoken Undergraduates are Undergraduates with Calibre). It enabled a fruitful exchange of experiences, views, suggestions and recommendations as to how universities can best engage students in developing the human rights culture. The participants also linked the discussions to human rights in these instances:

(i) When university authorities do not allow students to register with certain associations because of restrictions in the UUCA, it denies their freedom of association.

(ii) When security officers raid students' rooms without permission, it violates their right to privacy.

Throughout, the students were reminded that every human right imposes a corresponding duty. This was reinforced when they discussed two areas of greatest interest to them – freedom of expression and freedom of association. The facilitators emphasised that:

- Freedom of expression should not be denied or it could diminish traits like self-confidence. Lecturers could encourage students to express their views through discussions and debate. Students could find creative ways and use channels offered by the Internet and the media to express their thoughts and concerns on specific issues.

- Freedom of association is crucial in producing good leaders for the nation. Students should be allowed to participate in associations and organisations of their choice, so that leadership qualities and skills are developed.

4. RIGHTS OF WOMEN

(a) Workshop for Trade Union Leaders

Women constitute 49% of the population and about 36% of the labour force in Malaysia. As such, it is crucial to implement a gender-responsive public policy that prevents discrimination.

SUHAKAM organised a training workshop on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) for 30 representatives of NUBE, FMM, MEF, CUEPACS, MTUC and SOCSO.[2] Held from May 27-28, it was to promote gender awareness in employment. The core principles and articles of CEDAW were explained, alongside a discussion on implementation. Two pertinent topics were gender equality and the employer's role; and responsibility in guaranteeing women's rights in the workplace.

[2] NUBE - National Union of Bank Employees
FMM - Federation of Malaysian Manufacturers
MEF - Malaysian Employers Federation
CUEPACS - Congress of Unions of Employees in the Public and Civil Services
MTUC - Malaysian Trades Union Congress
SOCSO - Social Security Organisation

Issues Raised by Participants

(i) Gender pay-gap

Many women earn less than men for the same job or for jobs of equal value. Although the jobs require similar skills, qualifications or experience, these pay poorly and are undervalued when dominated by women. Evaluation of performance and, hence, pay level and career development, are biased in favour of men. Table 2 indicates the average of monthly basic wage by occupation and sex in Malaysia.

Table 2: Average Monthly Basic Wage by Occupation and Sex in Malaysia

OCCUPATION	MALE (RM)	FEMALE (RM)	WAGE DIFFERENTIAL
Senior officials and managers	4,296	2,522	1,774
Professionals	3,670	2,848	822
Technicians and associate professionals	2,007	1,957	50
Clerical workers	1,407	1,325	82
Service workers, and shop and market sales workers	924	802	122
Skilled agricultural and fishery workers	730	513	217
Craft and related trade workers	1,081	727	354
Plant and machine operators and assemblers	860	623	237
Elementary occupation	693	561	132

Source: Laporan Penyata Guna Tenaga Kebangsaan 2008, Institut Sumber Manusia Kebangsaan, Kementerian Sumber Manusia

(ii) Segregation in the labour market

Women and men often predominate in different sectors. The Malaysian labour market shows that women and men tend to work in different kinds of jobs. It is observed that women predominate in the lower-valued and lower-paid occupations within the same sector. This is proved by data in a report by the Ministry of Human Resources (Table 3).

Table 3: Number of Workers by Occupation and Sex in Malaysia

OCCUPATION	MALE	FEMALE	TOTAL
Senior officials and managers	208,439	195,665	404,104
Professionals	109,430	79,932	189,362
Technicians and associate professionals	188,317	92,533	280,850
Clerical workers	137,820	369,287	507,207
Service workers, and shop and market sales workers	365,355	301,558	666,913
Skilled agricultural and fishery workers	128,173	23,569	151,742
Craft and related trade workers	79,740	16,627	96,367
Plant and machine operators and assemblers	280,813	208,287	489,100
Elementary occupation	585,454	201,341	786,795
TOTAL	**2,083,541**	**1,488,899**	**3,572,440**

Source: Laporan Penyata Guna Tenaga Kebangsaan 2008, Institut Sumber Manusia Kebangsaan, Kementerian Sumber Manusia

(iii) Sexual harassment

Sexual harassment is another major problem for women workers. Harassment can occur at any level, being perpetrated by superiors, peers or subordinates. The employer has a duty to provide a safe working environment and to uphold the employee's dignity and self-respect. In 1999, the Ministry of Human Resources introduced a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. As its adoption and implementation is entirely voluntary, many employers have not adopted it. Those who have done so do not appear to have implemented it well or wholly.

(iv) Networking proposed

The trade union leaders suggested the establishment of a network to link themselves, SUHAKAM and the Ministry to monitor and eliminate discrimination, and provide equal opportunities for women in employment.

(b) Workshop for Gender Focal Points (GFPs)

A training workshop was held for GFPs[3] from Nov 16-17, for 28 officers from various Ministries and Government agencies. It was organised by SUHAKAM's Sub-Committee on Women's Rights in cooperation with the Ministry of Women, Family and Community Development, to upgrade the capacity of GFPs to understand issues of advancement of women and gender equality. It also equipped them with the knowledge and skills required to implement domestic obligations under CEDAW.

Participants and resource persons at the CEDAW Workshop for GFPs

The workshop examined the evolution of women's rights and the three significant principles of CEDAW; and looked at case studies relating to issues such as stereotyping, gender bias and gender socialisation.

A dialogue session was held on the significance of the role of GFPs and how it can be enhanced. This was followed by the drafting of a plan of action and a mechanism to implement CEDAW requirements. The content was drawn from the concluding comments/observations of the CEDAW Committee in 2006.

[3] Senior officers (Grade 54 and above); the post was created in 2005 based on a decision of the Cabinet Committee on Gender Equality on Dec 6, 2004

SUHAKAM hopes the GFPs will take the plan forward by formulating policies and strategies, as well as implementing the plan and monitoring its effectiveness. In this regard, the Sub-Committee has suggested that a monitoring mechanism be set up to review the progress of the action plan developed from the workshop.

5. HUMAN RIGHTS PROGRAMME FOR ENFORCEMENT AGENCIES

When the Human Rights Council (HRC) in Geneva conducted the Universal Periodic Review in June, Malaysia's human rights track record came under scrutiny. Among the HRC's recommendations was that the Malaysian Government should ensure regular training for representatives of the Police Force and other law enforcement agencies so as to educate them on human rights and the legally binding nature of international law, and the need to avoid discrimination.

SUHAKAM has been organising human rights programmes for law enforcement groups each year. However, the effectiveness of this has been questioned because violations still occur. One issue raised is whether law enforcement personnel apply the principles of human rights in daily practice. SUHAKAM's training programme explains the main international human rights instruments – the UDHR, ICCCPR, CAT, CRC, CEDAW and SMRTP[4] – all of which relate to the work of law enforcement personnel. But because the Government has yet to ratify most of these treaties, it is difficult for trainers to convince participants to apply the principles. Still, SUHAKAM emphasises that they can put the fundamental principles into practice.

SUHAKAM has also been invited by law enforcement agencies to attend their training programmes. They include the People's Volunteer Corps (RELA), Anti-Dadah Agency, Immigration Department and local authorities in Selangor. SUHAKAM delivers talks on human rights and conducts workshops during these training programmes.

SUHAKAM believes that all concerned parties, particularly the Government and law enforcement agencies, should improve in promoting and protecting human rights. The Government, as a UN member-state, must ensure that legislation is in line with international human rights principles.

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[4] UDHR - Universal Declaration of Human Rights
ICCPR - International Covenant on Civil and Political Rights
CAT - Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SMRTP - Standard Minimum Rules for the Treatment of Prisoners

(a) Training for the Police Force

SUHAKAM continued its series of training workshops for Officers-in-Charge of Police Stations (OCS). Five more sessions were conducted during the year (Table 4). Participants have generally been in service between 10 and 20 years. For many, though, this was the first exposure to training on human rights. SUHAKAM therefore suggests that Police Academies include training on human rights for officers.

Table 4: SUHAKAM Workshops for OCS

NO.	LOCATION	DATE
1.	Kedah	March 2-4
2.	Penang	June 30 - July 2
3.	Sarawak (Phase 1)	Oct 4-6
4.	Sarawak (Phase 2)	Nov 22-24
5.	Sabah	Dec 6-8

(b) Training for Prison Officials

A workshop was held in Kedah for Prison officials from all over Malaysia, continuing the programme launched in 2008. Jointly organised by the Prison Department's Correctional Academy and SUHAKAM, the workshop informed participants about international human rights standards and showed them ways to integrate related principles into daily work.

The discussions encompassed the rights of children; the right to an adequate standard of living; the right to healthcare for prisoners; the rights of special categories of prisoners such as women and juveniles; and the rights of persons under detention without trial. Participants also took up the issue of safety and improved conditions in prisons for all concerned, including themselves.

In this regard, SUHAKAM notes with concern that overcrowding is still at an alarming level in prisons and needs urgent attention by the authorities, as it creates problems for both prisoners and Prison officials. SUHAKAM had previously identified two main causes of overcrowding – remand detainees being imprisoned for too long; and the rise in the number of foreign migrants who are jailed.

Research[5] indicates that overcrowding has three effects on the inmates or Prison officers:

1. There is less of everything to go around, so the same space and resources are made to stretch even further. The opportunities for inmates to participate in self-improvement and rehabilitative programmes, such as academic, employment and vocational training, are curtailed.

2. Crowding creates stress and this, together with other factors in a prison setting, can heighten the adverse effects for inmates. Idleness, fear, the inability to maintain personal identity or to turn off unwanted interaction and stimulation, such as noise, all add to the stress. The adjustment process for inmates to cope with excess stress varies; it could be demonstrated in withdrawal, aggression or depression.

3. The third effect involves a combination of the correctional system's inability to meet the increased demand for more space and the resultant harm to individual inmates. This leads to a strong tendency to misclassify offenders. To a certain degree, overcrowding results in offenders being classified on the basis of the space available rather than the security level and programme most suited to their needs.

   It also causes an increase in the number of prisoners assigned to each officer. The officers are over-burdened by work to the point that they are denied their right to recreation and time with their families.

Another area of concern involves the well being of prisoners. According to a *Bernama* report (July 8, 2009) the Dewan Rakyat was informed that there were 1,535 deaths from 2003-2008 in prisons, rehabilitation centres and detention centres for illegal immigrants.

Prison authorities should give more attention to the health and security of prisoners. They have a right to good health under Article 25 of the UDHR and Article 12 of the International Covenant on Economic, Social and Cultural Rights.

Although the Prison Department has made a serious effort to improve healthcare services by appointing resident doctors to attend to prisoners, the number of medical personnel is still low. SUHAKAM suggests that the Department introduces a special incentive to attract more doctors into the scheme. Installing more closed-circuit television cameras and increasing the number of officers on duty would assist in ensuring the safety of prisoners.

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[5] 'Prison Overcrowding', John Howard Society Of Alberta, 1996

6. HUMAN RIGHTS COLLOQUIUM FOR THE JUDICIARY

SUHAKAM organised a Human Rights Colloquium for the Judiciary on Oct 24, to engage the Bench in adopting and implementing international human rights standards in the administration of justice.

The impetus for the Colloquium was derived from the Nairobi Declaration in October 2008, the outcome of the Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights. The conference was devoted to the need for the National Human Rights Institutions to collaborate with the Judiciary in implementing human rights principles and standards in the administration of justice.

The objectives of the Colloquium were:

- To provide examples to the members of Judiciary on applying international human rights principles and standards in the context of the legal system;

- To offer an avenue for members of the Judiciary to impart, receive and exchange views and knowledge on human rights;

- To create a strong network between SUHAKAM and members of the Judiciary for future collaboration in the area of human rights.

The Colloquium, organised with the support of the Chief Justice and the Office of Chief Registrar, received overwhelming response with 302 participants including 239 Judges and Judicial Officers.

DYTM Raja Nazrin Shah ibni Sultan Azlan Muhibbuddin Shah, the Regent of Perak, delivered the keynote address. Mr Homayoun Alizadeh, Regional Representative of the Regional Office of the United Nations High Commissioner for Human Rights, presented the international perspective on human rights standards and administration of justice. YAA Tun Zaki Tun Azmi, the Chief Justice of Malaysia, delivered the closing remarks.

The session featured a forum on 'Local Judiciary and International Human Rights Principles: Setting the Standard and Moving Forward'. The panellists were Dato' Gopal Sri Ram, Judge of the Federal Court of Malaysia; YM Raja Aziz Addruse, a senior human rights lawyer; and Professor Emeritus Datuk Dr Shad Faruqi, a law scholar at a local university.

General agreement was achieved on the need for Courts to attain deeper understanding of human rights principles and standards in the administration of justice, as well as to make a commitment to adopt such standards. SUHAKAM hopes to advance this by working more closely with the Judiciary.

7. SUHAKAM LIBRARY

The Library added 155 publications on human rights during the year. Among the materials collected were books, reports from other human rights bodies, newspaper cuttings, journals, photographs and audio-visual items.

(a) Digitisation Project

This was among the primary projects for the year. Digitising the collection allows the Library to reduce physical contact with the original books or materials, and enables access instead through the digitised versions online. Also, if the physical collection is lost, damaged or destroyed, the digital versions would still be available.

Under the first phase, which began in June, the library digitised a mixed range of materials including papers presented at conferences or proceedings locally and internationally. The next phase will involve photographs and newspaper cuttings. By digitising the collection, the Library aims to:

- Make content more visible and increase their use
- Preserve unique, rare and fragile heritage items by digital reproduction and protect vulnerable documents
- Simplify and improve access
- Assist research: by making the text in magazines and newspapers searchable, researchers can quickly identify sections of interest without having to browse through every issue

(b) Electronic Collection and Services

The Library aims to improve its services to researchers in particular. A new database, the Lawnet Legal Workbench, was purchased during the year. It provides comprehensive and up-to-date online legal research information, such as statutory and case law.

MEMBERS OF HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP
Tan Sri Dato' Dr Asiah Abu Samah (Chairperson) Professor Emeritus Tan Sri Dato' Khoo Kay Kim Dato' Dr Abdul Monir Yaacob Dato' N Siva Subramaniam

CHAPTER 3

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

The Complaints and Inquiries Working Group (CIWG) is tasked with receiving complaints from the public and inquiring into human rights cases brought to its attention, in accordance with the functions and powers accorded under the Human Rights Commission of Malaysia Act 1999 ('SUHAKAM Act'). In addition, CIWG conducts visits to places of detention, including prisons and Immigration detention centres, to monitor the conditions at these facilities.

1. RESOLUTION OF COMPLAINTS

SUHAKAM received 962 complaints during the year at its Kuala Lumpur, Kota Kinabalu and Kuching offices. Of these, 26 were in the form of memoranda.

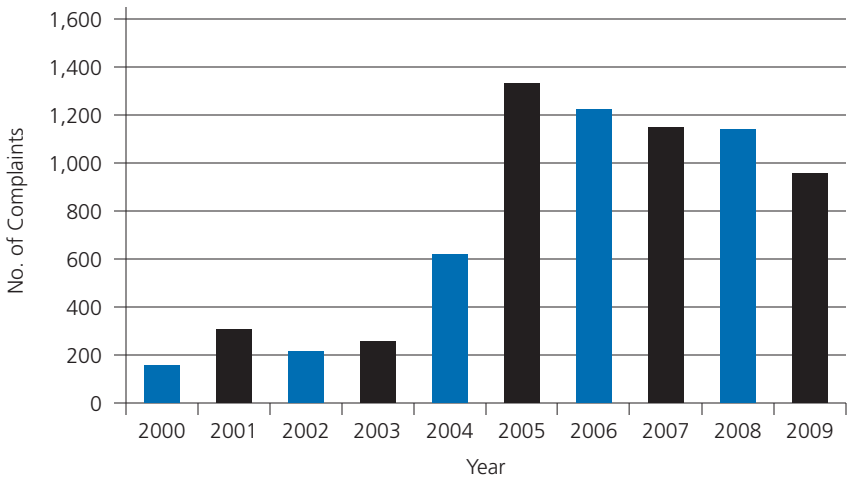

Figure 1: Complaints Received

SUHAKAM found that 535 complaints fell outside its jurisdiction and classified these as 'non-human rights cases' as they involve:

- Administrative inefficiency which should be addressed without delay by the relevant agencies;
- Complaints requiring criminal investigation, and which were therefore referred to the Police or other investigation agencies; and
- Complaints that were either pending trial or had been disposed of by the Courts.

The remaining 427 complaints were classified as human rights cases, thus falling within SUHAKAM's jurisdiction (Table 1).

Table 1: Breakdown of Human Rights Complaints, 2009

COMPLAINTS	NO. OF CASES
Government agencies	
(i) Police Force	
• Inaction	40
• Excessive use of force	8
• Abuse of power	6
(ii) Immigration Department	17
(iii) National Registration Department	10
(iv) Prison Department	4
(v) Malaysian Anti-Corruption Commission	1
Land matters	137
Emergency (Public Order and Prevention of Crime) Ordinance 1969	32
Migrant workers	7
Freedom of religion	6
Deaths in custody	5
Refugees	4
Internal Security Act 1960	2
Others	56
TOTAL	**427**

Note: 'Others' relate to issues of freedom of expression, election, housing and disability

In Kuala Lumpur, most of the complaints were related to detention under the Emergency (Public Order and Prevention of Crime) Ordinance 1969 (32 cases) and Police inaction (31 cases). In Sabah, the grievances were mainly about citizenship issues (98 cases) and land rights (96). Land rights were also a major concern in Sarawak (37 cases).

SUHAKAM has completed investigations into 180 cases, with the rest still under investigation or pending response from the relevant agencies (Figure 2). The volume of unresolved cases is largely due to SUHAKAM's dependence on the relevant Ministries and Government agencies to respond to the allegations. While cooperation has been established with those Ministries and agencies that SUHAKAM deals with most often, the process still takes time to complete because of the need to adhere to procedures. SUHAKAM, however, ensures that each complainant is kept updated on developments and informed of the actions taken to resolve the matter.

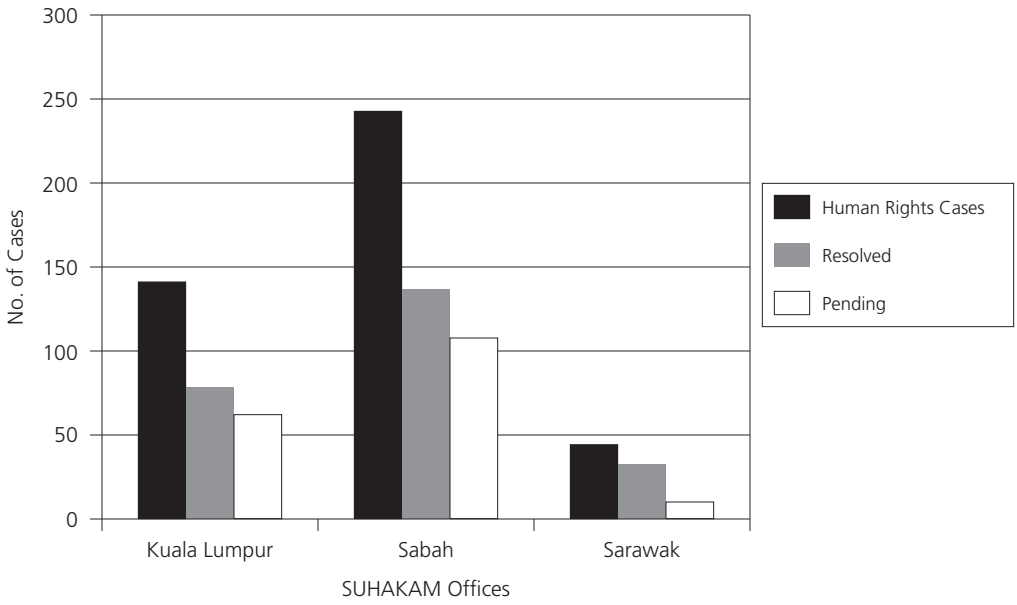

Figure 2: Resolved and Pending Cases

2. CORE ISSUES IN COMPLAINTS

(a) Complaints against the Police Force

SUHAKAM has engaged the Police Force in a series of meetings and discussions as part of the strategy to foster relations and to expedite the resolution of complaints against the Police. Allegations brought to SUHAKAM's attention, such as excessive use of force and abuse of power by Police personnel, have been discussed at these meetings.

To build on the relationship, CIWG proposed the signing of a Memorandum of Understanding (MoU) between SUHAKAM and the Royal Malaysian Police to advance cooperation. The Police responded, informing SUHAKAM that as a Government agency under the Home Ministry, they do not have the mandate to enter into a MoU with SUHAKAM.

SUHAKAM also highlighted allegations of Police inaction on investigations. Of the 20 complaints received on this matter from January to September, only four have been resolved and 16 are awaiting response. In the pending cases SUHAKAM has been informed that investigations are in progress and that the files cannot be closed as yet.

While the Police have responded to many cases referred to them, they have been reluctant to cooperate with SUHAKAM in matters involving the recording of statements of Police personnel. In the case of Mohamad Tawfiq bin Noorzan who ran amok and was shot dead by the Police on Nov 14, SUHAKAM recorded statements from public witnesses, but was denied access to the Police personnel involved and was referred to the AG's Chambers instead.

Such decisions prevent SUHAKAM from inquiring into complaints regarding allegations of infringement of human rights. SUHAKAM would like to highlight the importance of cooperation and alliance among all stakeholders to deliver the human rights of citizens.

Among the complaints received during the year was the case of eight individuals who were shot dead by the Police. In each of the complaints concerning the fatal shooting of individuals, it was claimed that the Police had used firearms without exhausting other options such as negotiation or use of non-fatal force.

SUHAKAM recommends that the Police Force considers using tasers or other non-lethal weapons to temporarily incapacitate the aggressor, particularly in cases where someone runs amok. Training on techniques of negotiation should be included in Police training programmes to avoid the use of firearms in particular situations.

(b) Complaints from the Orang Asli

SUHAKAM received eight complaints and a compilation of 12 memoranda pertaining to various issues affecting the Orang Asli community. Six complaints were on the violation of Orang Asli Native Customary Rights to Land. In all these cases, the community claimed that ancestral land had been encroached upon by trespassers and that ownership had been transferred to a third party without its knowledge and consent. One such case involves the situation in Sungai Mai in Jerantut, Pahang. The village headman of a Jahut community alleged trespass on the ancestral land by certain individuals, felling of trees on the land, and desecration of the burial ground.

Consequent to this and other similar cases, SUHAKAM organised a Roundtable Discussion (RTD) on May 14 with the relevant Government agencies. The purpose was to verify the allegations of encroachment and to identify other problems faced by the Orang Asli community in Pahang. The major issues raised were on land ownership; encroachment; and the role of the Orang Asli Affairs Department in delivering the rights of the community.

Participants' Recommendations

(i) The Government should amend the relevant laws to include the Orang Asli as Bumiputeras, similar to the Malays and the indigenous peoples of Sabah and Sarawak.

(ii) There is a need to review the Aboriginal People's Act 1954 and National Land Code to secure Orang Asli reserves.

(iii) The section on the gazetting of land under the National Land Code should be reviewed.

(iv) The Orang Asli need to be clearly informed about the status of their settlements and about options provided by the Government in relation to land applications.

(v) Collaboration and dialogue between the State Government, district agencies and the Orang Asli should be enhanced, so that the community can better understand issues on land applications.

(vi) Project developers should obtain consent from the Orang Asli, involve them in the planning of the proposed projects, and compensate them adequately.

(c) Deaths in Custody

SUHAKAM investigated five cases of custodial deaths. The Commission visited the place of detention where each death occurred and requested information from the relevant authorities.

SUHAKAM is of the opinion that it should be made mandatory to carry out an inquest into cases of deaths in custody, under Section 334 of Criminal Procedure Code (Act 593). Realising that the Magistrate's Courts have a lot of cases to hear, SUHAKAM concurs with the recommendation of the Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police that a Coroner's Court be established to conduct inquests.

SUHAKAM also received complaints about deaths linked to unhygienic conditions in Immigration detention centres. SUHAKAM has recommended that sanitary facilities be upgraded, with special attention given to food preparation since contamination was the likely cause of death in the cases reported.

To prevent deaths in detention facilities, SUHAKAM recommends that closed circuit television cameras be installed at strategic angles without encroaching on the prisoners' privacy. The footage would help determine the cause of death in some situations.

(d) Visits to Places of Detention

During the year, SUHAKAM conducted 14 visits to places of detention including prisons, Immigration detention centres and Police lock-ups nationwide (Table 2). The visits were either in response to complaints or on SUHAKAM's initiative, pursuant to Section 4(2)(d) of the SUHAKAM Act.

Table 2: Visits to Places of Detention, 2009

NO.	DATE OF VISIT	PLACES OF DETENTION
1.	April 3	Visit to KLIA Immigration Detention Depot
2.	April 7	Visit to Juvenile Detention Centre, Asrama Bukit Baru, Melaka
3.	May 14	Visit to Lock-up, Kuantan District Police Headquarters, Pahang
4.	June 15	Visit to Sungai Buloh Prison, Selangor
5.	July 6	Visit to Semenyih Immigration Detention Centre, Selangor
6.	Sept 17	Visit to Taiping Prison, Perak
7.	Sept 17	Visit to Kamunting Detention Camp, Perak
8.	Oct 1	Meeting with detainees at Simpang Renggam Rehabilitation Centre, Johor
9.	Oct 1	Meeting with officials at Pekan Nenas Immigration Detention Centre, Johor
10.	Oct 14	Visit to Bentong Prison, Pahang
11.	Oct 23	Visit to KLIA Immigration Detention Depot to meet Sri Lankan asylum seekers
12.	Nov 9	Visit to Tapah Prison, Perak
13.	Nov 19	Visit to Tiang Dua Drug Rehabilitation Centre, Melaka to interview complainant
14.	Nov 19	Visit to Machap Umboo Immigration Detention Centre, Melaka

SUHAKAM observed that conditions have improved in prisons nationwide. The introduction of the Parole System and the operation of new prisons in Machang (Kelantan) and Bentong (Pahang) have helped ease overcrowding. SUHAKAM recommends that the Government makes bilateral arrangements to repatriate foreigners, so that they can serve out their sentence in their home country.

Based on findings from its visits, SUHAKAM has compiled a report on 'The State of Prisons and Immigration Detention Centres in Malaysia: 2007-2008'. To be published in 2010, it details the main areas of concern in relation to the rights of detainees and puts forward several important recommendations.

SUHAKAM recommends that the Government takes urgent measures to develop a legislative framework for the protection of asylum-seeking and refugee children, particularly unaccompanied children, in line with international standards. SUHAKAM also recommends that these children be provided proper protection, care and treatment based on the CRC. Particular reference is made to the principles of non-discrimination and the best interests of the child.

On June 4, SUHAKAM held a meeting with the Director-General of the Immigration Department. Several issues were discussed: the death of two Myanmar nationals at the Juru Detention Centre; issues affecting asylum seekers, refugees and migrant workers; and conditions at detention centres. Where migrant workers, asylum seekers and refugees are involved, SUHAKAM recommends collaboration between the relevant agencies to improve the management of these groups.

Workshop on 'Working with Detained Migrant and Refugees'

Pursuant to the complaints received, a meeting was held on Nov 18 between SUHAKAM, the Home Ministry and its agencies. It was chaired by the Ministry's Deputy Secretary-General. The scope of discussion covered asylum seekers, refugees and migrant workers; conditions at detention centres; and citizenship matters. The Ministry made a commitment to full cooperation, which SUHAKAM welcomes.

(f) Migrant Workers

SUHAKAM received eight complaints from individuals and NGOs on the problems of migrant workers. Most of these related to incomplete and irregular payment of wages, arrests despite the possession of a valid working permit, or prolonged detention.

In March, it was reported that the Malaysian Government had revoked with immediate effect 55,000 entry visas for Bangladeshi workers. SUHAKAM then received a complaint that 23 Bangladeshi workers were being held at the Kuala Lumpur International Airport (KLIA) Immigration detention depot, as their local agents had failed to receive them at the processing centre there. The workers claimed that all payments relating to the entry and employment process had been made to the local agents.

SUHAKAM visited the workers at the KLIA depot on April 3 and was informed that nine had been sent back. The remaining 14 were willing to return home voluntarily and were waiting for tickets to be issued. SUHAKAM held a meeting with the respective local agents to seek clarification.

On April 16, SUHAKAM called for a discussion with the relevant agencies and parties, but could not achieve its objectives as some representatives did not attend the session. Most of the outstanding issues entailed the need for clarification, especially on policies relating to the recruitment of foreign workers.

SUHAKAM is concerned that unscrupulous individuals may take advantage of the current recruitment process to engage in human trafficking and exploitation. It is imperative that the Government takes immediate action to review the outsourcing policy which is said to be at the root of the problems. SUHAKAM recommends that the Government makes public the policy.

SUHAKAM also recommends that:

(i) The Government limits the intake of foreign workers by adopting modern and efficient technology wherever possible to reduce dependence on manual labour;

(ii) A one-stop centre is set up to handle complaints relating to foreign workers, so that action can be taken immediately;

(iii) The Ministry of Foreign Affairs informs the sending countries about Malaysian policies on recruitment of workers; only one Ministry should be tasked with handling recruitment and this should operate at government-to-government level;

(iv) Interpreters are made available in relevant departments and in the Courts to ensure that vulnerable groups have their needs met;

(v) RELA personnel be given full training on the procedure of arresting and detaining migrants; in this respect, RELA recruits must themselves be carefully screened, and all raids carried out in the presence of Immigration Officers to ensure that properly documented persons are not arrested; and

(vi) The Government brings in provisions under the Immigration Act 1959/63 and Passport Act 1966 to severely punish unscrupulous agents.

(g) Mentally Challenged Persons

SUHAKAM welcomes the progress made by the Government to improve the rights of the disabled with the decision to sign the Convention on the Rights of Persons with Disabilities on April 8, 2008 and to pass the Persons with Disabilities Act 2008. While this is a positive step, much remains to be done with respect to the rights of the mentally challenged.

On July 5, the *Star* reported that Taman Sinar Harapan in Kuala Kubu Baru, Selangor, a Government-run shelter for the disabled, had become a 'horror home'. The report revealed that about 30 of the 200 residents had been kept naked, chained up and caged.

Affirming the principle that 'Everyone deserves to be treated humanely, including those who are mentally or physically challenged', the Commission visited the shelter on July 7 to investigate the allegation. The findings provided cause for concern.

(i) Chaining of disabled persons to restrain movement
SUHAKAM was informed that the use of chains to restrain the disabled, particularly those with aggressive tendencies, has long been a practice at the shelter. SUHAKAM is of the opinion that no one should be subjected to such inhuman and degrading treatment.

(ii) Low staff-to-resident ratio
Approximately 84 staff-members look after the 232 residents. On the day shift, the staff-to-resident ratio is 1:10; at night, the ratio is 1:40. This low ratio means that staff cannot give adequate attention to each resident, forcing them to resort to inhuman practices such as chaining.

(iii) Lack of trained staff and health personnel
There are two nurses and two physiotherapists. Most of the other staff are only equipped with basic skills to manage the mentally and physically disabled residents, and have not been trained to deal with specific behavioural problems. In addition, there is no resident doctor or psychiatrist.

(iv) Lack of education and rehabilitation programmes
There are limited activities in respect of education and rehabilitation for the residents.

SUHAKAM then organised a RTD on the rights of mentally challenged persons on Oct 8, for some 35 participants comprising NGO representatives, academicians and other concerned individuals and groups. The objectives were to:

- Review the Convention on the Rights of Persons with Disabilities and its relevance to care and rehabilitation;

- Review the status of care of mentally challenged persons in Malaysia; and

- Make specific recommendations to the Government with regard to a 'care-with-dignity' approach in meeting the needs of the mentally challenged.

The discussion also touched on the lack of funding for rehabilitation centres; shortage of trained staff and professionals in shelters; benefits of de-institutionalising rehabilitation centres; role of families and communities in the rehabilitation process; employment opportunities for the disabled; and ways to remove the stigma attached to the mentally challenged.

Several preliminary recommendations were made. However, as most of the participants were NGO representatives, SUHAKAM felt that it was important to hold a discussion with the Government. A follow-up dialogue was held on Dec 3 to present recommendations from the RTD to key Government agencies working with mentally challenged persons; to discuss the feasibility and relevance of the recommendations; and to propose and/or adopt changes and solutions that the Government agencies can effect.

Representatives of the Ministry of Health, Ministry of Education, Department of Social Welfare and psychiatric hospitals attended the dialogue. In a short but intensive discussion, eight issues were covered:

- Challenges in caring for people with mental disabilities

- Institutionalisation versus de-institutionalisation: merits and demerits

- Current problems encountered by staff in institutional care

- Supportive environment for the well-being of the mentally challenged

- Education of the mentally challenged

- Employment opportunities

- Specific problems faced by the mentally challenged

- Collaboration between Government and NGOs

SUHAKAM's Recommendations

(i) The Government should ratify the Convention on the Rights of Persons with Disabilities without reservations.

(ii) It is preferable for the mentally challenged to be cared for within the community, so institutionalisation must be the last resort. The Government should therefore consider establishing more community-based centres.

(iii) Adequate training must be provided to raise professional standards of staff at welfare homes. Families should also receive training that equips them with skills to care for a mentally challenged person at home.

(iv) The Government can ensure that the mentally challenged are not deprived of quality education by tailoring the curriculum toward different learning abilities. Teachers must be trained to deal with specific learning disabilities.

(v) The Government should look into shifting the focus of the curriculum for the mentally challenged, from an academic to a vocational approach that also focuses on living skills. This would increase employment prospects and empower them to become independent individuals.

(vi) To ensure that the mentally challenged receive comprehensive care, the Government could collaborate with NGOs to ensure that services are coordinated and complemented.

(h) Building the capacity of CIWG

To keep abreast of best international practice on the management of detention facilities, SUHAKAM invited speakers from the International Detention Coalition, Association of Prevention of Torture, and International Committee of Red Cross to share their experiences and knowledge. The workshop, held on Nov 16, was for SUHAKAM Commissioners and Officers and representatives of Government agencies that deal with prisoners.

SUHAKAM plans to hold further workshops and training on this subject to enable the Commission itself and the relevant Government agencies to be informed of new and effective methods of managing and solving problems related to detention centres.

SUHAKAM also collaborated with the Asia Pacific Forum of National Human Rights Institutions to conduct training on 'National Inquiries' from Dec 7-9. The facilitators shared valuable experiences and best practices in other countries. The knowledge will come in useful when SUHAKAM conducts inquiries.

MEMBERS OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

Dato' Haji Khalid Haji Ibrahim (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Datuk Dr Chiam Heng Keng
Dr Mohammad Hirman Ritom Abdullah
Dato' Dr Abdul Monir Yaacob
Dato' N Siva Subramaniam
Dato' Sri Muhammad Shafee Abdullah
Dato' Dr Michael Yeoh Oon Kheng
Datin Paduka Zaitoon Dato' Othman

CHAPTER 4

PUBLIC INQUIRIES

In a memorandum on May 20, the Bar Council requested SUHAKAM to conduct a Public Inquiry into the arrest of five lawyers of the Kuala Lumpur Legal Aid Centre (KL LAC) on May 7 at the Brickfields Police Station.

Pursuant to Section 12(1) of the Human Rights Commission of Malaysia Act 1999 ('SUHAKAM Act'), a Panel of Inquiry was set up. It comprised Commissioners Dato' Sri Muhammad Shafee Abdullah (Chairperson), Dato' Dr Michael Yeoh Oon Kheng and Dato' Dr Denison Jayasooria.

(from left): Commissioners Dato' Dr Michael Yeoh Oon Kheng, Dato' Sri Muhammad Shafee Abdullah (Chairperson) and Dato' Dr Denison Jayasooria.

The terms of reference of the Public Inquiry were:

(i) To establish if the arrest and detention of the five lawyers constitutes a denial of legal representation and a contravention of Article 5 of the Federal Constitution and Section 28A of the Criminal Procedure Code (CPC), and therefore a violation of human rights;

(ii) To determine whether there was any justification or necessity to arrest and detain the lawyers under Section 27 of the Police Act 1967, thereby violating their human rights; and

(iii) If violation of human rights occurred, to determine:

- which person or agency was responsible;
- how the violations occurred;
- what administrative directives and procedures or arrangements contributed to this; and
- what measures should be recommended to ensure that violations do not recur.

(a) Background to the Incident

On May 7, a gathering was held to show support for blogger Wong Chin Huat who had been arrested and was being held at the Brickfields Police Station in Kuala Lumpur. Supporters wore black attire and held a candlelight vigil outside the Police station. The Police instructed the crowd to disperse, and then proceeded to arrest 14 individuals upon their alleged failure to comply.

News of the arrests was conveyed to several lawyers in the Emergency Response Team of the KL LAC and five lawyers went to the Police station to provide legal representation to the arrested individuals. Police told the lawyers that they had invoked Section 28A(8)(a)(b) of the CPC, which in effect denies the right of those arrested to see a lawyer. The lawyers demanded to see the forms purportedly signed by the 14 individuals informing them of the effect of Section 28A(8)(a)(b). However, the Police denied the lawyers' request.

By this time, a crowd had gathered in front of the Police station. The Police issued another order to disperse, after which the five lawyers and a journalist were arrested. Again the Police invoked Section 28A(8)(a)(b) to deny their right to receive legal representation. The lawyers were asked to sign the form informing them that they had agreed to waive this right, but refused to do so. All those arrested were held at different locations before their statements were recorded, but were released within 24 hours.

The lawyers told SUHAKAM that they were present at the Police station in their professional capacity to dispense legal advice to the 14 individuals, and that they did not consider themselves to be part of the crowd of supporters. They maintained that, as lawyers, they should not be stopped from fulfilling their professional obligations.

The Police explained that the right of the detainees to legal representation was suspended to facilitate the investigation. The Police concluded that those arrested were part of the crowd and had contravened Section 27 of the Police Act. The Attorney-General's Chambers subsequently recommended that no charges be preferred against those arrested since the gathering had no elements of violence.

Lawyers at the Public Inquiry

A secondary issue arose with regard to the fact that most of the Police witnesses refused to give authenticated written statements or any written statements at all to SUHAKAM. The Police felt that, at most, SUHAKAM can only 'interview' witnesses on a voluntary basis, and cited the case of *Subramaniam Vythiligam v Human Rights Commission of Malaysia [2003] 6 CLJ 175* in support of their assertion.

Having deliberated the arguments of the respective parties, the Panel of Inquiry considered the following to be additional relevant issues:

(i) Whether the Commission has the power under the SUHAKAM Act to compel witnesses to have their statements recorded and affirmed for purposes of being used subsequently at the Public Inquiry; and

(ii) in the event witnesses refuse to allow their statements to be recorded, whether there are available remedies or powers of enforcement with SUHAKAM to discourage such refusal with the threat of legal consequences.

(b) Findings of the Panel

(i) Section 14 of the SUHAKAM Act is clear. It allows two types of inquiries. One is the investigative inquiry without a public hearing (closed investigation). A closed investigation is conducted mainly through interviews and recording of statements of witnesses, and receipt of documentary and other exhibits. When a Public Inquiry becomes necessary, the Panel of Inquiry is at liberty to use the closed inquiry statements of the interviews and exhibits for purposes of the hearing of witnesses *viva voce*.

(ii) There are times that certain factual scenarios may demand SUHAKAM to declare that it will undertake a Public Inquiry on a certain issue on an expedited basis. When this happens, SUHAKAM can set a time period for purposes of conducting the closed investigation prior to the actual public hearing, as in the case of this Public Inquiry.

(iii) The wording of Section 14(1)(a) of the SUHAKAM Act seems to provide a support for both the closed and open inquiry mechanisms.

(c) Conclusion and Directions

(i) The SUHAKAM Act, being a human rights statute, stands close to legislation such as the Constitution. Therefore, it ought to be treated *sui generis* attracting interpretations of its provisions in a liberal, fair and large fashion.

(ii) Section 14(1)(a) of the SUHAKAM Act empowers the Commission to record statements of witnesses, whether civilians or Police officers.

(iii) These witnesses are obliged to provide written and authenticated statements if and when requested by SUHAKAM. In this context, the Commission suggests that, in future, proper notices should be issued to witnesses for purposes of interview and recording of statements. The notice must quote the empowering provisions of Section 14(1)(a) and the consequent sanctions under Chapter IX and X of the Penal Code, notifying witnesses of the peril of non-compliance.

At the time of the writing, the Public Inquiry has yet to be concluded for several reasons. Chief among these was the initial reluctance of several Police personnel to provide authenticated written statements. They subsequently provided the required documents to SUHAKAM and the Public Inquiry then proceeded smoothly.

Unfortunately, the most important Police witness, the OCPD of Brickfields, had to undergo heart surgery and the recording of evidence from him could not be concluded.

Further hearing has been fixed from February 2010 and it is expected that evidence-taking and submission by interested parties will be concluded.

CHAPTER 5

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

The Law Reform and International Treaties Working Group (LRITWG), as its name suggests, monitors all national laws that have bearing on matters of human rights. The bulk of this function is to ensure that the laws are compatible and consistent with human rights principles.

In areas where there is no governing legislation, the group through its main organ of the Commission, advises and agitates the relevant authorities to consider enacting appropriate laws. In order to comply with the international standard of measure of human rights, the LRITWG continuously undertakes the detailed study of international human rights treaties and other instruments, and recommends the signing, accession or ratification of such instruments by the Government.

2009 posed a challenging year as many controversial, yet fundamental human rights issues arose through the LRITWG's function as the law reform and international treaties monitoring mechanism of SUHAKAM.

Those that need special mention are:

(i) Study and research pertaining to the death penalty in certain cases in Malaysia and the call for its abolition;

(ii) Study and research of the penalty of life imprisonment and natural life imprisonment – both areas of research come under the broad purview of the LRITWG's monitoring of the overall prison system and reform; in particular, natural life imprisonment has become the focus of the working group's suggestion for abolition and replacement with life imprisonment;

(iii) Study to provide alternative measures to be undertaken by the authorities in relation to the review and amendment of all preventive laws and detention without trial – this is being undertaken without compromising the Commission's stand since 2003 that preventive laws such as the Internal Security Act 1960 (ISA) need to be abolished and replaced with a more focused legislation governing terrorism offences;

(iv) Focus on the rights of the child within the principles of the Convention on the Rights of the Child (CRC), pertaining to amendments that are urgently required to the Child Act 2001 – the highlights are abolition of corporal punishment for children and the protection of children from exploitation in pornography;

(v) Study and agitation pertaining to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the removal of Malaysia's reservations to certain provisions; and

(vi) Convention on the Rights of Persons with Disabilities (CRPD), which the Government signed in April 2008.

1. MONITORING OF IMPLEMENTATION OF THE CRC

SUHAKAM has given priority to monitoring implementation of the CRC, to which Malaysia acceded in 1995. The Commission has held workshops and discussions with relevant Ministries and NGOs since 2003 to strengthen implementation by advocating the removal of eight reservations still held by the Government.

SUHAKAM has recommended the immediate removal of at least five of the reservations. This is based on the fact that the provisions of the reserved Articles are compatible with the Federal Constitution and other national laws. The detailed submissions were sent in 2006 to the Ministry of Women, Family and Community Development (MWFCD), Ministry of Foreign Affairs and other relevant agencies, and SUHAKAM anxiously awaits affirmative action. The same recommendation was made by the UN Committee on the Rights of the Child, when Malaysia presented its first official report in January.

SUHAKAM continues to further study the implications of the remaining Articles to facilitate justification of their removal, to make the CRC a strong reference document for legal reform and policy and programmatic direction. This will ensure that children are given their due rights to survival, protection, development and participation as embodied in the UN Declaration for Children.

In this regard, SUHAKAM lauds the MWFCD's efforts during the year to engage with various agencies, NGOs and civil society groups to identify areas of concern and to draw up an action plan to promote, protect and fulfil children's rights.

SUHAKAM had previously participated in workshops organised by the MWFCD to draw up the National Plan of Action for Protection of Children and in the Second National Plan of Action for Children. SUHAKAM had also taken part in the Task Force Meeting on developing the Malaysian Child Index as an initiative of UNICEF in cooperation with the MWFCD.

(a) Amendment of the Child Act 2001

The Act is currently being reviewed to incorporate aspects of child development and participation in order to comply with all the underlying requirements and principles of the CRC. SUHAKAM and other stakeholders participated in a meeting organised by the MWFCD in November to discuss the amendments. SUHAKAM recommended the abolition of corporal punishment for children as stipulated under the Child Act. This sanction not only amounts to cruel punishment, but also violates the rights of the child and contradicts the principles of the CRC that specifically require State Parties to protect children from cruel, inhuman and degrading treatment or punishment. SUHAKAM also urged a review of other laws that permit corporal punishment on children.

SUHAKAM suggested the incorporation of a provision against child pornography into the Child Act, as existing laws on pornography are vague and incomprehensive. Such an effort would be in line with international standards and recommendations to protect children from sexual exploitation. SUHAKAM will continue to work with MWFCD and other relevant agencies in this regard.

(b) Optional Protocols to the CRC

SUHAKAM has given due attention to the two Optional Protocols to the CRC – the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; and the Optional Protocol on the Involvement of Children in Armed Conflict. Both are relevant to the protection of children's rights and for optimum survival, growth and development of the child. The Protocols will reinforce implementation of the CRC as well as other laws affecting children in Malaysia, including the Child Act.

SUHAKAM, once again urges the Government to ratify the Optional Protocols urgently, especially in light of the fact that violence, exploitation and abuse of children continue to be a serious problem and violate their human rights.

To facilitate justification for ratification of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, SUHAKAM has continued to engage with stakeholders and interested parties. In March, a Roundtable Discussion (RTD) on the Scope and Definition of Child Pornography Laws was convened as a follow up to the 2008 meeting. Representatives of Government agencies, NGOs and the corporate sector participated.

In this context, SUHAKAM has also recommended that specific legislation on child pornography be formulated or, alternatively, that specific provision be made in the Child Act. A further option discussed was to include a new provision on child pornography in the Penal Code.

The consensus of the RTD participants was the incorporation of the proposed provision into the Child Act, so that all matters relating to children's well-being and protection are within the purview of the Act and are treated in a holistic fashion. The meeting also noted that, aside from some general laws, there is no agreed definition of the term 'child pornography' or its scope.

Hence, SUHAKAM is formulating a draft proposal on the scope and definition to be submitted to the relevant agencies for consideration. SUHAKAM will continue recommending the ratification of the two Optional Protocols.

2. MONITORING OF IMPLEMENTATION OF CEDAW

Since the first RTD held in 2004 to look into the implementation of CEDAW and to review the Government's reservations, SUHAKAM has held discussions with relevant agencies and has commissioned studies by well known experts, specifically with regard to the reservations. SUHAKAM's recommendation to withdraw reservations to Article 5(a), 7(b), 9(2) and 16(1) was submitted to the MWFCD and relevant agencies. The MWFCD convened a technical meeting in May to prepare justification for the withdrawal of the reservations to Article 5(a), 7(b) and Article 16(2). The detailed studies have been compiled and will be published upon finalisation.

(a) Optional Protocol to CEDAW

SUHAKAM has also carried out a study on the implications of the Optional Protocol to CEDAW and will continue this work towards formulating a proposal to the Government to consider its ratification. This will enable complaints on women's rights and discrimination to be taken up more seriously by all parties concerned.

3. RATIFICATION OF CRPD

SUHAKAM was involved with National Human Rights Institutions (NHRIs) and UN agencies in developing the CRPD, adopted by the UN Assembly in 2008. SUHAKAM urges the Government to ratify the treaty, which it signed in April 2008.

In February, SUHAKAM participated in the Forum on Disability organised by the Malaysian Council of Child Welfare with the cooperation of the Penang Spastics Organisation. This was aimed towards promoting understanding of, and increasing public awareness on, the CRPD and the Persons with Disabilities Act 2008 particularly among persons with disabilities and caregivers.

In May, SUHAKAM conducted a study on the Articles of the CRPD in relation to provisions in national laws and policies on the rights of persons with disabilities. The findings show that adherence to CRPD will protect and strengthen the rights of persons with disabilities in Malaysia. SUHAKAM is of the view that there are no barriers to ratifying the CRPD, as Malaysia has implemented – and is currently in the process of strengthening – the Persons with Disabilities Act 2008 as well as the National Policy on Persons with Disabilities.

SUHAKAM will continue to increase awareness on issues relating to persons with disabilities and the governing global instruments.

4. PRISON REFORM

(a) Death Penalty

SUHAKAM notes with great concern the comments in the Universal Periodic Review (UPR) Report on Malaysia, with regard to the imposition of death penalty. The report states:

> 55. On the issue of death penalty, Malaysia stated that, as a democratic state, the government's policy must take into consideration the views of the majority of the electorate and that the death penalty was seen as the ultimate deterrence. Death penalty was a sentence that could be passed only by the superior Courts namely the High Court, Court of Appeal and the Federal Court, the latter two when exercising their appellate powers. It was only executed when all rights to an appeal had been exhausted and the right to pardon had been exercised.

The UPR report also took cognizance of Malaysia's plan to eventually abolish the death penalty. SUHAKAM welcomes the intended move. In light of this, it has written an opinion paper with the following recommendations:

(i) SUHAKAM views the death penalty as a cruel, inhuman and degrading punishment. A serious review is required in terms of its relevance and effectiveness in Malaysia as a form of punishment toward retribution and deterrence. In the short term, the Government should consider a moratorium on the death sentence or commuting the death sentence to life imprisonment, especially for those who have been on death row for more than five years. In the long term, the Commission recommends abolition of the capital sentence.

(ii) SUHAKAM notes from Malaysia's UPR Report that implementation of the death sentence is strictly monitored and regulated. However, SUHAKAM notes with great concern the number of prisoners on death row, as well as their condition and rights. According to Prison Department statistics, it is estimated that 114 of 256 prisoners sentenced to death have served time exceeding five years. It is recommended that measures suggested by the Human Rights Committee on observing and safeguarding the rights of the prisoners are adhered to. In addition, it is proposed that the rights of prisoners as stipulated in the International Standard Minimum Rules for Treatment of Prisoners be considered and adopted.

(b) Natural Life Imprisonment

SUHAKAM is against all forms of punishment that infringe human rights principles. In this respect, the Commission has undertaken continuous study on life imprisonment and natural life imprisonment from the human rights perspective, whilst liaising with the Prison Department for updated data and information regarding prisoners serving such penalties.

One main concern about natural life imprisonment is the indefinite term imposed. This causes grave mental and physical torture among prisoners. As such, SUHAKAM calls for the abolition of indefinite term of natural life imprisonment, which is prescribed in the Firearms Increased Penalties Act 1972. All imprisonment terms must be within a prescribed duration of time. SUHAKAM urges that the natural life sentence be commuted to life imprisonment in cases where prisoners have already served an unreasonable term. Life imprisonment, in effect, means 20 years maximum imprisonment, with the practical effect of having to serve only 14 years (taking into consideration one-third remission and automatic deductions from the maximum term).

SUHAKAM is also concerned about the mechanics and sittings of the Pardons Board in each State, alongside the right of prisoners to seek review of their sentence. Cases should be brought the Pardons Board on a prescribed and regular basis. However, it would appear that the Pardons Board in some States do not meet regularly. Such problems must be addressed by the States concerned as the right to be pardoned is granted by the Constitution and any infringement affects human rights.

The sentence of natural life imprisonment is cruel and degrading. In December, SUHAKAM submitted a letter to the relevant authorities, complete with research papers, urging them to abolish the death penalty and natural life imprisonment.

5. PREVENTIVE LAWS AND DETENTION WITHOUT TRIAL

SUHAKAM published in a report in 2003 on the review of the ISA. This studied the history of the Act and the original purpose behind its creation. The report also studied preventive detention within the international human rights framework, including the definition and the international instruments and human rights principles applicable to preventive detention. The report further laid down a model code for legislation providing for preventive detention. The scope of the review focused on two main provisions of the ISA - Sections 8 and 73 – as these contravene human rights principles. Furthermore, complaints lodged with SUHAKAM in relation to the ISA mainly focus on alleged abuse of the two provisions by the detaining authorities.

During the year, the Prime Minister, in his inaugural speech, highlighted the Government's commitment to review the ISA. Prior to that, the Home Ministry had formed a Select Committee to Review the ISA and invited SUHAKAM to participate and provide opinion.

A consultative meeting was held in November between SUHAKAM, relevant stakeholders and respected scholars, and the Home Minister and/or his representatives. Some insisted that the ISA be only revised in part to ratify problems that have emerged. Others argued that the Act should be abolished, claiming that it is seriously flawed and poses great risk of human rights violation.

SUHAKAM maintained that the ISA is essentially corrosive of human rights in its application and has outlived the purpose for which it was legislated. Hence, it should be repealed and replaced with an anti-terrorism law. However, if the Government is not agreeable to repealing the ISA, SUHAKAM suggested certain amendments:

(i) Right to be informed of reasons for arrest and detention
Detainees must be promptly informed of the reasons for their arrest and/or detention. This includes being informed of the specific grounds on which it is concluded that their arrest or detention is necessary, and the precise allegation of facts which led the relevant detaining authority to be satisfied that such grounds exist for the arrest. The grounds or allegations must not be expressed in the alternative. These must be clearly expressed, and must not be vague, overlapping or inconsistent. Communication, either orally or in writing, must be made in a language they understand. A copy of the grounds of arrest must be dispatched to the next-of-kin the same day to avoid uncertainty of the rights being conferred.

(ii) Right to be brought promptly before a judicial authority

Detainees must be brought promptly before a Judge or any other officer authorised by law to exercise judicial power. They must be allowed the right to speak to the Judge or officer in private. The Judge or officer must be allowed to order medical examination of detainees, where this is deemed necessary.

(iii) Right to challenge the lawfulness of detention

Detainees must be allowed the right to challenge the lawfulness of their detention before a Review/Appellate Body chaired by a person of judicial standing. The Review Body must have a statutorily prescribed code of procedure that complies with the requirements of natural justice. Where it is claimed that the production of certain evidence is contrary to national security, the Review Body must have the power to scrutinise the evidence itself to verify the claim. The Review Body must be empowered to order the release of detainees if it is not satisfied that continued detention is necessary.

The hearing before the Review Body (currently undertaken by the Advisory Board) has to be undertaken in an open court situation, with mechanisms turning it into a hearing in-camera when sensitive issues such as national security are involved. SUHAKAM has further suggested that the premises where these hearings are undertaken must be in a normal set up of the Courts. The current practice of having the hearing in the vicinity of the detention centres must be stopped, in order to provide the vital information to the public that detainees under this category are in fact being given the right of hearing in a trial-like situation.

The mechanics of the hearing itself (currently referred to as the Representation) require the authorities to provide adequate disclosure of particulars to the detainees in order to make their representation for review intelligible and fair.

SUHAKAM also suggested that the rights to *habeas corpus* applications should not be limited to procedural matters only. Challenges through the *habeas corpus* must reflect the original idea of such prerogative writs.

In addition to engaging the Home Ministry, SUHAKAM participated in a seminar organised by the Advisory Board on Dec 17. The seminar was important as it was the first step by the Advisory Board to educate the general public on its functions and the right of representation of detainees under preventive detention.

6. MUSLIM CONVERTS

SUHAKAM has received complaints from converts desiring to leave the Islamic faith for another religion due to circumstances such as divorce and loss of faith. They face great challenges in legalising their non-Muslim status, which not only affects their rights, but also those of the spouse, children and other family members. Conversion out of Islam is a very sensitive matter in Malaysia. This has been a major subject of controversy among the various religious bodies in the country and, as such, must be resolved effectively to ensure continuous religious harmony.

SUHAKAM has undertaken research on the freedom of conscience, thought and religion from both the religious and constitutional aspects. It is found that, while there are provisions for conversion into Islam, there are no stipulated procedures for conversion out of Islam under the Syariah legislation of all States except for Negeri Sembilan. This is the main reason for the hardship faced by Muslim converts in renouncing Islam, causing them to remain bound by Syariah law. Their right to religious freedom which is guaranteed by the Constitution is also denied due to the absence of a clear avenue to convert out of Islam.

Every state – and the Federal Territories – has its own set of Administration of Islamic Law. These laws are not uniform in some respects. This has caused some difficulties in interpretation and application.

Islamic laws which are based on the *Quran* and *Hadith* are not meant to be a burden to the people. They are designed to facilitate individual and societal needs. Among the pillars on which Islam is based is the removal of unnecessary difficulties wherever possible.

In view of the difficulties and misunderstanding arising out of the application of these laws, in particular on conversion out of Islam, SUHAKAM submitted a memorandum to the Rulers' Conference on Oct 3 and made a presentation at the Pre-Council of the Rulers' Conference at Istana Negara regarding conversion and matters connected thereto.

SUHAKAM recommended:

- Uniformity of all the State and Federal Territories Administration of Islamic Law; and
- To provide in such laws:
    (i) A clear and comprehensive procedure for conversion in and out of Islam; and
    (ii) Matters in consequence of conversion such as status of marriage, division of matrimonial property, custody of children and maintenance.

Their Royal Highnesses responded positively to SUHAKAM's recommendation and requested the Attorney-General to expeditiously undertake necessary action to ensure the uniformity of the Administration of Islamic Law of the Federal Territories and all States and to provide therein a procedure relating to conversion and matters connected thereto.

7. JOGJAKARTA PRINCIPLES

During the year, SUHAKAM ventured into the area of rights of sexual minorities. The Asia Pacific Forum of Human Rights Institutions invited SUHAKAM to attend a meeting in Jogjakarta in May to discuss matters pertaining to these rights. The focus was on how the lesbian, gay, bisexual and transgender (LGBT) group is often subjected to discrimination, bullying, humiliation, intimidation or even murder by members of the society. Within the LGBT, the transgender are found to be the most vulnerable due to differences in traits and appearance.

The meeting introduced the 'Jogjakarta Principles', an internationally recognised human rights document detailing the basic rights of the sexual minorities that have been abused or denied. Some NHRIs have commenced extensive works based on the document, which contextualises basic human rights relevant to the LGBT group. The fundamental rights enshrined in the Jogjakarta Principles are the same as the rights of the non-LGBT incorporated in many other human rights documents such as the Universal Declaration of Human Rights, including the right to livelihood, education, participation in the society and also civil and political rights.

SUHAKAM takes note of the Jogjakarta Principles and will use it as a reference point in addressing the issues of sexual minorities in Malaysia. SUHAKAM gives due recognition to the Jogjakarta Principles to the extent it is consistent with sensitivities and values of religion and culture.

In relation to LGBT rights, SUHAKAM was also invited to attend a meeting on Issues Relating to Rights of Sex Workers and Transgender. The meeting highlighted the plight of sex workers and transgender who are often subjected to arrest by authorities, and denied the right to basic healthcare which is crucial for them, given the risks to which they have been exposed.

SUHAKAM is of the view that the LGBT group should not be excluded in terms of protection of their human rights. Action should be taken to address to ensure that the LGBT are better protected and are able to live their lives like other human beings. Laws that affect their rights, such as the Minor Offences Act 1955, should be reviewed as it is found to be discriminatory against the LGBT. SUHAKAM expresses deep regret over the ill-treatment and arrest of, and discrimination against, the LGBT in areas such as the right to employment as well as access to healthcare. SUHAKAM takes due note of the Islamic position on the subject as well as cultural values in addressing the rights of LGBT.

MEMBERS OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

Dato' Sri Muhammad Shafee Abdullah (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Datuk Dr Raj Abdul Karim
Dato' Dr Abdul Monir Yaacob
Tunku Datuk Nazihah Tunku Mohamed Rus
Datin Paduka Zaitoon Dato' Othman
Dato' Haji Khalid Haji Ibrahim

CHAPTER 6

REPORT OF THE ECONOMIC, SOCIAL, CULTURAL & CIVIL AND POLITICAL RIGHTS WORKING GROUP

The Economic, Social, Cultural & Civil and Political Rights Working Group (ECOSOC-CPR) holds the following functions:

- To highlight the plight of vulnerable groups *vis-à-vis* their economic and social rights, such as the right to adequate housing, healthcare and education – vulnerable groups in this instance include the urban and rural poor, single mothers, the elderly and people suffering from mental illness; and

- To enhance and promote civil and political rights, with particular emphasis on freedom of assembly and freedom of expression, and abolition of detention without trial, preventive laws and life sentence.

In performing its role under Section 4(2)(a) of the Human Rights Commission Act of Malaysia 1999 ('SUHAKAM Act'), the ECOSOC-CPR conducts field visits, forums, roundtable discussions and research.

1. SUHAKAM'S KEY PERFORMANCE INDICATORS

During the year, the Government requested SUHAKAM to develop a set of Key Performance Indicators (KPIs) in order to boost the organisation's performance. After identifying several key areas for consideration, a consultation with NGOs was held on Aug 12 to obtain their views and recommendations. The proposals incorporate activity-based KPIs to achieve SUHAKAM's four basic functions:

- to promote awareness of, and provide education in relation to, human rights;

- to advise and assist the Government in formulating legislation and administrative directives and procedures, and recommend the necessary measures;

- to study and verify any infringement of human rights in accordance with the provisions of the SUHAKAM Act; and

- to inquire into complaints regarding infringement of human rights.

The proposed KPIs take cognizance of additional roles included in the SUHAKAM Act, like the submission of an Annual Report to the Parliament. They further consider efforts to develop a National Human Rights Action Plan, as well as to establish and maintain networks and cooperation at various levels. The set of proposed KPIs, submitted to the Prime Minister's Department in November, is available on the SUHAKAM website.

2. ANTI-TRAFFICKING IN PERSONS (ATIP)

SUHAKAM has continued to carry out activities concerning ATIP, both in its own capacity and as a member of the Council for ATIP Malaysia.

(a) Visit to the Kredtrakarn Protection Centre and Immigration Detention Centre in Thailand

This was conducted from June 29 to July 2. The programme included an observation visit to entertainment places in Sadao along the Malaysia-Thailand border, and meetings with the Police Region 9 Office in Songkhla as well as the Immigration Department of Malaysia at the Bukit Kayu Hitam Checkpoint.[1]

The objectives were to exchange information on the mechanisms adopted by Thailand and Malaysia to protect and support victims of human trafficking; to understand the anti-trafficking law in both countries; to identify possible avenues for cooperation between SUHAKAM and relevant agencies and organisations in Thailand; and to propose recommendations to SUHAKAM and the Council for ATIP.

A core finding was that the implementation of a mechanism to combat trafficking in persons in Thailand takes serious consideration of human rights principles, especially the rights of victims. Enforcement officers are highly trained in the screening and protection of victims. Throughout this process, NGOs are essential partners of the government by providing complementary skills and services. The partnership between the Thai government and NGOs is illustrated by an office provided by the Immigration Department to NGOs at the detention centre in Bangkok.

[1] The visits and meetings were recommended to SUHAKAM by the Human Rights Commission of Thailand, the Alliance Anti-Traffic (AAT), Thailand, and the Acting for Women in Distressing Situations (AFESIP), Thailand, at a meeting on May 23, 2008 at the SUHAKAM Office in Kuala Lumpur.

Thai Immigration and Police officials disclosed that partnership with NGOs has tremendously improved the efficiency of enforcement officers not only in the process of victim identification, protection and shelter, but also in the repatriation of illegal immigrants. The United Nations High Commissioner for Refugees (UNHCR) shares the office with NGOs in the detention centre. The NGOs work closely with the UNHCR to promote expeditious sending of refugees to third countries.

Based on the visit and meetings, SUHAKAM outlined a number of follow-up activities.

(i) Implementing lessons learned from Thailand
Based on the visits and meetings in Thailand and a visit to the shelter for victims of human trafficking in Kuala Lumpur, SUHAKAM issued a letter to the Council for ATIP to highlight aspects of the shelters in Malaysia that could be improved.

(ii) Addressing the issue of suspected victims detained before enforcement of the ATIP Act 2007
SUHAKAM wrote to the Director-General of the Immigration Department to highlight the issues and the interest of Thai NGOs – including AAT and AFESIP – to assist in the repatriation of possible Thai victims of human trafficking who were caught for immigration purposes before the enforcement of the ATIP Act. The Department responded, saying it had yet to encounter any such cases.

(iii) Meeting with diplomatic missions to discuss their role in combating ATIP
On Dec 4, SUHAKAM organised a RTD with foreign missions in Malaysia and related agencies to discuss how to move the ATIP agenda forward.[2]

(iv) Implementing an anti-human trafficking plan of action in Malaysia
SUHAKAM had, in 2007, submitted a proposed plan of action to the Council for ATIP. SUHAKAM participated in the formulation of the National Strategic Plan for ATIP (2009-2014) organised by the Council from Aug 9-11.

(v) Cross-border cooperation between Malaysia and countries like Thailand, Laos, Vietnam and Cambodia
One project concerns the trafficking of women and children. As an initial effort, the cooperation developed a Memorandum of Agreement against Trafficking of Women and Children.[3]

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[2] Details in Section 2(b) of this chapter, under 'Roundtable Discussion on Moving the ATIP Agenda Forward'

[3] Details in Section 2(c) of this chapter, under 'SEANF Memorandum of Agreement against Trafficking of Women and Children'

(vi) Eliminating demand for the flesh trade that exacerbates human trafficking
With cooperation from AAT and AFESIP, SUHAKAM is planning an awareness-raising programme near the Malaysia-Thailand border, in particular, Golok. The activity, expected to be conducted in January 2010, is anticipated to include the participation of various agencies, NGOs, the local community and their leaders.

(b) Roundtable Discussion (RTD) on 'Moving the ATIP Agenda Forward'

The RTD on Dec 4 discussed the role of SUHAKAM, the Council for ATIP and foreign missions in accelerating efforts to combat trafficking in persons in Malaysia. Specifically, the objectives were to maintain engagement and cooperation with foreign missions to address trafficking in persons involving Malaysia; to identify concerns on the current situation and mechanisms for prevention and awareness, enforcement, and protection of victims; and to make recommendations to address the problems identified.

Those invited included the Embassies of Cambodia, China, Indonesia, Myanmar, the Philippines, Russia, Thailand, US, Vietnam and Lao PDR.[4] However, apart from member-agencies of the Council for ATIP, only representatives from the Embassies of the US and Indonesia attended the meeting.

Issues Raised by Participants

(i) Convictions under the ATIP Act 2007
Since the enforcement of the ATIP Act, only 22 cases have been prosecuted and only five convictions have been secured. It was opined that the small number was due to the unwillingness of victims to cooperate with enforcement officers to testify against the perpetrators. Victims were afraid for their own safety and that of their families either in Malaysia or in their home country.

To ensure that no possible victims are overlooked, the Attorney-General's (AG's) Chambers has instructed that all cases that appear to have elements of human exploitation – or any others specified under the ATIP Act as constituting human trafficking – should be investigated under the ATIP Act. The Act clearly provides that only after the Court finds that a person is not a victim of human trafficking, can the case be investigated under other laws like those on labour and immigration.

[4] This was the first in a series of meetings planned by SUHAKAM; the session on Dec 4, 2009 included Embassies involved in SUHAKAM's RTD in 2003.

(ii) Inadequate number of shelters

Currently, there are only two Government-operated shelters for victims of human trafficking but another six are expected to be in operation soon. In addition, NGOs like Tenaganita are assisting the Government by opening shelters in Sabah and Selangor for victims rescued by enforcement officers.

The issue of security was raised, eliciting a proposal to the Council to improve the security at shelters.

(iii) Victims treated like offenders

While it was noted that enforcement agencies have intensified raids and rescued victims, it was said that many victims appear to be treated like offenders. For example, a newspaper reported the success of an enforcement agency in rescuing suspected victims of human trafficking. However, the photograph shows victims being handcuffed.

It was noted that, while the AG's directive could lead to overcrowding in the existing shelters, it would enable the authorities to ensure that victims are appropriately sheltered and repatriated rather than arrested.

There were views that the Government-run shelters appear to be operated like detention centres or prisons. For instance, there is a high fence all round the premises and victims are not allowed to leave the shelter. However, this was said to be for security reasons, especially for the safety of victims from possible traffickers.

(iv) Training of enforcement officers

The ATIP Act was enforced in 2008. Among the initial steps being undertaken to ensure Malaysia can effectively combat trafficking in persons is capacity-building of enforcement officers and others in the Council. Various training programmes are being implemented by the Government. Among these are joint training programmes for the Police and Immigration Department, and lectures for enforcement officers by experts from the US.

(v) Forging international cooperation

Malaysia is also exploring ways to strengthen international ties. For instance, a day before SUHAKAM's RTD, the governments of Malaysia and Australia held a meeting that discussed trafficking in persons.

(vi) Malaysia's relationship with diplomatic missions

Representatives of the Government said that, where human trafficking involves foreign victims, the authorities notify the relevant diplomatic missions in Malaysia. This was affirmed by the representative of the Indonesian Embassy, who however said the mission does not have access to the shelters to verify that the victims are its nationals. It was claimed that the Indonesian Embassy's visits to the shelter were denied by security officers. The representative, who expressed hope that access will be granted in the future, noted that there is a good working relationship with the Immigration Department in identifying Indonesian nationals rescued by the Department. Those identified are taken to the Embassy's shelter.

(vii) Interpreters

The shortage of interpreters has made communicating with some foreign victims very difficult and is an area where foreign missions could assist.

(viii) Human trafficking and human smuggling

The Council has assigned the Ministry of Human Resources to look into human trafficking in the labour sector. However, there appears to be confusion between human trafficking and human smuggling, and this complicated by routine labour disputes. In some cases, employers fail to remunerate employees but later compensate them.

Participants' Recommendations

- The Council should produce an Annual Report to highlight its achievements, including progress on its national strategic plan to combat human trafficking.

- The Council should publicise its role and work through the media, and by producing pamphlets.

- The Council should ensure that all decisions made at its regular meetings are translated into action.

- A screening mechanism should be put in place, applicable at the point of raids and rescue.

- The Council should hold regular meetings with diplomatic missions to discuss progress, issues and follow-up actions that can be taken.

- The Council should ensure that shelters are people-friendly. Instead of erecting high fencing, the number of security personnel could be increased to provide for the safety of victims.

- A special Court should be established (similar to the immigration Court) to expedite prosecution of human trafficking cases.

- Diplomatic missions should have access to shelters to enable them to identify their nationals and expedite repatriation.

- Each diplomatic mission should work closely with its government to ensure security of the victims' families in their home country. This could enhance trust among victims which could, in turn, encourage cooperation with the authorities.

- SUHAKAM should meet with the Ministry of Women, Family and Community Development to discuss the issue of access to shelters for diplomatic missions.

SUHAKAM plans to carry on dialogues with foreign missions.

(c) SEANF Memorandum of Agreement against Trafficking of Women and Children

The development of the Memorandum of Agreement (MoA) is a joint project of the human rights commissions of Indonesia, the Philippines, Thailand and Malaysia under the umbrella of the Southeast Asian National Human Rights Institutions Forum (SEANF). The two-part project is spearheaded by the Commission of Human Rights of the Philippines. The first entails workshops at the national level in each of the countries involved. The National Workshop in Malaysia, hosted by SUHAKAM, was held from Aug 25-26. Representatives of Government agencies and NGOs participated alongside resource persons from the National Human Rights Institution (NHRI) of the four member-countries.

The findings of the national workshops formed the foundation of the second phase of the project – a regional workshop held in the Philippines from Oct 21-22.

Based on the national and regional workshops, the SEANF developed a MoA against Trafficking of Women and Children. Upon adoption by the NHRIs, the MoA will bind them to the provisions – in particular, their role in aspects of legal aid, protection for trafficked women and children, education and cooperation.

As with UN treaties, the signatories will be required to prepare and present yearly reports at the SEANF annual consultative meeting, on progress in implementing the MoA. The report will be made available to the public.

At the time of writing, SUHAKAM has outlined several recommendations for amendment of the draft MoA, to be tabled at the SEANF Technical Working Group meeting in February 2010 for adoption.

(d) Council on ATIP

SUHAKAM continued to be an active member of the Council on ATIP, which has established two new committees on media/publicity and on labour.

On June 8, the Council organised a visit to the Kuala Lumpur shelter for victims of human trafficking. This was to brief members on the facilities and services provided. Members took the opportunity to obtain the residents' views on the facilities and services.

Based on the findings of this visit and SUHAKAM's visit to the Kredtrakarn Protection Centre in June, the Commission undertook to highlight the aspects of shelters that could be improved by the Council. SUHAKAM has recommended, among others, that victims have adequate access to physical and mental healthcare services and to courses in preparation for reintegration into society; that the Council sets minimum standards or guidelines for shelters; that current rules and procedures adopted by the shelters do not infringe the rights of victims; and that partnership is encouraged between the Council and NGOs.

Apart from contributing to the National Strategic Plan for ATIP (2009-2014) in August, SUHAKAM also provided input on amendments to the ATIP Act at the Council's meeting from Dec 3-5. SUHAKAM inserted important human rights principles in the documents, especially the rights of victims in all processes – legislation, enforcement, and victim protection and rehabilitation. The Commission also underlined the participation of NGOs and need for their partnership with the Government.

3. PROTECTION OF THE RIGHTS OF VULNERABLE GROUPS AFFECTED BY THE ECONOMIC CRISIS

On April 22, SUHAKAM organised a RTD in Kuala Lumpur to examine the effects of the global economic downturn on the rights of workers, as well as to look at the Government's role in protecting those rights. A similar RTD was held in Kota Kinabalu, Sabah, on Nov 24, focusing on the rights of workers and other vulnerable groups such as women and older persons in the State.

Issues Raised at the Kuala Lumpur RTD

(i) Many of those retrenched during the economic crisis have found it difficult to get another job. Since many are excluded from social security schemes, they have experienced a sudden decline in their standard of living, and many families have fallen into poverty.

(ii) Apart from the RM325 minimum wage for workers in the plantation sector, the absence of a minimum wage in other sectors has left workers in a precarious position in terms of income level. Some receive a monthly wage that is lower than the national poverty line. This is insufficient to cover the daily cost of living of individuals and their families.

The Sabah RTD on 'Protection of the Rights of Vulnerable Groups during the Economic Crisis', held on Nov 24

(iii) The country's dependency on cheap foreign labour affects employment opportunities for citizens. A participant estimated that foreign workers take up about 45% of jobs every year. Participants took a positive view of the Government's decision to freeze the intake of foreign workers in order to protect local workers.

(iv) The lack of standards and policies on employment of migrant workers has resulted in labour flexibility and simultaneously increased the number of outsourcing companies. Among them are companies that cheat foreign workers, compounding the incidence of trafficking in persons and implicating Malaysia in the process.

SUHAKAM was pleased to find that presentations and discussion at the RTD in Sabah indicated that the State has experienced minimal impact from the economic crisis. Speakers provided evidence that some industries have even shown growth.

The State is said to be stable because of its natural resources and strong industries like agriculture and tourism. However, this raised a critical issue – despite its economic and industrial strength, the State continues to record the highest incidence of poverty compared to other States, as reported in the five-year Malaysia development plans.

SUHAKAM's Recommendations

(i) SUHAKAM shares the Malaysian Trades Union Congress' view that the Government should implement a National Retrenchment Scheme to aid retrenched workers. Similar to the Employees Provident Fund (EPF), this would require financial contributions from both employers and employees.

(ii) SUHAKAM urges the Government to establish a minimum wage policy to ensure that all workers enjoy a decent standard of living.

(iii) The Government should conduct a study to assess the actual need for foreign labour. Currently, it appears that employers are keen to employ cheaper foreign labour despite the availability of local workers.

(iv) The Government should ensure that the rights of workers are protected by obligating employers to issue a clear contract of employment. Breach of the contract would hold the parties liable before the law.

(v) The Government should immediately revoke the licences of errant outsourcing companies. To prevent recurrence, the Government could draw up strategies and plans for future industries and the type of skills and number of workers required.

(vi) The Government should monitor labour disputes and ensure that both workers and employers have access to a resolution mechanism.

(vii) The Government should ensure that projects and industries benefit local communities in terms of socio-economic development. This would reduce the incidence of poverty.

4. RIGHTS OF INDIGENOUS PEOPLES

(a) Research on Native Customary Rights to Land of the Orang Asli

During the year, SUHAKAM initiated research on the land rights of the Orang Asli in Peninsular Malaysia. The objectives are to identify the main issues and complaints; to study the status and position of relevant laws and judicial decisions; to study the positions and standards laid down in international documents and declarations specifically related to indigenous peoples; and to formulate recommendations to ensure respect for the human rights of the Orang Asli.

In preparation, SUHAKAM held an in-depth discussion with various stakeholders on June 13. This brought together participants from Orang Asli communities, Government agencies, NGOs, law practitioners, academicians and other experts.

The study reviews complaints received by SUHAKAM and issues raised in related discussions and literature, and looks into the general interpretation of 'indigenous peoples', in particular the phrase 'aboriginal people' or 'Orang Asli'. The research also examines the historical background of legislation governing the rights of the Orang Asli.

It considers the challenges they have encountered in recent times, especially in relation to their land and socio-economic status. Also examined is the status of Orang Asli land rights based on local laws, Court decisions and international instruments. Consideration is given to practices of other countries such as Australia, Canada and New Zealand. The research concludes with SUHAKAM's recommendations to overcome the challenges faced by the Orang Asli and to ensure the realisation of their land rights.

SUHAKAM expects to release the report by the middle of 2010.

(b) Conference on Orang Asli Land in Peninsular Malaysia

SUHAKAM co-organised the conference with three community-based organisations (CBOs) – Pusat Komunikasi Masyarakat, Jaringan Kampung Orang Asli Perak and Pertubuhan Sinui Pai Nanek. It was held from Dec 14-16 to provide a platform for the Orang Asli to discuss issues affecting them, especially in relation to native land.

The conference saw the participation of the Deputy Minister of Rural and Regional Development, Orang Asli representatives, law practitioners, NGOs, CBOs and other interested groups and individuals.

Participants assessed the legal status of the establishment of native land; the human rights perspective of the rights of indigenous peoples – especially their right to land; current issues faced by the Orang Asli pertaining to land, as well as their encounters with the relevant authorities. A number of recommendations were put forward to the Minister of Rural and Regional Development. SUHAKAM was encouraged by the Minister's commitment to address the issues highlighted and to study the recommendations.

5. DEVELOPMENT AND HUMAN RIGHTS

(a) Meeting on Murum Dam and Field Visit

On July 21, SUHAKAM organised a meeting with representatives of Sarawak Energy Bhd (SEB) and the developer of the Murum Dam in Sarawak, and conducted a visit to the construction site.

This was done to follow up on issues highlighted in SUHAKAM's 'Report on the Murum Hydroelectric Project and Its Impact towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak'. It was also in preparation for SUHAKAM's Forum on 'Implementing Hydroelectric and Reservoir Dam Projects while Preserving Human Rights and the Environment' scheduled for July 23, in Bintulu.

The meeting with SEB and the dam builder enabled SUHAKAM to ascertain the steps taken to mitigate the impact of the project, especially on affected indigenous peoples and the environment. The field visit provided a first-hand look at construction and its impact on the surrounding environment.

Those present at the meeting were Mr Sipul Ambun, SEB's Senior Manager for the Land Division, Kuching Branch, and the developer's representatives – Mr Steven Tan, Lead Engineer; Mr Rowland George Clarke, Senior Officer for Corporate Communications; Mr Francis BU Goh, Public Relations Officer; and Mr Jack Paran Langat, Development Executive of the Community in Asap Koyan.

SUHAKAM was briefed on several aspects of the project:

(i) Environmental Impact Assessment (EIA) study
SUHAKAM was informed that the EIA was approved in January. Upon inquiring further, however, SUHAKAM established that excavation work had started six months earlier, in June 2008.

(ii) Resettlement of affected communities
Eight villages are affected by the project – Long Wat, Long Tangau, Long Jaik, Long Singu, Long Luar, Long Menapah, Long Peran and Long Malim. All the villagers are expected to be relocated in 2011. The Sarawak Planning Unit (SPU) is in charge of the resettlement exercise.

(iii) Employment opportunities for locals
Of the 1,300-strong work-force at the dam site, 400 are Malaysians. They serve as general labourers or hold jobs that require minimal skills, as operators and lorry drivers.

The SEB and developer explained that many Penan have come either in search of jobs or to sell their farm harvest. Although locals are welcome to work on the project, a number of them have had to be turned away as they do not possess a MyKad and are therefore not eligible for insurance coverage or Social Security Organisation payouts in the event of work-related accidents.

(iv) Assistance to Penan children
The SEB, of its own accord, has made efforts to take Penan children to be registered in schools. However, the applications were rejected by the school administrators because the children do not have birth certificates.

(v) Compensation to affected villagers
SUHAKAM was told that the SEB is only required to pay a nominal compensation for crops destroyed and for acquiring land used as burial sites. The bigger quantum – for acquisition of native land and homes, among others – falls under the jurisdiction of the Sarawak Government.

(b) Meeting with Penan Representatives

Taking advantage of the visit to the dam site, the SUHAKAM team met with Penan residents of the Long Jaik longhouse in Ulu Belaga on July 22. This was to determine issues concerning the economic, social and cultural rights of the Penan affected by construction of the dam.

This also gave the Commission the opportunity to ascertain the current status of issues identified in two SUHAKAM reports – 'Penan in Ulu Belaga: Right to Land and Socioeconomic Development' (2007) and 'Report on the Murum Hydroelectric Project and Its Impact towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak' (2009).

Encik Atek Nyuran, assistant to longhouse head Chief Matu Tuggang, raised several issues.

(i) Registration for MyKad
In 2007, six officers of the National Registration Department (NRD) had visited the longhouse to process MyKad applications. Many villagers were given temporary slips which were placed with Chief Matu Tuggang for safekeeping. The registration exercise was made possible through the Chief's affirmation that the residents are Malaysians and that they are members of the longhouse.[5]

However, the NRD would not allow 20 individuals to register, on the ground that they are older than the Chief and that he may not be entirely sure that they are citizens or original residents of the longhouse.

(ii) Resettlement of the community
The residents do not want to be resettled. They have neither given free, prior and informed consent to the State Government to acquire their land, nor agreed to resettlement. They were not properly consulted, as the authorities merely informed them about the project and resettlement exercise.

(iii) Livelihood in jeopardy
The community is heavily dependent on the forest for food and other daily needs. Ever since logging and oil palm planting commenced in the area, food supply has been scarce.

[5] In 2006, SUHAKAM found that only two persons held a MyKad. The issue was raised with the NRD in 2007. Its representative said a team would be deployed to the affected longhouses to register applicants.

(iv) Other rights-related issues

The villagers do not have access to nearby medical facilities, but are served by the Flying Doctor Service. With respect to education, the children want to go to school but are unable to do so, as the nearest school involves a two-hour drive. The Long Jaik Penan do not own any means of transportation and do not have access to public transportation either. In addition, families cannot afford the expenses associated with sending children to school.

Jabun (seated closest to the camera) wants to go to school but cannot because the school is too far from his village and his family cannot pay for his education. His cousin, Helen (standing), aged 17, said she has never attended school.

(c) Forum on 'Implementing Hydroelectric and Reservoir Dam Projects while Preserving Human Rights and the Environment'

The forum was held on July 23 in Bintulu, Sarawak, to ascertain concerns with respect to the construction of dams and their impact on the economic, social and cultural rights of indigenous peoples, as well as on the natural environment. The 60 participants represented Government agencies, corporations, NGOs, academia and the indigenous communities affected by construction of the Batang Ai, Bakun, Bengoh, Baram and Murum dams.

They conceded the benefits of dams which generate renewable energy and assist the development of Sarawak as well as the country as a whole. However, some said such projects also have a negative impact on the rights of indigenous peoples and local communities, and on the environment.

Issues Raised by Participants

(i) Difficulty in accessing EIA report

Since projects involving less than 10ha of land do not require an EIA study, many developers appear to opt for projects below the ceiling. These could still have adverse effects on human rights and the environment.

While the Government maintains that the EIA report is open to the public, many claimed that it is difficult to get hold of the document. YB Dato' Dr James Dawos Mamit, Former Controller of the Natural Resources and Environment Board (NREB) Sarawak and currently the Sarawak Adviser on the Environment, pointed out that a main weakness is that the EIA report is not readily available to the public, but only to those who request a copy.

The SPU representative said the Sarawak Government plans to introduce the Social and Environmental Impact Assessment (SEIA) study as a requirement, to oblige project proponents to study these aspects in depth as part of the planning process. SUHAKAM is especially pleased to note that the SEIA criteria will be based on domestic and international standards, including those stated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

(ii) Free, prior and informed consent

Representatives of indigenous peoples repeatedly highlighted that, in the course of conducting the EIA study, developers do not adequately consult local communities. The Penan representatives maintained their refusal to move out of their land and homes. While they would like development, they said this should not be at the expense of their human rights.

(iii) Environmental impact of dam construction

The building of dams causes loss of diversity, depletes the carbon sink and destroys the habitat of flora and fauna. Due to alleged lack of enforcement by the NREB, the sediment level is high in rivers and this destroys aquatic life.

(iv) NCR to land

The Penan representatives expressed their dissatisfaction with, and objection to, the Sarawak Land Code 1958 as it does not recognise their traditional claims on land. The current legal provisions contradict international human rights laws and violate their rights as provided in the UNDRIP. This affects the livelihood of the Penan, as they rely on the land for food and other daily necessities.

(v) Compensation

Representatives of indigenous communities felt that Government compensation in the form of land has been inadequate. Many families have found that the land is unsuitable for crop cultivation as some sites are located in swamps, while others are filled with rubble.

The Government has not compensated some families relocated to the Sungai Asap resettlement scheme, in particular those whose lands and crops were located on the fringes of the area flooded by dam water. The representatives claimed they are unaware of the quantum and breakdown of compensation.

(vi) Issues concerning resettlement

Houses provided in resettlement areas are said to be of poor quality. Those relocated because of the Bakun Dam reported various forms of damage to the houses and inadequate basic facilities in the Sungai Asap resettlement scheme.

SUHAKAM is finalising its report on the forum. The views, concerns and human rights issues identified will be submitted to the Federal and State Governments for consideration in future planning and construction of dams.

6. RTD ON 'ROLE OF COMMUNITY LEADERS IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS'

Held on May 25, the RTD was organised by ECOSOC-CPR and SUHAKAM's Sarawak Office. The 50 participants included leaders of the Dayak, Malay and Chinese communities and representatives of the Sarawak Chief Minister's Department, Majlis Adat Istiadat and State Ministry of Planning and Resource Management. The discussion centred on the human rights of communities and identification of benchmarks for their leaders to promote and protect human rights.[6]

7. RTD ON 'RIGHTS OF ETHNIC MINORITIES AND MARGINALISED COMMUNITIES IN MALAYSIA'

The RTD, held on Nov 19, discussed the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities and the UNDRIP, alongside the Federal Constitution. The objectives were to ensure effective promotion and protection of these rights in Malaysia; provide an opportunity to hear different views and perspectives on the status of such groups; identify common areas of concern, and to draw up specific strategies and recommendations to protect minority rights.

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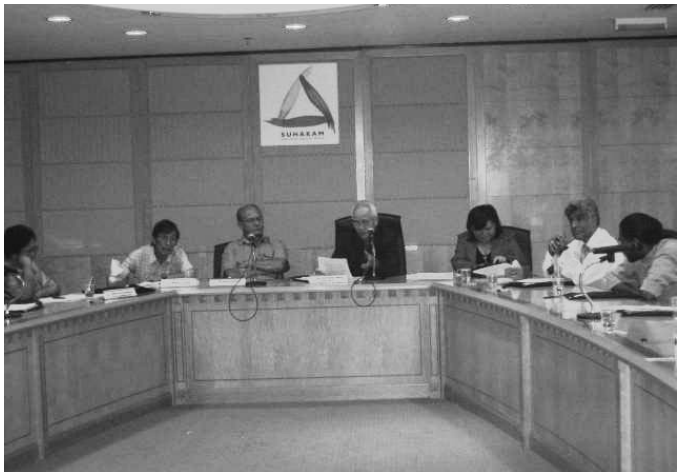
[6] Details in Chapter 9 of this Annual Report



RTD on the 'Rights of Ethnic Minorities and Marginalised Communities'

The RTD brought together representatives of indigenous communities, the minority Malaysian Siamese group, and NGO representatives who spoke for groups like plantation workers. Legal and social experts were also present. The discussions enabled SUHAKAM to substantiate its findings based on earlier research, and to identify areas of concern shared by the minorities and community groups.

Issues Raised by Participants

(i) Access to basic needs and vital public services

Many in minority groups and marginalised communities are poor and do not have sufficient access to food, clean and safe drinking water, employment opportunities, education, healthcare and registration services. While some receive financial and other forms of Government aid, others do not because they are undocumented persons, live in isolated locations or do not have means of access. There are also those who are simply unaware of the availability of aid and application procedures.

(ii) Development and human rights

While the Government aspires to implement economic development projects for the benefit of all citizens, it appears that current ventures have sidelined some communities and further marginalised them. Many indigenous peoples have been dispossessed of ancestral land and simultaneously denied access to traditional sources of food, medicine and daily necessities.

Plantation workers are retrenched and given modest compensation when plantations make way for development. As developers tend to employ cheap foreign labour, the former plantation workers migrate to urban centres in search of jobs. Without the required skills to match employers' expectations, some resort to odd jobs to make a living. Others cannot find employment and fall into poverty.

SUHAKAM's Recommendations

(i) SUHAKAM urges the Government to ensure that measures intended to reduce social and economic disparities reach disadvantaged groups including minority groups and marginalised communities. They should be provided with the means – including access to basic amenities and public services – to encourage self-help.

(ii) The Government should ensure that its development projects do not infringe the rights of the people. It should include affected communities in planning and implementation. Such projects should only proceed after free, informed and prior consent is obtained from the communities. The Government should ensure rectification of any human rights violation, and adequately compensate those affected.

(iii) It is the Government's duty to ensure that provisions of the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child are reflected in domestic legislation. It should ensure that all citizens are able to attain their rights as enshrined in the Universal Declaration of Human Rights.

(iv) The Government should satisfy the provisions of treaties it has ratified, such as the UNDRIP. SUHAKAM reiterates that the Government should ratify other international human rights instruments like the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, and International Convention on the Elimination of all Forms of Racial Discrimination.

8. RTD ON 'HUMAN RIGHTS AND CORPORATE SOCIAL RESPONSIBILITY'

This was held on Nov 25 in Sarawak to promote awareness of human rights and corporate social responsibility (CSR); to ascertain current CSR practices among logging and plantation companies in the State; to identify impediments to CSR; and obtain recommendations to improve CSR in Sarawak in particular and Malaysia as a whole.

More than 60 participants from private plantation companies attended the RTD. Representatives of Bursa Malaysia, the Sarawak Land Consolidation and Rehabilitation Authority, and the Sarawak Timber Association delivered presentations.

CSR covers four dimensions – the environment, community, workplace and market. The definition of 'company stakeholders' must therefore extend beyond shareholders.

The concept of CSR includes the promotion and protection of human rights. Corporations have an important role in uplifting the socio-economic status of communities by providing basic infrastructure and amenities and, more importantly, ensuring that business and industrial activities do not infringe human rights.

Corporations should not see CSR as an act of charity, but as a necessity for survival of their business. Investors today are more sensitive to the need for CSR and may only select companies that are socially and environmentally responsible.

SUHAKAM is finalising its report on the RTD and recommendations to the Government and relevant companies.

9. RTD ON 'RIGHTS OF OLDER PERSONS'

SUHAKAM organised the RTD on Nov 3 to contribute to the National Plan of Action for the Elderly that the Government is formulating. Towards this objective, the RTD addressed issues affecting older persons and identified recommendations with particular emphasis on human rights.

The meeting received good response with participation from Government agencies, NGOs, academics and other interested groups and individuals. The Ministry of Women, Family and Community Development, Social Welfare Department, National Council for Women's Organisations, EPF, National Council of Senior Citizens Organisations, Malaysia and Universiti Putra Malaysia all sent representatives.

Basing the discussions on the draft National Plan of Action for the Elderly, the participants examined issues affecting older persons with respect to education, employment, participation in society, recreation, transportation, housing, family support system, healthcare and social security.

Participants' Recommendations

- The Government should create a Ministry to address the needs of older persons.
- Every citizen should have the opportunity to pursue tertiary education, whatever their age.
- Training programmes are required for older persons to expand their knowledge and skills for employment.
- The Government should incorporate the needs of older persons into policies.
- A mechanism should be created for older persons to obtain information on early financial, health and social planning, to serve their retirement needs.
- Local authorities should keep a database on the elderly, to be used in delivering amenities and facilities.
- Public transportation services should be made elderly-friendly. Such facilities should also be made available in rural areas.
- Kuala Lumpur City Hall should permit older persons to rent public housing units.
- The Government should ensure that older persons can access the triage system of care in hospitals and clinics.
- Employers should eliminate prejudice and should not stereotype older persons as 'unproductive'.
- Housing projects should encourage an environment that is conducive to the needs of the elderly.
- Older persons should not be treated as babysitters by other family members.
- The EPF should review its policy and oblige contributions up to the age of 60.

SUHAKAM will bring up the issues and recommendations to the attention of the relevant agencies for their consideration.[7]

[7] In January 2010, SUHAKAM met with Dato' Mat Noor Nawi, Deputy Director-General 1 of the Economic Planning Unit in Putrajaya to discuss emerging issues affecting older persons. A core recommendation to the EPU was for issues concerning older persons to be given priority in the 10th Malaysia Plan. It was also recommended that the Government should establish a special department to address these issues.

10. HUMAN RIGHTS AND CITIZENSHIP

During the year SUHAKAM released its Report on 'Human Rights and Citizenship in Sabah: Its Impact to Economic, Social and Cultural Rights'. The Report was based on SUHAKAM's field visits to local and migrant settlements in Sabah and RTDs with those communities, conducted in 2006.[8] The activities were conducted to particularly identify the infringement and deprivation of human rights encountered by citizens in Sabah due to the influx of foreigners who are alleged to hold the MyKad, and to discuss problems associated with undocumented migrants and how they affect the rights of Sabahans.

As follow-up, between 2007 and 2009, SUHAKAM conducted a number of meetings with the relevant Government agencies at the State and Federal levels including the Home Ministry and its agencies like the NRD and Immigration Department. This was to obtain feedback and simultaneously to ensure the objectiveness of SUHAKAM's findings.

Within the same period, SUHAKAM sent a submission to the Office of the Deputy Prime Minister and met with the Deputy Prime Minister to raise the claims and concerns of the local community in Sabah in relation to the alleged abnormal population increase; alleged dubious issuance of identity documents to foreigners; issues concerning voting rights; and issuance of IMM13 cards.

As at the date the Report was released, SUHAKAM had only received feedback from the Election Commission (EC). This was attached to the Report.[9]

With respect to voting rights, the EC said that every application to register as a voter would go through the Agency Link-up System in the NRD to ascertain the applicant's citizenship. Only after verification is the application finalised.

The EC further said that the Immigration Department Sabah had issued 186,176 passes in various sectors and registered 175,283 illegal immigrants as at June 30, 2009, accounting for 361,459 foreign migrants in the State.

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[8] SUHAKAM had invited the respective Directors of the NRD and Immigration Department in Sabah to take part in the RTD. They neither came nor sent a representative to present a paper.

[9] In January 2010, SUHAKAM received a response from the Office of the Sabah State Secretary through the Government publication entitled 'Maklum Balas Daripada Kerajaan Terhadap Laporan Tahunan SUHAKAM 2008', in which it maintained that only citizens are issued a MyKad; that the NRD does not issue fake MyKad; and that it does not issue genuine MyKad to non-citizens. The Office did not deny the possibility of forged MyKad being issued by illegal syndicates. SUHAKAM has yet to receive written feedback from the Home Ministry.

SUHAKAM compliments the Government on its actions to address the issue of citizenship in Sabah, but recommends that action be intensified against illegal syndicates that issue forged MyKad. SUHAKAM further urges the Government to strengthen its mechanism to ensure that it is able to screen and identify those who attempt to obtain MyKad through fraudulent means, including making a false statutory declaration.

11. MAINTAINING THE NETWORK WITH THE GOVERNMENT AND NGOS

SUHAKAM regularly meets with stakeholders in the Government and civil society to identify emerging human rights issues and discuss solutions. Three meetings were held during the year to sustain the momentum.

(a) RTD with NGOs

The RTD in Kuala Lumpur on March 11 sought to review SUHAKAM's role in dealing with current and emerging issues in the delivery of economic, social, cultural, civil and political rights.

The discussion covered a range of topics including freedom of religion, migrant labour, citizenship and the possible downgrading of SUHAKAM from Status 'A' to 'B' by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

Participants noted that the Government's response has been lukewarm to SUHAKAM's recommendations in its Annual Reports and to the Commission's draft National Human Rights Action Plan (NHARP).

They suggested that SUHAKAM should strengthen cooperation with NGOs and CBOs, as well as establish a human rights defenders' desk at its office.

(b) Meeting with Ministers and Parliamentary Caucus on Human Rights

The meeting on April 20 enabled discussion of a wide range of concerns raised by NGOs as well as those identified in the course of SUHAKAM's work.

Ministers in the Prime Minister's Department YB Dato' Seri Mohd Nazri Abdul Aziz and YB Dato' SK Devamany Krishnasamy attended the session together with Members of Parliament YB Lim Kit Siang and YB Yusmadi Yusoff, Barisan Nasional Backbenchers Club Chairman YB Dato' Seri Tiong King Sing, and their assisting officers.

SUHAKAM took the opportunity to raise the matter of re-accreditation by the ICC; Malaysia's commitments under the Universal Periodic Review (UPR) in February; abolition of the death penalty; Terms of Reference (ToR) of the ASEAN Human Rights Body (AHRB); need for a NHRAP; and SUHAKAM's recommendations in Annual Reports placed before Parliament. Other issues were related to migrant workers, gender equality, sexual orientation, freedom of religion, racism and human rights education.

Feedback was received, particularly from Dato' Seri Mohd Nazri:

(i) The Government will take prompt action to enable the Commission to retain Status 'A' with the ICC. A fresh Bill to re-amend the SUHAKAM Amendment Bill 2009 will be tabled during the June sitting of Parliament.

(ii) The Government takes note of the 2009 UPR on Malaysia and will ensure that its commitments are realised, as well as comply with the recommendations where possible.

(iii) The Government maintains its stand that it will not abolish the death penalty.

(iv) The Government will continue with efforts to establish the AHRB and follow through with drafting the ToR.

(v) The Government is taking action to resolve issues concerning migrant workers, while taking into consideration the rights of employers.

(vi) The Minister invited SUHAKAM to draft and submit the framework for the NHRAP. The Government will then decide whether such a plan is required for Malaysia.

(vii) The Minister assured that SUHAKAM's concerns raised in its Annual Reports will be brought to the attention of the Prime Minister. The Minister also committed to arrange a half-day session to debate the 2008 Annual Report when Parliament reconvenes from June 15.

(c) Meeting with the Home Ministry

The meeting on Nov 18 discussed, among others,[10] matters concerning citizenship, 'refugees' and ATIP. The ECOSOC-CPR raised the predicament of undocumented senior citizens among indigenous communities in Sarawak; allegations that fraudulent identity documents have been issued in Sabah; the economic, social and cultural rights of 'refugees' especially their children; and the implementation of the ATIP Act.

[10] Details of other issues – including the state of Immigration detention centres; the revocation of 55,000 entry visas; and repatriation of undocumented migrants – are discussed in Chapter 3 of this Annual Report.

With respect to citizenship, SUHAKAM commended the field operations of the NRD in the interior of Sarawak. In July, when SUHAKAM visited the Matu Tuggang Longhouse in Long Jaik, Ulu Belaga, it was found that about 90% of the Penan residents had been issued temporary identification documents, against only two during the Commission's visit in 2006. Those with the temporary identification documents will be issued with MyKad. The Deputy Secretary-General of the Home Ministry noted that the remaining undocumented individuals are of an older generation, but agreed that action is needed on their situation.[11]

With regard to the issue of 'refugees', SUHAKAM was informed that the Government is concerned about the circulation of fake UNHCR cards, held by some foreigners in Malaysia. Nonetheless, the National Security Council is studying issues concerning refugees, in order to consider the ratification of the UN convention on refugees. Among other efforts, the Government has issued a circular to public hospitals to ensure all persons – including undocumented persons – have access to services.

On trafficking in persons, SUHAKAM was told that the Government has revoked the lisence of many errant outsourcing companies. Furthermore, cases involving outsourcing companies that show elements of exploitation are investigated and where relevant, charged under the ATIP Act.

The Home Ministry expressed hope that such meetings and consultations would continue, assuring SUHAKAM that it will look into the issues raised.

MEMBERS OF ECONOMIC, SOCIAL, CULTURAL & CIVIL AND POLITICAL RIGHTS WORKING GROUP
Dato' Dr Michael Yeoh Oon Kheng (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Datuk Dr Chiam Heng Keng
Dr Mohammad Hirman Ritom Abdullah
Tan Sri Dato' Dr Asiah Abu Samah
Datuk Dr Raj Abdul Karim
Datuk Dr Denison Jayasooria
Dato' Choo Siew Kioh
Tunku Datuk Nazihah Tunku Mohamed Rus
Dato' Sri Muhammad Shafee Abdullah
Dato' N Siva Subramaniam
Dato' Haji Khalid Haji Ibrahim

[11] Details in Section 5(b)(i) of this chapter, under 'Registration for MyKad'

CHAPTER 7

REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE

The international dimension of SUHAKAM's work involves participation in the activities of human rights mechanisms established under the UN umbrella as well as under International NGOs. Such participation is inevitable for all National Human Rights Institutions (NHRIs). The interactive process reaps many benefits in capacity building and development of best practices for SUHAKAM. International exposure builds the Commission's credibility and enables it to contribute to world human rights improvement.

Today, no NHRI exists exclusively in its domestic domain. To be progressive and to gain support and cooperation from other NHRIs it must become part of the international community of human rights defenders.

1. SUHAKAM'S STATUS IN THE UN INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR PROMOTION AND PROTECTION OF HUMAN RIGHTS (ICC)

SUHAKAM's Status 'A' in the international ranking system accorded by the ICC in Geneva was conveyed to SUHAKAM by the Secretariat of the Sub-Committee on Accreditation (SCA) in November.[1] In support of SUHAKAM's retention of its status, the SCA stated in its report to the ICC that it "welcomes the passage of the two Human Rights Commission of Malaysia (Amendment) Acts of 2009, and expresses its appreciation for the constructive approach taken by SUHAKAM in pursuing both sets of amendments with the government".

[1] The ICC officially affirmed SUHAKAM's Status 'A' on Jan 22, 2010.

The review of SUHAKAM's status by the ICC was begun in the later part of 2008 in accordance with an established procedure which periodically examines all NHRIs in the world for their continuing compliancy with the Paris Principles. In our particular case, due to ever greater stringency in interpreting the Paris Principles, SUHAKAM's status was challenged by several critical observations of the SCA. If satisfactory rectification was not done within a given challenge period of 18 months, SUHAKAM would fall to Status 'B'. This would reflect most adversely on the Commission's standing domestically and abroad and, in practical terms, would cost it meaningful and beneficial participation in international human rights activities.

Throughout the year, SUHAKAM exerted strenuous efforts to convince the Government to amend the Human Rights Commission of Malaysia Act 1999 which was the crux of the deficiencies, according to the SCA's observations. The exercise was made more difficult when certain NGOs, through legitimate channels made available to them by the SCA, alleged further omissions against SUHAKAM.

SUHAKAM succeeded in persuading the Government to initiate urgent steps to amend the Act. As SUHAKAM, like other NHRIs in the UN, will be subjected to repeated re-accreditation procedures, it is useful to record the main events and lessons which led to retention of Status 'A'.

The Human Rights Commission of Malaysia (Amendment) Bill 2009 was passed by the Dewan Rakyat on March 25. Given time the Bill would no doubt see safe passage through the Senate and eventually receive Royal Assent and final enactment. But Parliament went into recess, to resume in June, thus delaying completion of the legislative process.

Meanwhile, the SCA welcomed the progressive steps being taken for amendment to the founding Act of SUHAKAM. At the same time it added further concerns regarding the inclusion of Key Performance Indicators (KPIs) on SUHAKAM, which was unprecedented in international practice. From the SCA's reservations SUHAKAM perceived that a second Amendment Bill was deemed necessary to address the SCA's further concerns; otherwise, it would all be an exercise in futility both for the Government and the Commission.

The SCA's additional concerns were essentially on three points, paraphrased here:

1. Although the appointment process has been strengthened by the legislative amendments, the SCA expressed disappointment that the amendments do not make the process more transparent through a requirement for broad-based participation in the nomination, review and selection of Commissioners.

2. The inclusion of KPIs must be clearly established; appropriately circumscribed, so as not to interfere in the independence of members; and made public.

3. SUHAKAM should continue to promote ratification and implementation of international human rights instruments.

To address these additional concerns a second Bill – the Human Rights Commission of Malaysia (Amendment) (Amendment) Bill 2009 – was passed by the Dewan Rakyat on July 2 and by the Senate on July 9. In this:

(i) Three of the five members of the Selection Committee as provided in the first Amendment Bill yet to be enacted were replaced by civil society representatives with knowledge of or practical experience in human rights matters, to be appointed by the Prime Minister.

(ii) In addition the provision that any opinion, view or recommendation of the Selection Committee shall not be binding on the Prime Minister was repealed.

The first Amendment Bill obtained Royal Assent on April 18 while the second Amendment Bill obtained Royal Assent on Aug 19. Subsequently, the former was gazetted as Act 1353 on April 30 and the latter was gazetted as Act 1357 on Aug 27. To make this clear, in all two Amendment Acts had been made, and they constitute the changes deemed required for SUHAKAM to retain its Status 'A'. The second Amendment Act made adjustments to the first one, in order to meet the SCA's concerns more fully.

Amendment of the Act was the most critical part of the rectification exercise. Of great significance in helping to tilt the SCA's decision in favour of SUHAKAM were several positive actions taken domestically and at international forums by the Commission to support its own cause.

Since SUHAKAM had been advised by the Government to draft its own KPIs, it did so without delay. To include input from civil society organisations, SUHAKAM engaged them in a public consultation on Aug 12. SUHAKAM's set of KPIs was forwarded to the Government before the SCA concluded its final deliberations in November. The SCA duly acknowledged SUHAKAM's efforts.

Apart from the steps to respond directly to the SCA's concerns, SUHAKAM undertook independent action to contribute to wider human rights interests at international events. At the 14th Asia Pacific Forum annual meeting in August, SUHAKAM was nominated to fill one of four seats of the ICC Bureau in the Asia-Pacific region, with elections scheduled for March 2010. At the same meeting, SUHAKAM was also elected to the Steering Committee of the Working Group on Migration, initiated by the National Human Rights Commission of Korea.

In conclusion, SUHAKAM emphasises the SCA's concern regarding the introduction of KPIs. In the same report which SCA made to the ICC in support of SUHAKAM's Status 'A', it stated that the issue of the KPIs would again be considered in the second session of its meeting in November 2010.

SUHAKAM urges the Government to take serious note of the SCA's concern in respect of the KPIs. Their introduction, while within the discretion of a Government, is without precedence in the protection and promotion of human rights in all countries where NHRIs have been established. Further adverse SCA observation following the implementation of the KPIs could trigger another re-assessment of SUHAKAM's compliancy with the Paris Principles within the next two years.

2. UNIVERSAL PERIODIC REVIEW (UPR)

The interactive debate of the review on Malaysia took place at the 4th Session of the UPR on Feb 11. The Government considered the draft report on June 12 in conjunction with the 11th Human Rights Council Regular Session.

Apart from Government representatives, relevant stakeholders such as NGOs and SUHAKAM also attended the UPR Working Group sessions and delivered oral statements. SUHAKAM's Chairman delivered a two-minute statement.[2] In addition, SUHAKAM submitted a written statement.[3]

Immediately after the Malaysia report was adopted, the SUHAKAM delegation attended a discussion with NGOs, arranged by Forum-Asia. The purpose was to share views and observations, as well as to discuss the way forward for closer cooperation in the promotion and protection of human rights in Malaysia.

The UPR has proven to be a useful mechanism in the protection and promotion of human rights on the forefront of domestic and international agendas. SUHAKAM notes that the UPR had applied the principles of universality, transparency, objectivity and non-selectivity. This helped SUHAKAM indirectly to move the Government to take the necessary steps to ensure that SUHAKAM remained on Status 'A'. SUHAKAM is satisfied with the UPR with regard to the way it caused Malaysia to conform with an international appraisal mechanism and put on record its obligations to improve human rights.

SUHAKAM is of the view that the UPR could have a positive impact on the State under review, as well as on other States. It creates an international peer awareness of a country's performance in comparison with others. It is crucial that the UPR mechanism remains non-political and, in order to improve its effectiveness, attention should be paid to implementation of the recommendations.

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[2] See Appendix V on page 195.

[3] See Appendix VI on page 196.

The UPR represents a step in the right direction in the strengthening of the UN human rights agenda. SUHAKAM hopes that the review will lead to real improvements of the situation of human rights in Malaysia.

SUHAKAM has also formed an ad-hoc committee comprising a focal point from each of its Working Groups to follow up on the Government's implementation of UPR recommendations. This committee has been tasked to produce periodic reports through regular consultations with different stakeholders.

3. ASEAN NHRI FORUM (ANF)

The NHRIs of four countries in ASEAN, namely SUHAKAM, the Human Rights Commission of Indonesia, Commission on Human Rights of the Philippines, and the National Human Rights Commission of Thailand, continue to forge close collaboration under the ANF umbrella. The ANF recognises the need for an institutional framework among the four NHRIs, while maintaining autonomy as separate national and regional entities, in view of the current development in ASEAN towards a people-oriented community that encompasses a planned ASEAN Human Rights Body (AHRB).

At the 5th ANF annual meeting from Jan 20-22 in Bangkok, Thailand, further practical measures were adopted to continue the joint projects begun in previous years on migrant workers; anti-terrorism; a common website; anti-trafficking of persons; and economic, social and cultural rights.

6th Annual Meeting of the ASEAN NHRI Forum, Jogjakarta, Nov 11-13

At the 6th ANF annual meeting from Nov 11-13, in Jogjakarta, Indonesia, the core interest was to discuss the development of a cooperative framework with the new ASEAN Intergovernmental Commission on Human Rights (AICHR) which extends to other NHRIs outside of ANF – for example, Korea and Timor Leste. It was also deemed important that the joint projects undertaken by ANF should be concluded in timely manner and jointly followed up for regional advocacy.

The meeting decided to rename ANF as the 'Southeast Asia NHRIs Forum' (SEA NHRIs Forum). The renaming would not affect the Memorandum of Cooperation (MoC) signed in 2007 among members, and would additionally open the cooperative framework to other current NHRIs in the region and those formed in the future. By rotation, carried over from the erstwhile ANF, the Chair of the SEA NHRIs Forum was assumed by SUHAKAM till the next (7th) annual meeting envisaged in 2010. The meeting, recognising the need to strengthen the organisational structure of the SEA NHRIs Forum, entrusted SUHAKAM with the task of drafting the Rules of Procedures for adoption before its next annual meeting.

4. ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

ASEAN Foreign Ministers at their meeting on July 20 in Phuket, Thailand, adopted the Terms of Reference (ToR) which launched the AICHR later in the year, during the 15th ASEAN Summit held in Phuket from Oct 23-25.

SUHAKAM welcomes the establishment of the AICHR and hopes that it will contribute to regional cooperation in protecting and promoting human rights among ASEAN countries.

On Aug 28, SUHAKAM and its ANF counterparts attended a consultation meeting in Jakarta with the High Level Panel (HLP) Concerning the Political Declaration on the AICHR. The ANF members presented a position paper which provided their views and suggestions to the HLP. Among the significant recommendations were the establishment of a MoC between the AICHR and the ANF, and ANF's educational visits to ASEAN countries which do not have NHRIs to share its experiences and best practices.

At the launching of the AICHR on Oct 23, the ASEAN leaders issued a Political Declaration calling for support and commitment in promoting and protecting human rights in the region.

Consultation Meeting with High Level Panel on the AICHR, Jakarta, Aug 28

5. ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS (APF)

As the APF Chair for the term 2008/2009, a SUHAKAM delegation met with the APF Secretariat in Sydney on Jan 15-17 to discuss arrangements in preparation for the 14th Annual Meeting (APF14) in August, as well as to discuss regional human rights issues on the provisional agenda. The delegation took the opportunity to call on the Australian Human Rights and Equal Opportunity Commission to exchange views on issues concerning the role and functions of NHRIs.

The Pakistan Parliamentarian Commission on Human Rights, in preparation for a Parliamentary debate on a Bill to establish a NHRI, had invited SUHAKAM and the APF to visit Islamabad in December 2007 to offer their experience in meeting the requirements of the Paris Principles in drafting the NHRI Act. The joint report of APF-SUHAKAM was delivered in February 2009.

SUHAKAM and the APF Secretariat at the invitation of the Sri Lanka Human Rights Commission had visited Colombo in 2008 to provide advice to the Sri Lankan Human Rights Commission on aspects of compliancy with Paris Principles. Further comments and advice were extended over the first quarter of 2009.

The APF arranged for a SUHAKAM Public Affairs Officer to visit the New Zealand Human Rights Commission from May 25 to June 5, to study strategic communications plans for possible adaptation or adoption by SUHAKAM.

At APF14 in Amman, Jordan, from Aug 3-6, SUHAKAM handed over the chair to the Jordan National Centre for Human Rights. In accordance with established practice, SUHAKAM was appointed co-Deputy Chair of APF with the National Human Rights Commission of Thailand.

APF14 also saw the nomination of SUHAKAM as one of four NHRIs representing the Asia-Pacific Region, with election to the ICC Bureau scheduled to take place in Geneva in March 2010. The other three nominees are from India, Jordan and New Zealand. If elected, SUHAKAM will serve a three-year term. This will be important in the broadening of the Commission's role and interaction with the international human rights system.

It is also encouraging that SUHAKAM has been elected to the five-member Steering Committee of the Working Group on Migration, following the establishment of the APF Working Group on Migration during APF14. SUHAKAM anticipates playing a greater role in addressing the human rights of migrant workers at regional level.

In October, APF facilitated a study visit by the SUHAKAM Secretariat to the NHRI of Maldives, to share capacity-building knowledge and experience.

6. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

The Vienna Declaration and Programme of Action adopted by all participating States in 1993, including Malaysia, advocated that every State should develop its own NHRAP. The 1993 Vienna Declaration in Part II, Paragraph 71, states:

> The World Conference on Human Rights recommends that each State considers the desirability of drawing up a national action plan identifying steps whereby the State would improve the promotion and protection of human rights.

SUHAKAM had in its 2002 Annual Report proposed that the Government should draw up a NHRAP. In February 2006, SUHAKAM had at its own initiative presented a proposed draft NHRAP to the Government.

It is predicted that the development of a NHRAP will not be easy without the participation of the Government. An alternative to developing a NHRAP would be for SUHAKAM, in cooperation with civil society, to form a monitoring system on the Government's implementation of the recommendations derived from the UPR. Those recommendations are made on the basis of not just a country's own report. They are also based on the reports of its NHRI, stakeholders and Treaty Bodies. The recommendations for Malaysia on human rights development and fulfilment are debated before the UN, recorded and made universally public. A Government that fulfils every recommendation arising from its UPR would have also fulfilled most of the goals of a NHRAP.

MEMBERS OF INTERNATIONAL ISSUES AND COOPERATION COMMITTEE

Dato' Choo Siew Kioh (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Datuk Dr Chiam Heng Keng
Tunku Datuk Nazihah Tunku Mohamed Rus
Dato' Dr Michael Yeoh Oon Kheng
Datin Paduka Zaitoon Dato' Othman

CHAPTER 8

ACTIVITIES OF SUHAKAM IN SABAH

The main challenge for the Sabah Office is to satisfy the high expectations of the public, in particular those who suffer economic or social disadvantages in pursuing their human rights.

Many complainants have been in and out of Federal and State agencies, attempting to get attention to land matters, citizenship issues and issuance of personal documents, among other pressing needs. When their problems go unresolved, they come to SUHAKAM to seek justice.

SUHAKAM, however, has no legal authority to enforce its findings or decisions. It can only make recommendations to the relevant authorities. Unfortunately, State Government institutions and officials have generally proven to be human rights-unfriendly to date. This may not be deliberate but could be due to insufficient exposure to human rights principles and to an environment that does not respect human rights.

Much therefore remains to be done to convince the State Government and its agencies to prioritise SUHAKAM's recommendations, which are based on investigations into complaints received. If the State Government ignores these recommendations, then the very purpose of creating a national human rights institution would be defeated.

The second challenge is to minimise, if not eliminate, misconceptions about SUHAKAM's role and functions. Despite on-going efforts to raise public awareness, the Commission is beset by the perception that it is a NGO or a United Nations agency. Other notions are that it is pro-Government, pro-Opposition or pro-NGO. SUHAKAM will persevere in communicating that it is a neutral party in disputes over human rights.

The Sabah Office must also overcome a key constraint in reaching out to the public through the mass media. For the purpose of discharging its functions, SUHAKAM issues public statements on human rights. Unfortunately these are either heavily edited or are not publicised, thus hindering the right of the public to receive full, accurate and timely information. The Commission will engage media managers to enhance awareness of their role in expanding access to human rights.

1. COMPLAINTS ON HUMAN RIGHTS VIOLATIONS

The Sabah Office received 318 complaints during the year (Table 1), of which 107 were resolved. Another 75 required no further action (NFA), and 136 are in the process of being investigated (Table 2).

Table 1: Complaints Received by Sabah Office, 2009

NATURE OF COMPLAINT	NO. OF CASES
Land matters	152
Government Agencies (i) National Registration Department (ii) Royal Malaysian Police (iii) Immigration Department (iv) Social Welfare Department	 98 10 14 5
Basic necessities	15
Employment matters	14
Others	10
TOTAL	**318**

Table 2: Action on Complaints Received in 2009

	NFA	COMPLETED	PENDING	TOTAL
January	4	8	11	23
February	8	7	6	21
March	6	5	10	21
April	4	6	2	12
May	8	8	11	27
June	6	23	24	53
July	5	14	5	24
August	6	9	5	20
September	5	4	10	19
October	6	9	13	28
November	5	4	14	23
December	12	10	25	47
TOTAL	**75**	**107**	**136**	**318**

2. CITIZENSHIP ISSUES

Complaints relating to citizenship have been referred to the National Registration Department (NRD) for attention and appropriate action. However, its responses leave much to be desired as three long-standing cases illustrate.

(i) A Filipino complainant holds a MyKad but his children cannot gain admission into a school. The NRD clarified that the children need to apply for confirmation of their status.

This is not helpful in resolving the case. If parents are MyKad holders, then they are deemed to be citizens. As such, the need for confirmation of status should not arise in respect of their children, since they are citizens as well.

(ii) A Filipina who is not a Malaysian citizen is in possession of a MyKad. She complained that her two sons have no identity cards because their birth certificates indicate that they are not citizens. The NRD said it is unable to confirm the status of the birth certificates.

This reply, too, is not helpful in resolving the issue.

(iii) A Filipino and an Indonesian have the same name and old identity card (No. H053907). The Filipino obtained his MyKad in December 2008. The Indonesian complained that he has not been issued a MyKad. The NRD has clarified that Abirin Asjali, a Filipino, is the rightful owner of MyKad No. 620707-12-6203. Abirin Asjali, an Indonesian, has been advised to refer his case to the Special Unit of the NRD.

This does not appear very clever since the Special Unit is a part of the Department.

Two other cases are being handled by the NRD headquarters in Putrajaya:

- A Filipino who was once detained under the Internal Security Act 1960 (ISA) claimed that his MyKad and that of his wife are ready for collection. However the NRD will not release the documents. The Department said the MyKad status of the applicants is still under investigation.

- A Filipino couple with no relevant personal documents have eight children. The husband and three children have obtained a MyKad. His complaint was that his wife and the rest of his children have not been granted the document. The Department has yet to provide any information on the case.

At the time of writing, the NRD has not responded to the following complaints included in SUHAKAM's 2008 Annual Report:

- A Sabahan born in Kampung Mandurian Pitas on March 24, 1975, has been waiting for his MyKad for more than 12 years.

- A Filipino said he obtained the old identity card in 1998 and was issued a MyKad two years later. His complaint was that his wife and daughter were not given a MyKad.

- Another Filipino complainant who has held the old identity card since 1994 and is a member of a political party has been unable to replace the document with a MyKad.

SUHAKAM will keep reminding the NRD of its obligations in serving the public. Its responses are far removed from the current Federal Government slogan of '1 Malaysia: People First, Performance Now'.

3. LAND MATTERS

As in previous years, land matters predominated in complaints lodged with the Sabah Office. These involve four categories of land.

(a) State Land

Complainants, usually villagers in rural areas, alleged that their applications for State land have not been considered, or have been ignored or rejected. They further alleged that the same plots were subsequently alienated to later applicants. More often than not, the latter occupy position of influence and authority or have close connections with decision makers.

Recommendations

(i) Multiple land applications should not be entertained in respect of the same piece of land. The earliest application should be dealt with first. If it is rejected, the applicant should be notified and informed of the reason for rejection.

(ii) There should be transparency in the procedures and criteria used in approving applications for land. Awareness programmes should be organised to educate villagers on the land policy, procedures, processes and criteria involved in applications.

(iii) The Sabah Land Ordinance (Cap. 68) should be reviewed and amended to eliminate ambiguity and confusion. A workshop could be held to bring together experts, complainants' representatives and other interested parties to identify the changes required.

(b) Forest Reserves

Complainants said they had been wrongfully evicted from their villages and that their houses had sometimes been burnt down by enforcement personnel, on the ground of trespass into a forest reserve. The villagers claimed that they had occupied the area for generations, as indicated by the presence of graveyards, fruit trees and other agricultural and commercial crops planted by them. They further claimed that they had been living there before the area was gazetted as a forest reserve.

Recommendations

(i) If people have settled in an area before it was gazetted as a forest reserve, then the site occupied should be excised from the reserve.

(ii) In the event that people have indeed encroached into a forest reserve, then the State Government should consider treating it on a case-by-case basis depending on circumstances, such as the period they have been living in the area.

(iii) The State authorities should be humanitarian in taking enforcement action against alleged trespassers. Burning houses would lead to the perception that the Government gives higher priority to the forest than to human beings.

(iv) The Government should consider providing affected settlers an alternative site to be excised from a forest reserve. After all, Sabah has vast stands of forest. Indeed, hundreds of thousands of hectares have previously been excised for commercial agricultural development, mainly oil palm.

(v) Enforcement should be quick and efficient against those deemed to be 'squatting' in a forest reserve. The authorities should not wait until people have settled on the site for many years before evicting them. In some cases, the oil palm they planted would be ready for harvesting. The relevant authorities should regularly monitor the situation and inform people as early as possible that they have trespassed into a forest reserve.

(c) Native Customary Land

Complainants alleged that the State Government has not honoured their customary rights to land. The complaints are very similar to those involving State-owned land, except that customary land is of concern only to native groups.

Recommendations

These are similar to the recommendations made for State land except that, in this case, the Government is urged to adhere to provisions of the law on native customary land.

(d) Village Reserves

Complaints have been received that parts of village reserves have been alienated to third parties. This was apparently made possible because most village reserves in Sabah are not gazetted.

Recommendation

Action should be immediately taken to gazette village reserves throughout the State.

4. MEETINGS WITH VILLAGERS

During the year, SUHAKAM conducted three meetings in response to complaints received from villagers, and followed up immediately on the issues raised.

(a) Dialogue Sessions

(i) Kampung Tomis Jaya, Ranau District, Jan 17
The 150 participants were from Kampung Tomis Jaya, Kampung Tomis Lama, Kampung Mangi Pangi, Kampung Ratau, Kampung Togudon Lama, Kampung Torlobou and Kampung Tinatasan. They said the State Government has issued them notice to vacate their settlements on the basis that these are in the Tinompok forest reserve. The area was gazetted as a reserve in 1984, but the villagers claimed that their ancestors had lived there since the 'head-hunting days'. They also said there are five burial sites in the area.

The villagers claimed that the Government had used the aerial survey technique to determine the boundaries and location of the forest reserve, but that this method cannot accurately reflect the situation on the ground.

(ii) Tungku, Lahad Datu, Jan 19

The session, held at the Tanjung Labian community hall in Tungku, attracted more than 700 villagers from Kampung Tagupi and Kampung Lok Sambuang. They said their villages have existed since 1918, and claimed that the Federal Land Development Authority (FELDA) had encroached upon their customary land.

The complainants said about 17,000 acres had been gazetted as native customary land. However, titles have only been issued for 1,500 acres. They want FELDA, which has planted oil palm in the area, to return the land to them.

(iii) Kampung Kiulu Baru, Lumat, Beaufort, Jan 21

About 180 residents who are facing eviction said their families had settled in the area in 1973, when it was uninhabited jungle. At the time, about 400 people developed an area of about 700 acres. In support of their claim, the villagers said there are graveyards, a community hall, electricity and gravity water supply, access roads, a clinic and other infrastructure in the area.

In the mid-1980s they were informed that the land belongs to Woodford Estate. A map of the area obtained from the Department of Lands and Surveys, however, indicates that 400 acres are earmarked as village reserves.

It is believed that the current owner of the land is Prosper Land Sdn Bhd, which holds a 999-year lease on the site. On March 2, 2007, it issued an eviction notice to the villagers.

(b) Follow-up Action

SUHAKAM organised a Roundtable Discussion (RTD) on Jan 22 in Kota Kinabalu. It focused generally on land issues in Sabah based on complaints received by SUHAKAM, and specifically on problems raised during the three meetings with villagers.

The 60 participants mainly comprised Assistant Collectors of Land Revenue from around the State, the Forestry Development Authority (SAFODA), FELDA, Partner of Community Organisations, the Federal and State Public Complaints Bureaux and other relevant Government agencies. Regrettably, representatives of the two most important Departments – Lands and Surveys and Forestry – did not attend.

(i) Village Reserves

It was pointed out that there are hundreds of villages throughout Sabah but that very few have been gazetted as reserves. This state of affairs could have negative consequences, as in one case in Kudat. About 60 acres of land were earmarked as a village reserve but were not gazetted. Subsequently, several applications for land in the area were approved within seven days. The village is now left with only 20 acres.

It was pointed out that village heads are unfamiliar with procedures for gazetting the land as a village reserve. The regulations require the village head to submit an application for each village to be gazetted. It is also possible that some village heads are not keen on handing in an application when there are no personal benefits for themselves.

Sabah Native Council head, Encik Said Hinayat, agreed to organise an awareness programme on the procedures, for all village heads. Participants strongly backed the suggestion.

(ii) Response to complaint: Kampung Tomis Jaya
The actual situation could not be verified since the Director of Forestry was absent from the RTD and did not send a representative either. However, SUHAKAM has since received confirmation from the Department that the affected villages are located within the Tinompok forest reserve.

It is SUHAKAM's hope that the Department will take into consideration the villagers' claim that they have lived in the area for generations, especially when there are facts and evidence to support this. The seven villages have not been vacated as yet.

(iii) Response to complaint: Villages in Tungku
The FELDA representative said the authority had obtained the land from the State Government. However if the State Government feels that certain areas should be surrendered to the villagers, FELDA is ready to consider the request favourably. SUHAKAM has referred this to the State Government. There was no response up to the time of writing.

(iv) Response to complaint: Kampung Kiulu Baru
The Assistant Collector of Land Revenue, Beaufort, confirmed that the land occupied by the villagers is owned by someone else. However SAFODA is prepared to surrender, on principle, about 100 acres in the adjoining area to resettle the villagers. The proposal was still being discussed at the time of writing. In the meantime, the villagers remain on the site.

5. PARTICIPATION IN DIALOGUE

Several State Government agencies held a discussion on Sept 29 with about 200 residents of Kampung Alab Lanas in Sook, Keningau. SUHAKAM accepted the invitation to participate.

Those present included Encik Peter Beaty the Assistant District Officer for Sook; the Officer-in-Charge of the Police District, Sook; YB Datuk Elron Alfred Angian, the State Assemblyman for Sook; and the District Forest Officer, District Land Supervisor, and Environment Officer for Keningau.

The villagers raised three main issues:

(i) Native customary land was gazetted as a forest reserve in 1998. Villagers claimed that their ancestors had been living in the area since the 1940s.

(ii) Native customary land has been alienated to outsiders, while the villagers' applications for land have not been entertained.

(iii) A private company is clearing land adjacent to the village to plant rubber on a large scale.

YB Angian informed the villagers that he would take up the first two matters with the authorities. In respect of the third issue, he explained that the site is State land and that the State Government owns the company that is developing the area.

6. ROAD SHOW ON HUMAN RIGHTS

The Sabah Office conducted two more sessions in its on-going awareness programme, in which the Federal and State Public Complaints Bureaux have participated since 2007. While SUHAKAM handles alleged human rights violation, the bureaux take care of complaints against Federal and State agencies respectively.

At each location, the local Member of Parliament or State Assemblyperson is invited to officiate at the function. Participants usually comprise political leaders, community leaders, civil servants, heads and representatives of NGOs, district chiefs, native chiefs, village heads, school principals, teachers, students and members of the public.

(a) Pagalungan, Feb 20

About 260 people turned up at the community centre for the session. SUHAKAM was represented by Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioner Dato' Haji Khalid Haji Ibrahim. Pagalungan Assistant District Officer, Mr Sukiang Engsing, delivered the opening remarks.

YB Datuk Bobbey Suan, Assistant State Minister of Agriculture and State Assemblyman for Nabawan, officiated at the event. He participated fully and responded to the issues, problems and questions raised.

Issues Raised by Participants

- Absence of official response to applications for land
- Unemployment
- Recruitment of locals into the Federal and State civil service schemes
- Poor condition of roads
- Inadequate infrastructure
- Unsatisfactory electricity supply
- The need for the Lands and Surveys Department to formulate a 'Client's Charter', as other departments have done
- Problems involving forest reserves and the Forest Management Unit
- Late payment of allowances to village heads
- Double standards of Government departments
- Need for the NRD to send mobile teams to remote areas to register births and process MyKad applications
- Unsatisfactory enforcement of price controls over basic food items
- Too much talk by Government leaders on poverty eradication that is not matched by action
- Abuse of the ISA

Where a response could not be immediately provided, SUHAKAM officers recorded issues and complaints for reference to the relevant authorities.

(b) Telupid, Nov 12

SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioners Dato' Haji Khalid Haji Ibrahim and Dato' N Siva Subramaniam joined 300 participants at the session held in the community centre. Assistant District Officer, Encik Patrick Mojinun, delivered the welcoming remarks. YB Datuk Seri Panglima Michael Asang, Assistant Minister of Industrial Development and State Assemblyman for Labuk, officiated the event and fielded questions and comments.

(from left) Commissioner Dato' Haji Khalid Haji Ibrahim with Assistant District Officer, Encik Patrick Mojinun and SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun

About 90% of the issues and complaints were related to State land, forest reserves and land alienated to Government agencies. The participants alleged that their applications for land have gone unanswered for several years. Yet, the same plots have been alienated to outsiders who submitted applications much later.

Several complaints were about sites of villages being deemed as forest reserves, despite occupation over generations. Some villagers said they feel insecure because the land on which their villages are located could be alienated to outsiders at any time. They also alleged that illegal immigrants are squatting on State land with impunity.

Participants at the Road Show in Telupid

Other issues and suggestions were raised:

- The sub-district of Telupid should be upgraded to a full district.
- There are too many billboards at roundabouts.
- Gambling is rampant.
- The MyKad has been issued to illegal immigrants.
- Some civil servants are inefficient and uncaring.
- Marriage between Muslims and non-Muslims has caused difficulties for some families.
- Oil palm plantations are polluting the environment.
- There is inadequate infrastructure.

The participants were advised to submit their complaints in writing if they were unable to raise these during the session, due to shortage of time.

7. MEET-THE- PEOPLE SESSIONS

This programme, undertaken annually since 2007, is jointly organised by SUHAKAM, the Federal Public Complaints Bureau and the State Public Complaints Bureau. It is usually held at *tamu* sites in rural areas and in strategic locations in rural towns. The programme enables rural people to learn about the Government machinery and administration, as well as about the role, responsibilities and functions of the three agencies.

Complaints that are not immediately resolved are recorded and referred to the respective agencies for further action. Visitors have commented that they find the programme useful, educational and informative.

Twelve sessions were held during the year (Table 3).

Table 3: Meet-the-People Sessions, 2009

DATE	LOCATION
March 18	Community Hall, Sipitang
March 20	Community Hall, Beaufort
April 15	Kudat Community Centre
April 17	Kota Marudu District Council
May 13	Community Centre, Kinabatangan
May 14	Sandakan Community Centre
June 24	Tamu Ground, Tambunan
June 26	Ranau Town
July 28	Shah Bandar Hall, Makang Kuala Penyu
July 31	Awang Samuan Hall, Menumbok
Sept 30	Multipurpose Hall, Nabawan
Oct 1	Arked Hall, Nabawan

8. INTEGRATED MOBILE COMPLAINTS COUNTER

SUHAKAM participated in three sessions of the one-stop service programme organised by the Federal Public Complaints Bureau in the Prime Minister's Department. Key Federal and State agencies have a presence at each venue. The services range from receiving complaints to disseminating information.

(a) Labuan, March 14

This was held at the Wisma Ujana Kewangan. SUHAKAM received 12 complaints, provided advice, and distributed information packs containing complaints forms. About 50 visitors were registered.

(b) Kota Belud, July 19

About 156 people visited SUHAKAM's counter. Of the 15 complaints accepted, 10 were on land matters, four on general services and one on welfare. SUHAKAM distributed 150 folders.

Encik Aziz bin Ismail, Director of the Complaints Section at the Federal Public Complaints Bureau, opened the session at the Sunday *tamu* ground. In all, 24 Government agencies from the Kota Belud area took part.

(c) Tenom, Oct 25

SUHAKAM handed out about 180 folders and received six complaints on land issues, three on public utilities and one on Police matters.

Encik Md Zin bin Musa, Deputy Director-General (Complaints) of the Federal Public Complaints Bureau, opened the session at the weekly *tamu* ground. There was participation from 24 Government agencies.

9. PARTICIPATION IN EXHIBITIONS

SUHAKAM took part in four exhibitions on the invitation of the State Welfare Services Department, in conjunction with Welfare Month in July. The theme was 'I volunteer to help'.

The main objective was to create awareness of the importance of sound upbringing and education of children to prevent or to mitigate the effects of social problems. Another aim was to inculcate the spirit of voluntarism among youths in particular.

SUHAKAM explained the importance of human rights education from an early age, as this builds a society that respects human rights. Information packs were distributed to reinforce the message.

(a) Kudat, July 15

The exhibition was held at the Sekolah Menengah Kebangsaan (SMK) Abdul Rahim. State Assistant Minister of Consumer Affairs and Community Development, YB Datuk Herbet Timbun Lagadan, opened the exhibition.

Other agencies that took part were the Sabah Women's Affairs Department, National Family Development and Population Board, Information Department, National Anti-Dadah Agency, Road Safety Department, Education Department and the Royal Malaysian Police.

(b) Tuaran, July 23

The venue was SMK Badin and the guest of honour was Member of Parliament for Tuaran, YB Datuk Seri Panglima Wilfred Mojilip Bumburing. The Government agencies represented were similar to those in Kudat.

(c) Sandakan, July 25

Mr Ithong @ Etong Terang, the State Director of the Welfare Services Department, opened the event held at the Rumah Warga Tua Sri Harapan. Among the participants were the Sabah Anti-Dadah Agency, Ministry of Domestic Trade and Consumer Affairs, Sabah Association of Charity Homes, Sandakan Hospice Association, Giat MARA, Sandakan Association for the Deaf, Sandakan Agape Association and the Health Office.

(d) Tambunan, July 30

YB Datuk Hajah Azizah binti Datuk Seri Panglima Haji Mohd Dun, the State Minister of Community and Consumer Affairs, opened the exhibition at the *tamu* ground. Participants included the Sabah Labour Department, National Anti-Dadah Agency, Legal Aid Bureau, Ministry of Domestic Trade and Consumer Affairs and Sabah Education Department.

10. RTD ON PROTECTION OF VULNERABLE GROUPS

SUHAKAM's Economic, Social, Cultural & Civil and Political Rights Working Group organised the RTD in Kota Kinabalu on Nov 24 with the help of the Sabah Office. It focused attention on the plight of vulnerable groups in an economic crisis. While about 60 participants were expected, 110 showed up. The programme was well received, with active participation and wide media coverage.

SUHAKAM Commissioners at the RTD

11. HUMAN RIGHTS TRAINING FOR OFFICERS-IN-CHARGE OF POLICE STATIONS

Held from Dec 6-8 in Kota Kinabalu, it was organised by SUHAKAM's Education Working Group with the assistance of the Sabah Office. The course was tailored to the needs of Officers-in-Charge of Police stations throughout Sabah. There were 60 participants.

12. TALKS ON HUMAN RIGHTS

SUHAKAM Vice-Chairperson and Resident Commissioner Tan Sri Datuk Seri Panglima Simon Sipaun delivered two talks on rights-related issues (Table 4).

Table 4: Talks on Human Rights, 2009

DATE	LOCATION	TOPIC
Feb 25	Sabah Credit Corporation Meeting Room, Donggongon, Penampang	SUHAKAM and Human Rights
Sept 5	Sabah Theological Seminary, Kota Kinabalu	Human Rights Issues in Sabah

13. INTERVIEWS

Writers and journalists interviewed SUHAKAM Vice-Chairperson and Resident Commissioner Tan Sri Datuk Seri Panglima Simon Sipaun during the course of the year (Table 5).

Table 5: Interviews with SUHAKAM, 2009

DATE	REPRESENTATIVE/ORGANISATION
Jan 8	Regina Lim, author, 'Federal- State Relations in Sabah, Malaysia'
Jan 15	Abdul Naddin bin Haji Shaiddin, *Utusan Borneo*
Jan 22	Abdul Naddin bin Haji Shaiddin, *Utusan Borneo*
Aug 28	Rashidah binti Abdul Ghani, *Bernama*
Sept 1	Martin Vangadesan, *Star Mag*
Sept 17	Joseph Fernandez, *Malaysiakini*
Sept 19	Elysa Chen, *New Paper*
Sept 21	Elizabeth Looi, *Star*
Sept 21	Mary Chin, *Daily Express*

CHAPTER 9

ACTIVITIES OF SUHAKAM IN SARAWAK

SUHAKAM operated from spacious premises at Level 8 of Bangunan Tun Jugah, Kuching, following the expiry of the lease on the previous location at Jalan Satok. The new office is in the city centre, thus offering easier access to members of the public.

Activities for the year focused typically on resolution of complaints, organising roundtable discussions, visiting places of detention, and conducting a field trip to the site of the Murum Dam. SUHAKAM Commissioners were again involved in giving talks on human rights to the Police and various community groups.

1. COMPLAINTS ON HUMAN RIGHTS VIOLATIONS

During the year, 62 complaints were received, of which 18 were not directly related to human rights abuse. The complainants were duly informed of this. The Commission has resolved 11 complaints, leaving 33 which are awaiting appropriate action by the relevant parties. The breakdown of complaints is shown in Table 1.

Table 1: Complaints Received by the Sarawak Office, 2009

NATURE OF COMPLAINT	NO. OF CASES
Native customary rights to land	37
Right to employment	4
Access to basic infrastructure and services	3
Right to education	1
Abuse by Police	1
Reforestation	1
Miscellaneous	15
TOTAL	**62**

(a) Native Customary Rights (NCR) to Land

As in the past nine years, most of the complaints received were related to issues of NCR to land. The allegations continue to highlight intrusion into perceived native customary land by agencies of the State as well as private enterprises involved in logging, and oil palm and forestry plantations. In virtually all of these complaints, the disputed sites are deemed to be State land in accordance with the Sarawak Land Code 1958. This automatically means that no compensation has to be paid to the complainants. In some cases where compensation is paid, there are grievances about the delay and quantum.

The construction of the Murum Dam will see the internal displacement of Penan villages. The community has voiced concern and general unhappiness about being told to relocate.

(b) Right of Access to Infrastructure and Services

Some settlements in the interior of Sarawak are only reachable on foot, or by logging roads and tracks, or by river. This has resulted in poor access to healthcare, education and administrative services for acquisition of personal identification documents.

(c) Right to Livelihood

The traditional livelihood of some forest-based indigenous groups has been adversely affected by logging and plantation activities. They are not able to gain employment in these activities either, due to lack of skills and social factors.

(d) Right to Education

Poor infrastructure and scattered, remote settlements curb access to primary education among some indigenous groups. Poor administration and the lack of welfare safety nets compound the problem. Civil society groups have highlighted allegations of sexual abuse of school children by workers of timber companies.

(e) Right to Security

Indigenous communities have complained of harassment and intimidation by employees of private enterprises. The Police have also been accused of bias in dealing with such complaints, and of failure to conduct effective investigations into reports of harassment, death under suspicious conditions and rape.

SUHAKAM held a meeting with the Police and Education Department in the State over the alleged sexual abuse of Penan women and students by workers in timber camps. The Commission is of the opinion that the Police and the relevant agencies have taken the appropriate action in trying to bring the perpetrators to justice. SUHAKAM understands the difficulties faced by the authorities in trying to obtain evidence that will stand up in Court. It is also of the opinion that the underlying factors that expose the communities to the risk of sexual abuse need to be addressed.

2. ROUNDTABLE DISCUSSIONS AND SITE VISIT

SUHAKAM conducted three roundtable discussions (RTD) and a site visit to address human rights issues brought to its attention.

(a) Role of Community Leaders

The first RTD was held on May 25 in Kuching on the role of community leaders in the protection and promotion of human rights. This was organised to look into complaints by a group of community leaders who alleged that their appointments had been terminated because of their political affiliation.

SUHAKAM Commissioners and other participants

The Secretary of the Customs and Traditions Council presented a paper on the role of community leaders in promoting and protecting socio-cultural values. It was emphasised that the leaders have an important role to help protect and promote human rights within their community.

A representative of the Chief Minister's Department spoke on the terms of service of community leaders, saying these are similar to those of civil servants. It was stressed that the termination of appointments is not related to political affiliation.

(b) Visit to Site of Murum Dam

SUHAKAM Commissioners and staff carried out a visit from July 21-22 to the site of the Murum hydroelectric dam, which is under construction. The visit was conducted pursuant to concerns raised by the affected communities – including residents of the Long Jaik longhouse – and civil society groups.

Sarawak Energy Bhd (SEB) briefed SUHAKAM on the technical aspects of the dam, the Social and Environmental Impact Assessment studies, and the relocation mechanism. The Commissioners also met residents of a Penan longhouse at Long Jaik to obtain a first-and account of their concerns.

SUHAKAM Commissioners, officer and Sarawak Energy Bhd (SEB) staff

(c) RTD on Dam Projects

A forum on 'Implementing Hydroelectric and Reservoir Dam Projects while Preserving Human Rights and the Environment' was held on July 23 in Bintulu.

The Assistant Resident Representative of the United Nations Development Programme delivered a paper on 'Human Rights Concerns on the Impact and Consideration before the Implementation of Dam Projects'. This was followed by a presentation on 'Development Plans and Human Rights' by a representative of the Sarawak Planning Unit.

SEB spoke on its experiences in protecting human rights and the environment, while community representatives from four areas affected by construction of dams – at Bakun, Bengoh, Batang Ai and Murum – shared their views and concerns.

YB Dato' Dr James Dawos Mamit, the Sarawak Adviser on the Environment and Former Controller of the Natural Resources and Environment Board (NREB) Sarawak delivered a paper on the 'Social and Environmental Impact Assessment Procedure in Sarawak' with special reference to the Murum Dam.

The concerns raised by the indigenous communities were no different from those stated in the past, relating to rights to land, compensation, livelihood, and access to basic infrastructure and essential services in resettlement areas.

It is heartening to note, however, that the State is putting added emphasis on the social and environmental perspectives of development and is applying international standards like the United Nations Declaration on the Rights of Indigenous Peoples and the Equator principle.

(d) RTD on Corporate Social Responsibility (CSR)

Private logging and plantation companies in Sarawak were invited to the RTD on Nov 25 in Kuching. A Bursa Malaysia representative addressed 'CSR Issues and Challenges in Malaysia'. The CEO of the Sarawak Timber Association gave a paper on 'CSR Programmes and Practices in the Forest and Timber industries in Sarawak', while the Deputy General Manager of the Sarawak Land Consolidation and Rehabilitation Authority spoke on the agency's CSR programmes and practices.

It is evident from the papers that both the State and private entities practise varying degrees of CSR. There is a need for corporations to include CSR activities in their Annual Reports.

3. VISITS TO PLACES OF DETENTION

SUHAKAM visited the Police lock-up in Bintulu on July 24, and the recently completed Central Prison in Kuching on Oct 9.

It was found that there is overall compliance with the Lock-up Rules 1953 and with the guidelines on minimum practices and standards for places of detention. However, the lock-up in Bintulu needs more space, better lighting and ventilation.

Commissioners and officers during the visit to the Bintulu Police Lock-up

4. LIAISON WITH THE MEDIA

On Nov 7, the Commission hosted a dinner in Kuching for 20 members of the Sarawak media. It enabled SUHAKAM to reinforce the importance of the media's assistance in promoting and protecting human rights, and to update those present on human rights issues in the State.

5. TALKS ON HUMAN RIGHTS

Several Commissioners were invited to give talks and present papers on human rights at the Police training school and at public forums organised by some State agencies.

6. COLLABORATION WITH HUMAN RIGHTS STAKEHOLDERS

SUHAKAM expresses its appreciation for cooperation from stakeholders, such as civil society groups, State and Federal agencies and corporations, in its efforts to promote and protect human rights in Sarawak. Nonetheless, it is unfortunate that certain parties still do not fully comprehend the role of SUHAKAM and civil society in promoting and protecting human rights in the State.

CHAPTER 10

MALAYSIAN HUMAN RIGHTS DAY 2009

HUMAN RIGHTS IN MALAYSIA: THE LAST 10 YEARS

Malaysian Human Rights Day 2009 was celebrated on Sept 9 with a conference intended to reflect on a decade of experiences in implementing human rights principles and to strategise on moving the agenda forward.

The objectives were to:

- Review the status of human rights in Malaysia
- Identify constraints in achieving human rights standards
- Propose a roadmap to enable the Government to develop a National Human Rights Action Plan (NHRAP)
- Discuss how access to human rights can be strengthened

1. CONFERENCE PROCEEDINGS

Datuk Dr Chiam Heng Keng, Chairperson of the Organising Committee, welcomed the participants, while SUHAKAM Chairman Tan Sri Abu Talib Othman presented the Keynote Address. Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun closed the conference.

The programme included a Panel Discussion to review the status of human rights from the perspectives of the law, religion, women and the media. It was moderated by Commissioner Dato' Dr Michael Yeoh Oon Kheng.

The panellists were:

- Mr Andrew Khoo, the Co-Chairperson of the Human Rights Committee of the Bar Council
- Mr Ramdas Tikamdas, a practising lawyer specialising in human rights issues and former Chairman of the National Human Rights Society (HAKAM)

- Professor Dr Hajah Mehrun Siraj, formerly a Human Rights Commissioner and currently Adjunct Professor of Law at the International Islamic University Malaysia

- Mr Steven Gan, Editor-in-Chief of online news portal *Malaysiakini*

(a) Welcome Address

Datuk Dr Chiam Heng Keng thanked everyone for their support of the event since its inception in 2001, saying this indicates their concern on, and commitment to, human rights. She said the theme of the current conference takes cognizance of the need to provide a platform for the public to have their say, especially with regard to the status of human rights and their aspirations for the future.

She then explained the objectives, emphasising the proposed roadmap toward development of a NHRAP. While the Government, SUHAKAM and NGOs have taken the lead in promoting and protecting human rights thus far, she reminded the private sector and citizens that they too are part of the equation – either as defenders or violators of human rights. For the country to move forward, all sectors of society will have to work together to create a rights-friendly environment. She therefore called on everyone to become a promoter and protector of human rights.

(from left) Commissioners Datuk Dr Chiam Heng Keng, Tan Sri Abu Talib Othman and Tan Seri Datuk Seri Panglima Simon Sipaun

(b) Keynote Address

Tan Sri Abu Talib Othman stated that human rights have become part and parcel of civilisation. Over the years, SUHAKAM has worked hard to address related issues and raise awareness through dialogues and consultation with stakeholders. Today, human rights are gaining a place in society as more people are becoming aware of their rights. He stressed that rights and freedom are not absolute and that these go hand-in-hand with responsibility.

The Chairman said that legislation alone is not enough to deter human rights violations. SUHAKAM has, over the last 10 years of its existence, received many complaints and found some of these to be valid. Those serving the public, he said, would be more effective in their work if they can discern the correlation between provisions of the Universal Declaration of Human Rights (UDHR) and their daily work. Prime Minister, Dato' Sri Mohd Najib bin Tun Abdul Razak's policy of 'People First, Performance Now' suggests a pro-human rights policy.

Tan Sri Abu Talib expressed concern, however, that the Government has yet to implement most of the recommendations that SUHAKAM has submitted to date. Since its inception, SUHAKAM has conducted Public Inquiries; reviewed laws such as the Internal Security Act 1960 (ISA) and the Police Act 1967; conducted research; organised forums and roundtable discussions on human rights issues; recommended the ratification of the core international human rights instruments; and urged the Government to draw up a NHRAP.

In conclusion, he remarked that, although the Government has made improvements to human rights, there is more to be done. To move towards greater justice and greater happiness, all stakeholders have to play their part in promoting and protecting human rights. Human rights, he added, should not be politicised or its principles selectively applied.

(c) Panel Discussion

(i) Human Rights in Malaysia: The Last 10 Years – The Law

Mr Andrew Khoo said he would not merely look at the Human Rights Commission of Malaysia Act 1999 but also at other laws passed over the last 10 years. The discussion would examine whether the establishment of SUHAKAM has had any impact on the passing of laws and whether human rights principles have been considered in the drafting process.

Panellists responding to questions from the floor
(from left) Mr Steven Gan, Mr Ramdas Tikamdas, Comissioner Dato' Dr Michael Yeoh Oon Kheng (moderator), Professor Dr Hajjah Mehrun Siraj and Mr Andrew Khoo

He reckoned that attitudinal change is important, from the ministerial to the judicial level. Government representatives have to be honest and sincere in harmonising human right principles and domestic laws, and should not go for cosmetic changes. The Judiciary has to widen its interpretation of the law, rather than merely heed the interests of the Executive. International human rights norms and instruments should become points of reference for the Judiciary.

He highlighted the need to re-examine the role of the Parliament, wondering why many Bills have been passed without debate and how this has affected democratic participation in the legislative process.

(ii) Human Rights in Malaysia: The Last 10 Years – The Lost Decade

Mr Ramdas Tikamdas described the review of the human rights situation as timely, as he recounted the events that led to passage of the Human Rights Commission of Malaysia Act 1999. He gave four scenarios: Malaysians were living under four Proclamations of Emergency; the UN Special Rapporteur on the promotion and protection of the rights and freedom of opinion and expression had issued a damning report on Malaysia; HAKAM, in a World Human Rights Day message, had described the domestic situation as "a nightmare for human rights"; and Malaysia's ongoing failure to ratify core human rights treaties at international level.

He remarked that conditions have not improved tremendously over the years, given that there is continued misuse of draconian laws such as the ISA, constraints to peaceful assembly, and numerous deaths in custody.

The speaker pinpointed the Government's lackadaisical attitude toward SUHAKAM. In 2000, SUHAKAM had made very clear recommendations to the Government to ratify the core human rights instruments but this has yet to be realised. Mr Ramdas said he firmly believes that, as long as these treaties are not ratified, Malaysia's human rights condition will not improve.
He ended his presentation with a call for the NHRAP to be formulated to enable international norms and standards to be systematically introduced into the local framework.

(iii) Human Rights in Malaysia: The Last 10 Years – Women and Religion
Professor Dr Hajah Mehrun Siraj was tasked with discussing the status of human rights from the perspectives of women and religion. She said that it has always been the Government's intention to make laws more equal to women, even before the amendment of Article 8 of the Federal Constitution. She acknowledged women's groups for having spearheaded this move. The amendment and the setting up of the Ministry of Women, Family and Community Development were to have been the landmark steps to improve the situation.

However, the outcome has not matched expectations. For example, the amendment of Article 8 has had an impact only on civil servants, not private employees. Furthermore, the practice of classification has negated the gender-equality provision. In cases involving family or Syariah law, when equality is sometimes not for everyone, the use of classification has to be legitimised.

She expressed disagreement with a recommendation to remove the reservation on Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The recommendation was offered by the CEDAW Committee. Noting that the issue involves Syariah law, she said there is a need to discuss it with experts before making any decision on withdrawing the reservation. She pointed out that many people talk about Syariah law without entirely comprehending all the provisions.

On freedom of religion, she noted that Article 18 of the UDHR encompasses the right of individuals to change their religion. However, Article 11 of the Federal Constitution does not. In the many Court cases reported in Malaysia, very few have been on actual conversion or freedom of religion under Article 11. Most have been on civil aspects, even in the highly-publicised case of Lina Joy in which the main issue was about procedural discrepancies. All too often, Article 121(1A) of the Federal Constitution is quoted instead of Article 11.

She also said the Syariah Court must be firm and dismiss any application to hear cases that involve non-Muslims. These should be left to the Civil Courts.

(iv) Human Rights in Malaysia: The Last 10 Years – SUHAKAM Must Campaign for Its Rights

Mr Steven Gan began by warning that he would be harsh on SUHAKAM. He said that, over the years, journalists have time and again sent memorandums to SUHAKAM to demand freedom of expression, including more press freedom, but that there have been no results. He commended SUHAKAM, however, for calling for the abolition of the Printing Presses and Publications Act 1984 and review of laws that undermine freedom of the press, and for advocating Freedom of Information legislation. The impact has, however, been minimal. He believed that SUHAKAM's greatest failure has been the fact that the Government continues to ignore its recommendations.

He also noted that, in spite of SUHAKAM's existence, many atrocities are still being committed against vulnerable groups. He opined that increased awareness of human rights cannot be attributed to SUHAKAM alone, because NGOs and opposition parties have contributed as well.

He urged SUHAKAM to be more aggressive in achieving its mandate to advance human rights. Hence, the title of his presentation, 'SUHAKAM Must Campaign for Its Rights'.

(d) Concluding Remarks

Tan Sri Simon Sipaun evaluated the achievements of SUHAKAM based on its four functions, namely to promote human rights, advise the Government on existing or proposed legislation, recommend that the Government ratifies human rights treaties, and to inquire into complaints of alleged human rights violations. He reminded the participants that SUHAKAM does not have any enforcement authority.

He urged the Government to formulate a NHRAP for effective promotion and protection of human rights, and to articulate its commitment to human rights. He informed the audience that a report incorporating the salient points of the presentations, interventions from the floor and recommendations would be published in due course.

2. SUHAKAM'S RECOMMENDATIONS

(a) To the Government:

(i) Serious attention to SUHAKAM's views and recommendations

The Government should give more weight to the Commission's views and recommendations on violations and protection of human rights.

(ii) Adoption of standards
Human rights standards should be incorporated into laws, policies and practices.

(iii) Ratification of international instruments
The Government should set a specific timeframe within which to ratify the core international human rights treaties including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Racial Discrimination and the Convention against Torture.

(b) To the Parliament:

(i) Debate on Bills
Sufficient time should be given for debate by Members of Parliament. Furthermore, all major Bills should be referred to a Select Committee of the Parliament or State Assembly.

(c) To the Judiciary:

(i) Observance of human rights
Given the increasing centrality of human rights in affairs today, it is important for the Judiciary to be sensitive to principles, international standards and norms of human rights.

(ii) Jurisdiction
It would be more appropriate for Civil Courts to hear cases involving custody of children of Muslim and non-Muslim parentage. In this regard, appropriate amendment should be made to applicable laws to give jurisdiction to Civil Courts to hear cases that involve custody of children and conversion of a spouse to Islam who was married under the civil law.

(d) To Stakeholders:

(i) Respect for human rights
NGOs, the private sector and ordinary individuals are also stakeholders in improving the human rights situation. Everyone should respect the human rights of others and observe that such rights are accompanied by responsibilities.

(ii) Partnership
Civil society groups need to work together with all stakeholders and should not resort to actions that are counter-productive, as this would only disrupt the advancement of human rights. Every institution has its role to play and the only way forward is for all stakeholders to respect each other and work closely together.

Participants at the conference

(iii) The private sector

The private sector can play a significant role in promoting and protecting human rights by improving the economic and social well-being of the people. It could create jobs and observe the basic human rights of employees, as well as ensure that it does not generate misery by engaging in labour slavery, underpaying workers, employing undocumented workers, tolerating workplace conditions that are hazardous to health, or participating in corrupt practices. By practising social responsibility, corporations would contribute to the well-being of employees and the community.

3. Conclusion

There is discernible improvement in human rights in many aspects, though violations continue to occur in other areas. The improvements include the establishment of Integrity Schools for prisoners below the age of 18; compulsory and free primary education (albeit certain expenses are still incurred); efforts to indigenise the primary school curriculum; and improvement of physical conditions in prisons. However, the Government should review all preventive legislation, as these run contrary to the principles of human rights.

The promotion and protection of human rights cannot be the sole responsibility of the Government although it plays the major role alongside SUHAKAM. Individuals, the private sector, religious leaders, communities and NGOs also have a role in advancing human rights by working together and engaging in constructive dialogue.

APPENDICES

APPENDIX I

SUHAKAM PRESS STATEMENTS 2009

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SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CONCERNS OVER CHILDREN'S PARTICIPATION IN PUBLIC ASSEMBLY

The Human Rights Commission of Malaysia (SUHAKAM) is concerned with the latest directive of the Cabinet to direct five million school children to participate in a public assembly protesting against the atrocities committed by Israel in Gaza, Palestine.

SUHAKAM is of the view that to involve school children in public assembly is not the best approach in educating children on the issue of war atrocities. Instead, it may distort children's understanding and perspective over the issue and worse, instil seeds of hatred rather than promoting the ideas of humanity such as peace and respect for human life. SUHAKAM recommends that children be taught the atrocities of war through a more effective, participatory and child-friendly method as enshrined in Article 29 of the *Convention on the Rights of the Child* (CRC).

In addition, SUHAKAM notes that children's participation in public assembly must be voluntary and informed. Therefore, SUHAKAM urges that any move by the Government to involve school children in public assemblies must be on a voluntary basis.

SUHAKAM would like to highlight Article 3 of the CRC, which provides the best interest of the child shall be the primary consideration in all actions concerning children. To use children for this purpose is therefore contrary to the spirit and intention of the CRC.

- END -

"HUMAN RIGHTS FOR ALL"

HUMAN RIGHTS COMMISSION OF MALAYSIA
(SUHAKAM)
9 January 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CONCERNS OVER POLICE ACTION IN HANDLING PUBLIC DEMONSTRATION

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the Government's decision to debate in Parliament the Israeli aggression in Gaza as the Gaza crisis has resulted in many loss of lives and numerous serious human rights violations.

However, SUHAKAM is concerned with the selective action by the Police in handling public demonstrations over the Gaza crisis. The double standards practiced by the Police in handling the protest against Israel's atrocities in Gaza must end. The arrests of several members of Parliament during the recent peaceful candlelight vigil for the Palestinian victims in Gaza protest against the Israel's aggression in Gaza whilst allowing a massive demonstration outside the US Embassy last Friday is a clear case of Police double standards.

Another example of inconsistent Police action against public assembly is the Police action against the JERIT (Oppressed People's Movement)'s cycling campaign in highlighting the issues of marginalized communities recently. SUHAKAM regrets Police intimidation of JERIT that has hampered their peaceful bicycle convoy.

In this regard, SUHAKAM reiterates its call for the repeal of Section 27 of the Police Act now that the Police has deemed fit to permit public demonstrations over the Israeli atrocities in Gaza, as Section 27 now appears to be redundant. SUHAKAM calls on the Police to desist from practicing double standards over public demonstrations and to permit public demonstrations as it had done so over the recent demonstration outside the US Embassy.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman
Human Rights Commission of Malaysia (SUHAKAM)
12 January 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

FREE TO FAIR ELECTIONS REFLECT THE WILL OF THE PEOPLE

In commemorating the Malaysian Human Rights Day on 9th September 2007, the Human Rights Commission of Malaysia (SUHAKAM) had focused on the need for and importance of Free and Fair Elections. Whilst SUHAKAM observed that elections in Malaysia are generally free, elections have not been entirely fair as there had been instances of misuse of Government facilities and funds during the election campaign period including control over the media. There has also been allegation of money politics and buying of votes.

SUHAKAM reiterates that free and fair election is a basic human right. However, SUHAKAM also observes that there have been improvements in the electoral process in the March 8, 2008 General Elections and recent By-Elections.

It is the basic human rights of the people to choose the Government of their choice. It appears that the method adopted in forming the new Government for the State of Perak is questionable consequently, is the legitimacy of the new State Government. SUHAKAM noted that the Sultan of Perak has not consented to the dissolution of the State Legislative Assembly. SUHAKAM is of the opinion that new elections for the State Legislative Assembly, in line with the Principle of Human Rights, would resolve the political uncertainty of the position of the State Government, particularly with the legality of the resignation letters of the relevant Assemblymen is in doubt.

- END -

"HUMAN RIGHTS FOR ALL"

HUMAN RIGHTS COMMISSION OF MALAYSIA
(SUHAKAM)
6 February 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM REGRETS THE SUSPENSION OF PUBLISHING PERMITS OF *SUARA KEADILAN* AND *HARAKAH*

Human Rights Commission of Malaysia (SUHAKAM) regrets the suspension of publishing permit of Suara Keadilan and Harakah. SUHAKAM is concerned with the Ministry of Home Affairs's decision to suspend the publishing permit of Suara Keadilan and Harakah for three months without any reason.

SUHAKAM considers this decision as an infringement of the freedom of speech, expression and information which are enshrined in Article 19 of the Universal Declaration of Human Rights 1948 (UDHR).

SUHAKAM calls on the Ministry of Home Affairs to lift the suspension

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman
Human Rights Commission of Malaysia (SUHAKAM)

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group
Human Rights Commission of Malaysia (SUHAKAM)

DATO' HAJI KHALID HAJI IBRAHIM
Chairperson, Complaints and Inquiries Working Group
Human Rights Commission of Malaysia (SUHAKAM)
26 March 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

ASEAN NHRI FORUM WEBSITE IS LAUNCHED IN MANILA

The ASEAN National Human Rights Institution (NHRI) Forum Website was officially launched by the Chairperson of Commission on Human Rights of the Philippines Madam Leila M. De Lima, in Manila on March 16, 2009

The inaugural occasion was attended by the Ambassador of the Delegation of European Commission to the Philippines, Alistair B. MacDonald.

The objective of the Forum Website is to promote a stronger, better understanding and cooperation among the four existing NHRIs in ASEAN - Indonesia, Malaysia, the Philippines and Thailand - in carrying-out programs and activities particularly in five human rights issues of common concerns, namely (a) suppression of terrorism while respecting human rights; (b) human rights aspects of trafficking in persons; (c) protection of the human rights of migrants and migrant workers; (d) implementation of economic, social and cultural rights and right to development, and (e) enhancement of human rights education.

The four NHRIs need to engage, plan and integrate programmes that will bring positive changes and good results to benefit the participating countries.

In her speech Madam De Lima stressed that much work on various issues needs to be done at the level of the Forum. She highlighted the current areas of cooperation among the four NHRIs in ASEAN, namely terrorism, human trafficking, migration, human rights education and promoting economic, social and cultural rights.

She also informed that the Forum Website will act as the one-stop centre of information and sources for reference and research purposes. Information provided on the Forum Website includes the joint projects, joint statements, announcements, proceedings and other relevant information and updates, carried out by the four national human rights institutions.

In his address, Ambassador MacDonald said that, through this website, all ASEAN stakeholders – the government, courts, civil society organisations and citizens - will be able to learn from the experiences of the four existing NHRIs through their sharing of best practices and successes in protecting and promoting human rights.

For more information, please visit to http://www.aseannhriforum.org

- END -

"HUMAN RIGHTS FOR ALL"

DATUK DR CHIAM HENG KENG
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

FREEDOM OF SPEECH, EXPRESSION AND OPINION – THE FUNDAMENTAL HUMAN RIGHTS

The Human Rights Commission of Malaysia (SUHAKAM) believes that the media should be independent and professional in their reporting without fear or favour – in tandem with being cognisant of ethically responsible in imparting information to the people.

In honouring the celebration of the World Press Freedom Day, SUHAKAM strongly feels that the freedom of the media to exercise its roles and function in society has been enshrined as the fundamental human rights by way of recognising the right to freedom of speech, expression and opinion.

Accordingly, SUHAKAM recommends to the authorities to consider the review of the Printing Presses and Publications Act 1984 and to adopt a more liberal approach regarding the approval and renewal of printing and publishing permits and licenses by providing for automatic renewal of all permits and licenses.

SUHAKAM also urges the authorities not to use the national security laws such the Internal Security Act 1960 (ISA), the Sedition Act 1948 and Defamation Act 1957 against the media. This is in view that the threats to national security should not be seen as an excuse to restrict freedom of the media, particularly in relation to issues of editorial independence and the protection of confidential sources of information. As a democratic and multi-racial country, it is utmost important to furnish ethical, responsible and factual information to generate informed citizens amongst the people, which would also help to eradicate the problems of corruptions and greed in the country.

In relation to defamation actions, the Courts should take into consideration the need to uphold freedom of expression and information when considering such cases. Exorbitant awards in relation to defamation actions will inevitably stifle press freedom and investigative reporting by instilling a culture of fear in journalists. SUHAKAM calls for journalists to pursue important stories affected the rights of the people as well as any violation of human rights cases.

SUHAKAM welcomes the Government's commitment towards upholding human rights in Malaysia especially issues affected the people. SUHAKAM reiterates its stand that laws affecting the duties of the press to be reviewed and the rights of equal access of information must be safeguarded.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee
Human Rights Commission of Malaysia (SUHAKAM)
4 May 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

THE PERAK INCIDENTS

The Perak incident was raised and discussed at SUHAKAM monthly meeting on 11th May 2009.

It appears to us that during the incident that occurred in the Perak State Legislative Assembly on 7th May 2009, the police and the civil service acted in concert with the government that has assumed power in controversial circumstances, showing complete disregard for human rights. Governments may change but those who serve in the police and administration must remain loyal to the wider interest and respect human rights rather than the narrow interest of individuals who form the government of the day.

When the elected members of the Assembly met and challenged each other in the august House, the police were busily engaged in "maintaining public order". Outside, passive demonstrators dressed in black to mourn the violation of their rights to assemble peacefully, were particularly provoked and manhandled. The Dewan proceeded even while the court was still to decide on the following Monday, four days later, who was the legitimate Menteri Besar.

The pre-emptive proceedings, the motion to sack the legitimate Speaker and his removal from the House and the action of the police force have caused much concern to the people at large. It somewhat makes us wonder whether serviceto the people is subordinate to service to political interests. The decision of the Court declaring Dato' Seri Mohammed Nizar Jamaluddin as the rightful Menteri Besar of Perak has further complicated matters.

Malaysia is a democratic country based on human rights and the rule of law. The political disturbances in Perak and what transpired in the Dewan on 7th May would no doubt pose a dark shadow over our efforts to promote democracy and human rights in Malaysia.

Article 21 of the Universal Declaration of Human Rights 1948 provides that the will of the people shall be the basis of the authority of the government. Judging from the events following the appointment of Datuk Seri Zambry Abdul Kadir as Menteri Besar, the incident in the Perak Assembly

sitting on 7th May and the decision of the Court declaring Dato' Seri Mohammed Nizar as the rightful Menteri Besar, it is very unlikely that the Perak issue will be resolved unless power is given back to the people. Courts action will not necessarily resolve the political situation in Perak. As Dewan Negara President Tan Sri Dr. Abdul Hamid Pawanchik said, "the political situation in Perak has reached a stage that required the people to choose again."

Perhaps the time has come for the people of Perak to be given the opportunity to exercise their right to choose again the Government of their choice, which is a basic human right. Only a stable government will be able to ensure the right to peace and development.

Two of the greatest gifts endowed by God to His creatures are the sense of sight and hearing. Without these there is no learning and progress. It is very encouraging that the Government under the leadership of YAB Dato' Sri Mohd. Najib Tun Razak is prepared to listen to dissenting views. Hopefully the Government will also tolerate and appreciate peaceful public demonstration against unpopular policies and actions.

Human rights transcend race, status and political ranks. No person has more rights than the next one. Muslims are aware of this fundamental rights as espoused by Prophet Muhammad in his last sermon –

…All mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a white has no superiority over black nor a black has any superiority over white except by piety and good action……

This, perhaps, will be a good basis for "1 Malaysia".

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI ABU TALIB OTHMAN
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
12 May 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CALLS ON POLICE TO RESPECT THE RIGHT OF PEACEFUL ASSEMBLY

The recent arrest of elected Members of Parliament, state assembly representative, civil society activists is inconsistent with Malaysia's pledge and commitment to upholding human rights. This continued form of Police action shows a growing intolerance towards the exercise of civil and political rights in Malaysia.

Suhakam urges the Government to uphold the rule of law and at the sametime the right to freedom of assembly as enshrined in Article 10 of the Federal Constitution and Universal Declaration of Human Rights. Malaysians have a right to peaceful expressions of dissent and the Police and enforcement officials must be more tolerant to public action in a democratic society.

Suhakam calls on the Police not to deprive members of the public this constitutional right and calls on the Police to take a more tolerant approach towards peaceful expressions.

- END -

"HUMAN RIGHTS FOR ALL"

DATO' CHOO SIEW KIOH
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)

DATUK DR MICHAEL YEOH OON KHENG
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)

DATO' N. SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)

DATUK DR DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
27 May 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

ENFORCEMENT AGENCY INTEGRITY COMMISSION BILL 2009: A RIGHT DIRECTION IN CREATING GREATER COMPLIANCE TO HUMAN RIGHTS STANDARDS BY ENFORCEMENT AGENCIES

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the move by the Malaysian government in tabling the Enforcement Agency Integrity Commission Bill 2009 for its second reading in the current sitting in Parliament. SUHAKAM has consistently called for the establishment of an independent oversight mechanism to investigate allegations of abuse of power by various arms of the government which has enforcement powers.

A large number of complaints received by SUHAKAM from the general public are on human rights violations committed by respective enforcement agencies. It is therefore timely that this independent inquiry panel be establishment for the specific task of not only receiving complaints of misconduct but has adequate powers and resources to undertake investigations. It should also undertake the role of enhancing education and input in formulating legislation to strengthen human rights in Malaysian society.

SUHAKAM acknowledges that this move is in the right direction towards creating greater compliance to human rights standards by enforcement agencies ensuring that the institutions observe global standards and benchmarks.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATUK DR DENISON JAYASOORIA
Commissioner

DATO' N SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
16 June 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

US DEPARTMENT OF STATE TRAFFICKING IN PERSONS REPORT 2009: SUHAKAM DISAPPOINTED WITH THE RANKING

The Human Rights Commission of Malaysia (SUHAKAM) expresses its deepest regret over the downgrading of Malaysia ranking from Tier-2 (watchlist) in the previous year to Tier-3 by the US Department of State as reported in their 'Trafficking In Persons Report 2009'. The report said Malaysia did not fully comply with the minimum standards for the elimination of trafficking and was not making significant efforts to curb the trafficking in persons (TIP) issues.

It should be noted that TIP is very intricate and an overnight result should not be expected out of the 1½ year-old Anti Trafficking in Persons Act (Act 670, ATIP). TIP encompasses areas like child and woman labour and sexual exploitation, and servitude in the domestic and different other sectors. TIP also involves recruiters, transporters, buyers, harbourers, brothel owners and managers. The complexities and wide range of stakeholders and actors involved along the trafficking chain, and the multiple changes of hands and *modus operandi* between the time the person is trafficked to the place they are found or rescued from require continuous efforts and therefore, change cannot be expected at once.

As pioneer organisation working on human trafficking since 2003, SUHAKAM has given serious considerations to this heinous crime, which is a gross violation of human rights and exploitation of especially women and children. SUHAKAM has carried out awareness-raising programmes on the seriousness of this problem; has held dialogues with NGOs, Government agencies, embassies, and regional and international bodies; developed a national plan of action to curb TIP; and called for the ATIP legislation. SUHAKAM commends the Government of the ATIP legislation 2007 and enforced in February 2008; the formation of a National Council on ATIP of which SUHAKAM is a member; and the establishment of victim shelters.

SUHAKAM efforts have been focused on trafficking of women and children especially for sexual purposes, in light of the increasing sex tourism and raids in entertainment centres and brothels. However, SUHAKAM and the Government recognise that serious part of exploitative labour on migrants are also within the jurisdiction of trafficking and are addressing the issue.

As mentioned, it will not be possible to see results over a period of one year (US ATIP reporting period) as the implementation of the Act and efforts to combat the inhumane crime of human trafficking take time to yield the expected results. As such, SUHAKAM fails to understand the US Department of State's system of placing grades on a yearly basis – where it should really be looking at the efforts that the Government, NGOs and the civil society are taking to handle the issue. The report this year focuses on exploitative labour of migrants, based on media and NGOs' reports.

SUHAKAM believes the report should be more balanced and factual so that it can be learning and working document with constructive ideas and not merely fault findings.

- END -

"HUMAN RIGHTS FOR ALL"

DATUK DR RAJ ABDUL KARIM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
19 June 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

NEUTRALITY OF SUHAKAM

The Human Rights Commission of Malaysia (SUHAKAM) is compelled to respond to the questions raised by MPs on the neutrality of SUHAKAM members during the debate on the Human Rights Commission of Malaysia Bill 2009 in Parliament on July 3, 2009.

The statement released on the issue of Perak constitutional crisis was based on a lengthy discussion at a full commission meeting held on May 11, 2009. SUHAKAM would like to reiterate that the views expressed agreed by all commissioners except for one, with the spirit of protection and promotion of human rights. The issuance of the statement was made out of independence and impartiality of SUHAKAM, in accordance with the Paris Principle.

- END -

"HUMAN RIGHTS FOR ALL"
By the authority of SUHAKAM

HASHIMAH NIK JAAFAR
Secretary
Human Rights Commission of Malaysia (SUHAKAM)
3 July 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM TO HOLD A PUBLIC INQUIRY ON THE ARRESTS OF LAWYERS

The Human Rights Commission of Malaysia (SUHAKAM) at its monthly meeting on 13 July 2009 has decided to hold a Public Inquiry on the arrests of five lawyers from the KL Legal Aid Centre outside the Brickfields Police Station on the night of 7 May 2009.

SUHAKAM has appointed a three-member Panel chaired by Commissioner Dato' Muhammad Shafee Abdullah, and commissioners Dato' Dr Michael Yeoh and Datuk Dr Denison Jayasooria to conduct the Public Inquiry.

The Public Inquiry will determine whether or not the arrests of the 5 lawyers contravened provisions of the Federal Constitution and other substantive and procedural criminal laws which guarantee the Right to Counsel to an arrested person and whether or not there was justification or necessity to arrest the lawyers under Section 27 of the Police Act, 1967.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Human Rights Commission of Malaysia (SUHAKAM)
Vice Chairman
13 July 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM: HUMAN RIGHTS STANDARDS MUST BE MAINTAINED AND PRACTISED DURING INVESTIGATIONS AND INTERROGATIONS BY THE MACC AND ALL OTHER ENFORCEMENT AGENCIES

The Human Rights Commission of Malaysia (SUHAKAM) is concerned and deeply disturbed by the unfortunate death of Teoh Beng Hock, the aide to a Selangor state executive council member, who was assisting the Malaysian Anti-Corruption Commission (MACC)'s investigation into the allegations of misuse of constituency development funds by several State Assemblymen.

It was reported that Teoh was brought to the MACC office in Shah Alam at around 6.00 pm in the evening and was released at around 3.45 am the next morning to assist the agency's investigation. SUHAKAM is of the view that such long continuous process of investigation could amount to mental torture.

According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture involves any act inflicted on a person for obtaining from him or a third person information or confession with the consent or acquiescence of a public official or other person acting in an official capacity. SUHAKAM has, since 2003, continuously recommended to the Government to sign or accede to the said Convention. SUHAKAM strongly believes that by doing so, the Government will have an effective framework and show of commitment to address problems related to torture, cruel, inhuman and degrading treatment or punishment in the country. SUHAKAM urges the Government to seriously consider signing or acceding to the Convention.

Additionally, this is not the first complaint SUHAKAM received against the MACC. In the year 2008, SUHAKAM recorded two complaints against the MACC's officers in conducting investigations where they have been allegedly using force. The matter has been referred to the Police for investigation and SUHAKAM has yet to receive the development on the two cases from the Police.

SUHAKAM will carry out an independent investigation into this incident and if deemed appropriate after further investigations will decide at the next monthly meeting whether a Public Inquiry should be carried out.

Meanwhile SUHAKAM urges the MACC and other enforcement agencies to ensure that Human Rights standards are maintained and practised at all times, including in the course of interrogating witnesses and suspects.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATUK DR DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
17 July 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM PUBLIC INQUIRY INTO THE ARREST & DETENTION OF THE FIVE LAWYERS OF THE KUALA LUMPUR LEGAL AID CENTRE

The Human Rights Commission of Malaysia hereby announced that it will conduct a public inquiry into the arrest and detention of five lawyers of the Kuala Lumpur Legal Aid Centre on 7 May 2009 at the Brickfields Police Station Kuala Lumpur. The public inquiry will be conducted by a panel of three Commissioners comprising Dato' Muhammad Shafee Abdullah (Chairperson), Dato' Dr Michael Yeoh Oon Kheng and Dato' Dr Denison Jayasooria.

The **terms of reference of the Public Inquiry** are as follows:

1. To determine whether the arrest and detention of the five KL LAC lawyers by the police at the Brickfields Police Station on May 7 2009 constitute a denial of legal representation and a contravention of Article 5 of the Federal Constitution and Section 28 of the Criminal Procedure Code (CPC) and therefore a violation of human rights;

2. To determine whether there was any justification or necessity to arrest and detain the KL LAC Lawyers under Section 27 of the Police Act 1967 and therefore a violation of human rights; and

3. If violation of human rights occurred, to determine:
   i. Which person or agency was responsible;
   ii. How did such violations occur;
   iii. What administrative directives and procedures, or arrangements contributed to them and
   iv. What measures should be recommended to be taken to ensure that such violations do not reoccur.

The Panel of Inquiry has fixed the inquiry on 14 - 16 August 2009 at the SUHAKAM Inquiry Room, Level 29, Menara Tun Razak, 50350 Kuala Lumpur. The sittings of the Inquiry will begin at 9.30 a.m. and conclude at 5.30 p.m.

The Inquiry is open to members of the public and the press. It is to be noted that video or audio recording of the Inquiry by members of the public or the press will not be allowed. (See Annex A for a fuller version of the Rules of Procedure and Practice).

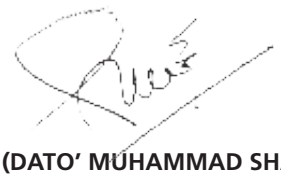
As investigations are still on-going, the number of witnesses testifying during the Inquiry has yet to be confirmed. Subpoenas will be issued in due course to relevant witnesses including members of the public, the press and the Police. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commission thinks necessary or desirable to procure or examine.

Members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents and other evidence pertaining to any or all of the terms of reference set out above are invited to contact SUHAKAM as soon as possible.

Kindly contact:
Encik Ameer Izyanif Hamzah or Encik Shahizad Sulaiman or Miss Lau Sor Pian
SUHAKAM
Level 29, Menara Tun Razak
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2612 5628 / 5623 / 5642
Fax: 03-26125620 / 5694
humanrights@suhakam.org.my

- END -

"HUMAN RIGHTS FOR ALL"



(DATO' MUHAMMAD SHAFEE ABDULLAH)
Commissioner,
Human Rights Commission of Malaysia (SUHAKAM)
Date: 24 July 2009

ANNEX A

SUHAKAM PUBLIC INQUIRY RULES OF PROCEDURE AND PRACTICE

I. CONDUCT OF THE INQUIRY

a. The Panel of Inquiry is committed to a process of public hearing. However, the Panel of Inquiry, pursuant to section 14(1)(e) of the Human Rights Commission of Malaysia Act 1999 [Act 597] (the "1999 Act"), may at its discretion admit or exclude the public from the Inquiry or any part thereof.

b. Pursuant to section 14(1)(a) of the 1999 Act, the Panel of Inquiry shall have the power to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Panel of Inquiry thinks necessary or desirable to procure or examine.

c. Persons wishing to give evidence at the Inquiry may approach the Panel of Inquiry. The Panel of Inquiry shall have the discretion to call such persons to give evidence.

d. Pursuant to section 14(1)(b) of the 1999 Act, the Panel of Inquiry may require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorised in that behalf by the Panel of Inquiry an oath or affirmation to every such witness.

e. Pursuant to section 14(1)(d) of the 1999 Act, the Panel of Inquiry has the power to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings.

f. Pursuant to section 15(1) of the 1999 Act, a person who gives evidence before the Panel of Inquiry shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

g. Pursuant to section 15(2) of the 1999 Act, no person shall, in respect of any evidence written or oral given by that person to or before the Panel of Inquiry, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

h. No video or audio recording of the Inquiry shall be made throughout the Inquiry unless otherwise authorised by the Panel of Inquiry.

i. All persons present at the Inquiry must keep silent during the proceedings. Any unruly behaviour will not be tolerated and the person will be asked to leave the Inquiry.

j. Persons wishing to address the Panel of Inquiry or persons wishing to pose question(s) to any witness shall write down their question(s), which shall be passed to the Panel of Inquiry. The Panel of Inquiry shall decide the relevancy of the question(s) and whether to pose the said question(s).

k. The Panel of Inquiry may at its discretion call upon observers and interested parties for their opinion. Unless otherwise called upon, question(s) by observers and interested parties shall be forwarded to the Panel of Inquiry in the manner provided in paragraph (k) above.

l. The Panel of Inquiry may amend or dispense with these rules as the Panel sees fit to ensure fairness and respect for human rights.

m. All persons present during the Inquiry shall be deemed to undertake to adhere to these rules. A breach of these rules by any person shall be dealt with by the Panel of Inquiry, as it sees fit.

II. CRITERIA FOR OBSERVER STATUS AND INTERESTED PARTIES

a. In deciding application for observer status and as interested parties to the Inquiry, the Panel of Inquiry shall be guided by the following criteria:

- The applicant is directly and substantially affected by the Inquiry;
- The applicant represents interests and perspectives essential to the successful conduct of the Inquiry; or
- The applicant has special experience or expertise with respect to matters within the Panel of Inquiry's terms of reference.

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM: THE RIGHT TO PEACEFUL PUBLIC ASSEMBLIES SHOULD BE RESPECTED

The Human Rights Commission of Malaysia (SUHAKAM) regrets to note that in the process of dispersing the 15,000 stronghold of crowd marched in protest of the Internal Security Act 1960 (ISA) in Kuala Lumpur on August 1, the police have used teargas and water excessively, which has also affected the bystanders.

The day of the public assembly ended with the police reportedly has arrested 600 people and 44 juveniles aged between 13-17 years old at different locations in the city. In this regard, SUHAKAM strongly maintains its stand that the people have the right to participate in peaceful assemblies. SUHAKAM has consistently urged the Government to consider and take into account the recommendations made by the Commission on freedom of assembly as enunciated in the reports of the Kesas Highway and KLCC Bloody Sunday Public Inquiries. It is therefore recommended that in the event where the police find it necessary to control or disperse a crowd, proportionate and nonviolent methods should be invoked.

In addition to that, it is also SUHAKAM's grave concern that the children who were arrested during the rally were handcuffed, detained and held under remand together with the rest of the adult protesters. SUHAKAM would like to draw the Government's attention to its obligations to observe and protect the rights of the children in conflict with law as stipulated under the Child Act 2001 and the Convention on the Rights of the Child (CRC).

Consequently, in view of the whole situation which took place last weekend, SUHAKAM urges the Government to seriously consider SUHAKAM's recommendation made since 2003 to repeal the ISA due to its nature of detention without trial, which is clearly an infringement of the principles of human rights. SUHAKAM would like to reiterate its stance that the ISA should be repealed and be replaced by a new comprehensive legislation that balances national security and human rights as a specific Anti-Terrorism Act to deal with anti-terrorism and mass acts of violence.

- END -

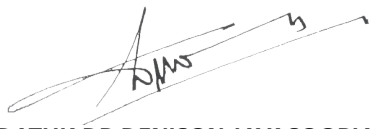
"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATO' HAJI KHALID HAJI IBRAHIM
Chairperson, Complaints and Inquiries Working Group



DATUK DR DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
3 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM ELECTED TO THE ICC BUREAU

The Human Rights Commission of Malaysia (SUHAKAM) was unanimously elected by acclaim to be one of four Asian countries to sit on the International Coordinating Committee of Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) at the Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions (APF) held in Amman, Jordan on 2nd August 2009. The other three countries representing Asia Pacific on the ICC are India, New Zealand and Jordan.

This is a significant milestone for SUHAKAM as it does not only show international and regional recognition of SUHAKAM's role in the promotion and protection of human rights but also enable SUHAKAM to play a more proactive and visible role in the international arena. SUHAKAM was also elected by the Asia Pacific Forum to be on the Steering Committee on Migration and Migrant Workers which has been set up.

SUHAKAM's achievement in being elected by its regional peers to the ICC and as member of the Steering Committee on Migration Working Group is a recognition for our country, Malaysia.

- END -

"HUMAN RIGHTS FOR ALL"

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group
Human Rights Commission of Malaysia (SUHAKAM)
6 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

14TH ANNUAL MEETING OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

The Human Rights Commission of Malaysia (SUHAKAM) is currently attending the 14th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions (APF) in Amman, Jordan from 2nd to 6th August 2009. The Chairman of SUHAKAM, Tan Sri Abu Talib Othman, who is also the current Chairman of the APF for 2008 – 2009 term (the post of the APF Chairman is by annual rotation), together with Commissioners Dato' Choo Siew Kioh, Dato' Michael Yeoh Oon Kheng and SUHAKAM secretariat are attending the meeting, which is held annually to bring together APF member organizations – who are made up of National Human Rights Institutions (NHRIs) from across the Asia Pacific region.

SUHAKAM was given a five-minute presentation under the APF Country Report Session yesterday, 5 August 2009, to present the status report of human rights in Malaysia by Commissioner Dato' Choo Siew Kioh. Enclose is the speech.

Mr. Chairman,

I wish first to mention, an event which has shaken the very foundation of SUHAKAM for the better.

2. Last year, we came under the scrutiny of the ICC on accreditation and were challenged by several of its Observations. It has been altogether an invigorating exercise. We hope that our efforts will not be in vain when the ICC forms its final decision this November.

Mr. Chairman,

3. Domestically, the Internal Security Act is the greatest burning concern, which even on the very day when we began our Conference here is causing upheavals in the streets of Kuala Lumpur.

We place ourselves foremost as defenders of the freedom of assembly and the freedom of speech, with responsibilities, and call unremittingly for the abolishment of the ISA.

Mr. Chairman,

4. During the year we concentrated on human rights education, rights of women and detention monitoring.

5. On education, we have signed a MoU with the Ministry of Education and together introduced a programme on 'Human Rights Best Practices in Schools'.

6. On the right to education of indigenous children, we are in the process of preparing a status report.

7. On the follow-up to the Nairobi Declaration, SUHAKAM continues to provide human rights training to police and prison officers, and officers in the Correctional Academy. We have published a first Human Rights Manual for Law Enforcement Agencies.

8. In response to the proposal made by APF in its report on NHRIs Advocacy at the 53rd Session of the UN Commission Status on Women, SUHAKAM has established an Internal Committee to study women's issues as well as supported the efforts of APF member institutions to advocate for women's rights.

9. The Commission held an inquiry into the allegation of excessive use of force by law enforcement personnel and shall begin this month a public inquiry on the arrest of five lawyers from the Kuala Lumpur Legal Aid Centre.

10. Recognizing that detention centres require continuous public monitoring to prevent abuses of human rights, SUHAKAM will hold education courses on this subject before the end of this year.

11. Based on the UPR recommendations on the judicial system in Malaysia and the Nairobi Declaration on the role of NHRIs in the promotion of human rights in the administration of justice, SUHAKAM has scheduled a domestic judicial colloquium for judges, in October, 2 months from now.

12. Apart from creating domestic awareness on human trafficking, SUHAKAM has intensified engagement with other stakeholders and most recently, across the border with Thailand to help curb the problem.

13. We have established a working relationship with the Parliamentary Human Rights Caucus which on occasion is chaired by the Minister in charge of Law and Human Rights.

14. As a follow-up on the UPR, SUHAKAM will develop a 3-Year Strategic Plan to monitor and push the commitments of the Government as stated in its UPR.

15. SUHAKAM with the APF Secretariat has rendered advice to the Sri Lanka Commission on ways to meet the challenges under the ICC accreditation procedures. The joint team also offered suggestions to the Pakistan Parliamentarian Commission on Human Rights on legislative provisions that would meet with Paris Principles when they were contemplating a Bill to establish an NHRI in Pakistan last December.

16. SUHAKAM enjoys a familial relationship with the ASEAN Forum. Currently, we are leading a regional project on migrant workers. Besides that, SUHAKAM has been an enthusiastic advocate for an ASEAN Human Rights Body.

Finally Mr. Chairman,

17. SUHAKAM recognises and pays tribute to the role of civil society in Malaysia in the promotion and protection of human rights. No NHRI needs to stand alone, not within a country and not within a region.

- END -

"HUMAN RIGHTS FOR ALL"

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee
Human Rights Commission of Malaysia (SUHAKAM)
6 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM DISCUSSED THE TEOH BENG HOCK'S CASE

The Human Rights Commission of Malaysia (SUHAKAM) at its 114th Meeting today discussed in great detail of the Teoh Beng Hock's case. The unfortunate death of the aide to a Selangor state executive council member was of great concern to SUHAKAM and the general public.

SUHAKAM would firstly write to the Chief Secretary to the Government, Yang Berbahagia Tan Sri Sidek Hassan to inquire further particulars on the Royal Commission of Inquiry and its Terms of Reference. Upon receiving a respond from the Chief Secretary, SUHAKAM will determine its next course of action at its next meeting soon.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group
Human Rights Commission of Malaysia (SUHAKAM)
10 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

H1N1: GOVERNMENT TO PROVIDE ADEQUATE HEALTH FACILITIES

Malaysia is facing an unprecedented health threat from Influenza A (H1N1) which originates beyond our shores.

The Human Rights Commission of Malaysia (SUHAKAM) is greatly concerned by the growing gravity of the situation and in particular by the state of preparation of public health defence.

The right to a safe environment and the right to access of medical help for citizens are now in critical question.

While recognising the efforts made by the Government in dealing with the pandemic, SUHAKAM urges that the Government take definite steps to increase public awareness and provide adequate diagnostic, treatment and preventive facilities to all sectors of Malaysian society.

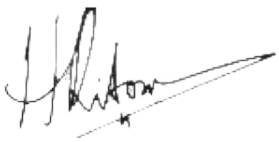
- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
Vice Chairman

DATO' CHOO SIEW KIOH
Chairperson, International Issues and Cooperation Committee

DATO' DR MICHAEL YEOH
Chairperson, Economic, Social, Cultural, Civil and Political Rights Working Group



DR MOHAMMAD HIRMAN RITOM ABDULLAH
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
11 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CONCERNS OVER CANNING ISSUE

The issue of Kartika Sari Dewi Shukarnor's case was brought up at the Human Rights Commission of Malaysia (SUHAKAM) meeting yesterday. The Commission view whipping as cruel, inhuman and degrading contrary to human rights principle. In this regard it is unfortunate that the Government had not ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment though SUHAKAM had repeatedly urged the Government to ratify. SUHAKAM urges the relevant authority to review this matter.

"HUMAN RIGHTS FOR ALL"
By the authority of SUHAKAM

HASHIMAH NIK JAAFAR
Secretary
Human Rights Commission of Malaysia (SUHAKAM)
29 August 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

COLLOQUIUM ON HUMAN RIGHTS FOR THE JUDICIARY, 24TH OCTOBER, 2009, HOTEL SHERATON IMPERIAL, KUALA LUMPUR

SUHAKAM is pleased to announce that it is organising a one-day Colloquium on Human Rights for the Judiciary and the legal fraternity on Saturday 24th October 2009 from 9.30am - 4.30pm at the Sheraton Imperial Hotel, Jalan Sultan Ismail, Kuala Lumpur. This Colloquium is very much in keeping with the spirit of the 9th International Conference of National Institutions for the Promotion and Protection of Human Rights in Nairobi, Kenya, held in October 2008. At the Nairobi Conference a declaration that called upon all national human rights institutions to work closely with the Judiciary of their respective countries in promoting human rights principles in the administration of justice, was adopted.

The objectives of the Colloquium are to:

1. provide a platform for members of the Judiciary to exchange, share and impart knowledge on human rights principles in the administration of justice;

2. illustrate or provide examples to members of the Judiciary on the application of international human rights principles and standards in the context of the domestic setting.

The Colloquium will also examine two main issues related to the theme which are:

i. Challenges and issues related to the contextualization and adoption of international human rights law (IHRL) at the domestic level.

ii. Best practices in the context of adoption and application of IHRL in court cases in other countries.

It is expected that around 300 participants from the judiciary, legal practitioners, officials from government ministries, academicians and civil society will attend the Colloquium. The highlight of the Colloquium will be the Keynote Address delivered by **DYTM Raja Dr. Nazrin Shah Ibni Sultan Azlan Muhibbuddin Shah**, the Raja Muda of Perak; whereas the main presentation of the Colloquium will be on International Human Rights Standards and Administration of Justice, by the South East Asia Regional Representative of the Regional Office of the United Nations High Commission for Human Rights (OCHR), **Mr Homayoun Alizadeh**. In the afternoon, three prominent speakers from the legal fraternity will discuss on the application of international human rights standards in the local judiciary.

The Colloquium will be a good impetus for further collaboration and engagement between SUHAKAM and the Judiciary. SUHAKAM hopes that with this Colloquium and consequent further engagements in the future, the members of the judiciary and the legal fraternity will be more mindful of human rights principles in the course of their work, towards upholding justice, equality and human rights in the society.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DR ASIAH ABU SAMAH
Commissioner / Chairman of Organising Committee of Colloquium
SUHAKAM
21 October 2009

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

BABY-SELLING, ANOTHER GROSS VIOLATION OF HUMAN RIGHTS

SUHAKAM congratulates the PDRM for their laudable effort in breaking the babyselling syndicate, and hopes that the PDRM would continue this good work.

SUHAKAM views seriously the issue of baby-selling which is part of human trafficking crimes and stands firm that it is a gross violation of human rights, in particular that of women and children. Such act is considered inhuman, degrading and immoral. It disregards the well being and dignity of the babies as well as the mothers and other family members. Babies should be treated equally like other fellow human beings, not to be taken as commodities for sales.

In view of crime prevention, SUHAKAM calls the Government to seriously look into the issues of unwanted or unintended pregnancies and to consider establishing comprehensive sexuality education and at the same time increase shelter home for women, including unwed mothers to undergo safe pregnancy and delivery for the health and well being of mothers and babies.

Unintended pregnancies occur among adolescents, unmarried and married women regardless of race and nationality. Lack of assistance and support to facilitate these women who have unwanted pregnancy induce them to give away their baby. Illegal migrants and foreign domestic workers or helpers are subjected to greater scrutiny, causing them to conceal their pregnancy as it is a ground for deportation. This creates fear amongst them, possibly contributing to the baby-selling incidences.

SUHAKAM also urges that all persons involved in such unlawful transaction be brought to justice. The middlemen involved must be made aware of the punishment they risk facing under the Anti Trafficking in Persons Act 2007, which aims to abolish human trafficking activities.

SUHAKAM is recommending the Government to ratify the Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography to intensify national measures against all forms of child exploitation and abuse, including baby-selling, child pornography and child prostitution. SUHAKAM shall continue to undertake its effort to increase awareness and ensure that the rights of children and women are protected at all time.

- END -

"HUMAN RIGHTS FOR ALL"

DATUK DR. RAJ ABDUL KARIM
Commissioner,
Human Rights Commission of Malaysia
15 December 2009

APPENDIX II

ACTIVITIES OF SUHAKAM IN 2009

PR - Public Affairs Division
EWG - Human Rights Education and Promotion Working Group
IICC - International Issues and Cooperation Committee
CIWG - Complaints and Inquiries Working Group
LRITWG - Law Reform and International Treaties Working Group
ECOSOC-CPR - Economic, Social and Cultural Rights & Civil and Political Rights Working Group
Sabah - SUHAKAM Sabah
Sarawak - SUHAKAM Sarawak

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
1.	Jan 9	Road show: SUHAKAM 'Meet the People' Session	Teluk Intan, Perak	PR
2.	Jan 12	Meeting with EU Ambassador	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
3.	Jan 12	Meeting with Inti College students	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
4.	Jan 13	Meeting with Norsk Hydro	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
5.	Jan 13	Meeting with AFESIP	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
6.	Jan 17-22	Visit and Dialogue in relation to land matters	Kota Kinabalu, Ranau & Lahad Datu, Sabah	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
7.	Jan 29	Meeting between SUHAKAM Commissioner Dr Mohammad Hirman Ritom Abdullah and Tuan Huzir of Criminal Investigation Department	Kuching, Sarawak	Sarawak
8.	Feb 20	Road show: SUHAKAM 'Meet the People' Session	Pagalungan, Sabah	Sabah
9.	March 2-4	Human Rights Training for Officers-in-Charge of Police Stations	Kulim, Kedah	EWG
10.	March 10	Meeting with Alliance Anti-Traffic	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
11.	March 11	ECOSOC-CPR meeting with NGOs	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
12.	March 14	Integrated Mobile Complaints Counter	Labuan, Sabah	Sabah
13.	March 18	Road show: SUHAKAM 'Meet the People' Session	Sipitang, Sabah	Sabah
14.	March 20	Road show: SUHAKAM 'Meet the People' Session	Beaufort, Sabah	Sabah
15.	April 3	Visit to KLIA Immigration Detention Depot: Meeting with Network Esquire (M) Sdn Bhd	KLIA, Selangor	CIWG
16.	April 7	Meeting with TENAGANITA	SUHAKAM, Kuala Lumpur	CIWG
17.	April 7	Visit to Juvenile Detention Centre	Asrama Bukit Baru, Melaka	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
18.	April 15	Road show: SUHAKAM 'Meet the People' Session	Kudat, Sabah	Sabah
19.	April 16	Discussion on 'Issues Related to the Cancellation of Recruitment of Foreign Workers'	SUHAKAM, Kuala Lumpur	CIWG
20.	April 17	Road show: SUHAKAM 'Meet the People' Session	Kota Marudu, Sabah	Sabah
21.	April 22	Roundtable Discussion on 'Protection of the Rights of Vulnerable Groups Affected by the Economic Crisis'	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
22.	April 23	Meeting with State Secretary and Ministry of Public Utilities, Sarawak	Petrajaya, Sarawak	Sarawak
23.	May 6	Meeting with Pertubuhan Jamaah Islah Malaysia	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
24.	May 8	Meeting with Police at Brickfields Police Station	Kuala Lumpur	CIWG
25.	May 12	Media Luncheon in conjunction with World Press Freedom Day	SUHAKAM, Kuala Lumpur	PR
26.	May 13	Meeting with Police over the arrest of Goh Boon Hun	Pulau Pinang	CIWG
27.	May 13	Road show: SUHAKAM 'Meet the People' Session	Kinabatangan, Sabah	Sabah
28.	May 14	Road show: SUHAKAM 'Meet the People' Session	Sandakan, Sabah	Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
29.	May 14	Roundtable Discussion on 'Issues Faced by the Orang Asli in Pahang'	Kuantan, Pahang	CIWG
30.	May 14	Visit to lock-up, Kuantan District Police Headquarters	Kuantan, Pahang	CIWG
31.	May 18	Road show: SUHAKAM 'Meet the People' Session	Melaka	PR
32.	May 21	Discussion on the case of Sathir Mannangathi	SUHAKAM, Kuala Lumpur	CIWG
33.	May 22-23	Workshop on 'Human Rights Best Practices in School'	Kuala Lumpur	EWG
34.	May 24-25	Workshop on Human Rights for IPG Lecturers	Kuala Lumpur	EWG
35.	May 25	Roundtable Discussion on 'Role of Community Leaders'	Kuching, Sarawak	Sarawak and ECOSOC-CPR
36.	May 27-28	Workshop on CEDAW for Union Trade Leaders	Petaling Jaya, Selangor	EWG
37.	June 2	Meeting with the Malaysian Focal Points of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
38.	June 4	Meeting with Director-General of Immigration	Putrajaya	CIWG
39.	June 11	Meeting with family of Mr Nadarajah	Nyalas, Melaka	CIWG
40.	June 12	Visit in relation to land matters	Sungai Siput, Perak	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
41.	June 13	Roundtable Discussion on 'Native Customary Land Rights of the Orang Asli in Peninsular Malaysia'	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
42.	June 15	Visit to Sungai Buloh Prison	Sungai Buloh, Selangor	CIWG
43.	June 17	Visit to Damansara Police Station	Damansara Jaya, Selangor	CIWG
44.	June 18	Meeting with Mr Sinapan Samydorai on the 'ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers'	SUHAKAM, Kuala Lumpur	IICC
45.	June 19	Meeting with Negri Sembilan Chief Police Officer	Seremban, Negri Sembilan	CIWG
46.	June 24	Road show: SUHAKAM 'Meet the People' Session	Tambunan, Sabah	Sabah
47.	June 26	Road show: SUHAKAM 'Meet the People' Session	Ranau, Sabah	Sabah
48.	June 30 - July 2	Human Rights Training for Officers-in-Charge of Police Stations	Pulau Pinang	EWG
49.	July 6	Visit to Semenyih Detention Centre	Semenyih, Selangor	CIWG
50.	July 6-9	Human Rights Exhibition at Institut Pendidikan Guru Malaysia	Kota Bharu, Kelantan	PR
51.	July 7	Visit to Taman Sinar Harapan	Kuala Kubu Baru, Selangor	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
52.	July 10	Visit to Integrity School in Prison	Kota Kinabalu, Sabah	EWG
53.	July 10-12	Workshop on CRC Awareness for Religious Schools	Kota Kinabalu, Sabah	EWG and Sabah
54.	July 15	Exhibition in conjunction with Welfare Month, organised by Sabah Welfare Services Department	Kudat, Sabah	Sabah
55.	July 15-17	Human Rights Exhibition at Inti College	Nilai, Negri Sembilan	PR
56.	July 19	Integrated Mobile Complaints Counter	Kota Belud, Sabah	Sabah
57.	July 21-23	Meetings and Visit to Murum Dam project site	Ulu Belaga, Sarawak	ECOSOC-CPR and Sarawak
58.	July 23	Forum on 'Implementing Hydroelectric and Reservoir Dam Projects While Preserving Human Rights and the Environment'	Bintulu, Sarawak	ECOSOC-CPR and Sarawak
59.	July 23	Exhibition in conjunction with Welfare Month, organised by Sabah Welfare Services Department	Tuaran, Sabah	Sabah
60.	July 24	Visit to Central Police Station	Bintulu, Sarawak	CIWG
61.	July 25	Exhibition in conjunction with Welfare Month, organised by Sabah Welfare Services Department	Sandakan, Sabah	Sabah
62.	July 27-30	Human Rights Exhibition at Universiti Antarabangsa Islam Malaysia	Gombak, Kuala Lumpur	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
63.	July 28	Road show: SUHAKAM 'Meet the People' Session	Kuala Penyu, Sabah	Sabah
64.	July 30	Exhibition in conjunction with Welfare Month, organised by Sabah Welfare Services Department	Tambunan, Sabah	Sabah
65.	July 31	Road show: SUHAKAM 'Meet the People' Session	Menumbok, Sabah	Sabah
66.	Aug 7	Meeting with Perak Deputy Police Chief	Ipoh, Perak	CIWG
67.	Aug 12	Brain-storming session with NGOs on Key Performance Indicators for SUHAKAM	SUHAKAM, Kuala Lumpur	ECOSOC-CPR
68.	Aug 14-16	Public Inquiry into the Arrest & Detention of Five Lawyers of the Kuala Lumpur Legal Aid Centre at the Brickfields Police Station on May 7, 2009	SUHAKAM, Kuala Lumpur	CIWG
69.	Aug 17	Meeting with Peninsular Express Bus Operators	SUHAKAM, Kuala Lumpur	CIWG
70.	Aug 21	Discussion on 'Issues on Bonded Labour and Exploitation of Plantation Workers'	SUHAKAM, Kuala Lumpur	CIWG
71.	Aug 25-26	ASEAN NHRIs Forum Workshop to Develop the Protocol against Trafficking of Women and Children	Kuala Lumpur	ECOSOC-CPR and LRITWG
72.	Sept 5-6	Workshop on Human Rights for undergraduates of public universities	Kuala Lumpur	EWG
73.	Sept 12-13	Workshop on Human Rights for undergraduates of public universities	Shah Alam, Selangor	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
74.	Sept 16	Meeting with Mr Philip S Robertson Jr, Rapporteur for the ASEAN NHRI Forum Joint Project on Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
75.	Sept 17	Regional Meeting on the ASEAN NHRI Forum Joint Project on Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
76.	Sept 17	Visit to Taiping Prison and Kamunting Detention Camp	Taiping, Perak	CIWG
77.	Sept 18	Visit to the Semenyih Immigration Detention Centre	Semenyih, Selangor	IICC
78.	Sept 29	Human Rights Dialogue with residents of Kampung Lanas	Sook, Sabah	Sabah
79.	Sept 30	Road show: SUHAKAM 'Meet the People' Session	Nabawan, Sabah	Sabah
80.	Oct 1	Road show: SUHAKAM 'Meet the People' Session	Keningau, Sabah	Sabah
81.	Oct 1	Meeting with detainees at Simpang Renggam Rehabilitation Centre	Simpang Renggam, Johor	CIWG
82.	Oct 1	Meeting with officials at Pekan Nenas Immigration Detention Centre	Pekan Nenas, Johor	CIWG
83.	Oct 4-6	Human Rights Training for Officers-in-Charge of Police Stations	Kuching, Sarawak	EWG and Sarawak
84.	Oct 6	Meeting with the Ministry of Human Resources together with the Delegation from the National Human Rights Commission, Korea	Putrajaya	IICC and PR
85.	Oct 7	Meeting with the Delegation from the National Human Rights Commission, Korea	SUHAKAM, Kuala Lumpur	IICC

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
86.	Oct 8	Visit to the Semenyih Immigration Detention Centre with the Delegation from the National Human Rights Commission, Korea	Semenyih, Selangor	IICC and PR
87.	Oct 8	Roundtable Discussion on the 'Right of the Mentally Challenged Person to Care with Dignity'	SUHAKAM, Kuala Lumpur	CIWG
88.	Oct 14	Visit to Bentong Prison	Bentong, Pahang	CIWG
89.	Oct 14-16	Human Rights Exhibition	Universiti Malaya, Kuala Lumpur	PR
90.	Oct 24	Human Rights Colloquium for the Judiciary	Kuala Lumpur	EWG & LRITWG
91.	Oct 23	Visit to KLIA Immigration Detention Depot to meet Sri Lankan asylum seekers	Sepang, Selangor	CIWG
92.	Oct 25	Integrated Mobile Complaints Counter	Tenom, Sabah	Sabah
93.	Oct 27	Road show: SUHAKAM 'Meet the People' Session	Lahad Datu, Sabah	Sabah
94.	Oct 29	Road show: SUHAKAM 'Meet the People' Session	Semporna, Sabah	Sabah
95.	Oct 31	Exhibition in conjunction with Welfare Month, organised by Sabah Welfare Services Department	Tongod, Sabah	Sabah
96.	Nov 2	Visit to Integrity School in Prison	Kajang, Selangor	EWG
97.	Nov 3–5	Exhibition on Human Rights	Seri Kembangan, Selangor	PR
98.	Nov 6	Visit to Integrity School in Prison	Kuching, Sarawak	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
99.	Nov 6	Meeting with Johor Deputy Chief of Police	Johor Bharu, Johor	CIWG
100.	Nov 6-8	Workshop on CRC Awareness for Religious Schools	Kuching, Sarawak	EWG and Sarawak
101.	Nov 7	Dinner with the Media	Kuching, Sarawak	PR and Sarawak
102.	Nov 9	Visit to Tapah Prison	Tapah, Perak	CIWG
103.	Nov 9-11	Report Writing Course	Shah Alam, Selangor	PR EWG IICC ECOSOC-CPR CIWG LRITWG
104.	Nov 11-12	Workshop on 'Human Rights Best Practices in School'	Kuala Lumpur	EWG
105.	Nov 12	Road show: SUHAKAM 'Meet the People' Session	Telupid, Sabah	Sabah
106.	Nov 16-17	Training Workshop on CEDAW for Gender Focal Points	Genting Highlands, Pahang	EWG
107.	Nov 17	Meeting with ICRC and International Detention Coalition to discuss follow-up to Workshop on 'Working with Detained Migrants and Refugees'	SUHAKAM, Kuala Lumpur	CIWG
108.	Nov 18	European Commission Meeting	SUHAKAM, Kuala Lumpur	LRITWG
109.	Nov 18	Meeting with Assistant Chief Secretary, Home Ministry	Putrajaya	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
110.	Nov 19	Visit to Tiang Dua Drug Rehabilitation Centre to interview complainant; and Visit to Machap Umboo Detention Centre to meet detainees	Melaka	CIWG
111.	Nov 20-22	Public Inquiry into the Arrest & Detention of Five Lawyers of the Kuala Lumpur Legal Aid Centre at the Brickfields Police Station on May 7, 2009	SUHAKAM, Kuala Lumpur	CIWG
112.	Nov 22-24	Human Rights Training for Officers-in-Charge of Police Stations	Miri, Sarawak	EWG and Sarawak
113.	Nov 24	Roundtable Discussion on 'Protection of the Rights of Vulnerable Groups Affected by the Economic Crisis'	Kota Kinabalu, Sabah	ECOSOC-CPR
114.	Nov 25	Roundtable Discussion on 'Corporate Social Responsibility of Logging and Plantation Companies in Sarawak'	Miri, Sarawak	ECOSOC-CPR and Sarawak
115.	Nov 26	Meeting with Director of Crime and Investigation Department, Bukit Aman	Kuala Lumpur	CIWG
116.	Nov 28	Road show: SUHAKAM 'Meet the People' Session	Kemabong, Sabah	Sabah
117.	Nov 29	Road show: SUHAKAM 'Meet the People' Session	Tenom, Sabah	Sabah
118.	Nov 30	Meeting with Perlis Chief of Police	Kangar, Perlis	CIWG
119.	Dec 3	Roundtable Discussion on the 'Rights Of Older Persons'	SUHAKAM, Kuala Lumpur	ECOSOC
120.	Dec 4	Roundtable Discussion with Embassies and Agencies on 'Moving the Anti-Trafficking in Persons Agenda Forward'	SUHAKAM, Kuala Lumpur	ECOSOC

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION /BRANCH
121.	Dec 5	Dialogue with villagers	Ranau, Sabah	Sabah
122.	Dec 6-8	Human Rights Training for Officers-in-Charge of Police Stations	Kota Kinabalu, Sabah	EWG
123.	Dec 14-15	Recording statement from witnesses on the alleged shoot-to-kill case of Mohmad Tawfiq bin Noorzan	Arau, Perlis	CIWG
124.	Dec 15-16	Road show: SUHAKAM 'Meet the People' Session	Seberang Perai, Pulau Pinang	PR

APPENDIX III

TALKS, MEETINGS, WORKSHOPS AND CONFERENCES – NATIONAL 2009

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	Feb 4-5	SUARAM Consultation Workshop on the First Draft of the Terms of Reference of the ASEAN Human Rights Body	Petaling Jaya, Selangor	Dato' Choo Siew Kioh, Commissioner; Wan Kasim Wan Kadir, Officer
2.	Feb 9	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
3.	Feb 13	Talk on Human Rights at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer
4.	Feb 19	Workshop on 'Policy on the Elderly and National Plan of Action for the Elderly'	Putrajaya	Eda Mazuin Abdul Rahman, Officer
5.	Feb 20	Talk on Human Rights at the RELA Training Centre	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer
6.	Feb 21	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
7.	Feb 24	Talk on Human Rights for RELAWATI at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
8.	Feb 28	Forum on Disability, at the Spastic Children Association	Pulau Pinang	Eda Mazuin Abdul Rahman, Officer
9.	March 4	Advocacy Meeting on CRC and CEDAW at the Ministry of Women, Family and Community Development	Kuala Lumpur	Simon Karunagaram, Officer Jasliza Jamil, Ofiicer Eda Mazuin, Officer
10.	March 9	Talk on Human Rights at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer
11.	March 11	Secretariat Convention on Protecting and Strengthening Muslim Women (SENADA)	Kuala Lumpur	Adlin Samsudin, Officer Eda Mazuin Abdul Rahman, Officer
12.	March 13	Meeting on 'Women's Rights' Programme at the Ministry of Women, Family and Community Development	Kuala Lumpur	Simon Karunagaram, Officer Jasliza Jamil, Officer
13.	March 13	Talk on Human Rights for RELAWATI at the RELA Training Centre	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer
14.	March 15	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
15.	March 18	Talk on Human Rights at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer
16.	March 25	Talk on Human Rights at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
17.	March 31 - April 2	Talk on 'Prison As a Safe Place for Prison Officers and Prisoners', at the Prison Department	Pulau Langkawi, Kedah	Simon Karunagaram, Officer Abdul Rahman Abdullah, Officer
18.	April 3	Talk on Human Rights at the RELA Training Centre	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer
19.	April 5-6	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
20.	April 7	Talk on Human Rights at the RELA Training Centre	Sungai Udang, Melaka	Abdul Rahman Abdullah, Officer
21.	May 4	Master of Trainers Course on Analysis of Gender Budget, held at INTAN Wilayah Utara	Sungai Petani, Kedah	Jasliza Jamil, Officer
22.	May 19	Talk on Prison Management	Marang, Terengganu	Abdul Rahman Abdullah, Officer
23.	May 28	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
24.	June 7	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah, Officer
25.	June 12	Talk on Human Rights at the RELA Training Centre	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
26.	June 23	Roundtable Discussion on 'Developing a Comprehensive Policy Framework for Refugees and Asylum Seekers'	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
27.	June 23	United Nations Country Team Gender Task Force Dialogue with Stakeholders	Kuala Lumpur	Jasliza Jamil, Officer
28.	June 30	Technical Meeting on 'Study of the Juvenile Justice System in Malaysia'	Kuala Lumpur	Jasliza Jamil, Officer
29.	July 2	Talk on Human Rights at the RELA Training Centre	Sungai Petani, Kedah	Abdul Rahman Abdullah
30.	July 3	Talk on Human Rights at the RELA Training Centre	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer
31.	July 13	Talk on 'SUHAKAM and Human Rights' at the Rela Training Centre	Tuaran, Sabah	Abdul Rahman Abdullah, Officer
32.	July 14	Talk on 'Human Rights and Public Relations' at the Institute of Public Relations Malaysia	Kuala Lumpur	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman Noor Azizah Atdenan, Officer
33.	July 27-28	Meeting on 'Issues of Sex Workers and Transgender'	Sandakan, Sabah	Datuk Dr Raj Karim, Commissioner; Akhdiat Nur Zahhir, Officer
34.	Aug 11	Talk on CRC Awareness for Principals of Under-enrolled schools, at Institut Aminuddin Baki	Genting Highlands, Pahang	Hasmah Abdul Manaf, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
35.	Aug 11-13	Workshop on 'Native Pedagogy' at Institut Perguruan	Kota Bahru, Kelantan	Hasmah Abdul Manaf, Officer
36.	Aug 19	Presentation of Delivery System to the Focus Group for Indigenous Children's Education, at JHEOA Office	Kuala Lumpur	Hasmah Abdul Manaf, Officer
37.	Sept 1	International Organisation for Migration Workshop on 'Indonesian Migrant Workers in Malaysia'	Kuala Lumpur	Dato' N Siva Subramaniam, Commissioner; Wan Kasim Wan Kadir, Officer
38.	Sept 8	Workshop on Amendment of Child Act 2001, at Ministry of Women, Family and Community Development	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
39.	Sept 14	Workshop on 'Protection and Rehabilitation of Trafficked Persons', at Ministry of Women, Family and Community Development	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
40.	Oct 5	ISA Review Meeting with Home Minister, Datuk Seri Hishammuddin Tun Hussein	Putrajaya	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman Datuk Michael Yeoh Oon Kheng, Commissioner Datuk Hj. Khalid Hj. Ibrahim, Commissioner Datuk Denison Jayasooria, Commissioner Hashimah Jaafar, Secretary Shazeera Ahmad Zawawi, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
41.	Oct 10	Talk on CRC awarreness at SJKT Simpang Lima	Klang, Selangor	Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer
42.	Nov 1-7	Workshop on 'Outreach Education for Penan Children'	Ulu Baram, Sarawak	Hasmah Abdul Manaf, Officer
43.	Nov 16	Workshop on 'Working with Detained Migrants and Refugees'	Kuala Lumpur	CIWG Officers Megat Adzwan Shah Shamsul Anuar, Officer Akhdiat Nur Zahhir, Officer Sophian Osman, Officer Abdul Rahman Abdullah, Officer Simon Karunagaram, Officer
44.	Nov 16-17	Syariah Community Conference 2009, at the Attorney-General's Chambers	Putrajaya	Eda Mazuin Abdul Rahman, Officer
45.	Nov 19	Discussion with Focus Groups on Amendments to Internal Security Act 1960, following the Review Meeting with the Home Minister	Putrajaya	Akhdiat Nur Zahhir, Officer
46.	Nov 20	Forum on 'Education for Every Child' in conjunction with 20th anniversary of CRC	Kuala Lumpur	Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer
47.	Nov 24-26	Talk on CRC awareness for Sabah Welfare Services Department Officers	Kota Kinabalu, Sabah	Hasmah Abdul Manaf, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
48.	Dec 3-5	Meeting and Workshop on Amendment of Indigenous Peoples Act	Nilai, Negri Sembilan	Hasmah Abdul Manaf, Officer
49.	Dec 7-9	Workshop on 'National Inquiries'	Kuala Lumpur	All Officers
50.	Dec 10	Seminar on Women's Rights, by European Commission	Kuala Lumpur	Tan Sri Dato' Asiah Abu Samah, Commissioner Simon Karunagaram, Officer Noor Azizah Haji Atdenan, Officer Nur Syahirah Muhammad, Officer Jasliza Jamil, Officer Eda Mazuin, Officer
51.	Dec 14	Talk on CRC awareness for principals and teachers	Kota Kinabalu, Sabah	Hasmah Abdul Manaf, Officer
52.	Dec 14-16	Conference on 'Land Rights of the Indigenous Peoples', at St Mary's Church	Kuala Lumpur	Hasmah Abdul Manaf, Officer
53.	Dec 17	'Communitising the Advisory Board'	Shah Alam, Selangor	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner Eda Mazuin Abdul Rahman, Officer Akhdiat Nur Zahhir, Officer

APPENDIX IV

VISITS, MEETINGS AND CONFERENCES – INTERNATIONAL 2009

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	Jan 14-17	Visit to APF Secretariat	Sydney, Australia	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner
2.	Jan 20-22	5th Annual Consultative Meeting of ASEAN NHRI Forum	Bangkok, Thailand	Simon Karunagaram, Officer
3.	Feb 11-13	4th Session of the Universal Periodic Review (Review of Malaysia)	Geneva, Switzerland	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner; Khoo Ying Hooi, Officer
4.	Feb 26-27	16th ASEAN-ISIS Colloquium on Human Rights	Manila, Philippines	Datuk Dr Chiam Heng Keng, Commissioner
5.	March 5-6	Project Technical Meeting with External Monitor on the ASEAN NHRI Forum Joint Projects	Manila, Philippines	Khoo Ying Hooi, Officer
6.	March 23	APF Council Meeting	Geneva, Switzerland	Tan Sri Abu Talib Otman, Chairman; Dato' Choo Siew Kioh, Commissioner; Khoo Ying Hooi, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
7.	March 23-26	22nd Session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)	Geneva, Switzerland	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner; Khoo Ying Hooi, Officer
8.	April 19-24	Sub-regional Training on NHRIs and the International Human Rights System	Manila, Philippines	Sophian Osman, Officer; Mohamad Azizi Azmi, Officer; Eda Mazuin Abdul Rahman, Officer; Jasliza Jamil, Officer; Wan Kasim Wan Kadir, Officer
9.	April 27-29	Study Visit to the National Human Rights Commission of India	New Delhi, India	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner; Hashimah Nik Jaafar, Secretary; Simon Karunagaram, Officer; Khoo Ying Hooi, Officer; Nurul Hasanah Ahamed Hassain Malim, Officer; Shazeera Ahmad Zawawi, Officer
10.	May 5-7	APF meeting on the Role of NHRIs in the Promotion and Implementation of the Jogjakarta Principles	Jogjakarta, Indonesia	Datuk Haji Khalid Haji Ibrahim, Commissioner; Akhdiat Nur Zahhir, Officer
11.	May 18-24	Curriculum Enhancement Workshop on Human Rights and International Humanitarian Law	Manila, Philippines	Ameer Izyanif Hamzah, Officer; Abdul Rahman Abdullah, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
12.	May 20-26	Review and Further Development of the Military Curriculum on Human Rights and International Humanitarian Law with Focus on the Child	Manila, Philiphines	Abdul Rahman Abdullah, Officer
13.	May 25 - June 6	Study Visit to the New Zealand Human Rights Commission	Auckland, New Zealand	Noor Azizah Haji Atdenan, Officer
14.	June 2-5	11th Session of the Human Rights Council	Geneva, Switzerland	Tan Sri Dato' Dr Asiah Abu Samah, Commissioner; Simon Karunagaram, Officer; Shazeera Ahmad Zawawi, Officer
15.	June 12	Adoption of the Outcome Report on Malaysia's Universal Periodic Review Process	Geneva, Switzerland	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner; Khoo Ying Hooi, Officer
16.	June 15-17	3rd Technical Working Group of the ASEAN NHRI Forum	Jakarta, Indonesia	Lee Pei Hsi, Officer; Mohd Norismadi Ismail, Officer
17.	June 29 - July 2	Visit to shelter for victims of human trafficking; Immigration detention centre; Malaysia-Thailand border & entertainment outlets in Thailand	Thailand	Datuk Dr Raj Karim, Commissioner; Tunku Nazihah Tunku Mohamed Rus; Commissioner; Rafidah Yahya, Officer Akhdiat Nur Zahhir, Officer
18.	July 14-15	8th Workshop on the ASEAN Regional Mechanism on Human Rights	Bangkok, Thailand	Datuk Dr Chiam Heng Keng, Commissioner; Parameswari Subramaniam, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
19.	July 16	Meeting on sidelines of the ASEAN NHRI Forum Joint Project on ESCR	Bangkok, Thailand	Datuk Dr Chiam Heng Keng, Commissioner; Parameswari Subramaniam, Officer
20.	July 29-30	Training of Trainers on the ASEAN Human Rights Body	Manila, Philippines	Tunku Datuk Nazihah Tunku Mohd Rus, Commissioner; Wan Kasim Wan Kadir, Officer
21.	July 30-31	2nd ASEAN Forum on Migrant Labour	Bangkok, Thailand	Dato' N Siva Subramaniam
22.	Aug 3-6	APF 14th Annual Meeting	Amman, Jordan	Tan Sri Abu Talib Othman, Chairman; Dato' Dr Abdul Monir Yaacob, Commissioner; Dato' Dr Michael Yeoh Oon Kheng, Commissioner; Dato' Choo Siew Kioh, Commissioner; Hashimah Nik Jaafar, Secretary; Lee Pei Hsi, Officer; Nurul Hasanah Ahamed Hassain Malim, Officer
23.	Aug 23-29	Professional Visits and Workshop on Best Practices of NHRIs in Applying the Human Rights-Based Approach in the Realisation of ESCR in the ASEAN Region	Phuket, Thailand	Hasmah Abdul Manaf, Officer; Parameswari Subramaniam, Officer; Mohd Hairul Fahmi Mohd Harris, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
24.	Aug 27-28	Consultation Meeting with the High Level Panel concerning the Political Declaration on the ASEAN Intergovernmental Commission on Human Rights	Jakarta, Indonesia	Dato' Choo Siew Kioh, Commissioner; Wan Kasim Wan Kadir, Officer
25.	Sept 7-11	Workshop on NHRI Library and Resource Centre Management	Bangkok, Thailand	Syarim Irwani Ibrahim, Officer
26.	Oct 5-16	The Training Program on the Equal Status and Human Rights Women in South-East Asia	Sunway Hotel, Phnom Penh, Cambodia	Siti Zaihan Zulkarnain, Officer
27.	Oct 19-20	4th Technical Working Group of the ASEAN NHRI Forum	Manila, Philippines	Dato' Choo Siew Kioh, Commissioner; Lee Pei Hsi, Officer
28.	Oct 21-22	ASEAN NHRI Forum Protocol against Trafficking of Women and Children Meeting	Mandaluyong, Philippines	Datuk Dr Raj Karim, Commissioner; Akhdiat Nur Zahhir, Officer
29.	Oct 21-23	Regional Workshop on the Development of ASEAN NHRI Forum Protocol Against Trafficking of Women and Children	Manila, Philippines	Datuk Dr Raj Abdul Karim, Commissioner; Rafidah Yahya, Officer Akhdiat Nur Zahhir Alwi, Officer
30.	Oct 26-30	Annual Partnership Programme for Human Rights Officers of National Institutions	Seoul, Korea	Wan Kasim Wan Kadir, Officer
31.	Nov 1-2	ICC Bureau Meeting	Rabat, Morocco	Dato' Choo Siew Kioh, Commissioner; Mohd Hairul Fahmi Mohd Harris, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
32.	Oct 24 - Nov 6	Public Administration Law study programme on Successful Law Reform	London, United Kingdom	Shazeera Ahmad Zawawi, Officer
33.	Nov 11-13	6th Annual Meeting of the SEA NHRIs Forum	Jogyakarta, Indonesia	Tan Sri Abu Talib Othman, Chairman; Dato' Choo Siew Kioh, Commissioner; Datuk Dr Raj Karim, Commissioner; Lee Pei Hsi, Officer; Rafidah Yahya, Officer; Abdul Rahman Abdullah, Officer
34.	Nov 23 - Dec 2	Training on the Role of National Human Rights Institutions	Bangkok Thailand	Akhdiat Nur Zahhir, Officer
35.	Dec 2-4	Workshop on Follow-up to Universal Periodic Review	Seoul, Korea	Lee Pei Hsi, Officer; Abdul Rahman Abdullah, Officer
36.	Dec 15-16	5th Roundtable Discussion on Human Rights in ASEAN	Bangkok, Thailand	Datuk Dr Chiam Heng Keng, Commissioner

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

ORAL STATEMENT AT ADOPTION OF MALAYSIA'S UPR, 12 JUNE 2009 11TH HUMAN RIGHTS COUNCIL REGULAR SESSION (AGENDA ITEM 6.) PALAIS DES NATIONS, GENEVA

Mr. President,

SUHAKAM commends the Government for taking steps to amend the Human Rights Commission of Malaysia Act in the coming June Parliamentary Session for the sole purpose of enabling SUHAKAM to comply with the spirit of the Paris Principles. If the Government's action should fail to meet with the purpose, the Government will need to rectify the situation.

SUHAKAM commends the Government's assistance to the poor, its provisions for education and health services, its concern for the welfare of women and children and its recognition of the need to maintain social harmony in a multiracial society. We welcome the release of the 13 Internal Security Act (ISA) detainees recently, and the announcement by the Prime Minister in his inaugural speech that the Government would conduct a comprehensive review of the ISA. We urge the Government to also examine and review other preventive legislations such as the Emergency Ordinance Act and the Dangerous Drugs Act which allow for detention without trial, and the police practice of arresting and detaining suspects before investigation.

We are very concerned of the arrest of lawyers who volunteered to defend persons detained. The right to legal representation is guaranteed under the Constitution and vital in the protection of human rights. The Government should uphold individual fundamental rights, ratify international human rights covenants such as ICCPR, ICESCR and CAT; strengthen the independence of the judiciary; review the death penalty and intensify efforts to combat all forms of trafficking in women and girls.

Malaysia does not have a National Human Rights Action Plan. Parliament has never debated any of the Commission's Annual Report and Government has not acted in most of Commission's findings and recommendations. Human rights must be on Parliament's agenda and the Government to implement on the Commission's recommendations.

Mr. President,

The UPR would be a futile exercise if Governments do not honour their commitments and the world body does not censure omissions.
We hope therefore that the outcome of the UPR exercise would encourage the Government to take positive action to enhance human rights situation in Malaysia.

Thank you, Mr. President.

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

WRITTEN STATEMENT SUBMITTED TO THE 11TH HUMAN RIGHTS COUNCIL REGULAR SESSION

The Government of Malaysia to fully commit with the UPR mechanism

The Government of Malaysia has made important commitments to the promotion and protection of human rights in Malaysia in its UPR, but more needs to be done to be in accordance with the spirit of the Universal Declaration of Human Rights 1948.

Malaysia has presented its UPR well in February 2009. In its report, the Government seems to have avoided the core issues of civil and political rights and has no concrete commitment to improve the situation. SUHAKAM and the civil society will support the Government in constructive ways should the Government open the way for an examination of the human rights issues that trouble our home state.

SUHAKAM welcomes the Government's action to amend the Human Rights Commission of Malaysia Act to enable SUHAKAM to fully comply with the Paris Principles and thereby retaining its 'A' status. The Amendment Bill will be tabled in the Parliament Session in June. The passage of the Bill itself has stirred much interest among civil societies. We hope that the present re-amended Bill will answer the ICC observation for compliance with the Paris Principles.

SUHAKAM expresses its hope that the Government as stated in its report will continue to carry out comprehensive reviews and studies on existing preventive legislations and move towards accessions of international human rights instruments such as ICCPR, ICESCR and CAT.

SUHAKAM welcomes the release of 13 Internal Security Act (ISA) detainees recently, and the new Prime Minister's announcement in his inaugural speech that a comprehensive review of the ISA will be conducted. In this regard, we urge the Government to also examine and repeal provisions for detention without trials in other legislations such as the Emergency Ordinance Act and the Dangerous Drugs Act. We also urge the Government to release the remaining detainees under the ISA and undertake steps to abolish the ISA. SUHAKAM is aware that there will always be a necessity for the State to have legal means to protect national security in times of peace and national emergencies. It seeks only that new laws to meet with specific situations and which are compliant with human rights principles be enacted in place of those that were legislated for situations in the past which no longer are the same.

The recent arrest of some bloggers, lawyers and general civilians demonstrates the intolerance of the government for freedom of expression and peaceful assembly. Article 10 of the Federal Constitution says that every citizen has the right to freedom of speech and expression; all citizens have the right to assemble peaceably and without arms; and all citizens have the right to form associations. The Article also has a saving clause that allows restrictions on such freedom and rights as the Parliament deems necessary in the interest of the security of the Federation. The public perception is that the Government has too often availed of the saving clause in the name of national security.

In the multicultural society of Malaysia, religion is a sensitive topic. Freedom of religion is guaranteed under the Federal Constitution. In the matter of conversion, when one parent converts to another religion, a divorce may arise, as well as the question of which religion will then be followed by the children. There is also the question of settling an estate among family members after the death of a spouse who had converted to a different religion before his/ her death. Much controversies have arisen with regard to which court has the jurisdiction to determine the issue of conversion and matters related thereto. The jurisdiction of Shariah and Civil Courts should therefore be clearly defined to avoid uncertainty and confusion.

The proposal for a National Human Rights Action Plan (NHRAP) has been made by SUHAKAM to the Government since 2002. The position of the Government however continues to be non-participatory to any NHRAP consultations which necessarily include civil society. Malaysia is the only country in Southeast Asia with a NHRI that has no NHRAP. The formation of a NHRAP is very timely for realizing the recommendations which result from the UPR. It will be a democratic asset and a vehicle of cooperation between the Government and the civil societies.

Malaysia is host to thousands of migrants, both legal and illegal. Included are refugees and asylum seekers who assume worker status when they have no means of livelihood while trapped in the country. In the current economic downturn, Malaysia finds many migrants trying all means to stay in Malaysia, perhaps permanently. The situation has gained a human rights dimension where migrants are not given the same rights as the local people. Besides not ratifying the Refugee Convention,

the Government's approach in combating this problem has simply been to arrest and punish them. Punishment varies from fines, imprisonment, deportation, or whipping. A more humane treatment should be given to the migrants and their rights should be considered on the grounds of basic human rights, even though they are not Malaysian. The children of migrants or refugees are the ones who suffer most since they have no access of schooling and education. This denies them chances for a normal and successful life in the future. SUHAKAM urges the Government to fully utilize the provisions as laid down in CEDAW and CRC to protect the rights of these migrant children. Pending ratification of the Refugee Convention and relevant ILO Conventions, a fair and humane system of treatment of migrant workers must be established to prevent economic exploitation of their labour.

Regarding Special Rapporteurs, the Government is urged to consider granting every of their requests to visit Malaysia, unless all or any refusals are justified with a formal notification of cogent reasons to UN agencies concerned.

SUHAKAM sincerely hopes that the Malaysian Government will uphold the interest and rights of all persons in Malaysia in a fair and just manner. We recommend that the Government to establish a Working Group under its auspices which includes SUHAKAM and civil societies, to follow-up on the issues raised in the UPR.

APPENDIX VII

SUHAKAM PUBLICATIONS, 2009

NO.	VOLUME	TITLE
1.	Bulletin (Oct – Dec 08')	Buletin SUHAKAM
2.	(Journal) Vol.2 No.2, Dec 08'	Journal on Human Rights
3.	Report	Report on Public Enquiry: Bukit Mahkota Incident
4.	Report (Reprint)	Legal Representatives on Land Rights in Sarawak (Reprint)
5.	Report (HRD 2007)	Human Rights and Elections
6.	Booklet (Reprint)	Konvensyen Hak Asasi Kanak-Kanak
7.	Bulletin (Jan – June 09')	Buletin SUHAKAM
8.	Report	Report on Murum Hydroelectric Project
9.	Report (Reprint)	Review of ISA (Reprint)
10.	Report (HRD 2008)	HR & Administration of Juvenile Justic
11.	Report (Reprint)	Report of Forum on Right to a Fair Trial
12.	Report (Reprint)	Report on Follow-up Forum on Right to a Fair Trial
13.	Report (Reprint)	Hak Asasi Orang Asli
14.	Journal (Jan – June 09')	Journal on Human Rights
15.	Booklet	Booklet Konvensyen CEDAW
16.	Report (Reprint)	A Case for Media Freedom: Report

APPENDIX VIII

MONTHLY MEETINGS 2009 – COMMISSIONERS' ATTENDANCE

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
1.	107th Meeting	Jan 12	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar	Dato' Muhammad Shafee Abdullah	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
2.	108th Meeting	Feb 16	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			
3.	109th Meeting	March 16	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim	Prof Tan Sri Dr Khoo Kay Kim	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
			Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			
4.	110th Meeting	April 13	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar	Prof Tan Sri Dr Khoo Kay Kim Datin Paduka Zaitoon Dato' Othman	✓ ✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
5.	111th Meeting	May 11	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar	Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim	✓ ✓	
6.	112th Meeting	June 8	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh	Datin Paduka Zaitoon Dato' Othman	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
			Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			
7.	113th Meeting	July 13	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
8.	114th Meeting	Aug 10	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			
9.	115th Meeting	Sept 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob	Dato' Muhammad Shafee Abdullah	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
			Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			
10.	115th Meeting (Reconvened)	Sept 29	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Dato' Siva Subramanian a/l Nagaratnam Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar	Tunku Datuk Nazihah Tunku Mohamed Rus Prof Tan Sri Dr Khoo Kay Kim Datin Paduka Zaitoon Dato' Othman Datuk Dr Raj Abdul Karim	✓ ✓ ✓ ✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
11.	116th Meeting	Oct 12	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT	WITH LEAVE	WITHOUT LEAVE
12.	117th Meeting	Dec 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Datuk Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian a/l Nagaratnam Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Puan Hashimah Nik Jaafar	Dato' Choo Siew Kioh Datin Paduka Zaitoon Dato' Othman	✓ ✓	