SUHAKAM
HUMAN RIGHTS FOR ALL

ANNUAL REPORT
2010
HUMAN RIGHTS COMMISSION OF MALAYSIA

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HUMAN RIGHTS COMMISSION OF MALAYSIA ANNUAL REPORT 2010

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LIST OF ABBREVIATIONS

AHRC	Australian Human Rights Commission
AICHR	Asean Intergovernmental Commission on Human Rights
AIWN	Asian Indigenous Women's Network
APF	Asia Pacific Forum of National Human Rights Institutions
ATIP	Anti-Trafficking in Persons
AWAM	All Women's Action Society, Malaysia
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBO	Community-based Organisations
CED	International Convention on the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CIWG	Complaints and Inquiries Working Group
CHRP	Commission on Human Rights of the Philippines
COAC	Centre for Orang Asli Concerns
CPC	Criminal Procedure Code
CRPD	Convention on the Rights of Persons with Disabilities
CRC	Convention on the Rights of the Child
CUEPACS	Congress of Unions of Employees in the Public and Civil Services
DDSPMA	Dangerous Drugs (Special Preventive Measures) Act 1985
DoOAA	Department of Orang Asli Affairs
EC	Election Commission
ECOSOCWG	Economic, Social and Cultural Rights Working Group
EO	Emergency (Public Order and Prevention of Crime) Ordinance 1969

ESCR	Economic, Social and Cultural Rights
EWG	Education and Promotion Working Group
FORUM-ASIA	Asian Forum for Human Rights and Development
GLC	Government-linked Company
GMI	Gerakan Mansuhkan ISA
HRA 1999	Human Rights Commission of Malaysia Act 1999
HRC	United Nations Human Rights Council
ICC	International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IGPSO	Inspector-General of Police Standing Order
IICC	International Issues and Cooperation Committee
IIUM	International Islamic University Malaysia
ILO	International Labour Organisation
IP	Indigenous Peoples
IPRC	Indigenous Peoples' Rights Committee
ISA	Internal Security Act 1960
JAKIM	Islamic Development Department of Malaysia
JAWI	Islamic Affairs Department
KLCC	Kuala Lumpur Convention Centre
KL LAC	Kuala Lumpur Legal Aid Centre
KOMNAS HAM	Indonesian National Human Rights Commission
KPIs	Key Performance Indicators
LGBT	Lesbians, Gays, Bi-Sexuals and Transgender
LRITWG	Law Reform and International Treaties Working Group

MACC	Malaysian Anti-Corruption Commission
MoE	Ministry of Education
MoFA	Ministry of Foreign Affairs
MoH	Ministry of Health
MoHA	Ministry of Home Affairs
MoHE	Ministry of Higher Education
MRRD	Ministry of Rural and Regional Development
MWFCD	Ministry of Women, Family and Community Development
NCL	Native Customary Land
NCR	Native Customary Rights
NGO	Non-governmental Organisation
NHRAP	National Human Rights Action Plan
NHRI	National Human Rights Institution
NHRCT	National Human Rights Commission of Thailand
NI	National Inquiry
NIEW	NAM Institute For the Empowerment of Women Malaysia
NMM	National Monitoring Mechanism
NRD	National Registration Department
NREB	National Resources Environmental Board
OCPD	Officer In-charge of Police District
OHCHR	Office of the High Commissioner for Human Rights
OP	Optional Protocol
OSA	Official Secrets Act 1972
PACOS TRUST	Partner of Community Organisations
PAS	Parti Islam Se-Malaya
PPPA	Printing Presses and Publication Act 1984
PSG	Penan Support Group
PWD	Persons with Disabilities
RELA	People's Volunteer Corps

RMP	Royal Malaysian Police
ROP	Rules of Procedure
RTD	Roundtable Discussion
SAM	Sahabat Alam Malaysia
SCA	ICC Sub-Committee on Accreditation
SEANF	Southeast Asia National Human Rights Institutions Forum
SHRC	Scottish Human Rights Commission
SIS	Sisters in Islam
SOP	Standard Operating Procedure
SRSG	UN Special Representative to the Secretary-General
STA	Sarawak Timber Association
SUARAM	Suara Rakyat Malaysia
SWDM	Social Welfare Department of Malaysia
TIP	Trafficking in Persons
TOT	Training of Trainers
TPLP	Thematic Protection Learning Programme
UBBL	Uniform Building By-Laws
UiTM	Universiti Teknologi Mara
UN	United Nations
UNCT	UN Country Team
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNHCR	United Nations High Commissioner for Refugees
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review
UPSI	Universiti Pendidikan Sultan Idris
VIHR	Vietnamese Institute of Human Rights
WAO	Women's Aid Organisation
WGAD	Working Group on Arbitrary Detention

CHAIRMAN'S MESSAGE

This 10th Annual Report of the Commission to Parliament also represents the first by the current Commission whose members were appointed in April. The Commission continues to receive numerous reports and complaints from members of the public pertaining to human rights abuses and violations. It is indeed encouraging to see that more Malaysians are becoming aware of, and are exercising, their fundamental rights today compared to a decade ago. They are also increasingly seeking the Commission's intervention in supporting their rights. The Commission is responding to the best of its ability, albeit within the constraints of the Human Rights Commission of Malaysia Act 1999 (Act 597).

The Commission owes a debt of gratitude to its 16 predecessors, headed by Tan Sri Abu Talib Othman, for their worthy contributions to the promotion and protection of human rights during their tenure. These have raised the Commission's profile to a respectable level locally and internationally. The current seven-member Commission will continue promoting, protecting and monitoring the human rights situation just as assiduously, in spite of its reduced size, building on the achievements of the past. We believe that there should be no let-up in the quest to realise the ultimate goal of building a society that will have greater appreciation of, and respect for, human rights, thereby making Malaysia a fully human rights-respecting nation that stands proudly in the ranks of leading nations in this field.

The Commission's priority for the year has been to re-address human rights issues raised previously; to follow up on the many recommendations put forward by the previous Commission and other human rights defenders; and to ensure speedy implementation by the relevant Government agencies. Since its inception in 1999, the Commission has played its statutory role of advising the Government and its relevant authorities on matters pertaining to the reformulation of laws and policies and their implementation, as well as monitoring of such laws and policies to ensure consistency between the national laws and human rights principles. We welcome the positive actions taken by the Government towards the betterment of human rights conditions, and look forward to working closely and constructively with the relevant agencies on these matters.

"Among the positive developments have been the inclusion of 'gender' in the Federal Constitution as one of the ground upon which discrimination is prohibited; the improvement of conditions in detention centres an police lock-ups; the ratification of the Convention on the Rights of Persons with Disabilities; the enactment of the Anti-Trafficking in Persons Act 2007; the withdrawal of reservations to Articles

1, 13 and 15 of the Convention on the Rights of the Child and Articles 5(a), 7(b) and 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women; some improvements in public housing and accessibility to healthcare; and making primary education compulsory.

Nonetheless, more needs to be done towards the full adoption and application of international human rights standards. The Commission has perservered in urging the Government to work more energetically towards ratifying the remaining six core human rights treaties; these have not been ratified despite the efforts of the Commission and other human rights groups.

The Commission had, as early as 2001, recommended to the Government to develop a National Human Rights Action Plan (NHRAP), pursuant to the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993. In recent years, the Commission has made several efforts to convince the Government of the benefits of a NHRAP in promoting and protecting human rights. Among other measures, the Commission drafted a proposal on a NHRAP and presented it to the Government for its consideration.

I am pleased to report that the Government has responded positively to this idea and has appointed a Government focal agency to be responsible for the task of preparing and developing the NHRAP, with which the Commission is working closely. As the process will involve close consultations with the relevant Government agencies, non-governmental organisations (NGOs) and civil society, I hope that all those who believe in and value human rights will come forward to make our own NHRAP a reality and a success, so as to enable Malaysia to join the list of other nations that have done so.

Nevertheless, any law, policy or recommendation on the protection of human beings would move at snail's pace and would not be of much significance if society does not change its mindset, perception and approach. Hence, the importance we attach to another aspect of the Commission's functions – advocating human rights by promoting awareness through research, and conducting conferences, seminars and workshops with the aim of disseminating and inculcating human rights values nationwide. These activities include training on general and specific aspects of human rights for various sectors of society such as lawmakers, the Judiciary, law enforcement officials, NGOs, as well as school administrators, teachers and students, including those at the tertiary level.

Over the years, the Commission has carried out a number of Public Inquiries. It has also recommended the repeal of the Internal Security Act 1960 (ISA) and the review of other arbitrary detention legislation; the review of the Printing Presses and Publications Act, Section 27 of the Police Act and the Official Secrets Act, and the abolition of the death penalty and natural life sentence. In continuing these efforts, the Commission is engaging in serious dialogues with the relevant Government agencies with a view to convincing them of the importance of these measures and expediting the process of implementation. In this regard, the Commission welcomes the move to amend the ISA, which it hopes is a first step towards its eventual repeal. The Commission calls upon the Government to ensure that

the amendments adhere to human rights principles *vis-a-vis* the detainees' rights to personal liberty, a fair trial, and to be presumed innocent until proven guilty in compliance with Articles 3, 10 and 11 of the Universal Declaration of Human Rights (UDHR).

In dealing with complaints received on a regular basis, the Commission has also made recommendations, among others, with regard to the failure of the police to act on reports lodged, as well as about arbitrary arrests and detentions, excessive use of force by enforcement officers, and denial of the right to peaceful assembly and to the freedom of expression.

Towards the end of the year, the Commission took a leap forward in the protection of the rights of indigenous peoples by setting up the Indigenous Peoples' Rights Committee, which will function as a focal mechanism in monitoring related violations. The Committee will conduct its first-ever National Inquiry into the rights of indigenous peoples to land, given the fact that most of their complaints are related to land matters — ownership, loss of land through eviction, and the impact of development on their lives and environment. The Commission is of the view that these are critical issues which need to be seriously addressed by both the State and Federal Governments. Hence, the rationale for the National Inquiry which, we hope, will have their full support and cooperation.

Section 21(1) of the Human Rights Commission of Malaysia Act 1999 obligates the Commission to submit its Annual Report to Parliament at the first sitting of the year. Regrettably, while the Report has been submitted without fail over the last 10 years, none of these has ever been debated. As an advisory body without enforcement and prosecution powers, the Commission would strongly urge Members of Parliament to debate the Annual Report or, at the very least, to pick up the key human rights issues highlighted and give their full support to the recommendations put forth, in the interest of protecting and promoting the human rights of the people.

Even if some of the recommendations cannot be implemented at this stage for any reason, such a debate in Parliament would be beneficial to the Commission as well as to the public, and would go a long way in enhancing the prestige and credibility not only of the Commission as a national human rights institution but also the Government, encompassing both its Executive and Legislative branches. It would be a clear and indisputable demonstration of the importance of human rights in the governance of the nation. The time has come for Malaysia, which aspires to be a fully developed country by 2020, to be pro-active and to take the lead on matters relating to human rights.

On a more positive note, the Commission is pleased to report that notwithstanding constraints, it has managed to maintain its 'A' status as a national human rights institution, as measured by its adherence to the Paris Principles. This was accorded by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), following a number of Special Reviews by the ICC Sub-Committee on Accreditation on the Commission. This will certainly inspire the Commission to intensify its efforts towards a higher level of human rights observance.

Hopefully, this will also inspire the Government to live up to its commitment to full observance of the 30 Articles of the UDHR and be counted among the leaders in this field.

In respect of the above, the Commission had in 2009[1] formed an Inter-Working Group (Inter-WG) Committee on the Universal Periodic Review (UPR) Follow-Up. The Inter-WG, comprising focal officers from all Working Groups within the Commission, continues to monitor implementation of the Government's UPR commitments. The monitoring mechanism is important to ensure the steady fulfilment of commitments. The Commission is pleased with some of the progressive efforts thus far and hopes that the monitoring mechanism will encourage the Government to implement its international obligations at a more robust pace.

Notwithstanding the tangible steps taken by the Government, the Commission continues to face a number of challenges which are perennial in nature, not the least of which is the need to continue to engage with Government agencies, especially those with enforcement powers, for the purpose of creating greater awareness, understanding and observance of, and respect for, human rights, as well as of the statutory mandate and role of the Commission.

As Chairman, I wish to acknowledge the many organisations and individuals, Government agencies, the Judiciary, members of the Bar, academicians, community leaders, NGOs and other civil society groups, as well as the mass media for their continuous encouragement of, and support for, the Commission's work — despite deficiencies in some areas — that have made possible the fulfilment of the Commission's mandate.

I wish to express my deep appreciation to the United Nations Country Team and the European Commission for their support and collaboration throughout the year in the realisation of the Commission's vision.

The Commission is equally grateful to the increasing number of human rights defenders for their energetic efforts in promoting awareness and seeking remedies on behalf of those whose rights have been violated. We are inspired by their strong commitment to the UDHR and aspiration to see all human beings live with dignity and respect, as well as protected against discrimination, exclusion, oppression and violence. The Commission will work closely with them, as it will with all stakeholders including Government agencies. Their continued support and cooperation are vital for the full realisation of human rights in Malaysia.

I would like to pay tribute to my fellow Commissioners — the Vice Chairman, Professor Datuk Dr

[1] See Chapter 7 of the Commission's 2009 Annual Report

Khaw Lake Tee — as well as to Professor Datuk Dr Mahmood Zuhdi Haji Abdul Majid, Mr James Nayagam, Mr Muhammad Sha'ani Abdullah, Mr Detta Samen and Mrs Jannie Lasimbang, who have taken time out of their busy schedules to ensure the effective operation of the Commission. I would also like to express my appreciation and gratitude to all staff members of the Commission, headed by the Secretary, Mrs Hashimah Nik Jaafar, for their important and indispensable supportive role in the fulfilment of the Commission's mandate in promoting, protecting and monitoring human rights, and in the preparation and production of this Report.

In conclusion, I would like to reiterate our call to the Government, particularly the relevant agencies, to extend their fullest cooperation and support in considering the Commission's recommendations made over the years that have not been fully implemented. This is important in enhancing the nation's human rights performance, thereby promoting the prestige and credibility of Malaysia — this is considerable in terms of national development and other areas, but lags in the realm of human rights. We need to live up to our commitments to international human rights principles and norms that are enshrined in the UDHR. Lastly, it is vitally important to ensure the independence of the Commission so as to enable it to perform its functions as effectively as possible, without fear or favour, cognizant of the fact that its success in carrying out its mandate as a national human rights institution would also accrue to the Government and the nation as a whole.

In this regard the Commission is addressing the issue of its revitalisation and will present in due course a number of proposals involving the possibilty of effecting further changes and improvements to the Human Rights Commission of Malaysia Act 1999 so that, while the Commission is uniquely Malaysian, its scope of work and operations will be on par with some of the best and most effective national human rights institutions in the world.

In submitting this Annual Report to Parliament, I also recommend it to the people of Malaysia for their understanding of the human rights situation in the hope that, as citizens, they too – individually and collectively – can contribute to its promotion and propagation.

TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia

EXECUTIVE SUMMARY

As the new line-up of Commissioners took office in April, the Commission reiterated its commitment to the full realisation of respect for human rights through promotion and protection activities.

In line with this, the Commission renewed its call for repeal of all laws that allow for detention without trial. Such laws blatantly contradict the core human rights principle which requires persons to be charged before a competent court of law when suspected of committing an offence.

The Commission further stressed the importance of respect for freedom to assemble peacefully. It is the Commission's view that the holding of peaceful assemblies without permits should be decriminalised under Section 27A of the Police Act 1967.

Media freedom is essential to ensure the freedoms of information and expression. Acknowledging this, the Commission called for the repeal of the many laws and regulation restricting the media and opined that the media should instead exercise self-regulation. To achieve this, the Commission recommended the formation of an independent media council.

Recognising that the issue of conversion of a spouse to Islam may lead to disputes over guardianship and maintenance, and that such disputes may be further aggravated by the inconsistent application of *Syariah* law among states throughout Malaysia, the Commission submitted a memorandum to the Conference of Rulers recommending the standardisation of *Syariah* law procedures.

The year saw the Government's commitment to combating trafficking in persons. However, the Commission is concerned by the fact that the smuggling of migrants is included in the Anti-Trafficking in Persons Act 2007. This could have an adverse effect on genuine victims of trafficking.

Complaints about law enforcement officials continued to be brought to the Commission's attention. These were directed at the police in particular, with allegations ranging from inaction on investigating reports to brutality during interrogations, abuse of remand procedures, and indiscriminate discharge of firearms.

Mindful that vulnerable groups require more attention, the Commission emphasised the promotion and protection of the rights of women, children, indigenous peoples, persons with disabilities, the lesbian, gay, bi-sexual and transgender group, migrant workers, asylum seekers and refugees. The Commission remained vigilant on issues affecting them and called on the Government to accord serious attention to their special needs.

Applauding the Government's commitment to develop a National Human Rights Action Plan, the Commission called on the Government to consult appropriate stakeholders in drafting the Plan. The Commission will work closely with the Government in monitoring the implementation of the Government's commitments arising from the Universal Periodic Review process. In addition, mindful that ratification or accession to international human rights treaties would give recognition to many basic fundamental freedoms, the Commission will intensify its calls for ratification or accession to the six main core human rights treaties to which Malaysia has yet to subscribe. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

With regard to the ratification of international human rights instruments, the Commission reiterated that this would demonstrate the country's commitment to enhancing human dignity, as well as promoting and protecting the human rights of citizens. It again called on the Government to strengthen and enhance the power of the Commission to be able to play a significant role in observing and monitoring the Government's implementation deriving from these instruments.

REPORT OF THE EDUCATION AND PROMOTION WORKING GROUP (EWG)

The EWG is an important section in the Commission, being tasked with promoting awareness and providing education on human rights. As in previous years, it took promotional activities on human rights education to schools and universities. The Commission, in collaboration with the Ministry of Education, initiated a project called 'Human Rights Best Practices in Schools' that is aimed at integrating human rights values and principles into school life. Five schools were selected. The Commission, in cooperation with Universiti Pendidikan Sultan Idris (UPSI), is evaluating the effectiveness of the project. The EWG also focused on promoting the rights of Orang Asli children, in particular their access to education and the quality of education. The Commission, bearing in mind that university students will be future leaders of society, organised programmes aimed at sensitising them to human rights issues. These were conducted in collaboration with the relevant universities.

The Commission worked on promoting the rights of women, as evident with the release of the report 'The Status of Women's Rights in Malaysia'. This highlights issues affecting women, *inter alia,* their access to education, healthcare services and employment, as well as problems relating to trafficking and sexual harassment.

Law enforcement officials are often potential violators of human rights. As such, the EWG conducted training on human rights principles and standards for the police, prison officials and People's Volunteer Corps (RELA). Participants were exposed to international human rights instruments and shown the relevance of these to their daily duties.

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP (CIWG)

One of the Commission's main functions is to inquire into complaints regarding infringement of human rights. Over the years, a varying pattern of cases has been seen in the Peninsula, Sabah and Sarawak. In the Peninsula, the complaints are predominantly against law enforcement authorities, especially the police. In Sabah and Sarawak, complaints are typically about violation of indigenous land rights. In addition, Sabah has recorded a high number of complaints on the issue of land matters.

Alongside these are complaints about infringement of the freedom of assembly, freedom of religion and freedom of expression, as well as arbitrary use of preventive detention laws. Hence, the Commission has taken the initiative to monitor public assemblies and the conduct of elections.

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP (LRITWG)

In discharging its function to recommend subscription and/or accession to international human rights instruments and to ensure national laws are consistent with applicable international instruments, the LRITWG has undertaken appropriate research and studies. During the year, the Commission focused on monitoring the implementation of the Government's obligations under the three main conventions ratified by Malaysia – the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. With regard to the first two, the Commission urged the Government to consider withdrawing its reservations and further, to ratify the respective Optional Protocols.

Malaysia has not subscribed to the Convention Relating to the Status of Refugees. As such, the Commission is in the process of examining the Convention with a view to recommending its ratification. The Commission has also embarked on a study to examine issues affecting the rights of the lesbian, gay, bi-sexual and transgender groups.

Recognising that it is crucial for the Commission to appear in court cases involving human rights issues, the Commission is studying the possibility of playing the role of *amicus curiae* in such cases.

REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP (ECOSOCWG)

The ECOSOCWG continued to engage and work closely with the Government, NGOs and civil society organisations to address related issues. Its activities included Roundtable Discussions on human rights, religious freedom, rights of Penan women *vis-a-vis* allegation of rape, trafficking in persons, and on human rights and business. Several meetings were arranged with Government agencies and NGOs to improve working relations.

REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE (IICC)

The Commission undertook several key roles at the international and regional levels to enhance interaction.

At the international level, the Commission participated in activities and meetings organised by the UN International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights (ICC). Much of the discussion centred on the Commission's status in the ICC. This led to amendments to the Human Rights Commission of Malaysia Act 1999 to make it consistent with the Paris Principles as interpreted by the ICC. Following the amendments, the Commission was confirmed on 'A' status.

Regionally, the Commission was involved in the Southeast Asia National Human Rights Institutions Forum (SEANF) and hosted the 7th Annual Meeting from 15-16 November. As a member of the Asia Pacific Forum of National Human Rights Institutions (APF), the Commission participated in activities pertinent to the advancement of regional human rights.

The Commission is now working to engage with the recently established ASEAN Inter-Governmental Commission on Human Rights (AICHR), to build a good working relationship for the promotion and protection of human rights across the region.

REPORT OF THE INDIGENOUS PEOPLES' RIGHTS COMMITTEE (IPRC)

Realising that a concerted effort is required to address issues affecting the rights of indigenous peoples, the Commission established the IPRC during the year. The Committee will assess issues encountered by indigenous peoples in the Peninsula, Sabah and Sarawak in realising their rights. As an initial step, the Commission will focus on customary land rights and on the indigenous legal, education, economy and healthcare systems, before embarking on other issues such as social, cultural, religious and political rights.

REPORT OF THE NATIONAL INQUIRY COMMITTEE

The year saw a landmark for the Commission when it made a decision to hold its first-ever National Inquiry. Pursuant to this, the Commission established the National Inquiry Committee to coordinate needs.

A national inquiry is a mechanism that can be used to achieve the Commission's mandate to look into systemic human rights issues, with a view to solving it through systematic means. The Commission will begin with the land rights of indigenous peoples. The involvement of all relevant stakeholders is important in ensuring a successful National Inquiry, which will kick off in January 2011. It is scheduled to be completed by June 2012.

REPORT OF THE SABAH OFFICE

The Commission's office in Sabah took up complaints mainly on alleged infringement of indigenous land rights and citizenship. In addition, it organised promotional activities targeted at educating the public on human rights. These included road shows that enabled Commissioners to meet the people. In addition, public workshops and seminars were held on matters affecting the rights of indigenous peoples.

REPORT OF THE SARAWAK OFFICE

Apart from investigating complaints, the office in Sarawak also conducted Roundtable Discussions on issues like access to clean water and allegations of encroachment into indigenous land. The office held meetings with Government agencies and civil society organisations to advance the promotion of human rights.

KEY ISSUES

The Commission, whose new members took office on 26 April, maintained the course charted to date in upholding the human rights of Malaysians in general and vulnerable groups in particular. Arbitrary detention and law enforcement are among issues that still create cause for concern.

1. REVIEW OF PREVENTIVE DETENTION LEGISLATION

Statutory provisions that permits preventive detention – such as the Emergency (Public Order and Prevention of Crime) Ordinance 1969, the Dangerous Drugs (Special Preventive Measures) Act 1985 and the Internal Security Act 1960 (ISA) – continued to occupy the Commission's attention. It shares the public sentiment against detention without trial, which goes against the spirit of the Federal Constitution and contravenes Articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR).

Resorting to such laws purportedly for reasons of national security constitutes a serious violation of a person's right to liberty. The Commission has been very consistent in its call to review or repeal preventive detention laws and to bring in legislation that serves security needs while complying with human rights principles. Amendments must ensure, for example, the right to a fair trial and the presumption of innocence until guilt is proven in a court of law.

2. FREEDOM OF ASSEMBLY

The Commission noted that applications for permits to organise peaceful public assemblies were either turned down or were seen to be selectively given to certain groups. The Commission is of the view that, while the Royal Malaysian Police Force have the ultimate authority in deciding on applications, they should act fairly, independently and professionally in respecting the rights of citizens. Summary denial of permits, albeit legal, is not within the intent of authority provided by the Police Act 1967. The Commission therefore called for the repeal of sub-sections (2), (2A)–(2D), (4), (4A), (5), (5A)-(5C), (7) and (8) of Section 27 and Section 27A of the Police Act 1967 and recommended that – where the police find it necessary to control or disperse a crowd – proportionate and non-violent methods should be employed.

The Commission firmly reiterated its stand that the people have a right to participate in peaceful assemblies, as guaranteed by Article 10(1)(b) of the Federal Constitution. The freedom of assembly is also guaranteed under Article 20(1) of the UDHR.

3. FREEDOMS OF EXPRESSION AND INFORMATION

Freedom of expression is enshrined in the UDHR and represents an important democratic value. However, arbitrary application of laws like the ISA, the Official Secrets Act 1972 (OSA), the Sedition Act, and the Printing Presses and Publication Act 1984 (PPPA) has led to certain publications being banned in Malaysia. The withholding or revocation of publishing permits – purportedly to maintain social order – restricts the freedoms of expression and information.

The Commission maintained its call for Article 10 of the Federal Constitution and Article 19 of the UDHR to be respected. The latter states that everyone has the right to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. The Commission recommended the formation of an independent media council to enable industry-led self-regulation, to arbitrate disputes or complaints, and monitor compliance with the professional code of ethics.

4. FREEDOM OF RELIGION – CONVERSION ISSUES

The Commission had submitted a memorandum to the Conference of Rulers in October 2009 which highlighted issues of conversion of a spouse that give rise to other problems including guardianship and maintenance. This is due to the fact that the administration of Islamic law in the enactments of some States, as well as the Federal Territories Act, does not have provisions dealing with such issues. Thus, in the representation to the Conference of Rulers, the Commission called for uniformity in the administration of *Syariah* laws in the States and Federal Territories, and for a clear procedure in conversion cases.

In November 2010, the Commission wrote to the Attorney-General's Chambers to follow up on the matter. In December, the Commission received a reply, stating that steps are being taken to amend laws related to this matter, in order to resolve the problems.

5. TRAFFICKING IN PERSONS

The Commission lauded the amendments to the Anti-Trafficking in Persons Act 2007 (ATIP), taking into account recent developments in Malaysia. However, the Commission is concerned that the amended Act also covers the smuggling of migrants. Trafficking in persons and smuggling of migrants must be treated as separate issues so as to avoid problems in identifying victims of human trafficking. Identifying those trafficked as smuggled migrants may lead to human rights violations, where the victims may be wrongly deported for breaching immigration laws. Conversely, smuggled migrants may obtain protection at shelters to which they are not entitled.

6. LAW ENFORCEMENT

Complaints about the police mainly comprise allegations of inaction in investigating reports, brutality during interrogations and abuse of remand procedures. The situation stems partly from the public perception that the system does not provide for a body to oversee the conduct of police personnel. The Commission therefore reiterated its call for an independent body to serve this function.

It is also vital to note that an important section of the Criminal Procedure Code (CPC) has not been sufficiently well-utilised by the public to pursue their rights in connection with the alleged failure of the police to investigate reports. Under Section 107A of the CPC and subject to certain exemptions, a person making a report may request for, and shall be informed of, the status report of the investigation from the officer-in-charge of the police station. Invocation of this provision will ensure that due attention is given to police reports.

The death of several individuals due to the discharge of firearms by the police featured prominently in the media during the year. The Commission is of the view that firearms should be used strictly in self-defence and that the Standard Operating Procedure in discharging firearms should be re-examined. The police should observe the United Nations Code of Conduct for Law Enforcement Officials 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990 in discharging their duties.

7. RIGHTS OF VULNERABLE GROUPS

(a) Women and Children

The Commission applauded the move to withdraw the Government's reservations to Articles 5(a), 7(b) and 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Articles 1, 13 and 15 of the Convention on the Rights of the Child (CRC) in July. It will continue to monitor the implementation of the two Conventions and to strive for the withdrawal of the remaining reservations to both treaties.

The issue of abandoned babies has raised great concern in all segments of society. Women have a right to deliver babies regardless of negative public perception or the fear of laws criminalising the act of abandonment. The Commission is of the view that the rights of women and children must be upheld and will continue to collaborate with relevant agencies and NGOs on this matter.

The Commission is in full support of the steps taken by the Ministry of Women, Family and Community Development in gathering input for a Gender Equality law. It is the Commission's hope that the proposed law will protect the rights of women.

In observing and monitoring the Government's implementation of both the CRC and CEDAW, the Commission is pursuing several recommendations of the CEDAW Committee and CRC Committee to reinforce the protection of the rights of women and children.

(b) Indigenous Peoples

Land matters accounted for the highest number of complaints received, after issues relating to citizenship; both matters were lodged mainly by indigenous peoples. The more serious allegations were about violation of customary rights to land, claimed either as individual or collective property. Other complaints were about discrimination; rape of some Penan girls and women in Sarawak; limited opportunities for the indigenous peoples to determine priorities for their own development; and lack of effective participation in decision-making processes affecting their land and way of life. Through engagement with indigenous communities, the Commission also identified that they have limited access to education, healthcare and other basic services. Furthermore, there is a need to recognise and promote their perspectives in education, healthcare and legal systems.

(c) Persons with Disabilities

In July, the Government ratified the Convention on the Rights of Persons with Disabilities (CRPD). The Commission then reviewed the provisions and found no contradiction between the CRPD, Persons with Disabilities (PWD) Act 2008 and the National Policy. Nonetheless, the Commission is of the opinion that a more comprehensive Act is required to reflect the Convention and cover all the rights of PWD.

At the same time, the Commission is of the view that there is a need for all Government agencies to strictly enforce existing guidelines and by-laws relating to PWD so that they can better access the facilities provided by the Government.

Pursuant to Article 33(2) of the CRPD, the Commission expressed its hope that the Government will give due regard to the Commission's recommendation for a National Monitoring Mechanism to observe the implementation of the Convention.

(d) Lesbian, Gay, Bi-Sexual and Transgender Groups (LGBT)

The Commission is deeply concerned about frequent complaints that the human rights of the LGBT group have been violated. It is alleged that they are bullied, degraded and intimidated due to their sexual orientation. The Commission stands firm that their human rights and fundamental liberties must be upheld and respected at all times. There can be no justification in harming them, no matter how different they are or how unacceptable their LGBT-related actions are to the majority.

(e) Migrant Workers, Asylum Seekers and Refugees

(i) Rights of migrant workers

Based on the Commission's research, the major problems faced by migrant workers involved forced labour, irregular working hours, incomplete or irregular payment of wages, deplorable living conditions, physical, psychological and sexual abuse, harassment by law enforcement personnel, denial of the right to unionise, levying of exorbitant processing fees, problems over the contract of employment, outsourcing of recruitment, and disputes/court proceedings.

In January 2008, the Commission had led a joint study on migrant workers entitled 'Research on Migrant Workers to Cover Issues and Problems of Sending and Receiving Countries: Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers'.[1]

Among the key recommendations to the Government of Malaysia were:

- To review laws and policies that are inconsistent with UN and ILO conventions to which Malaysia is a party;
- To amend labour laws to include 'domestic work' under legal coverage;
- To grant the request of the Special Rapporteur on the Human Rights of Migrants to officially visit Malaysia;
- To launch a public campaign against employers' seizure of migrant workers' passports;
- To scrap the system of labour outsourcing and replace it with a system to be operated by the Ministry of Human Resources;
- To ensure that conditions in places of detention are in compliance with internationally recognised human rights standards;
- To assign medical staff to be permanently based at Immigration Detention Centres;
- To collaborate closely with governments of sending countries in resolving migrant workers' problems;

[1] The aim of the project, which is under the SEANF, is to identify the situation of migrant workers from both sending and receiving countries and to advocate for appropriate actions to be taken by the ASEAN governments in addressing the issues of migrant workers. See Chapter 5 of this report for details.

- To develop a comprehensive legal and policy framework to regulate the recruitment, admission, placement, treatment, and repatriation of migrant workers; and

- To develop measures to identify trafficking in persons among migrant workers.

These recommendations were developed to promote greater consideration among policy makers on the importance of placing human rights at the centre of policy discussions, as well as in the drafting of the ASEAN Instrument for the Protection and Promotion of the Rights of Migrant Workers.

(ii) Rights of asylum seekers and refugees

Currently, there are no laws governing asylum seekers and refugees in Malaysia, while the rights of refugees are very limited. Asylum seekers and refugees continue to be arrested, detained and sentenced for immigration offences – even including those who have documents from United Nations High Commissioner for Refugees (UNHCR).

In this regard, the Commission reiterated that Malaysia, as a member of the United Nations and the Human Rights Council, is obligated to protect and assist asylum seekers and refugees, even though it has not acceded to the relevant international conventions.

The Commission will pursue its previous recommendations[2] and work with the Ministry of Home Affairs, the Ministry of Foreign Affairs and the UNHCR to make accession to the relevant international conventions a reality. The Commission also recommended that the Government provides better living conditions for refugees.

8. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

The Commission is pleased with the positive steps taken by the Government to develop a NHRAP as part of its progressive efforts to improve the promotion and protection of human rights.

While the Commission recognises that the Government's focal agency has the lead role in developing the NHRAP, it is also of the view that all sectors of the society should participate directly and indirectly in its preparation and development, as ultimately the NHRAP will belong to the people. In this regard, the Commission proposed the setting up of a pro-tem committee comprising representatives of stakeholders to assist the focal agency at the preparatory stage, and with baseline studies to identify key concerns to be addressed in the NHRAP.

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[2] Page 107 of SUHAKAM's Annual Report 2007

As the national human rights institution (NHRI), the Commission will play a significant role in the drafting of the NHRAP, as well as in monitoring its implementation. The Commission appreciates the Government's initiative in engaging the Commission at the preparatory stage and hopes that this relationship will be strengthened through regular consultations and engagements.

9. UNIVERSAL PERIODIC REVIEW (UPR)

While recognising that the State bears primary responsibility in implementing the UPR outcomes, other relevant stakeholders such as the NHRI can also play an essential role in ensuring implementation. Building on this basis, the Commission has undertaken the following steps:

- The establishment of an internal committee on the UPR Follow-up;
- The dissemination of the UPR process and outcomes to various stakeholders;
- The facilitation of consultation with key stakeholders, in particular the relevant Government agencies, to obtain updates concerning the implementation of the UPR recommendations by the Government; and
- The development of a checklist that contains the UPR recommendations and implementation progress by the Government.

Malaysia is approaching the second-half of its four-year term to implement all the recommendations it adopted in 2009. Its progress in implementation will be revisited by the UPR Working Group in subsequent reviews. The Commission is pleased to note the Government's initiative in establishing an Inter-Agency Coordinating Committee to implement the recommendations. However, the Commission is of the opinion that full realisation of the recommendations can only be measured after implementation, when tangible changes have been achieved in improving the state of human rights. In this regard, the Commission will continue working with the Government and other stakeholders in ensuring that the UPR follow-up process succeeds.

10. RATIFICATION OF CORE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Since its inception, the Commission has continuously encouraged Malaysia to ratify or accede to all international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, the Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) and the International Convention on the Protection of All Persons from Enforced Disappearance (CED).

In 2004, the Commission had reiterated its call to the Government to ratify the ICCPR, ICESCR, CAT and Optional Protocols to the CRC without further delay. These are essential instruments to demonstrate the country's commitment towards eradicating poverty, protecting socio-economic rights, enhancing human dignity and promoting the civil and political rights of citizens.

The Commission again called on the Government to strengthen and enhance the power of the Commission to be able to play a significant role in observing and monitoring the Government's implementation deriving from these instruments.

CHAPTER 1

REPORT OF THE EDUCATION AND PROMOTION WORKING GROUP

The focus for the year was to follow up on programmes in place, to ensure continuity and sustainability in efforts to raise human rights awareness among the target groups.

The Education and Promotion Working Group (EWG) organised human rights education in schools, tertiary institutions, and for the Orang Asli, women, youth and law enforcement agencies. It also published two reports – 'The Status of Education among Orang Asli Children' and 'The Status of Women's Rights in Malaysia'.

1. RIGHT TO EDUCATION

(a) Human Rights Best Practices in Schools

In June 2009, the Commission embarked on a pilot project called 'Human Rights Best Practices in School' in collaboration with the Ministry of Education. The EWG has since worked closely with the five selected secondary schools to provide guidance during visits conducted at least three times during the year. The visits have helped the Commission to monitor the progress of implemention and to ensure that the programme remains true to its objectives. Members of the Commission's Sub-Committee on Human Rights Education in Schools joined the visits and provided input based on their expertise.

The response from schools in developing activities has been encouraging. All five have implemented programmes to instill human rights values among students and the school community.

(i) SMK Sultan Abdul Aziz, Teluk Intan, Perak
The Commission was informed that the number of disciplinary cases has dropped since the introduction of election of prefects. The students have more trust in, and respect for, candidates of their choice. The Commission observed that, with the right guidance from the school, elections can be held and that there is active participation among students.

(ii) SMK Seksyen 9, Shah Alam, Selangor
'Peti Suara Hati' provides an avenue for students to participate in matters affecting their interests. It enables students to express their views, voice dissatisfaction or offer suggestions to the school administration. The students feel appreciated when their grouses or suggestions are taken up,

and learn to exercise their rights responsibly. The school also provides education and equal opportunities to special students. The Commission observed that these students do not feel any form of discrimination or segregation by the school community.

(iii) SMK Taman Tun Dr Ismail, Kuala Lumpur
The school allows students to plan and implement certain programmes with minimum supervision. For example, the students organised a 'Dinner for Prefects' at a hotel in Kuala Lumpur. It further encourages parental involvement to strengthen cooperation and understanding.

(iv) SMK Datuk Mansur, Bahau, Negeri Sembilan
It organised essay-writing and art competitions based on human rights values. During the school's Human Rights Week, activities included the drawing of murals based on Articles in the Convention on the Rights of the Child.

(v) SMK Munshi Abdullah, Batu Berendam, Melaka
It has allocated a space themed *'Pondok Hak Asasi'* to display materials on human rights for the use of students. The school also makes use of its radio programme to disseminate information and activities on human rights.

Election of prefects at SMK Sultan Abdul Aziz, Teluk Intan, Perak – a disabled student gets assistance in casting her vote.

Based on its observations, the Commission felt the schools should:

- Improve documentation of the activities under the programme for evaluation and reference purposes;

- Involve more teachers and the rest of school community in the programme, as instilling a human rights culture requires wide participation; and

- Enhance integration especially among students at lower secondary level to reduce bullying, fights between students of different races, and diciplinary problems that affect human rights.

To evaluate the effectiveness of the programme, the Commission is collaborating with the Universiti Pendidikan Sultan Idris (UPSI) to conduct a formative study. This will help the Commission to fine-tune the details, before expanding the programme to other schools.

(b) Right to Education for the Orang Asli Children

Laws at the domestic and international level guarantee the indigenous peoples the right to education. Most Government agencies are of the opinion that indigenous peoples and their children should receive mainstream education under the principle of equality.

The report of the Expert Mechanism on the Rights of Indigenous Peoples[1] supports the delivery of a system of learning that covers indigenous culture, history, customs and beliefs. Malaysia has adhered to the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which raises similar issues:

- Article 14(1): Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

- Article 14(3): States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

[1] http://www.ohchr.org/EN/NewsEvents/Pages/QualityEducationForIndigenousPeoples.aspx

- Article 15: Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

Given these concerns, the EWG's main activities for the year observed and evaluated the status of education received by the Malaysian indigenous communities.

Table 1: Activities on Status of Education in Indigenous Communities

NO.	ACTIVITY	DATE	VENUE
1.	Roundtable Discussion on 'Status of the Right to Education of Indigenous Children'	4 March	Kuala Lumpur
2.	Visit to school and settlement of indigenous peoples	13 May	Lanchang, Pahang
3.	Follow-up meeting on Roundtable Discussion on 'Status of the Right to Education of Indigenous Children'	8 June	Lanchang, Pahang
4.	Visit to school and settlement of indigenous peoples	20 July	Raub, Pahang
5.	Visit to school and settlement of indigenous peoples	21-24 June	Gua Musang, Kelantan
6.	Follow-up meeting on Roundtable Discussion on 'Status of the Right to Education of Indigenous Children'	14-15 July	Kuala Betis, Kelantan
7.	Visit to school and settlement of indigenous peoples	16-20 Aug	Batang Padang District, Perak
8.	Visit to school and settlement of indigenous peoples	26 Sept - 1 Oct	Hulu Perak District, Perak
9.	Visit to school and settlement of indigenous peoples	13 Oct	Sungai Tiang, Gerik, Perak Kampung Sungai Kejar, Gerik, Perak
10.	Follow-up meeting on Roundtable Discussion on 'Status of the Right to Education of Indigenous Children'	14 Oct	Hulu Perak, Gerik, Perak

Orang Asli parents expressing their views at the follow-up dialogue with Government agencies

(i) Roundtable Discussion on 'Status of the Right to Education of Indigenous Children'
Ministry of Education (MoE), Ministry of Rural and Regional Development, Ministry of Health, Department of Orang Asli Affairs (DoOAA), National Registration Department, and Social Welfare Department.

The ministries and agencies were receptive to issues highlighted by the Commission. Some have since acted on needs like the issuance of Mykad; transportation in Kelantan; management of *Kumpulan Wang Amanah Pelajar Miskin* – a fund for poor students; and management of the food supplement plan and food assistance programme by DoOAA.

The Commission has published the findings of the Roundtable Discussion as a reference-point for further action by stakeholders.

(ii) Visit to schools and settlements of indigenous peoples
The objective was to observe the actions carried out by the relevant agencies into issues highlighted during the Roundtable Discussion. At the first follow-up meeting held in Kuala Gandah, Lanchang, Pahang, the Commission observed that certain agencies had not provided accurate feedback on the situation on the ground.

Therefore, the Commission visited several schools and settlements to observe the conditions. The visits were held in collaboration with the DoOAA, MoE, UPSI, Institut Aminuddin Baki and the Teachers Training Institute.

(iii) Discussions with the indigenous community, the school authorities and local agencies revealed that:

- The MoE's 'Clean Water Supply' project to rural schools had failed to provide clean water in the Batang Padang and Hulu Perak districts.

- 24-hour electricity supply had failed due to problems with the grid (wiring), generator (faulty or insufficient fuel supply) or solar hybrid system (failure to accommodate school's needs).

- The roads connecting rural areas were not well maintained, leading to vehicles breaking down and endangering the safety of students and teachers.

- The hostel at SK Bidor did not have wardens, leaving the watchman to look after 130 students at night.

- The hostels at SK Bidor, Batang Padang; SMK Tengku Kudin-Raub; and SMK Sultan Idris, Hulu Perak were crowded and lacked comfort and safety. The supply of basic needs was poor.

- The alternative curriculum that was to have been implemented in certain schools had either not been carried out or was not being carried out properly. Moreover, most schools have ceased to implement this curriculum due to ambiguity in instructions from the agencies responsible. The Commission found that new teachers had not been properly trained on how to teach using this curriculum; in fact the teaching equipment for Year 4 students had not been provided until late August 2010. The Commission was informed that the curriculum will be replaced with a model which closely resembles the mainstream curriculum.

(iv) Follow-up meetings

The Commission found that certain issues highlighted during the discussions had yet to be rectified:

- Children were still not attending school because there was no facility near their settlement.

- There were transportation problems in Pahang and Perak.

- Attendance in school was poor.

- There were problems with implementing the alternative curriculum as envisioned in the Convention on the Rights of the Child (CRC) and UNDRIP.

The Commission's Recommendations

1. The agencies directly involved with the education of the children of indigenous peoples – MoE and DoOAA – should enhance their delivery system to resolve outstanding issues.

2. Officers involved should have the right attitude, knowledge and skills in carrying out their duties. A capacity-building programme focusing on the lives of the indigenous peoples should be implemented in a planned and scheduled manner. The selection of capable personnel is also crucial in ensuring that implementation of all policies, rules, decisions and plans result in accessible and quality education.

3. Agencies should not hold back the indigenous peoples from participating in mainstream development. The best interests of these communities should be taken into consideration, without disregarding their unique needs. Every decision made must factor in their customs and culture.

4. Agencies should involve the indigenous peoples in decisions that relate to their education and that of their children.

5. The involvement and participation of non-governmental organisations (NGOs) and volunteers as well as the corporate sector should be encouraged in order to upgrade education for the indigenous peoples.

(c) Other Concerns on Education

(i) Proposal to abolish *UPSR* and *PMR* examinations

From time to time, the Government reviews the education system to ensure that it is current and relevant to the needs of students. In this respect, the MoE has proposed a review of the *Ujian Penilaian Sekolah Rendah* (Primary School Evaluation Test) and the *Penilaian Menengah Rendah* (Lower Secondary Assessment) examination. A new format is to be introduced in 2016, upgrading the UPSR and replacing the PMR with a school assessment system.

The Malaysian education system is based on assessment via examinations, which means that those who are academically inclined would fare better. The Commission is of the view that the education system itself must be revamped, in order to be fair to all students.

(ii) Racist remarks in schools

Two incidents saw race-based abuse against certain students in schools in Johor and Kedah respectively. Discrimination and racism have no place in education, in particular by educators. The Convention on the Elimination of All Forms of Racial Discrimination calls on all Governments to take measures to prevent manifestations of racial, religious and national hatred. Unfortunately, Malaysia is among the 16 countries that have yet to ratify the Convention.

2. HUMAN RIGHTS EDUCATION FOR YOUTH

The Commission continued to organise human rights workshops for undergraduates in public universities, to sensitise them to related issues and give them a platform to discuss their views. Participants showed interest in issues such as freedom of speech. For example, some universities have set up a 'Speakers Corner' to enable students to express their views. Although a positive development, it was felt that much more could be done to encourage participation by students.

Additionally, training was provided to youth in NGOs. Participants discussed their role in claiming their human rights and exercising these with responsibility. They also said they should be consulted whenever the Government drafts policies on issues affecting their interests.

3. RIGHTS OF WOMEN

The EWG published a report on the 'Status of Women's Rights in Malaysia', bringing together the results of discussions and activities to date on women and their rights to education, healthcare and employment. It also touches on trafficking of women, sexual harassment at the workplace and rights of disadvantaged women including persons with disability, indigenous women and female migrant workers. The report calls for the enactment of national law to give effect to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

The EWG had hoped to continue with training on women's rights for Gender Focal Points (GFPs). In the previous years, such training had been conducted with the assistance of the Ministry of Women, Family and Community Development. Due to certain problems within the GFPs, however, the Commission was unable to conduct training programmes during the year.

4. HUMAN RIGHTS TRAINING FOR ENFORCEMENT AGENCIES

(a) Training for the Royal Malaysian Police

The on-going series of workshops saw 149 officers-in-charge (OCS) of police stations in Kelantan, Terengganu and Pahang being trained between May and October. Resource persons from several human rights organisations were invited to speak on themes relating to policies and daily duties of OCS. The participants were assigned case studies on issues and procedures related to death in custody, remand orders, domestic violence, child abuse, freedom of assembly and the interrogation process. Other issues included rights during arrest and detention, rights of the police officers and misuse of power by police officers.

Special attention was given to the Commission's views on human rights in the investigation process. Participants were informed that the police should not detain anyone without trial as this is a clear violation of human rights standards. Legislation that allows detention without trial such as the Internal Security Act 1960 and the Emergency (Public Order and Prevention of Crime) Ordinance 1969 have been open to abuse, based on previous complaints. The Commission strongly believes that everyone has a right to a fair trial.

Another key issue addressed was on the freedom of assembly. Since its establishment, the Commission had conducted three Public Inquiries[2] relating to freedom of assembly, and proposed guidelines for both the police and organiser. These guidelines, shared with the participants, emphasised that:

- The law on assemblies should be applied equally and without discrimination.
- A cooperation model between the police and the organiser of assembly should be exercised – the organiser should inform the police about the intended assembly, thereby negating the need for a permit.
- The authorities, including managers of public places, should allow the use of such places for gatherings organised by all sectors of the society without any discrimination.
- Roadblocks should not be used to prevent assemblies from taking place.
- Police personnel should display individual identification, especially on the outer part of the body armour.

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[2] Inquiry on Its Own Motion into the 5 November 2001 Incident at the KESAS Highway; Public Inquiry: Incident at KLCC on 28 May 2006; and Public Inquiry into the Arrest and Detention of Five Lawyers of the Kuala Lumpur Legal Aid Centre at the Brickfields Police Station on 7 May 2009

It was further stressed that, if the assembly is conducted peacefully, then the police should cooperate to ensure that the event runs smoothly and the people attending it are safe. Regrettably, the police have prevented people from assembling due to security reasons but have never been able to explain the purported risks.

The Commission recommended that the police should perform their duties in accordance with the law, without discrimination on political, religious or other basis. The Commission has observed that the police have taken action against assemblies associated with opposition parties, but not against assemblies conducted by parties affiliated to the Government. The participants were advised that the police cannot make decisions based on presumptions, but must consider clear indications and facts.

On this issue, it is noted that the feedback from Ministries and Government agencies to the Commission's 2008 Annual Report refered to Articles 4[3] and 21[4] of the International Covenant on Civil and Political Rights to justify their action in restricting freedom of assembly. This is despite the fact that Malaysia is among the UN member-states[5] which have yet to accede to the treaty.

During the workshops, participants expressed their concern for personnel who regularly interact with suspects who have symptoms of disease or critical illness. The Commission suggested that all police personnel be given vaccine injections and necessary equipment for preventive measures.

In August, the Commission organised its first Workshop on the CRC and CEDAW for 30 investigation officers from the Sexual and Child Investigation Division (D11). Apart from familiarising them with the principles of the two Conventions, attention was given to how they should apply the provisions in their daily work.

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[3] Article 4: 1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from Articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

[4] Article 21: The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.

[5] These countries include Bhutan, Myanmar, Oman, Qatar, Saudi Arabia and the UAE.

Police officers presenting the outcome of their discussions on women's and children's rights

They were reminded to be sensitive to the rights of children and women, and to give special protection to victims of rape or domestic violence who seek help or lodge a report. For instance, the officer on duty at the counter should be professional and courteous in receiving such reports. The police should also avail themselves of training on handling cases involving children and women, so as to elicit full cooperation. Without this, investigations could be delayed. The Commission also briefed participants about improvements to the process. One recent initiative is to allow women and children to be taken into a private room when they lodge a report or make a complaint.

At the end of the programme, participants prepared an action plan to explain how they would share the input with their subordinates. They were asked to consider the target audience, delivery methods and time required. The Commission will monitor implementation of the action plan, evaluating its effectiveness after three months.

(b) Training for Prison Officials

Four workshops were held from 14-16 April, 27-30 June, 26-29 September and 29 November-1 December. The training was jointly organised by the Commission and the Prison Department's Correctional Academy. The participants comprised 140 senior officials.

The officials were told that they had a role in protecting human rights and to integrate these in their daily work. It was also emphasised that the purpose of a prison is to rehabilitate prisoners and not to punish them. Participants were exposed to the international human rights standards relevant to their work.

Among the topics discussed were the rights of children and women, the right to physical and moral integrity, the right to an adequate standard of living, the right to health, making prisons a safe place and the best use of prisons, special categories of prisoners who include women and juveniles and persons under detention without sentence. Role-play and discussion of case studies were used to reinforce the training.

(c) Talks for RELA Members

The Commission increased its focus on the People's Volunteer Corps (RELA) in widening their exposure to human rights values. The Commission was invited to talk on human rights at RELA training courses across Malaysia. The Commission itself organised two training-of-trainers sessions for senior officers.

The Commission, which has conducted training for RELA since 2007, also monitors complaints against its personnel. In 2008, the number of cases received by the Commission was six. From 2009 to August 2010, there were no complaints to the Commission. In addition, the 2009 Annual Report of Suara Rakyat Malaysia (SUARAM)[6] did not report any cases involving RELA.

There are two possibilities for the decrease in complaints. Firstly, this could be an outcome of the human rights awareness programmes conducted by the Commission as well as improvements within RELA's Standard Operating Procedure. Secondly, RELA no longer conducts operations on its own, but only assists enforcement agencies like the Immigration Department and the Royal Malaysian Police.

Still, the Commission would like to see a systematic recruitment process in RELA which carefully evaluates each candidate's background and qualifications. This is especially in view of RELA's intention to recruit 2.5 million members,[7] especially those aged between 16 and 40 years, before the end of 2012. The Commission therefore proposed that RELA reviews the effectiveness of its training, in view of the policy requiring recruits to attend a basic course for just seven days. A longer and comprehensive period of training should be considered before they are appointed as full members.

[6] SUARAM: Malaysia Human Rights Report 2009: Civil Political Rights

[7] http://mstar.com.my/berita/cerita.asp?file=/2010/8/4/mstar_berita/20100804113819&sec=mstar_berita

5. IN-HOUSE TRAINING

The EWG organised training for the Commission's staff members, to enhance their human rights knowledge. Experienced speakers and facilitators conducted these sessions.

Table 2: Training Programmes

NO.	TOPIC	DATE
1.	Movie screening: *Gadoh*	19 Feb
2.	Talk on Economic, Social and Cultural Rights	3 March
3.	Talk on Rights of Indigenous Peoples	24 May
4.	Movie screening: *10 Tahun Sebelum Merdeka*	11 June
5.	Talk on Human rights and the Environment	25 June
6.	Training on Non-Discrimination	2-3 Nov
7.	Motivational talk on Work Ethic	12 Nov

6. LIBRARY

The Commission operates the only specialised Human Rights Library in Malaysia. It offers a collection of human rights materials to support the work of the Commission and other interested parties. The collection comprises a wide range of books and journals, and archival resources.

To expand the services, the Commission decided during the year that all former members and staff of the Commission may borrow materials. Members of public may make use of the reference material on the premises.

CHAPTER 2

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

The Human Rights Commission of Malaysia Act 1999 stipulates that one of the main functions of the Commission is to inquire into complaints regarding the infringement of human rights. The Commission's powers and functions under Section 4 to inquire into such allegations are carried out by the Complaints and Inquiries Working Group (CIWG).

1. RESOLUTION OF COMPLAINTS

The Commission received 1,005 complaints (Figure 1) at its Kuala Lumpur, Kota Kinabalu and Kuching offices during the year, of which 42 were in the form of memoranda.

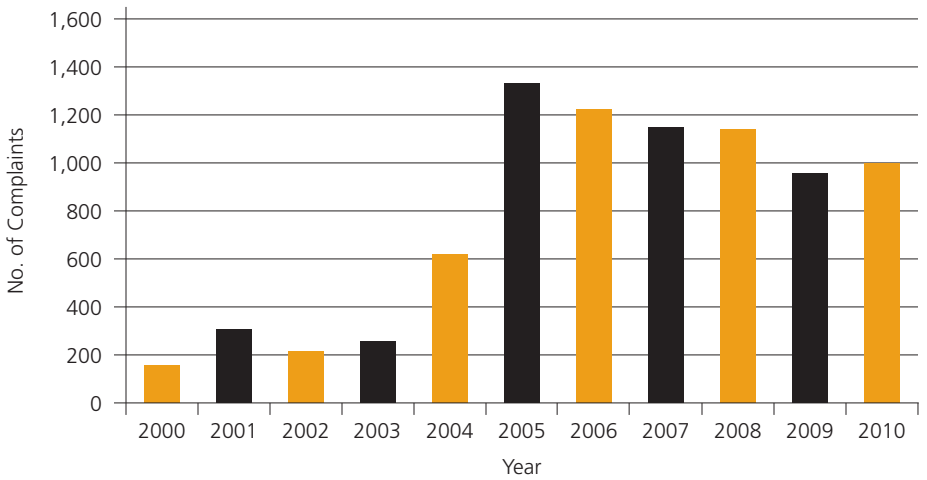

Figure 1: Complaints Received

The Commission found that 437 complaints fell outside of its jurisdiction. These included:

- Administrative issues which should be addressed by the relevant agencies without delay;
- Complaints which were criminal in nature requiring criminal investigation and which were therefore referred to the police or other investigation agencies;

- Complaints that were pending before the Courts or had been disposed of by the Courts; and
- Complaints that were under the jurisdiction of professional bodies.

Complaints classified as 'Cases outside the Commission's jurisdiction' were referred to the appropriate agencies for action.

Of the 572 complaints accepted (Table 1), the Commission has completed investigations into 215, while the rest are still under investigation (Figure 2).

Table 1: Breakdown of Human Rights Complaints, 2010

NO.	COMPLAINTS	PENINSULA	SABAH	SARAWAK
1.	Government Agencies (i) Police Force (a) Inaction (b) Excessive use of force (c) Abuse of power (ii) National Registration Department (iii) Immigration Department (iv) Prison Department	 57 30 18 15 9 7	 9 56	 11
2.	Preventive Detention Laws (i) Emergency (Public Order and Prevention of Crime) Ordinance 1969 (ii) Dangerous Drug (Special Preventive Measures) Act 1985 (iii) Internal Security Act 1960	 64 11 2	 5	
3.	Land Matters	9	92	27
4.	Migrant Workers	33		
5.	Refugees	30		
6.	Freedom of Religion	2		
7.	Freedom of Expression	2		
8.	Others	52	29	2
	Total	**341**	**191**	**40**

The nature of complaints varied at each location:

- In the Peninsula, the complaints were related mainly to detention under the Emergency (Public Order and Prevention of Crime) Ordinance 1969 (64 cases) and police inaction (57 cases).

- In Sabah, the majority of grievances were about land matters (92 cases) and citizenship issues (56 cases).

- In Sarawak, most of the complaints were about alleged infringement of the indigenous peoples' customary rights to land (27 cases).

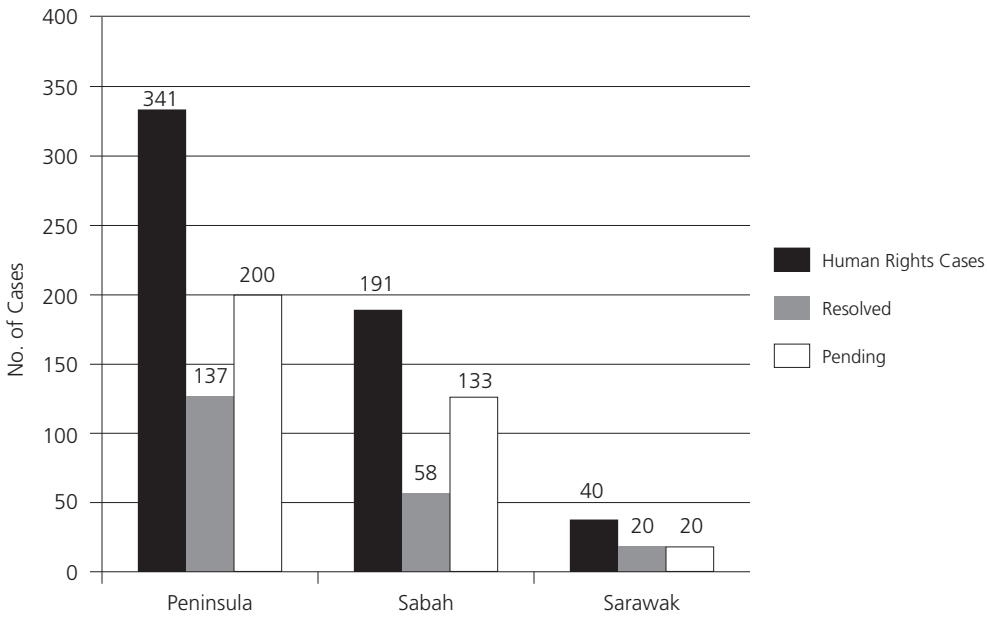

Figure 2: Resolved and Pending Cases

2. CORE ISSUES IN COMPLAINTS

(a) Complaints against the Royal Malaysian Police (RMP)

The 125 complaints received were in relation to alleged police inaction in investigating reports lodged, excessive use of force or acts of brutality, and abuse of power.

The Commission is of the view that the large number of complaints against the police every year is probably due to the expectations that the public have of the RMP to safeguard the safety and security of the nation, and the extensive power that the law provides it to carry out such responsibility.

On 3 May, the Commission received a memorandum from Pakatan Rakyat on the fatal shooting of a 15-year-old boy, Aminulrasyid Amzah, who was driving his sister's car. He was apparently shot dead by the police when he refused to stop the vehicle when ordered to do so at Section 11 in Shah Alam, Selangor, on 26 April. Immediately after the incident, the police made a public statement claiming that the boy was suspected of being involved in criminal activities. The police further claimed that they had found a weapon in the car. The boy's family denied the allegations. The incident triggered public anger and prompted the Government to form an eight-member panel headed by the Deputy Minister of the Ministry of Home Affairs to monitor the police investigation into the incident, as well as to look into the procedure in discharging firearms. On 10 May, a police corporal was charged with causing death by negligence, under Section 304A[1] of the Penal Code, in the Shah Alam Sessions Court.

As the matter is before the Court, the Commission decided not to inquire into the incident. However, in August, the Commission requested information from the head of the special panel, as to its actions or recommendations with regard to the rules on the use of firearms by police personnel. In response, the Deputy Minister of the Ministry of Home Affairs said the panel was satisfied with the police investigation which was transparent, expeditious and covered all aspects. He also said that the panel had recommended a few improvements to the Inspector-General of Police Standing Order. However no elaboration was given on these recommendations.

The Commission views the use of firearms as an extreme measure. Non-lethal means and instruments such as electric tasers should be employed. In the event that the use of firearms is inevitable, this should be strictly for self-defence or to incapacitate the suspect but not to cause death. Therefore the Commission recommends that the police should observe the United Nations Code of Conduct for Law Enforcement Officials 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990 in discharging their duty. While stressing that there should be strict controls

[1] Section 304A of Penal Code: Causing death by negligence: Whoever causes the death of any person, by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

on the use of firearms by police personnel, the Commission also holds the view that the public should observe the laws. All Malaysians need to learn from the incident to prevent recurrence.

It is to be noted that in most of the allegations of police inaction, the complainants were not aware of Section 107A[2] of the Criminal Procedure Code (CPC) under which any complainant is entitled, subject to certain exemptions under that section, to a report of the status of investigation from the officer-in-charge of the police station. While commending the positive action on the part of the police to comply with this provision, the Commission also urges them to intensify efforts in investigating reports.

(b) Public Inquiry

The Commission further calls on the police to ensure strict adherence to the statutory right of persons arrested to consult a lawyer. This is in line with Section 28A of the CPC which requires the police to inform a person arrested of the reason for this and of the person's right to contact the family and a lawyer. This issue was discussed in length at the Public Inquiry into the Arrest of Five Lawyers of the Kuala Lumpur Legal Aid Centre on 7 May 2009 at the Brickfields Police Station, Kuala Lumpur, as reported in the Commission's 2009 Annual Report. The Public Inquiry was concluded in April 2010. The Panel of Inquiry was of the opinion that the arrest and detention of the lawyers constituted a denial of legal representation and a contravention of Article 5(3)[3] of the Federal Constitution and

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[2] Section 107A. Report on status of investigation:

(1) Any person who has given information under Section 107 may request for a report on the status of the investigation of the offence complained of in his information from the officer-in-charge of a police station where he gave the information.

(2) The officer-in-charge of a police station shall give a status report on the investigation of such offence to the informant not later than two weeks from the receipt of the request made under subsection (1).

(3) Notwithstanding subsection (2), no officer-in-charge of a police station shall be required to provide a status report on an investigation of an offence:

(a) unless the offence complained of is a seizable offence;
(b) unless a period of four weeks has lapsed from the date of the giving of the information under Section 107; and
(c) which contains any matter that is likely to adversely affect the investigation into the offence or the prosecution of the offence.

(4) Where a request has been made under subsection (1) and the officer–in-charge of the police station has failed to furnish the informant with a status report within the period specified in subsection (2), but subject to subsection (3), the informant may make a report to the Public Prosecutor of the failure.

(5) Upon receipt of the report under subsection (4), the Public Prosecutor shall direct the officer-in-charge of the Police District to furnish him with a detailed status report on the investigation that has been conducted by the police in relation to the offence in the information given by the informant.

(6) The Public Prosecutor shall cause to be furnished to the informant, or direct the officer-in-charge of the Police District to furnish to the informant, a status report containing such information as may be directed by the Public Prosecutor.

[3] Article 5(3) of FC: Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice

Section 28A[4] of the CPC. The Panel found that the officer who made the order had acted *mala fide* and had improper motives in making the order to deny access to counsel. Although the provision states that this right can be temporarily denied, the Commission urges the police to use the exemptions stipulated only in exceptional and genuine cases.

(c) Complaints from Indigenous Peoples

In March, the Commission received a memorandum from the *Jaringan Perpaduan Orang Asli*. On 24 February, the group had protested in front of the Orang Asli Hospital in Gombak, Selangor, to express dissatisfaction with the management of the hospital by the Department of Orang Asli Affairs (DoOAA). Among the issues raised were allegations that the 'Flying Doctor' service did not reach Orang Asli settlements in the interior; malnutrition among Orang Asli children; mistreatment of

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[4] Section 28A. Rights of person arrested:

(1) A person arrested without a warrant, shall be informed as soon as may be of the grounds of his arrest by the police officer making the arrest.

(2) A police officer shall before commencing any form of questioning or recording of any statement from the person arrested, inform the person that he may:
- (a) communicate or attempt to communicate with a relative or friend to inform of his whereabouts; and
- (b) communicate or attempt to communicate and consult with a legal practitioner of his choice.

(3) Where the person arrested wishes to communicate or attempt to communicate with the persons referred to in paragraphs (2)(a) and (b), the police officer shall, as soon as may be, allow the arrested person to do so.

(4) Where the person arrested has requested for a legal practitioner to be consulted the police officer shall allow a reasonable time:
- (a) for the legal practitioner to be present to meet the person arrested at his place of detention; and
- (b) for the consultation to take place.

(5) The consultation under subsection (4) shall be within the sight of a police officer and in circumstances, in so far as practicable, where their communication will not be overheard;

(6) The police officer shall defer any questioning or recording of any statement from the person arrested for a reasonable time until the communication or attempted communication under paragraph 2(b) or the consultation under subsection (4), has been made;

(7) The police officer shall provide reasonable facilities for the communication and consultation under this section and all such facilities provided shall be free of charge.

(8) The requirements under subsections (2), (3), (4), (5), (6) and (7) shall not apply where the police officer reasonably believes that:
- (a) compliance with any of the requirements is likely to result in:
  - (i) an accomplice of the person arrested taking steps to avoid apprehension; or
  - (ii) the concealment, fabrication or destruction of evidence or the intimidation of a witness; or
- (b) having regard to the safety of other persons the questioning or recording of any statement is so urgent that it should not be delayed.

(9) Subsection (8) shall only apply upon authorisation by a police officer not below the rank of Deputy Superintendent of Police.

(10) The police officer giving the authorisation under subsection (9) shall record the grounds of belief of the police officer that the conditions specified under subsection (8) will arise and such record shall be made as soon as practicable.

(11) The investigating officer shall comply with the requirements under subsections (2), (3), (4), (5), (6) and (7) as soon as possible after the conditions specified under subsection (8) have ceased to apply where the person arrested is still under detention under this section or under Section 117.

Orang Asli patients by the hospital staff; and lack of job training for the few Orang Asli employed by the hospital. The group recommended that the management of the hospital be taken over by the Ministry of Health (MoH).

On 15 March, the Commission met with the management of the hospital and highlighted the issues brought up by the Orang Asli. The Commission also wrote to the Chief Secretary to the Government with these recommendations:

- Implement the 'Flying Doctor' service to remote Orang Asli settlements and immediately fill the six vacant posts for doctors at the hospital

- Provide training for the Orang Asli to equip them with skills to hold jobs in the Gombak Hospital as well as in other Government agencies

- Seek feedback from, and opinions of, the Orang Asli and Orang Asli-related organisations on any policy or programme to be implemented by the DoOAA; this would build better relationships between the two parties and to resolve complaints amicably

- Consider requests by the Orang Asli for the Gombak Hospital to be managed by the MoH; alternatively, improvements should be made to hospital services under the current management

(d) Complaints on Preventive Detention Laws

The Commission received complaints from individuals, political parties and civil society groups pertaining to detention under preventive laws. These complaints arose from detention under the Internal Security Act 1960 (ISA), Emergency (Public Order and Prevention of Crime) Ordinance 1969 and Dangerous Drugs (Special Preventive Measures) Act 1985.

There are numerous international human rights instruments that relate to the rights of detainees, specifically in the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights, to ensure respect for everyone's liberty and security and the right to fair trial and justice. The 60-day remand period, two-year detention order or two-year restriction order were the subject of complaints to the Commission. Most of the complaints were made by close relatives of the detainee who expressed hope that investigations would be conducted fairly and allow the detainee a fair trial and justice. The detainee was normally claimed to be the sole breadwinner in a middle or low-income family; as such, the detention affected the income and life of the family.

The Commission noted that, under the preventive detention laws, the detainee is given an opportunity to make representations against the order to the Advisory Board as provided in Article 151[5] of the Federal Constitution. Nevertheless, a person should be allowed to seek a fair public trial in Court as the judicial system is the best avenue to uphold justice and the rule of law. The judicial system would act as a safeguard against possible arbitrary detention, to reduce other forms of abuse and ensure accountability of the Government agencies that enforce the preventive detention laws.

Submission of memorandum on the arrest of Benjy, an actor, under preventive detention law

[5] Article 151. Restrictions on preventive detention:

(1) Where any law or ordinance made or promulgated in pursuance of this Part provides for preventive detention:
(a) the authority on whose order any person is detained under that law or ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to Clause (3), the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be;
(b) no citizen shall continue to be detained under that law or ordinance unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong within three months of receiving such representations, or within such longer period as the Yang di-Pertuan Agong may allow.

(2) An advisory board constituted for the purposes of this Article shall consist of a chairman, who shall be appointed by the Yang di-Pertuan Agong and who shall be or have been, or be qualified to be, a judge of the Federal Court, the Court of Appeal or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and two other members who shall be appointed by the Yang di-Pertuan Agong.

(3) This Article does not require any authority to disclose facts whose disclosure would in its opinion be against the national interest.

In March, the Commission received a memorandum from *Gerakan Mansuhkan ISA* (GMI) regarding the arrest of 10 individuals including nine foreigners under the ISA in Sungai Cincin, Gombak. It was reported by the media that the arrests were made because of their suspected link with a terrorist organisation. However, the families of the individuals refuted this allegation and alleged that the arrests were made because they practised *Salafi, a* method of understanding of Islam.

The Commission then met with the Police Special Task Force (Operation/Counter Terrorism) on 4 March to obtain information and feedback on issues pertaining to the arrest of the individuals. The police denied the allegations made by the families of the arrested individuals. The police stressed that they had received information that the group had links with terrorist activities conducted abroad and had put the group under surveillance for several years.

Subsequent to the meeting, the Commission wrote a letter to the Ministry of Home Affairs urging it to charge the arrested individuals in a court of law or release them once the 60-day detention period had lapsed. This stand is in line with the United Nations Security Council Policy on Counter-Terrorism which states that steps taken by States to combat terrorism must comply with international laws especially human rights laws, refugee laws and humanitarian laws. But while *habeas corpus* applications filed by the individuals were pending in Court, the individuals were forcibly deported to their countries of origin.

While the Commission recognises the need for a balance between legitimate national security concerns and fundamental freedoms of an individual, it is of the opinion that detention without trial is a violation of human rights. The Commission recommends that the Government repeals all preventive detention laws in line with international human rights instruments.

(e) Complaints on Religious Freedom

On 25 January, the Commission received a memorandum from several parliamentarians regarding 16 attacks on places of worship. The memorandum stated that the attacks had stemmed from the use of '*Allah*' by non-Muslims. They demanded that the Commission hold a Public Inquiry into the attacks. They also alleged that the Commission had not been vocal and upfront in addressing the incidents. In fact, the Commission had released a press statement dated 12 January condemning the attacks and recommending that:

(i) The police should investigate the attacks thoroughly and expeditiously and ensure the safety of the public in practising their religious rights;

(ii) Religious leaders should hold an inter-faith dialogue and that the respective authorities should provide the mechanism for such a dialogue to take place; and

(iii) Religious leaders should refrain from making statements which could be detrimental to understanding and harmony.

Referring to the parliamentarians' demand for a Public Inquiry, the Commission was of the view that the issue would be best handled by holding a roundtable discussion among religious leaders. Furthermore the Commission's power to hold a Public Inquiry was restricted because most of the incidents were under investigation by the police, and several of the cases had been taken to Court. In August, two individuals were sentenced to five years' jail for causing mischief with fire at the Metro Tabernacle Church in Desa Melawati.

(f) Peaceful Assembly

The Commission received a request from SUARAM and GMI to monitor their ISA Candle-light Vigil on 1 August at Padang Timur, Dataran MBPJ, Petaling Jaya. The vigil was to commemorate the passing of the ISA 50 years ago and to call for the abolition of the law. The theme for the vigil was *'50 Tahun ISA: Mansuh! Bukan Pinda'.* The Commission set up a monitoring team led by two Commissioners, Mr Muhammad Sha'ani Abdullah and Mr James Nayagam. They were accompanied by five officers. However the planned vigil was stopped at the beginning by the police on the ground that the organisers did not have a permit as stipulated under Section 27(2)[6] of the Police Act 1967. Several individuals were arrested when they did not heed the police's instruction to disperse.

The Commission's team was present at the venue of the vigil and also at Petaling Jaya Police District where those arrested were taken. The monitoring team remained in place until approximately 4.50am. During the exercise, the Commission received full cooperation from the police which enabled the Commission to observe and monitor the incident. Cooperation was again extended by the police in allowing the Commission to monitor the process of recording statements of those arrested at the Petaling Jaya Police District Station.

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[6] Section 27 Power to regulate assemblies, meetings and processions:
(2) Any person intending to convene or collect any assembly or meeting or to form a procession in any public place aforesaid, shall before convening, collecting or forming such assembly, meeting or procession make to the officer-in-charge of the Police District in which such assembly, meeting or procession is to be held an application for a licence in that behalf, and if such police officer is satisfied that the assembly, meeting or procession is not likely to be prejudicial to the interest of the security of Malaysia or any part thereof or to excite a disturbance of the peace, he shall issue a licence in such form as may be prescribed specifying the name of the licensee and defining the conditions upon which such assembly, meeting or procession is permitted:
Provided that such police officer may at any time on any ground for which the issue of a licence under this subsection may be refused, cancel such licence.

The Commission's recommendations on peaceful assembly were publicised in its Report on the Public Inquiry into the Incident at KLCC on 28 May 2006. In the report, the Commission recommended the repeal of sub-sections (2), (2A)-(2D), (4), (4A), (5), (5A)-(5C), (7) and (8) of Section 27, and also Section 27A of the Police Act 1967, thereby removing the need to apply for any licence to hold a peaceful assembly. In lieu of these provisions, the Commission recommended that any person or persons intending to organise a peaceful assembly or a peaceful procession shall notify the OCPD in writing. It was also recommended that there should be a reasonable definition of national security which is in harmony with human rights principles. The Commission further recommended that, in the event the police should find it necessary to control or disperse a crowd, proportionate and non-violent methods should be employed. However the recommendations remain unimplemented.

(g) Freedom of Expression

The Commission received complaints in regard to infringement of the freedom of expression as provided in Article 19[7] of the UDHR, and noted that the right is extensively monitored by the Government. This was demonstrated in the Ministry of Home Affairs' decision to ban political cartoon books by cartoonist Zunar and the refusal to renew the publication permit of *Suara Keadilan*, and in the warning issued to *Harakah*. The Chairman of the Commission, Tan Sri Hasmy Agam, in a press release on 7 July called on the Ministry to reverse these decisions. He also called for the formation of an independent media council to self-regulate through a mandatory industry code, enforced through a complaints bureau to arbitrate disputes or complaints and undertake compliance monitoring.

(h) Citizenship

The complaints received were mainly related to applications for citizenship, failure to obtain a *MyKad* and revocation of citizenship. Most of the complaints were received by the Commission's office in Sabah. Articles relating to citizenship are provided in Part III of the Federal Constitution and consist of three chapters which include acquisition of citizenship and termination of citizenship. The legislation governing citizenship is the Citizenship Rules 1964.

Basically in complaints related to citizenship, the Commission liaises with the National Registration Department and the Ministry of Home Affairs. In regard to revocation of citizenship, the issue becomes complicated due to repercussions faced by the affected individual. The individual who is deprived of citizenship will be stateless if any other country also does not recognise the person as its citizen.

[7] Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

In the revocation of Mageswari d/o Koothan's Malaysian citizenship, the Commission held a meeting with the Secretary-General of the Ministry of Home Affairs to discuss the case on 13 July. The Ministry verified that the revocation was based on the reason that her name appeared in the voters' list of the Republic of India; that the revocation process was done legally in accordance with the prescribed procedure. The complainant is currently a stateless person, as the Government of India has not recognised her as a citizen either. The Commission had received similar complaints previously, either from the individuals affected or on behalf of others.

The Commission would like to highlight that citizenship is a special status held by a person, and that it grants certain rights, benefits and facilities to the person. While the Government has the power to revoke citizenship as stipulated under the Federal Constitution, the revocation of citizenship should be exercised cautiously to prevent hardship to any person. This would also infringe Article 15[8] of the UDHR which establishes the right of a person to belong to a country.

(i) Elections

On 14 January the Commission held a meeting with the Election Commission (EC) in Putrajaya. Chaired by the Chairman of EC, Tan Sri Abdul Aziz Yusof, the meeting was held following receipt of a memorandum from *Parti Islam Se-Malaya* alleging mischief pertaining to the conduct of postal voting in the Bagan Pinang by-election. The Commission recommended the following improvements with regard to the postal voting system:

(i) The EC must ensure that its agent (camp personnel appointed by the EC) adheres to the list approved by the EC. Any such reproduction of list for administrative purposes must be verified accordingly by EC officials.

(ii) The EC must ensure that the Electoral List is updated constantly. This could be done through close cooperation with relevant agencies such as the National Registration Department and the Department of Records and Pension, Armed Forces. This real-time record keeping would ensure that names of voters do not appear twice in the Electoral List.

(iii) The EC should establish guidelines with regard to the handling and delivery of postal ballot papers.

[8] Article 15:
(1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

(iv) The postal voting system involving armed forces or police personnel should be reviewed. They should be allowed to vote in person at prescribed constituencies. Postal voting should only be allowed to those who cannot vote in their constituencies for valid reasons, for example because they are serving abroad. This would eliminate doubts and opportunities for fraud.

In October, the Commission for the first time monitored the by-election campaign for the N45 Galas state seat from 25 October to 5 November. The Commission's objectives were to monitor the process as well as to inform the people of their right to a fair and free election. During the campaign period, the Commission distributed hundreds of pamphlets to the public, monitored the political parties' campaign, and set up a complaints booth.

Member of the Commission and officers of CIWG receiving complaints when observing the Galas by-election

CHAPTER 3

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

The main function of the Law Reform and International Treaties Working Group (LRITWG) is to study and recommend to the Government the subscription or accession to treaties and other international instruments in the field of human rights. In addition, it has the task of ensuring that all national laws are consistent with human rights principles.

During the year, the LRITWG undertook studies and convened several dialogues, meetings and roundtable discussions with civil societies and other stakeholders to obtain views and opinions on evolving legal issues at the national and international level.

1. MONITORING IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

In February, the Commission welcomed the withdrawal of reservations to Articles 5(a), 7(b) and 16(2) of CEDAW. As a member of the Technical Committee on the Proposal to Withdraw Reservations to CEDAW, headed by the Ministry of Women, Family and Community Development (MWFCD), the Commission assisted in providing views and observations for the withdrawal of these reservations.

To date, reservations to Articles 9(2), 16(1)(a), 16(1)(c), 16(1)(f) and 16(g) remain, apparently, because these are in conflict with the Federal Constitution and Islamic law. As the reservation to Article 16 is fairly complex, the Commission commissioned external researchers to conduct a study on the adoption and application of CEDAW, in particular, Article 16, in other Islamic countries. In August, a report on the study was sent to the MWFCD.

The Commission is still in discussion with the Ministry to promote and stress the importance of ratifying the Optional Protocol (OP) to CEDAW. In 2006, the Committee on CEDAW in its concluding comments had urged the Government of Malaysia to ratify the OP.

As a follow-up, in February, the Commission sent a 'Justification Paper to Ratify the Optional Protocol to CEDAW' to the MWFCD for further deliberation. In July, the Commission received an invitation from the Ministry's Policy Division to a meeting. It was held to gather views and opinions from various agencies so that the Ministry can prepare a Cabinet paper for ratification of the OP. The Commission strongly recommended the ratification of the OP as it will enhance the implementation of CEDAW which Malaysia ratified in 1995.

The Commission continues to spearhead progress towards the development of women's potential, particularly by giving due consideration to compliance by Malaysia in implementing the recommendations of the CEDAW Committee. The remaining reservations will be monitored and reviewed by the Commission from time to time.

2. MONITORING IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

(a) Removal of Reservations

The Commission monitors implementation of the CRC to ensure that children enjoy all the rights stipulated. The Commission has concerns about the reservations maintained on the CRC, as these may hinder policy and legal reforms based on the principles entrenched in the Convention.

The Commission welcomes the Government's move to remove the reservations to Articles 1, 13, 15 of the CRC, as it is a major step in the advancement of children's rights in Malaysia. The Commission hopes that the Government will take the necessary measures to remove the reservations to Articles 2, 7, 14, 28(1)(A) and 37, for the realisation of all the objectives of the CRC – to ensure the full enjoyment by children of their rights to survival, protection, development and participation.

(b) Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography

Pursuant to its recommendation to ratify this Optional Protocol (OP), the Commission submitted a paper outlining its justifications to the MWFCD and the Ministry of Foreign Affairs.

The Commission is of the view that the essence of the OP is already embedded in the CRC to which no reservations have been made. Therefore, the ratification of the OP will only reinforce the relevant Articles under the CRC regarding child sexual exploitation.

The Commission also finds that some of Malaysia's existing mechanisms and practices in curbing child sexual exploitation are already in compliance with the OP. For example, tough measures are being taken by the enforcement agencies to eliminate child sex tourism activities. Criminalisation of child prostitution and child trafficking under the laws is a positive move by the Government in fulfilling its obligations under the CRC.

(c) Optional Protocol to the CRC on the Involvement of Children in Armed Conflict

In July, the Commission reiterated its support for the ratification of this OP at a meeting with the MWFCD. The Commission is of the view that there is nothing to prevent the Government from ratifying the OP, which would enhance implementation of the CRC in guaranteeing the rights of children. The Commission is pleased to see that the Ministries and Government agencies are engaging with one another in seeking ratification of both the Optional Protocols.

(d) Child Sexual Exploitation and Child Pornography

The Commission also emphasised the need for a law against child pornography, in its submission on the justifications for the ratification of the OP to the CRC on the Sale of Children, Child Prostitution and Child Pornography. The Commission recommended the incorporation of such provisions in the Child Act 2001 or the enactment of a separate piece of legislation on child pornography. The Commission notes the need for the Government to review the issues concerned from various angles, and hopes that the necessary steps will be taken to ensure that child pornography is outlawed.

The Commission recommended that the law should include a concrete definition of 'child pornography'. The act of exploiting a child in pornographic activities, disseminating (especially over the Internet) and possessing child pornographic materials, recording, selling and manufacturing of such materials and any other forms of involvement must be severely criminalised.

The Commission's recommendation is due to concerns over developments in technology which have enabled sex predators to victimise children over the Internet. The Commission is also deeply disturbed about the increase in the number of cases of child sexual exploitation and the use of children for the purpose of pornography. This matter is aggravated by the fact that child pornography is as yet an unrecognised and unknown crime in Malaysia, and the child victims are sometimes portrayed in the media as delinquents.

(e) Abandonment of Babies

The Commission is deeply concerned about the rising incidence of abandonment of babies. The act of abandoning babies is a grave violation of the rights of children, contravening the principal objectives of the CRC that emphasise their rights to survival, development and protection.

As a response to the situation, the Commission organised a Forum on 'Abandonment of Babies' in December to provide a platform for discussion of the attendant issues and to seek possible solutions. Distinguished speakers from Government agencies and non-governmental organisations (NGOs) were invited to share their knowledge and experiences.

Hjh Amni Yusoff of the Social Welfare Department presented a paper entitled: Sharing Experience on Abandoment of Babies

The Forum agreed that collaborative efforts and cooperation among all stakeholders are essential to progressively address problems of abandonment of babies. There can be no single solution in putting an end to the present scenario. The Forum also called on the Commission to pursue the issue of abandonment of babies continuously and to directly engage with target groups, such as children and university students, in order to understand the underlying issues.

Where laws and policies are concerned, it was raised at the Forum that the Child Act 2001 and national mechanisms need to be improved to reflect the principles of the CRC in guaranteeing the rights of children.

The Commission took note of several general comments on the CRC which were highlighted at the Forum and will pursue the matter to monitor the State's obligations and implementation.

As a national human rights institution, the Commission feels it should undertake monitoring to oversee CRC implementation in Malaysia. As such, the Commission is in the midst of gathering input from NGOs and relevant Government agencies to draft an independent report to the UN CRC Committee, which is due in 2012.

3. MONITORING IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

In 2009, the Commission had sent a study to the MWFCD on the extent to which laws and policies complement the CRPD in protecting and upholding the rights of persons with disabilities (PWD). To the extent that there are no inconsistencies, the Commission is of the view that Malaysia will face no hindrance in implementing the requirements of the CPRD, through the Persons with Disabilities Act 2008 and the National Policy on Persons with Disabilities.

The Commission welcomed the Government's commitment to uphold the rights of PWD by the ratification of the CRPD in July, almost two years after signing it in April 2008. Nevertheless, Malaysia has expressed reservations to Article 15 on the freedom from torture or cruel, inhuman or degrading treatment or punishment, and to Article 18 on the liberty of movement and nationality.

On 23 September, the Commission organised a Roundtable Discussion (RTD) on 'Accessibility Issues of Persons with Disabilities' to gather relevant views and challenges. The Commission took this opportunity to explore possible solutions to the accessibility issues faced by PWD, in consultation with their associations.

Participants at the RTD on 'Accessibility Issues of Persons with Disabilities'

During the RTD, participants pointed out the need for:

(i) Strict adherence to the Uniform Building By Laws 1984 (UBBL) by all parties, and strict enforcement by the State and Federal Governments with penalties to be enforced for violations

(ii) Signages to indicate any bus stop, LRT station or other public transportation facility, as well as for public announcements of destinations

(iii) Public awareness of the needs and rights of PWD, with the State to assume legal responsibility to educate the public

(iv) A comprehensive training curriculum and programme for children with learning disabilities, to take into account their special needs

(v) Strict enforcement of the policy on one percent (1%) employment of PWD in the public sector; this should be extended to the private sector, and more attractive incentives should be offered to companies that hire PWD as the current incentive (double tax deduction) is not sufficiently attractive

(vi) Compulsory registration of PWD at the time of birth

(vii) More rehabilitation centres; if the Government cannot set these up, it should turn over the mandate to NGOs or private organisations and provide them with sufficient funds for the task

In extending its monitoring function to observe the implementation of the CRPD, the Commission fully supports the role provided for it in Article 33(2) of the Convention which states that:

> States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, **States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.**

In line with this, the Commission on 23 December approached the MWFCD, seeking to be appointed as the National Monitoring Mechanism to observe the obligations and implementation of the CRPD. The Commission hopes that it will be given the opportunity to handle this task in protecting and upholding the rights of PWD.

4. THE RIGHTS OF REFUGEES

In December, the Commission met with the United Nations High Commissioner for Refugees (UNHCR) to find ways to push for Malaysia's accession to the Convention Relating to the Status of Refugees 1951 (1951 Convention), to ensure the well being and human rights protection of refugees. The objective of the meeting was for the Commission to obtain the UNHCR's justifications for the Malaysian Government to accede to the 1951 Convention and to discuss matters arising from this.

The UNHCR commended moves by the Government to protect refugees, saying some of these are already in compliance with the 1951 Convention. Notable positive actions include the Government's increasing willingness to cooperate with the UNHCR in some areas. For example, the UNHCR has been able to secure the release of refugees detained under the Immigration Act, which is indicative of some recognition of its role in Malaysia. The Government also supports refugee children's right to education, while hospital charges have been reduced for refugees.

The meeting agreed that, instead of pushing for the ratification of the 1951 Convention at this juncture, it might be a better strategy to urge the Government to undertake – or allow other bodies such as corporations and NGOs to undertake – activities or programmes that would enable refugees to enjoy their rights to education, health and livelihood. As these are rights recognised under the 1951 Convention, focus on such activities could pave the way for accession to the treaty.

5. THE RIGHTS OF STATELESS PERSONS

UNHCR Thematic Protection Learning Programme (TPLP) on Statelessness

The UNHCR is conducting an eight-month TPLP on Statelessness. Participating teams are from Malaysia, Indonesia, Thailand and Myanmar. The Malaysian team is represented by members of the Commission, ERA Consumer, UNHCR and Yayasan Nur Salam.

This TPLP focuses on strengthening capacity to develop and carry out strategies to identify, prevent and reduce statelessness and ensure the protection of stateless persons. It also seeks to build on the inter-agency approach by training UNHCR staff-members and other UN agencies, as well as key NGO partners.

Upon completion of assignments and attendance at a workshop in Bangkok to elaborate on the TPLP, each country team developed a project relating to statelessness. The Malaysian team decided to embark on a project to gather the estimated number of stateless individuals in Peninsular Malaysia, in order to assist them with registration. In this respect, ERA Consumer has vast experience in aiding the registration of stateless locals. The team will seek assistance from Government agencies and NGOs, and the outcome of the project will be brought to the attention of the authorities for further action.

The right to belong to a State and to citizenship are basic human rights that are indivisible from other sets of rights. Without citizenship, violation of other rights would occur. In Malaysia, for example, the absence of citizenship would deny a person's access to the right to own property, to work and to education. The individuals affected are also often stigmatised and deprived of participation in society.

6. THE RIGHTS OF WOMEN

On 7 September, the Commission received an invitation from the MWFCD to attend a RTD on the proposal to enact a Gender Equality Act. The RTD was held to gather the responses of various Government agencies and women's NGOs. The Commission is in full support of the proposal as it will enhance women's rights and promote gender equality.

7. THE RIGHTS OF LESBIAN, GAY, BI-SEXUAL AND TRANSGENDER (LGBT) GROUPS

During the year, the Commission ventured further into the area of sexual minority rights. Research is currently being conducted on their rights in Malaysia.

In August, the Commission held a meeting with various Islamic groups, to gain better understanding of the Islamic perspective of LGBT. The objectives were to substantiate Islamic sensitivities and views regarding LGBT actions such as same-sex intercourse, cross-dressing, imitation of the opposite gender and gender re-assignment. The application of the principles of non-discrimination under the Federal Constitution on the LGBT was also discussed. The Commission took note of Islam's position in dealing with LGBT rights. It will similarly engage with Christian, Buddhist and Hindu organisations to gather their views.

In November, the Commission held a meeting with the sexual minorities as well as individuals working and advocating for the groups. The objective was to engage directly with the LGBT groups, and to be informed of the challenges and human rights violations that they face. The Commission noted their recommendations.

It is observed that discrimination, name-calling, bullying and violence against the group are growing. Some sections of the media have sensationalised LGBT issues and labelled the groups with degrading and offensive names, displaying lack of sensitivity and respect for them. As an interim step, the Commission recommended that the media stop labelling LGBT groups with derogatory terms and stop sensationalising their activities. Steps must be taken to uphold their rights as human beings and protect them against harm and violence.

The meetings provided a good platform for the Commission to conduct further research on LGBT rights, taking into consideration religious and cultural sensitivities as well as the majority view.

8. ANTI-TRAFFICKING IN PERSONS

(a) National Strategic Plan on Anti-Trafficking in Persons (2010-2015)

The Commission welcomes the Government's initiative in introducing the Strategic Plan. The Commission, as a member of the Council for Anti-Trafficking in Persons, was involved in drafting the Strategic Plan. The Commission emphasised the incorporation of human rights principles in the protection of victims of trafficking. It is hoped that the objectives of the Strategic Plan will be achieved within the timeline set.

The Commission also lauds the Government's concerted and continuous efforts to eliminate human trafficking and all forms of exploitation of both locals and foreigners. The Commission observes that the Anti-Trafficking in Persons Act 2007 has been extensively enforced.

(b) Anti-Trafficking in Persons (ATIP) Act 2007

Based on engagement and consultation with international organisations, the Commission agrees with their concern over the incorporation of the 'human smuggling' element in amendments to the ATIP Act. The Commission is of the view that, since trafficked individuals are victims of exploitation, they should not be categorised together with smuggled people. The latter are violators of immigration laws and not victims of exploitation. At the same time, the Commission takes note of the Government's concern over the possibility that smuggled migrants may be exploited and trafficked after their arrival in Malaysia.

The Commission maintains and recommends that trafficking in persons and smuggling of migrants should be treated as separate issues, as it will cause confusion and problems in identifying trafficked victims. There is a possibility that trafficked victims may be mistakenly treated as smuggled migrants and hence be wrongfully deported, instead of being placed under protection in a shelter. The Commission hopes that the rights of the trafficked victims are protected at all stages, in line with international standards set by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.

9. PREVENTIVE LAWS AND DETENTION WITHOUT TRIAL

With regard to enforcement of law and administration of justice, the Commission is in the midst of studying the structure and mechanism of preventive laws that allow for detention without trial. It will examine the implementation of laws relating to detention without trial such as the Internal Security Act 1960 (ISA) and the Emergency (Public Order and Prevention of Crime) Ordinance 1969, and asses the extent to which the implementation of these laws is consistent with principles of human rights.

The Commission understands that the Government is in the final stage of revising the ISA. It is essential that the Government ensures that the amendments adhere to human rights principles, particularly in relation to detainees' rights to personal liberty and the right to a fair trial.

The UN Working Group on Arbitrary Detention (WGAD) carried out a country mission to Malaysia from 7-18 June. On 15 June, it met with the Commission. The delegation, led by Mr El Hadji Malick Sow, was interested in learning about preventive detention laws such as the ISA, Emergency Ordinance 1969 and Dangerous Drugs Act (Special Preventive Measures) Act 1985.

The meeting provided an opportunity for the Commission and the WGAD to exchange views and share ideas on arbitrary detention, on the role of the Commission, and on the promotion and protection of human rights as a whole in Malaysia. The meeting proved beneficial for the Commission especially, as the WGAD offered many suggestions on how the Commission can execute its mandate more effectively.

At the conclusion of the WGAD visit to Malaysia, several recommendations were made, including:

(i) The repeal of the ISA, Emergency Ordinance 1969, Dangerous Drugs Act 1985 and Restricted Residence Act 1933, or their amendment to ensure they are in conformity with Article 10 of the UDHR; and

(ii) Strengthening the status, powers and functions of the Commission in accordance with the Paris Principles.

During the year, too, the Commission re-submitted its Review of the ISA 1960 Report to the relevant Government agencies for further deliberation.

10. *AMICUS CURIAE*

The Commission is currently studying the possibility of obtaining the status of *amicus curiae*. Such role is deemed important for the Commission as it will be an opportunity for the promotion of human rights within the judicial process. The National Human Rights Commission of countries such as Indonesia, Thailand, the Philippines, Australia, Fiji and Ireland are already undertaking such role in their national court systems as mandated under their governing legislation.

The Commission has sought advice from the Bar Council in determining appropriate actions to be taken. The Commission is currently devising short- and long-term plans to achieve the objective of playing such a role.

CHAPTER 4

REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP

The Economic, Social and Cultural Rights Working Group (ECOSOCWG) has worked closely with the Government, non-governmental organisations (NGOs) and civil society organisations to address key issues, including trafficking in persons, freedom of religion, and the rights of indigenous peoples (IPs) and single mothers. The ECOSOCWG, also coordinated efforts with parliamentarians in order to raise human rights issues for the Government's attention.

1. ROUNDTABLE DISCUSSION (RTD) ON HUMAN RIGHTS AND FREEDOM OF RELIGION

The RTD was held on 31 March, in response to a memorandum received by the Commission pertaining to a series of arson attacks on places of worship early in the year. The objectives were to:

- Discuss the growing incidence of racial intolerance in Malaysia;
- Discuss the role of religious bodies and NGOs to resolve religion-based conflict and promote racial tolerance; and
- Make recommendations to strengthen respect for freedom of religion and religious practices.

The RTD saw attendance from eight members of the Commission, representatives of groups like the Christian Federation of Malaysia and the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism, and the Department of National Unity and Integration.

Issues Raised by Participants

(i) Freedom of religion is a fundamental human right
This is stipulated in Article 11 of the Federal Constitution and Article 18 of the Universal Declaration of Human Rights (UDHR). Thus, the State has a duty to ensure that this right is preserved and protected.

(ii) Tolerance should be emphasised

It was stressed that all religions emphasise the principle of peace. Thus, Malaysians need to be moderate and tolerant in their dealings with one another. At the same time, individuals and groups should not remain silent about injustice perpetrated in the name of religion.

(iii) Meaningful dialogue with stakeholders

Participants were frustrated with local authorities who have formulated guidelines for places of worship without proper consultation with stakeholders. They were disappointed with the Government's failure to act on numerous recommendations by religious groups and civil society organisations in the past. They questioned the sincerity of Government agencies in dealing with religion-based issues, pointing to the absence of representatives from the Ministry of Home Affairs, Royal Malaysian Police, Islamic Development Department of Malaysia and the Federal Territory Islamic Affairs Department at the RTD.

They pointed out the need for the Government to ensure that its policies and actions respect freedom of religion, and they called for more dialogues with relevant stakeholders to take into consideration their concerns and aspirations. At the same time, they maintained the need for all involved to exercise due care and not politicise the freedom of religion.

(iv) Unity through education

The education system should be reviewed to promote national unity, including the 1Malaysia concept. Teachers should play a more pro-active role in inculcating tolerance and respect among students for those of other races and faiths. The Vision School (*Sekolah Wawasan)* concept should be strengthened alongside the National Ideology *(Rukun Negara)*, while a conflict management system or crisis management process should be institutionalised in schools.

(v) Learn from best practices

Malaysia should learn from the best practices of countries like Singapore, which has a Maintenance of Religious Harmony Act and has established a Presidential Council for Religious Harmony. The Department of National Unity and Integration in Malaysia should similarly play a more active role in educating society and promoting tolerance and respect for all religions.

(vi) The Commission's Role

It was suggested that the Commission should intensify efforts to promote cultural and religious rights, and hold regular dialogues on the freedom of religion. It should also urge the Government to ratify the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Convention on the Elimination of All Forms of Racial Discrimination.

2. ANTI-TRAFFICKING IN PERSONS

The Commission, as a national human rights institution and a member of the Southeast Asia National Human Rights Institutions Forum, continued its efforts to curb trafficking in persons. Through the ECOSOCWG, it met with the relevant agencies, diplomatic missions and NGOs, and made submissions to the Council for Anti-Trafficking in Persons (ATIP) Malaysia.

(a) Second RTD with Agencies and Diplomatic Missions

The Commission organised this second RTD on 4 March to move the ATIP agenda forward. Following up on the inaugural session on 4 December 2009,[1] the session was aimed at maintaining engagement and cooperation with diplomatic missions to address issues involving Malaysia; to identify current concerns and available mechanisms in Malaysia toward awareness and prevention of trafficking, law enforcement, and protection of victims; and to come up with solutions to problems identified.

Participants were from the Council for ATIP, comprising representatives of the Attorney-General's Chambers, Ministry of Home Affairs, Ministry of Information, Communications and Culture, Ministry of Women, Family and Community Development, Ministry of Human Resources, Royal Malaysian Police, Immigration Department, Maritime Enforcement Agency, and Royal Malaysian Customs Department. The diplomatic missions of Afghanistan, Pakistan, Russia, Sri Lanka, Philippines, Bangladesh, Switzerland, Indonesia and Singapore sent representatives.

Participants were briefed on the Council's progress and discussed situations that impede effective cooperation between it and the diplomatic missions.

(i) Public awareness

It is crucial to raise public awareness of the danger of human trafficking, as well as mechanisms available to curb this. Both the countries of origin and destination are responsible for educating citizens to minimise the risk of being trafficked. For instance, citizens should refrain from entering any country illegally as this could increase the risk of being exploited. There is also a need to raise awareness of the difference between trafficking in persons and human smuggling, although human smuggling could turn into trafficking in persons upon exploitation.

[1] The first RTD with Agencies and Embassies to Move the Anti-Trafficking in Persons Agenda Forward on 4 December 2009 was attended by all member agencies to the Council for ATIP Malaysia. Also invited to the meeting were representatives of foreign embassies in Malaysia, namely the Embassies of Cambodia, China, Indonesia, Myanmar, the Philippines, Russia, Thailand, United States, Vietnam and Lao PDR. While all member agencies of the Council for ATIP sent representatives to the RTD, only representatives from the embassies of the United States and Indonesia attended the RTD.

(ii) International cooperation

Trafficking in persons is a complex issue and no country can tackle this menace in isolation. Bilateral and multilateral cooperation are required to ensure that demand and supply are eradicated. ASEAN provides an example of how such cooperation can be forged.

Some diplomatic personnel said they are routinely informed only about arrests and detention of their nationals. As this does not include victims of human trafficking, they are unable to conduct joint investigations with Malaysia. This contradicts the Vienna Convention which states, among others, that the receiving country is to inform the sending country without delay of the person of the sending state who is arrested/detained/put in custody by the receiving country. This would assist either country to track down traffickers. At the same time, the need was expressed for missions to initiate regular meetings and establish rapport with the Malaysian Government.

The Indonesian Embassy recounted its experience of being denied access to victims' shelters, which left it unable to verify whether the victims were Indonesians. The Council then outlined the procedures that missions should follow, explaining that this was necessary to ensure the safety of victims.

The Council said it faced difficulty in obtaining assistance from diplomatic missions, in particular for interpretation services. This had delayed resolution of some cases due to the language barrier.

In view of such issues, the Commission suggested that the Council should come up with a Standard Operating Procedure (SOP) so that the diplomatic missions were duly informed of cases involving their nationals. In the interim, meetings should be organised between the two parties to identify practical solutions.

(iii) Cooperation between the Council and NGOs

NGOs like TENAGANITA and MTUC have extensive knowledge and experience in handling trafficking issues that can be shared with the Council, while other NGOs could be trained to deal with such matters.

(iv) Cooperation from victims

In some cases, rescued victims are unwilling to cooperate with the authorities because of the language barrier and trauma they have experienced. The representative of the AG's Chambers said this could also be due to embarrassment because the police had made fun of – or refused to assist – victims who reached out for help.

(v) Issues involving the response mechanism
Some diplomatic missions claimed that the police had failed to act on alleged human trafficking activities brought to their attention. The police maintained that reports should be made to the ATIP Unit under the Royal Malaysian Police. There is, therefore, a need to disseminate the contact information of the unit to all diplomatic missions.

Delays in the resolution of court cases have left some victims frustrated. On a positive note, the AG's Chambers requested the missions to forward the details of delayed cases to its office or to the Council for follow-up action.

While there was a suggestion that victims should be expeditiously repatriated to their country of origin and then brought back to Malaysia to testify in court, there were concerns as to whether the diplomatic missions would be able to trace the victims once they are released.

(vi) Shelters for victims of trafficking
Under the ATIP Act, NGO-run shelters cannot be gazetted as shelters established by the Council/ Government. It was suggested therefore that the Council should convert vacant Government quarters to meet the need for shelters; and that the AG's Chambers could expedite approval for use of such premises. It was also suggested that the Council opens more shelters in Sarawak and Sabah.

(vii) Action against traffickers and clients
The authorities should intensify efforts to capture traffickers and their clients.

(viii) Exploitation of undocumented migrants
While destination countries have a role to ensure that people – including undocumented migrants – are protected from exploitation, the country of origin has a duty to ensure that its nationals observe the laws including the immigration laws of the destination country. This would simultaneously reduce the risk of exploitation of those travelling without valid documents.

(b) ATIP Awareness Programme in Kelantan

The Commission organised this Programme on 13-14 March in collaboration with the Council for ATIP, Pasir Mas Land Office, TENAGANITA and Alliance Anti-Traffic Thailand.

The programme was intended to provide a platform for discussion of concerns and views; and to raise public awareness of the possible roles for the community and their leaders in assisting the authorities in combating trafficking in persons.

The first session, held on 13 March, attracted 200 members of the Rantau Panjang community. The same day, the Commission's team visited a makeshift jetty along the Golok River where it observed and tested human movement between Malaysia and Thailand without valid travel documents.[2]

By paying only RM2 for a return boat ride, the Commission's officers tested – without difficulty – the human movement between Malaysia and Thailand via the Golok River, without valid travel documents

The second session on 14 March was a state-level forum in Kota Bharu, attended by more than 100 representatives of the Government, NGOs, academia and interested groups.

The Commission's Recommendations

Based on the activity in Kelantan and findings from the RTD, the Commission made a submission to the Council for ATIP, outlining several recommendations:

[2] Rantau Panjang was selected by the Commission because the district is one of many that borders Thailand. Divided only by the narrow Golok River, human movement – with or without valid travel documents – is a daily occurrence between the two countries, and thus, may render it a possible channel for cross-border human trafficking.

(i) Raising awareness

The curbing of trafficking requires a tremendous effort not only by the Government, but also the public. While the Government can provide mechanisms in terms of legislation, enforcement and protection and rehabilitation of victims, the public can assist by reporting suspected human trafficking cases and by assisting victims.

There is a need to empower the public by giving them the required knowledge and training to play an effective role. Capacity-building programmes and Training-of-Trainers courses are among the activities the Government could implement. The Council could step up public awareness programmes to curb demand factors that contribute to human trafficking.

(ii) Wider participation

There is a need for the Government/Council to ensure that NGOs too have the opportunity to assist in efforts to address human trafficking. The role of NGOs is critical as many victims are more inclined to approach them, rather than the authorities.

(iii) Training of enforcement officers

The Government/Council should ensure that enforcement officers nationwide, especially those on the frontline, are provided with extensive training. A crucial topic to be included is the identification of suspected victims of human trafficking.

(iv) Shelters for victims

The Commission commends the steps taken by the Government/Council to increase the number of shelters for victims of human trafficking. The identification and gazetting of proposed shelters should be done expeditiously to prevent overcrowding in existing facilities.

(v) Access to shelters

In view of the difficulties expressed by the Indonesian Embassy, the Council should establish a procedure to be observed by diplomatic personnel, to enable them to meet with nationals placed in shelters.

(vi) Protection and rehabilitation of victims

In line with the Government/Council's aim to adequately protect and rehabilitate victims of human trafficking, all shelters should be equipped with appropriate services such as counselling and programmes before reintegration. Such programmes could also become the means for victims to place their trust in the authorities, which could strengthen the victims' willingness to give statements and testify against traffickers.

(vii) Focus on offenders

The Government/Council should enhance measures to identify and capture human traffickers. Civil servants found to be 'agents' of human trafficking should be dealt with seriously.

(viii) Bilateral cooperation

The Commission agrees with the recommendation of the RTD that enforcement agencies represented in the Council should draw up and implement a SOP in handling cases involving foreign victims/offenders, including transmitting information to the relevant diplomatic missions. Apart from increasing cooperation from the missions, the SOP would assist Malaysia in realising its commitment under the Vienna Convention to inform the relevant consul.

As an immediate measure, it is recommended that the Council holds a meeting with diplomatic missions to raise awareness of Malaysia's mechanisms and to discuss ways to eliminate the 'disconnect' between the two parties.

(ix) Role of diplomatic missions

They should ensure that assistance is available to the Malaysian Government, to be transmitted to their nationals who are victims of trafficking. For instance, interpretation assistance could be provided. It is recommended that an agreement be established between the Government and the diplomatic missions, outlining their respective roles in dealing with victims and offenders.

(c) In-house Training on ATIP

The Commission's officers participated in this session on 30 July. The knowledge gained will help them resolve complaints and in conducting research. The trainers were Mr Muhd Khair Razman Mohamed Annuar from the Council for ATIP and Ms Lee Soo Choo from TENAGANITA. They took the participants through the key issues, the ATIP Act, response mechanisms in Malaysia, and how human trafficking affects human rights.

(d) ATIP Brochure and Training

On 28 September, the Commission launched its brochure on ATIP to raise public awareness of human trafficking, as well as avenues of assistance for victims. The brochure, in Malay and English, also highlights the rights of victims. The brochures have been distributed to Government agencies, diplomatic missions, NGOs and members of the public. At the time of writing, the brochures are being translated into Tamil, Mandarin, Tagalog, Sinhala, Thai and the Myanmar language.

The ECOSOCWG also began preparations to conduct training for enforcement agencies on screening and identifying victims of human trafficking in early 2011.

The Cover of ATIP Brochure launched by the Commission on 28 September

3. MEETING ON ALLEGED SEXUAL ABUSE OF PENAN WOMEN AND GIRLS IN SARAWAK

On 14 July, the ECOSOCWG organised a meeting with representatives of the Penan Support Group (PSG), consisting of NGOs advocating the rights of the Penan community in Sarawak. This was a preliminary effort by the Commission to ascertain details of allegations by the PSG that Penan women and girls had been raped by employees or associates of timber companies.

The Chairman of the Commission, Tan Sri Hasmy Agam, and the ECOSOCWG head, Mr James Nayagam, attended the meeting, assisted by several officers. The PSG was represented by its member-groups – Suara Rakyat Malaysia, Women's Aid Organisation, Centre for Orang Asli Concerns (COAC) and All Women's Action Society, Malaysia.

Reference was made to a report entitled 'A Wider Context of Sexual Exploitation of Penan Women and Girls in Middle and Ulu Baram, Sarawak, Malaysia', based on an independent fact-finding activity by the PSG, together with the Asian Forum for Human Rights and Development and the Asian Indigenous Women's Network. The report details cases alleging sexual abuse, and provides evidence and statements by a number of survivors, as well as recommendations with the aim of resolving the issue.

The meeting saw several issues being raised and suggestions made.

(i) Investigation of alleged sexual abuse
The PSG had proposed that the Government should set up a Royal Commission to investigate the complaints, but the Government rejected this on the basis that the matter is not urgent. Thus, it was suggested that the Commission should conduct a national inquiry into the alleged sexual abuse of Penan women and girls.

(ii) The Commission's stand
The Commission was urged to make its stand known on the issue, as this would be beneficial to the protection and security of Penan women and girls, who are allegedly being harassed by irresponsible individuals. It was suggested that a press statement would clarify the Commission's stand and assist the PSG. The Commission could – in the press statement – acknowledge the PSG report. This would lend weight for the report to be accepted as resource material on which the authorities could base action.

(iii) Needs of IPs
In line with the spirit of United Nations Declaration on the Rights of Indigenous Peoples, the task of ensuring access to infrastructure is primarily an obligation of the Government/State. Instead, in some villages affected by plantation activities in Malaysia, arrangements have been made between the State and private concessionaires that have, in effect, shifted the responsibility of the State to the latter.[3] It was suggested that the Government should perform its duty.

The Commission could also play a role by forming a committee to gather and assess information on the status of the rights of IPs. The committee should consist of members of the Commission, Professor Madya Dr Ramy Bulan, and representatives of the COAC and other human rights NGOs. It was also recommended that the Commission should conduct a national-level inquiry into the development-related grievances of IPs.

[3] See the Commission's Report on 'Penan Benalih Blockade Issue, 2007', p18

The Commission's Responses

1. The Commission released a press statement on its stand on the issue, urging the Government to conduct a thorough investigation into the claims, using the PSG report as a reference during the process.

2. Additionally, the Commission established the Indigenous Peoples' Rights Committee to ensure that issues affecting them are better addressed.

3. At the time of writing, the Commission is preparing to hold a National Inquiry into the land rights of IPs in Peninsular Malaysia, Sabah and Sarawak.[4]

4. BUSINESS AND HUMAN RIGHTS

The role of corporations in the area of human rights is increasingly coming under scrutiny by international society, as their activities have a considerable impact on the lives and human rights of people. For instance, activities by forestry-based plantations may have a major impact on the rights of IPs residing in affected areas, as well as on the environment.

While the Government bears the primary obligation to ensure the promotion and protection of human rights, companies, as organs of society, also have a duty to promote and secure the rights detailed by the UDHR.[5]

Hence, the ECOSOCWG plans to organise a workshop themed 'Business and Human Rights' to raise awareness in various sectors; to provide an opportunity to groups including the Government, NGOs, private companies and Government-linked Companies (GLCs) to state their perspective of the issues involved; to highlight the importance of a national policy or guideline on business and human rights; and to come up with recommendations for the Government toward a guideline or policy to be observed by the business sector.

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[4] See Chapter 7 for the Report of the National Inquiry Committee

[5] See the United Nations Economic and Social Council Document on 'Economic, Social And Cultural Rights. Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights'. Available at http://www.gtz.de/de/dokumente/en-un-norms.pdf

To prepare for the workshop which will be held in 2011, a series of three RTDs – respectively with Government agencies, NGOs and community-based organisations, and private businesses – was planned. Each thoroughly discuss four topics in relation to business – human rights, anti-corruption measures, labour rights and the environment.[6]

The first two RTDs were held on 2 September and 1 November respectively. At the time of writing, the ECOSOCWG is preparing for the third RTD in early 2011 with private businesses and GLCs, to be followed by the workshop.

The discussions at the RTDs with Government agencies and civil society organisations raised a number of issues under the four topics identified.

(i) Business and human rights

- The rights of IPs became the focus of discussion because of the adverse effects of development and plantation activities carried out by private businesses on land to which native customary rights are exerted. In many instances, the IPs were dispossessed of their land, which simultaneously resulted in the loss of their source of sustenance and livelihood. As such, crucial issues like the inherent rights of IPs to native land; the need for free, prior and informed consent to development; and protection before the law were discussed.

- It was pointed out that the Government should ratify the ICESCR and ICCPR, as well as ensure that local laws are in line with international human rights standards.

- Additionally, the Government should put in place a policy – to be observed by private businesses – that strictly respects the rights of individuals and groups such as the IPs, who may be affected by development and plantation activities.

(ii) Business and anti-corruption measures

- While it was noted that the Government has established the Malaysian Anti-Corruption Commission, everyone in society has a duty to combat corruption.

- It was felt that corruption is prevalent in both the public and private spheres. Yet, data provided to the public does not adequately reflect the reality in Malaysia. It was stressed that full and accurate disclosure is imperative so that effective measures can be taken by all to ensure a corruption-free society.

[6] The four areas were based on the United Nations Global Compact's 10 Principles in the area of business and human rights; anti-corruption; labour rights; and environment. See UN Global Compact website at http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html

(iii) Business and labour rights

- The Government maintained that labour laws now protect the rights of workers, but assured that these will be reviewed periodically to harmonise the relationship between employers, employees and trade unions. However, human rights and labour organisations argued that impending amendments to the labour laws would erode the rights of workers, as the proposals favour the interests of employers.

- Malaysia has yet to ratify the International Labour Organisation Convention 87 on freedom of association and protection of the right to organise; Convention 105 on abolition of forced labour; and Convention 111 on discrimination in employment and occupation.

- While Malaysia permits all workers to join unions, the conditions imposed on migrant workers have made it difficult for them to unionise.

- While sexual harassment is known to affect many workers, some employers still refuse to implement the recommended code of practice to prevent harassment in the workplace.

- The representation of persons with disabilities (PWD) in the private sector is very low. In some instances, PWD are not employed because the company does not have the necessary facilities to enable the PWD to work effectively. Thus, there is a need for the private sector to ensure proper facilities are in place to ensure employment opportunities for PWD.

(iv) Business and the environment

- The profit-oriented nature of private businesses has led to aggressive exploration and exploitation of resources without due consideration of the impact of such conduct on the environment. The Government has a duty to ensure that companies comply strictly with rights-based policies that stress, among others, the human right to a clean and safe environment.

These RTDs have enabled the Commission to identify primary concerns in current business practices, specifically those that adversely affect human rights.

5. WOMEN'S RIGHTS – RIGHTS OF SINGLE MOTHERS

On 20 October, the ECOSOCWG organised a seminar on the rights of single mothers. This was in line with the Commission's efforts to raise awareness of women's rights as guaranteed by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), especially the articles relating to economic, social and cultural rights; to raise awareness of Government policies

and mechanisms to assist single mothers; to identify the problems encountered by single mothers in the realisation of their rights; to identify recommendations to address issues affecting single mothers with the aim of ensuring access to their economic, social and cultural rights.

The seminar drew about 100 participants from various agencies, academia and NGOs, as well as single mothers. YABhg Tun Dr Siti Hasmah Mohd Ali delivered the keynote address.

Presentations were made by the Ministry of Women, Family and Community Development (MWFCD), United Nations Development Programme Malaysia, Universtiti Teknologi Mara, NGOs and single mothers.

The topics covered Government mechanisms including policies and programmes to assist women; the rights of women as guaranteed by various international human rights instruments like CEDAW; and an overview of the issues affecting single women.

YABhg Tun Dr Siti Hasmah Mohd Ali shaking hands with single mothers after delivering the keynote address at the Seminar on Empowering the Rights of Single Mothers

Issues Raised by Participants

(i) Alimony

- Many single mothers are not paid alimony by their former husbands although court orders have been obtained.

- Delays in the resolution of court cases pertaining to alimony have caused hardship for unemployed single mothers who have custody of children.

- Alimony payments are insufficient to meet the current cost of living, especially in urban areas.

- In some cases, single mothers cannot take custody and alimony cases to court because they cannot afford the legal fees. Legal aid is only available to those earning less than RM500 a month.

(ii) Support services

- Sisters in Islam and the Joint Action Group for Gender Equality have jointly established a Child Support Agency to provide temporary support to children from broken families, pending the issuance of a court order on alimony.

- Single mothers can access the Family Support Division established by the National Council for Islamic Affairs Malaysia. It provides moral support and financial advice.

(iii) Assistance from the MWFCD

- Many women, including single mothers, are not aware of the types of assistance made available by the Ministry. It was therefore suggested that Ministry should distribute a booklet listing all forms of assistance.

- In providing assistance to women in Malaysia, equal access needs to be ensured, regardless of the political opinion of the individual.

- The Ministry could organise more development and self-help programmes for single mothers to ensure that they have the means to fend for themselves and their families.

Based on the concerns expressed, the Commission will next meet with the relevant Government agencies to take up the plight of single mothers, especially on issues that affect their inherent human rights. The Commission will also raise the recommendations of the seminar and work with the Government and NGOs to produce and distribute booklets on forms of assistance and services available for single mothers.

6. ENGAGEMENT WITH THE GOVERNMENT AND CIVIL SOCIETY ORGANISATIONS

(a) Meeting with Members of Parliament

On 25 March, the ECOSOCWG coordinated a meeting between members of the Commission and Members of Parliament (MPs), to channel various human rights issues affecting Malaysia to the Government.[7]

The following issues were discussed:

(i) Ratification of international treaties
There is a need for Malaysia to ratify the ICESCR as this would enhance its development status. There is also a need for Malaysia to move towards withdrawal of all its reservations on the Convention on the Rights of the Child (CRC) and CEDAW, as well as to accede to their Optional Protocols.

All the MPs present reacted positively to this. They viewed the ICESCR as a mechanism that can improve quality of life and boost Malaysia's progress towards Vision 2020.

The Commission later forwarded to the MPs its justifications on the need to ratify certain Conventions and for withdrawal of Malaysia's reservations under CEDAW and CRC. These issues are expected to be raised in Parliament.

(ii) Internal Security Act 1960
The Commission reiterated its stand that this legislation should be abolished as it has elements that violate human rights, for instance, detention without trial. In many cases, detainees had maintained their innocence, but could not prove it as they had no access to the Courts.

(iii) Conditions in prisons and detention centres
The Government should overcome the issue of overcrowding in prisons and detention centres in order to minimise clashes and spread of infectious diseases among inmates. The Commission's visits also found that a number of the centres are in a decrepit state.

[7] Members of Parliament present were YB Datuk Halimah Mohd. Sadique (Tenggara), YB Haji Salleh Haji Kalbi (Silam), YB Datuk Wira Ahmad Hamzah (Jasin), YB Dato' Mohd Jidin Shafee (Setiu), YB Dato' Haji Ismail Mohamed Said (Kuala Krau) and YB Tuan Aaron Ago Anak Dagang Said (Kanowit)

(iv) Native customary rights (NCR) to land

The majority of the complaints received by the Commission from the people of Sabah and Sarawak pertain to NCR to land. For instance, despite being recognised as an indigenous group, the Penan in Sarawak are unable to establish claim on their ancestral land because the Sarawak Land Code 1958 does not recognise the community's method in establishing such claim. As a result, they have been dispossessed of their land and are not even compensated when private companies are awarded plantation licences to develop the land. While the Commission has had numerous dialogues with the Government to ensure this right is protected, the issue has yet to be resolved.

(v) Perception of the Commission

There is a misconception among Government officials that the Commission is pro-opposition. The MPs agreed that the meeting has enabled them to understand that the Commission is concerned only with human rights issues.

They suggested that the Commission should organise a briefing session for all BN MPs to sensitise them to its work and to the importance of human rights. It was also suggested that the Commission should continue to play an intermediary role between the Government and the people to address human rights issues.

(vi) Public awareness of human rights

The number of complaints received by the Commission has increased. To a certain extent, this proves that more Malaysians are becoming more aware of their rights as well as of the Commission's role in protecting those rights. The Commission has carried out many awareness-raising activities, including road shows that have enabled its Members and staff to reach out to various communities, including those in rural and isolated villages.

(b) Dialogue with NGOs and Community-based Organisations (CBOs)

On 23 August, the ECOSOCWG held a meeting with NGOs and CBOs to discuss issues concerning economic, social and cultural rights. The objectives were to provide a platform for participants to highlight their concerns and to identify possible activities to be taken up by the Commission.

The Commission was represented by the Chairman, Tan Sri Hasmy Agam, and Members Mr James Nayagam, Mrs Jannie Lasimbang and Mr Muhammad Sha'ani Abdullah. The 19 participants represented organisations like the Bar Council, Amnesty International Malaysia, Suara Rakyat Malaysia, Persatuan Kesedaran Komuniti Selangor and Empower Malaysia.

Issues Raised by Participants

(i) Awareness-raising activities

The Commission should intensify public awareness of human rights, with activities starting in school. To ensure effectiveness, the Commission should ensure that activities and materials are presented in languages suited to communities of different background and education levels.

(ii) Rights of refugees and asylum seekers

The Commission has made various recommendations to the Government pertaining to the human rights of refugees and asylum seekers. As the next step, it should urge the Government to take up those recommendations.

(iii) Rights of workers

The Commission should look into proposed amendments to labour legislation like the Employment Act and Industrial Relations Act, as recent assessment by several NGOs has found that these will further erode the rights of workers.

Among others, the proposed amendments will make it easier for employers to hire and fire workers. They will also restrict workers' access to the Industrial Court, particularly when they are still on probation or have worked for less than a year. As such, participants suggested a joint submission from NGOs and the Commission to the Government, to state their position on the proposed amendments. Furthermore, the Commission should emphasise the need for a minimum wage for all industry sectors.

(iv) Abandonment of babies

There is the need for Malaysia to improve its efforts to prevent incidents of baby dumping, by providing education on sexual and reproductive health. This must not be limited to abstinence, which has proven to be ineffective. Children and young people should be given the opportunity to understand the repercussions of their actions and how to prevent unwanted pregnancy. They should be encouraged to run their own prevention campaigns and be part of policy making processes to ensure that these fit their needs.

While prevention is ideal, the cultural and legal scenario in Malaysia should ensure that unwed pregnant individuals are not stigmatised. They should instead be encouraged to obtain assistance, like adoption and abortion services, without the risk of being apprehended and punished. The media has an important role to play in changing the prevailing negative perception of pregnancy out of wedlock.

Concern was raised about the proposal to classify those baby-dumping cases which have led to death as 'murder', since the incidents may have occurred out of panic and shame. Penalising those involved would only heighten their fear and may lead to undetected incidents.

In discussing baby dumping, it was noted that it is the mother who is usually exposed to legal and cultural implications. In Malaysia, the courts cannot force a putative father to give intimate (like blood) or non-intimate (like hair) samples for DNA testing as this could cause hurt to the putative father. As a result, the father cannot be identified and the child would not be able to bear his or her father's name in the birth certificate, while obligations towards the child cannot be placed on the father. This contradicts the CRC which provides that the child has the right to know his or her parents, and that parents have duties to the child. There is thus, a need to balance between the rights of the father and those of the child in Malaysia, to ensure that the interests of the child are protected.

There is also a need to address the issue of forced child marriages, which seems to be an approach often taken by parents of pregnant teens as a way of dealing with births out of wedlock and ensuring that the name of the father is included in the birth certificate. This is, however, against human rights.

(v) Child molestation

Child molestation is a grave issue in Malaysia that requires serious attention. It is important for the public to note that cases that reach the media are only a fraction of the actual number of incidents. There is a necessity for Malaysia to implement the 'good touch, bad touch' programme for children. Additionally, it is imperative for the authorities to disclose data on such cases to raise public awareness of the extent of the issue and simultaneously obtain cooperation to deter such incidents.

(vi) Children under detention

Children under detention in Malaysia appear to lack access to their rights as guaranteed by the CRC. It has been claimed that some of these children have been placed under detention and restricted residence without the presence of probation officer. Hence, they are left to deal with their situation by themselves without any form of support.

A study conducted by one of the participants has found that, while there is written provision for a Children's Court and a room to be provided in the court building for proceedings involving accused children, no case has been heard in that room. Instead, it is being used as a storeroom.

(vii) Discrimination and racism

There were those who felt that, while the Government projects Malaysia as a tolerant multi-ethnic and multi-cultural society, there is internal discrimination of ethnic minorities and indigenous cultures. For instance, the current policy suppresses attempts to set up Chinese- and Tamil-medium schools. The incidents involving two principals in national schools who made racist remarks to students are another indication of the level of disrespect and intolerance.

(viii) Women's rights

The Commission was advised to address issues concerning women's rights holistically instead of dealing with them on a piecemeal basis. It was suggested that the Commission refers to, and takes cognizance of, the comments made on it in relation to women's rights in the ERA Consumer Report 2007.

(ix) Assessment of human rights issues

Besides urging the Government to ratify the ICESCR, the Commission could assess specific economic, social and cultural rights issues based on each provision of the ICESCR.

(x) Engagement with NGOs and CBOs

It was suggested that the Commission maintains regular engagement with NGOs and CBOs to discuss human rights issues. It was also suggested that the Commission should coordinate meetings between the Government and civil society groups to enable direct discussion of human rights issues.

CHAPTER 5

REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE

The Commission undertook several key roles in international and regional networks, thereby enhancing its interaction with the international human rights machinery. It also played an active role in contributing to the development of international and regional human rights mechanisms.

While the Commission expanded its international engagement and presence, it also recognised the need to promote awareness of the importance of regional and international human rights mechanisms at the local level, in partnership with external stakeholders.

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

On 22 January, the Commission received reconfirmation of its 'A' status from the ICC Sub Committee on Accreditation (SCA). While the SCA recognised the constructive approach the Commission had taken in pursuing the two Amendment Acts to the Commission's founding Act in 2009, it also recorded its concern on the following issues:

(i) The selection of civil society representatives on the Selection Committee is at the sole discretion of the Prime Minister;

(ii) Decisions of the Selection Committee are only recommendatory, since the Prime Minister is required to consult with, but is not bound to accept its decisions.

(iii) The proposed Key Performance Indicators (KPIs) to be used in situations where a member is being considered for reappointment and cases of dismissal are yet to be adopted by the Government.

The SCA was of the view that the first two issues open up potential for political interference that may impact adversely on the transparency and participatory nature of the selection process. On the issue of KPIs, the SCA was concerned as to whether these would be clearly established so as not to affect the independence of members, and if these would be made public.

Given that these issues could only be assessed after the new selection process in April 2010, the SCA said it would review these issues at its second session of the year.

On 28 January, the Prime Minister appointed five members to the newly-established Selection Committee in accordance with Section 11A(1) of the amended Human Rights Commission of Malaysia Act 1999. The Selection Committee was chaired by Tan Sri Mohd Sidek Haji Hassan, the Chief Secretary to the Government. The other members were Tan Sri Abu Talib Othman, then Chairman of the Commission, Tan Sri Haidar Mohd Nor, the former Chief Justice of Malaya, Mr Lim Chee Wee, Vice-President of the Malaysian Bar Council, and Datuk Rafiah Salim, Director of the Non-aligned Movement Institute for the Empowerment of Women.

The principal role of the Selection Committee was to shortlist candidates received from public nominations. The list of candidates was forwarded to the Prime Minister for his consideration and recommendation for assent by His Majesty Seri Paduka Baginda Yang di-Pertuan Agong.

The appointment of the seven members of the Commission took effect on 26 April. The line-up is led by Tan Sri Hasmy Agam as Chairman and consists of six members:

- Professor Datuk Dr Khaw Lake Tee (Vice Chairman)
- Mrs Jannie Lasimbang
- Mr Muhammad Sha'ani Abdullah
- Professor Datuk Dr Mahmood Zuhdi Hj Abdul Majid
- Mr James Nayagam
- Mr Detta Samen

With the new members on board, the Commission continued its effort to overcome the challenging accreditation process. This included the finalisation of the KPIs formulated by the previous members at the Government's request. The finalised KPIs were submitted to the Government on 18 August for its consideration and adoption. The Commission also informed the Government of the important need for public disclosure of the KPIs for the sake of transparency.

In response, the Government, at a post-Cabinet meeting on 30 August, informed the Commission that it would make the KPIs public once they were adopted. The Government also assigned the principal officer in the Prime Minister's Department responsible for KPIs to have further deliberations with the Commission on the subject. During a briefing session for the Commissioners and senior staff members, the officer clarified that it was entirely up to the Commission to formulate its KPIs and to make them public. The Government would merely take note of them.

While the Commission welcomes the introduction of KPIs as a tool to assess the performance of its members in discharging their functions and duties, it also submits that the issue of whether the KPIs could interfere with the independence of the Commission members can only be assessed after they have been implemented and used by the Government in the reappointment or dismissal of Commissioners.

On 13 October, the SCA conducted a Special Review to assess the concerns it had raised at the previous session. On 22 October, the SCA informed the Commission of the review outcome and the retention of the Commission's 'A' status.[1] In its report, the SCA took cognizance of the Commission's efforts in pursuing the legislative changes and further encouraged the Commission to ensure that the finalisation of KPIs did not restrict its ability to review and revise its priorities, based on its assessment of the human rights situation. The SCA opined that the KPIs should not be used to infringe on the functional independence and organisational and financial autonomy of a national human rights institution (NHRI). In ensuring the Commission's cooperation with other NHRIs and human rights institutions, the SCA also recommended that the Commission should work closely with civil society organisations, as well as continue seeking the advice and assistance of the Office of the High Commissioner on Human Rights (OHCHR) and the Asia Pacific Forum of National Human Rights Institutions (APF).

Recognising the fact that Malaysia had ratified the Convention on the Rights of Person with Disabilities (CRPD) on 19 July, the SCA recommended that the Commission pursue its appointment as the National Monitoring Mechanism (NMM) in accordance with Article 33.2 of the CRPD.

The Commission noted with gratitude the SCA's continued confidence in it. The Commission took immediate steps to follow up on the SCA's recommendations, particularly in approaching the Government for the appointment of the NMM role.

[1] The result was formally endorsed by the ICC Bureau in December.

Despite the challenges and risk of being downgraded, the re-accreditation process has been a worthwhile experience for the Commission in strengthening its resolve to promote and protect human rights. The Commission extends its appreciation to all stakeholders who supported its efforts and struggle to retain 'A' status.

2. ENGAGEMENT WITH THE ICC NETWORK

At the 23rd Session of the ICC (ICC 23) held on from 23-25 March in Geneva, Switzerland, the Commission and three other human rights institutions (Jordan, New Zealand and India) were elected as members of the ICC Bureau, a committee that implements the decisions of ICC membership annual meetings. The four institutions that represent the Asia Pacific region are expected to monitor activities of the ICC, the Bureau and it subsidiary bodies as well as to promote the views of APF members in decision making at ICC Bureau meetings. The Commission attended two Bureau Meetings held on 22 March and 7 October in Geneva and Edinburgh respectively.

Commission Secretary Mrs Hashimah Nik Jaafar delivered a presentation at the ICC 23, held on 25 March in Geneva

The ICC 23 witnessed the adoption of the first ICC Strategic Plan for 2010-2013 which was a result of broad consultations involving the ICC and OHCHR. The Plan was also developed based on discussions derived from the Bureau Meeting held in Rabat, Morocco in November 2009. The Commission had participated at that meeting in its capacity as incoming Bureau member.

The ICC Strategic Plan outlines the strategic priorities and proposed activities that take cognizance of the need to:

- Maintain and strengthen the accreditation process for NHRIs;
- Enhance NHRI engagement with international and regional human rights systems;
- Build partnerships and engage with external stakeholders;
- Develop knowledge sharing and internal communications; and
- Strengthen the work and functioning of regional organisations of NHRIs.

The Commission is supportive of the Strategic Plan which it believes can strengthen the capacity of NHRIs in carrying out their functions and mandates, in improving the national human rights framework as well as cooperation with external stakeholders at international and regional levels.

The ICC has been placing strong emphasis on the enhancement of NHRIs' engagement with the United Nations (UN) Human Rights Council (HRC) and its mechanisms in view of the fact that the UN General Assembly is conducting a review of HRC's status, work and operations. In this respect, the ICC adopted a strategy paper concerning its engagement with the HRC and its mechanism. In support of the ICC's call, the Commission participated in a survey on NHRIs' participation in the HRC that seeks to maximise and, where possible, advance the contribution opportunities available to NHRIs in the Council.

From 8-10 October, the Commission attended the 10th International Conference for NHRIs hosted by the Scottish Human Rights Commission in cooperation with the OHCHR and ICC, in Edinburgh, Scotland, United Kingdom. The theme of the Conference was 'Business and Human Rights: the Role of NHRIs'. This provided an opportunity for NHRIs, non-governmental organisations (NGOs), trade unions and business representatives to share experience and best practices on strategies to enhance the application of human rights norms in the context of the corporate sector.

It also served as the platform for NHRIs and the UN Special Representative to the Secretary-General (SRSG) on Business and Human Rights to discuss the role and opportunity of NHRIs in supporting the SRSG's Three Pillars Framework on 'Protect, Respect and Remedy', as well as the development of the Guiding Principles on the implementation of the Framework. The Conference adopted the Edinburgh Declaration that aims to enhance the priorities and strategies of NHRIs in promoting business and human rights at the regional and international levels. The Declaration was developed based on the interactive discussions and diverse experiences of participants from across the world.

Following the Conference, the Commission participated in a Consultation on the SRSG Guiding Principles for the Implementation of the Three Pillars Framework held from 11-12 October in Geneva. The Consultation was convened by the SRSG to obtain views and input from the civil society representatives on the content of the Guiding Principles, as well as proposed follow-up actions in ensuring the implementation of the framework by all relevant stakeholders.

The Framework rests on three key elements:

- The State's duty in international law to protect citizens from the violation of human rights by transnational business;

- The corporate responsibility to respect human rights; and

- The need for access to effective remedies, including through appropriate judicial or non-judicial mechanisms.

The Commission and five other NHRIs that attended the Consultation developed a joint statement that reaffirmed the pro-active role of NHRIs in considering new ways to advance the Framework within their mandates. The statement also called on the SRSG to recognise the centrality of NHRIs in business and human rights under the Framework. The Guiding Principles will be finalised and presented by the SRSG to the HRC for consideration in mid-2011, prior to the conclusion of his mandate.

3. UNIVERSAL PERIODIC REVIEW (UPR)

11 February marked the first year after Malaysia's review at the 4th UPR session. In summary, the Government adopted 62 recommendations, rejected 22 recommendations and responded to 19 recommendations.

The Ministry of Foreign Affairs hosted a UPR briefing session on 11 May to update the civil society on several positive steps taken by the Government to implement the UPR recommendations.

Given the important role of the NHRI in monitoring the implementation of UPR recommendations by Government agencies, the Commission carried out this role with the assistance of an Inter-Working Group Committee that it established.

On 20 December, the Commission held a Consultation Meeting on UPR Follow Up with the relevant Government agencies to obtain feedback on the status of implementation of the recommendations. The Commission was updated by 11 relevant agencies on their efforts and plans to implement the UPR outcomes, particularly in relation to some proposed policies and legislative changes. The Commission also learnt of the challenges faced by the Government in implementing all the recommendations it had accepted within the specific time frame. The Commission is ready to assist the Government to explore effective ways to prioritise and implement the recommendations towards upholding human rights standards on the ground. The Commission will post updates on the UPR Follow Up on its website for public information.

Consultation Meeting on the Follow Up to the UPR Recommendations held on 20 December at the Commission's office in Kuala Lumpur

Recognising that the UPR is a new mechanism introduced by the HRC and that its core function is not well understood by the general public, the Commission produced a booklet to raise awareness of the importance of this mechanism in improving human rights standards. The booklet contains information on the UPR process, the Government's commitments and the role of various stakeholders in ensuring the fulfilment of these commitments. The Commission also hopes to utilise the booklet for its future activities such as training workshops, road shows and other events.

In addition to the HRC Review, the UN General Assembly also agreed to a review on UPR to be conducted on completion of its first four-year cycle in 2012. Nevertheless, the Commission believes that the UPR will certainly be reviewed to a considerable extent during the HRC Review since it is one of the most important mechanisms of the Council. In this regard, the Commission sees the need to engage with all key stakeholders by contributing its independent views and proposals to the latter for the enhancement of NHRIs' participation in and contributions to the UPR.

4. SOUTHEAST ASIA NATIONAL HUMAN RIGHTS INSTITUTIONS FORUM (SEANF)

SEANF, formerly known as the ASEAN NHRI Forum, is a sub-regional grouping of NHRIs consisting of the Indonesian National Human Rights Commission, the Human Rights Commission of Malaysia, the Commission on Human Rights of the Philippines (CHRP) and the National Human Rights Commission of Thailand.

Since the Bali Declaration of Cooperation of July 2007, SEANF members have intensified collaboration in areas of common concern to pursue their commitment in promoting and protecting human rights.

2010 was significant for the Commission as it assumed the Chairmanship of SEANF up to 16 November, before handing it over to CHRP. On 19 February, SEANF adopted the Rules of Procedure (ROP), which had been drafted by the Commission, and these were later finalised by the SEANF members. The adoption of the ROP is an important milestone in the progress and advancement of SEANF as they will serve operational guidelines to strengthen the organisational structure.

At the 7th Technical Working Group Meeting held in Manila from 29-30 March, SEANF adopted two other significant documents, namely the Paper on Migrant Workers and the Memorandum of Understanding against Trafficking of Women and Children. The documents were the output of SEANF's thematic joint projects.

The Commission, as the lead NHRI in the project on migrant workers, played a crucial role in the development of the Paper, which contains recommendations on issues involving this group. It was published in November and forwarded to various stakeholders for consideration. In connection with this, the Commission organised a Consultation Meeting with relevant agencies in Malaysia on 16 December to discuss the key recommendations specifically made to the Government.

The recommendations included:

(i) Reviewing laws and policies that are inconsistent with UN and International Labour Organisation conventions to which Malaysia is a party;

(ii) Amending labour laws to cover 'domestic work';

(iii) Agreeing to the request from the Special Rapporteur on the Human Rights of Migrants to officially visit Malaysia;

(iv) Launching a public campaign against the holding of migrant workers' passports by employers;

(v) Scrapping the system of labour outsourcing and replacing it with a system to be operated by the Ministry of Human Resources;

(vi) Ensuring that conditions in places of detention are in compliance with internationally recognised human rights standards;

(vii) Assigning medical staff to be permanently based at Immigration Detention Centres;

(viii) Collaborating closely with governments of sending countries in solving migrant workers' problems;

(ix) Developing a comprehensive legal and policy framework to regulate the recruitment, admission, placement, treatment and repatriation of migrant workers; and

(x) Developing measures to identify trafficking in persons among migrant workers.

The agencies, which recognised SEANF's effort in developing the Paper, agreed to submit a consolidated report that provides comprehensive responses to the Commission with regard to the recommendations.

The Commission, through the SEANF network, continued its engagement with regional stakeholders to promote human rights. From 25-26 March, SEANF participated in a Strategy Meeting on the Establishment of an Independent NHRI in Cambodia, organised by the Cambodian Working Group for an ASEAN Human Rights Mechanism. At the meeting in Siem Reap, SEANF members shared their experiences and expertise on the establishment of a NHRI.

On 25 September, the Commission received a delegation from the Vietnamese Institute of Human Rights (VIHR), an academic institution established in 1994 under the Ho Chi Minh National Academy of Politics and Public Administration. Its functions are to undertake research and education and provide advice on issues of human rights to the Party and the Government of Vietnam. At the time of the visit, the VIHR was carrying out research on experiences, structures and operations of NHRIs as well as national mechanisms for human rights protection in the region. The goal was to provide theoretical and practical foundations for the Party and Government of Vietnam in considering the possibility of establishing a NHRI, in response to the ASEAN Charter towards realisation of the human rights of all individuals. The VIHR study-visit to the Commission and other institutions was to obtain information on experiences in the field of human rights.

As the Chair of SEANF, the Commission hosted the 7th Annual Meeting of SEANF from 15-16 November in Kuala Lumpur. SEANF admitted a new member, the Office of the Provedor for Human Rights and Justice of Timor Leste. The admission of a fifth member to SEANF will reinforce its role and relevance in upholding human rights in Southeast Asia. The meeting also identified new priorities for SEANF, including its role to support regional and international human rights mechanisms, as well as the drafting of a Five-Year Strategic Plan which will serve as a road map for SEANF. The Commission handed over the Chairmanship of SEANF to CHRP at the conclusion of that meeting.

The 7th Annual Meeting of SEANF held from 15-16 November in Kuala Lumpur

5. ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

The AICHR made significant progress in strengthening its institutional capacity to perform its functions and mandate as a regional human rights body. Its achievements included the development of Five-Year Work Plan and the drafting of its Rules of Procedure. While the Work Plan provides a road map for programmes and activities over the next five years, the ROP serves as the foundation for AICHR's work. Both documents are fundamental to ensure the effectiveness, independence and accountability of AICHR.

It is to be noted that some of the priorities identified by AICHR in its Work Plan are in line with SEANF's joint projects, particularly its proposed thematic studies on migration, trafficking in persons and right to education. Given the common areas of interest, the Commission and SEANF members will continue seeking avenues to establish formal engagement with AICHR for the promotion and protection of human rights in the region.

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

At the invitation of the APF, the Commission participated in a UPR workshop held in Sydney from 2-3 March. It was jointly organised by the APF and the Australian Human Rights Commission whose UPR session is due in February 2011. The aim of the workshop was for APF members who have undergone the UPR review to share their experience and good practices. NHRIs that were invited to speak included those from Malaysia, India, Indonesia, Jordan, New Zealand, the Philippines, South Korea and Sri Lanka. At the end of the workshop, a UPR Good Practice Compilation was produced. It provides useful information on the participation and contribution opportunities available to NHRIs at various stages of the UPR process.

The 15th APF (APF 15) Annual Meeting was held in Bali, Indonesia, from 3-5 August. It discussed several pertinent issues including the future direction and strategic priorities of APF, the APF Strategic Plan 2011-2015, review of the ICC accreditation process as well as thematic issues on sexual orientation and gender identity and *amicus curiae* role of NHRIs.

The APF 15 adopted a proposal for the establishment of focal points within interested member-institutions on the issue of migrant workers. The main roles of the focal points include:

- Assisting the identification of best practices among member- institutions on this issue;
- Assisting the development of an APF training manual on migrant worker's rights; and
- Facilitating the creation of a pool of potential trainers from among NHRI staff to carry out training on the rights of migrant workers.

The APF 15 was conducted in a new format following a decision at APF 14 in 2009 that divided the annual meeting from the conference. This provided members more opportunities to discuss the work and direction of the organisation as a whole. It also promoted better sharing of experiences and relationship among peer institutions.

Under the facilitation of the APF, the Commission's staff members were able to participate in several capacity building programmes – the 'APF Online Foundation Training Course for NHRIs held from August-September; Human Rights and Migrant Workers Training Programme held in Lombok, Indonesia in September; and a 'Sub-Regional Training Workshop on NHRIs and Prevention of Torture', held in Kuala Lumpur in December.

7. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

The Commission continued its advocacy for the development of a NHRAP by the Government. On 6 October, the Commission held a meeting with the Hon. Dato' Seri Mohamed Nazri Abdul Aziz, the Minister in the Prime Minister's Department, reviving the importance of the Government taking the lead in developing a NHRAP for the advancement of human rights. The Commission was pleased with the Government's receptiveness to the proposal.

On 7 October, the Commission was formally informed by the Government of its agreement to develop a NHRAP, as well as the appointment of the Legal Affairs Division of the Prime Minister's Department as the focal agency on NHRAP.

On 29 November, the Commission was invited to the inaugural meeting organised by the focal agency to discuss the preparatory process concerning the drafting of the NHRAP. The Commission proposed the need to establish a Pro-Tem Committee comprising representatives of relevant Government agencies, the Commission, NGOs and other stakeholders for the planning stage. The Commission also recommended that the focal agency should conduct a baseline study to identify priority areas for the NHRAP and to seek expertise from the OHCHR and other experienced NHRIs, all of which the Commission is ready to assist.

Notwithstanding the lead role of the Government in the development of NHRAP, the Commission recognises the significant contribution it too can make in the drafting, implementation as well as monitoring stages of the Plan.

While recognising the existence of NHRAP in various countries, the Commission opines that there is no single perfect NHRAP. An effective Plan, as contained in the OHCHR Handbook on NHRAP, is dependent on:

- Transparent and participatory planning;
- Comprehensiveness of the baseline human rights study underlying the plan;
- Realistic priorities and action-oriented planning;
- Clear success criteria and strong participatory mechanisms for monitoring and evaluation; and
- Adequate commitment of resources.

Considering that the Government is embarking on the draft NHRAP, the Commission hopes that it will consider incorporating the recommendations derived from the UPR and treaty bodies' sessions on Malaysia into the document. This approach will assist the Government to enhance the implementation of its international obligations in an effective and comprehensive way.

8. PUBLICATION ON THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

The Commission extended its partnership with the UN Country Team (UNCT) in developing a publication on the UDHR that features the thoughts of local persons on UDHR Articles, based on real cases of human rights in Malaysia. It is noted that a similar publication namely 'Dignity and Justice for All of Us' has been produced by the NHRI of Thailand with the aid of the UN.

Considering the need for an educational tool to raise awareness of Malaysians on the importance of the UDHR, the Commission and UNCT believe that the publication will be of great benefit to several key stakeholders such as Government agencies, educational institutions, parliamentarians and the public at large. The publication is expected to be completed by mid-2011.

CHAPTER 6

REPORT OF THE INDIGENOUS PEOPLES' RIGHTS COMMITTEE

Indigenous Peoples (IPs) in Malaysia are generally referred to as *Orang Asal* and comprise the Anak Negeri in Sabah, the Dayak and Orang Ulu in Sarawak and the Orang Asli in Peninsular Malaysia.

The Commission has been dedicating much effort to understanding and resolving critical issues affecting the rights of IPs. In July, it established the Indigenous Peoples' Rights Committee (IPRC) to coordinate activities of the different Working Groups of the Commission, as well as those of its Sabah and Sarawak offices, involving the rights of IPs.

1. TASKS OF THE IPRC

As its first undertaking, the IPRC moved to reassess the issues encountered by the IPs in realising their rights. Apart from problems with the core issue of native customary rights to land, the IPRC also found that IPs face difficulty in implementing the indigenous system of justice, education and economy, among others.

The Commission is aware that issues of communal ownership and collective rights to land need special attention as IPs have been marginalised and discriminated in various aspects of their life. As such, the Commission decided to conduct a National Inquiry into the land rights of IPs with the IPRC providing assistance to the process of the inquiry.

The Commission further agreed that the IPRC should also:

- Determine the extent to and nature in which systemic barriers are affecting the land rights of IPs, and enhance the awareness, knowledge and understanding of all stakeholders on the IPs' rights and related issues and systems;

- Instill human rights awareness among IPs;

- Implement programmes and activities aimed at promoting and protecting IPs' rights;

- Develop recommendations to help the respective State Governments and other stakeholders in further understanding, analysing and developing remedies, where appropriate, that would enable IPs to attain their rights; and

- Examine the indigenous social, cultural, religious and political rights of IPs.

Five IPRC meetings were held during the year, enabling the Commission's Working Groups to pool their efforts to implement activities effectively.

2. AREAS OF CONCERN

In the course of planning its work, the IPRC analysed several issues which are frequently raised by indigenous groups in Malaysia.

(a) Native Customary Rights to Land

The dispossession of customary lands held by IPs has been cause for great concern, as this affects their culture, identify and livelihood. The Commission recognised the seriousness of this issue and decided to hold a National Inquiry into the land rights of IPs.

(b) Indigenous Education

IPs have a right to establish and control all levels and forms of their education. In view of this, the IPRC initiated activities to discuss ways in which indigenous communities can integrate their perspectives and languages into mainstream education systems and institutions, as well as to facilitate and protect IPs' rights to transmit knowledge to their future generations. Further efforts will be made to promote indigenous ways of learning in a manner appropriate to their cultural methods of teaching and learning.

(c) Indigenous Legal System

The IPRC provided support and advice to the Sabah office regarding the indigenous legal system which includes legislative (customary law), judicial and procedural aspects. The approach taken was to link efforts by the Government and indigenous organisations in strengthening indigenous institutions like the Native Courts of Sabah and Sarawak. Participatory processes are being developed to strengthen legal pluralism in the two States where, even though Native Courts are recognised, the IPs face enormous problems in maintaining their traditional legal systems.

Challenges identified in implementing legal pluralism include the failure of mainstream legal authorities to respect rulings of indigenous chiefs/elders/councils when ministering indigenous laws and other

disputes, or the failure to recognise such decisions as judicial acts. Other obstacles include limited administrative and financial support from the State; the lack of opportunities to enable traditional leaders to update indigenous laws; and the lack of respect for the indigenous legal system by other legal systems.

(d) Other Issues

For other issues that the IPRC has identified, the general approach to implementation is to conduct consultations to establish the situation, ascertain the policy needs and actions; and to draft the Commission's findings and recommendations. These findings and recommendations will be submitted to the relevant Ministries for legal recognition and for the IPRC to draw up a follow-up plan with such bodies. Issues related to indigenous education, healthcare and economy will also involve urging the Government to ratify the International Covenant on Economic, Social and Cultural Rights to fulfil its obligations in the spirit of meaningful progressive realisation.

As regards consultations, efforts will be made to meet the relevant Government departments and agencies directly and also to invite them to stakeholder consultations with indigenous organisations through their chosen representatives, non-governmental organisations and other relevant bodies. These consultations are also necessary to enhance understanding and obtain vital information on indigenous issues. With the existence of relevant statutes and documents recognising the rights of IPs, the issue of implementing what is accorded to those in Malaysia should not arise. The first step in protecting the IPs' political, economic and social rights would be to recognise their right to exist as the first people on this land.

CHAPTER 7

REPORT OF THE NATIONAL INQUIRY COMMITTEE

The Commission arrived at a milestone during the year, with a decision to conduct its first-ever national inquiry. Pursuant to this, the Commission established a National Inquiry Committee with the primary responsibility of undertaking all necessary actions.

A national inquiry is a mechanism that can be used to achieve the Commission's mandate to look into systemic human rights issues with a view to solving these through systematic means. By adopting a broad-based human rights approach, it can examine the issues as a whole as opposed to individual complaints. This has a dual focus, fulfilling both fact-finding and educational roles. An effective national inquiry is one that is supported by the exercise of powers to subpoena witnesses and documents to its hearings, and produce a public report that contains recommendations to all relevant parties.

A national inquiry also has the benefit of being educational in nature, capable of educating the general public and all parties concerned, and is regarded to be better at investigating systemic causes of human rights violations. Using methodologies that involve broad participation in an issue, all perspectives can be heard resulting in more comprehensive recommendations, with general and specific applications to effectively tackle the issue.

Not all human rights issues merit a national inquiry process. The human rights violation must be of a specific nature – with a wide and serious basis. The violation must also consist of an historic and systemic pattern and also require prospective action by many parties, not only the Government. A national inquiry would also be suitable in situations where there is a low level of public and political recognition.

1. NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES

(a) Objectives and Terms of Reference

Concerned the increasing number of complaints from indigenous communities, the Commission decided that the first National Inquiry will focus on the land rights of indigenous peoples (IPs), with the following objectives:

- To assess the land rights situation of the IPs and to appraise the social, economic, cultural and political impact of its recognition or non-recognition on IPs;

- To determine the extent to which the lands rights of the IPs are recognised constitutionally, legally and politically in Malaysia;

- To determine the extent and nature of the barriers preventing the IPs from enjoying their land rights;

- To promote awareness, knowledge and understanding of the IPs' right to land and their related issues and systems; and

- To develop recommendations to help the Federal and the respective State Governments and other stakeholders in developing remedies, where appropriate, that would enable IPs to attain their rights to land.

In achieving its objectives, the National Inquiry will have to:

(i) Understand issues pertaining to elements of violation in depriving or restraining the rights of IPs over ancestral land, including understanding their perspective of land ownership;

(ii) Study relevant laws and legal provisions, and current policies, practices and procedures by the authorities and individuals that infringe the land rights of IPs;

(iii) Analyse recent judgments and decisions by the courts in cases pertaining to land acquisition by State authorities and to adequate compensation, including issues of communal ownership and collective rights of IPs to land;

(iv) Examine the effectiveness of policies, practices, recommendations and special measures implemented in rectifying violations of the land rights of IPs;

(v) Examine whether relevant bodies and/or agencies responsible for protecting the rights of IPs have been successful in carrying out their tasks in remedying complaints about violation of land rights by affected IPs;

(vi) Make recommendations on the appropriate terms and conditions upon which indigenous land should be recognised and granted; and

(vii) Consider the question of resource exploration and development and make recommendations on ways of accommodating legitimate concerns and compensating for the impact of such development on IPs.

(b) Methodology

The Commission is committed to a cooperative and responsive approach to developing solutions to IPs' land rights. Hence, the Commission will work with a range of parties to identify and develop practical initiatives that will yield improvements to the status of land ownership of Malaysia's IPs.

Towards achieving this, the Commission agreed to undertake in-depth research to review relevant laws, practices and case laws as well as to obtain data and come up with GIS maps on indigenous land. The Commission also agreed to call for public submissions to obtain information to supplement its research. It further agreed to hold various consultations with relevant Government agencies and NGOs, as well as public hearings, which are a crucial component of the National Inquiry. These hearings will allow key stakeholders to voice their views and present evidence in a public setting. This step is essential as it will inform the Commission about key facts and provide context for the investigation.

The Commission has allocated 18 months for completion of the National Inquiry, which is scheduled to begin in January 2011.

(c) Activity of the National Inquiry Committee

Mindful of the importance of cooperation among all stakeholders, the Commission proposed to hold introductory sessions on National Inquiry, consultations, dialogue sessions and public hearings in Peninsular Malaysia, Sabah and Sarawak. The first introductory session on National Inquiry was held in Miri, Sarawak on 11 December, with representatives of IP organisations from Peninsular Malaysia, Sabah and Sarawak. The Commission informed the participants about the objectives and terms of reference of the National Inquiry and further flagged the need for all stakeholders to participate actively in providing relevant information on IP land rights to the Commission.

CHAPTER 8

REPORT OF THE SABAH OFFICE

1. COMPLAINTS

The Commission's office in Sabah received 233 complaints over the year, compared to 318 in 2009. Those associated with land issues remained the most numerous at 92 (Table 1). The Sabah Office resolved 58 of the complaints and is attending to 133 others. No further action is necessary in the remaining 42 cases.

Table 1: Complaints Received by Sabah Office, 2010

NO.	COMPLAINTS/ISSUES	NO. OF CASES
1.	Land Matters	92
2.	MyKad/Birth Certificates	56
3.	Detention of Family-members at Temporary Holding Centres	22
4.	Public Amenities	12
5.	Police	9
6.	Work Permits	8
7.	Court Cases	7
8.	Unpaid Salary/EPF	7
9.	Social Welfare	6
10.	Preventive Detention	5
11.	Workplace Accidents	3
12.	Licences	3
13.	Education	2
14.	Adoption Applications	2
	Total	**233**

While the majority of the complaints were submitted by way of memoranda, letters, e-mails, telephone or in person, there were also oral and written submissions during the Commission's Meet-the-People sessions and activities held by the State and Federal Public Complaints Bureau in different districts.

Of the seven memoranda received, six were related to indigenous land rights. One of these, from the Task Force Against Kaiduan Dam, requested the Commission to conduct investigations. Another was from PACOS Trust, addressed to the State Secretary seeking action against the Sabah Lands and Surveys Department (SLSD) and Natural Resources Office for failing to attend the Seminar on 'Communal Titles' organised by the Commission's Sabah Office.

There were 29 complaints, made individually or collectively, about alleged encroachment into indigenous lands, by the State and private developers for oil palm and rubber planting. This was said to have resulted in the destruction of natural resources which then affected the livelihood of indigenous peoples (IPs). Another critical set of 41 complaints was about extinguishment of native customary rights (NCR) to land, due to the gazetting of protected areas for parks, wildlife conservation or forest reserves. Other complaints involved procedural matters, such as the slow processing of land applications and difficulty in getting the Land Office to set a hearing date for related inquiries.

An increasing number of complaints involve alienation of customary lands for development projects such as dams or plantations. The lodging of complaints could be due to heightened awareness among IPs of their rights, and also to a more accessible information system. Swift action and resolution by relevant parties are critical to avoid costly situations and potential conflicts.

The resolution of land cases takes a long time. Over the year, only two cases were resolved. Taking a serious view of this low percentage, the Commission will conduct a National Inquiry into the land rights of IPs in 2011.

Standard procedures in handling such complaints require a letter to be sent to the relevant Government departments to enquire into the status of land. The Commission recommends that the departments, in particular the SLSD, should set up a special unit to handle conflicts. This would also expedite response to follow-up enquiries.

2. INVESTIGATION OF COMPLAINTS

In following up on complaints received, field investigations enabled the Sabah Office to validate the situation on the ground and to gather more information. Four such visits were conducted during the year, and investigations into these cases are still in progress.

(a) Investigative Visit to Telupid

A fact-finding visit was conducted on 15 July at Kampung Lumou in the Telupid district. This followed a complaint from the villagers that a private company had encroached on their land. The Commission was able to obtain information to facilitate follow-up action with the relevant authorities and the company.

(b) Investigative Visit to Beluran

The visit to Kampung Lipasu in the Beluran district was held on 16 July after villagers complained about encroachment on land to which they have established customary rights. The communities claimed that a private company had, in early 2009, told them the area had been alienated to it.

(c) Visit to Temporary Holding Centre, Kimanis

The Commission's Complaints and Investigation Working Group and the Sabah Office carried out the visit on 6 September to monitor conditions and to ensure their consistency with internationally recognised human rights standards, such as the Standard Minimum Rules of Places for the Treatment of Prisoners. A number of issues and recommendations were made directly to the deputy directors of the Federal Task Force and the Immigration Department during the visit, including the need to liaise with local organisations to provide healthcare services and education to inmates to clarify procedures in cases of suspected trafficking, and expedite the deportation process.

(d) Investigative Visit to Kota Belud

A complaint was received regarding the proposed construction of a dam on Sg Kadamaian, a major river in Kota Belud. The dam will flood the site of four villages if constructed. The Commission decided to establish whether the communities are indeed opposed to the project, and to verify if they had been consulted or at least provided information about the project. On 1 August, a dialogue was held with about 200 residents at Kg Tombotuon. Fifteen representatives including women, youth, traditional leaders and the members of the Village Security Committee provided information. All of them maintained they were opposed to the dam as the communities had established NCR to land in the area. It was also established that they had neither been informed nor consulted about the project.

The head of Kg Tombotuon, together with 23 other village heads, were alleged to have been sacked as a result of their opposition to the proposed dam. Although no official decision has been made to proceed with construction, political leaders, particularly the State Assembly representative, are pushing hard for the project. A Federal minister has said the dam would be built in spite of the communities' opposition. The Commission recommended that both the State and Federal authorities obtain the free, prior and informed consent of the affected communities through open consultation, as well as ascertain the impact of the dam on those affected.

(e) Investigative visit to Tenom

A resident of Kampung Bangkulin Baru submitted a memorandum of complaint that the Sabah Forestry Department and the Sabah Forest Industries had encroached on land belonging to the village. As a result, the Sabah Forestry Department arrested 13 villagers while they were planting rice. The Sabah Office held a dialogue with the residents involved on 13 August. This revealed that the villagers were opposed to the inclusion of 2,000 acres of customary land in the Kuala Tomani Forest Reserve and the awarding of 3,000 acres to the Sabah Forest Industries.

The Commission has received many similar complaints of alleged trespass into forest reserves. It therefore recommends that the Sabah Forestry Department and other relevant State authorities carry out a comprehensive study on the establishment of such reserves based on provisions of the Sabah Forest Enactment 1968 and the prior rights of IPs.

3. ROAD SHOWS ON HUMAN RIGHTS

The Sabah Office continued to participate in the activities of the Federal and State Public Complaints Bureau (PCB). During the year, programmes were held at *tamu* (local markets) in the districts of Sandakan, Kudat, Kuala Penyu, Tenom, Keningau, Tambunan, Papar, Beaufort and Kota Belud. Such joint activities represent a win-win situation and benefit the public, especially those unable to travel to Kota Kinabalu to lodge complaints. While the Sabah Office handled allegations of human rights violation, the PCB handled complaints against Federal and State agencies respectively.

At each location, the Member of Parliament or State Assembly representative and the district officer were invited. Participants usually comprised political leaders, community leaders, civil servants, NGO representatives, district chiefs, native chiefs, village heads, school principals, teachers, students and members of the public.

4. MEET-THE-PEOPLE SESSIONS

The Sabah Office organised two Meet-the-People sessions, inviting the Federal and State PCB and various departments in the district to participate. The sessions were held in the Semporna and Penampang districts on 27 February and 30 September respectively.

Meet-the-People sessions are held in public places to facilitate the submission of complaints – this session was held in the Penampang district, adjacent to the Donggongon tamu ground

In Semporna, 500 people turned up at the community centre. The district officer delivered the opening remarks and responded to issues, problems and questions raised by participants. These were on the lack of response to land applications; the time taken to process such applications; unsatisfactory supply of electricity and water; and the poor condition of roads and the school.

In Penampang, the programme drew 300 people to Buhavan Square, Donggongon Town. The session, jointly organised with the Penampang District Office, saw the participation of 26 representatives of departments, agencies and non-governmental organisations (NGOs), as well as lawyers. It had earlier been agreed by various departments and the Federal and State PCB that a follow-up meeting would be held to coordinate resolution of the problems raised.

5. PUBLIC WORKSHOPS/FORUM/SEMINARS

(a) Workshop on 'Indigenous Peoples and Decision Making'

This in-house workshop was organised on 2 August to promote perspectives on indigenous rights. It touched on a range of issues related to decision making including the international framework, IPs' internal processes and institutions, their participation in electoral politics, and direct and indirect participation in governance. The half-day workshop brought together 35 representatives of Government, NGOs, legal firms and the media.

(b) Seminar and Forum on 'Indigenous Legal System in Sabah'

Legal pluralism in Sabah, with the Native Court as one of three parallel juridical systems, offers an important opportunity to ensure IPs' right to participate in, and decide on, the future of the *adat*, a critical aspect in their lives. The Forum on 12 October was a follow-up to the Seminar held in August on the same issue. In preparation, the Sabah Office organised dialogues with four Native Courts in Kota Kinabalu, Penampang, Putatan and Papar, and held follow-up meetings with two key personnel involved in the promotion of Native Courts.

A range of issues was discussed at the Forum that are relevant in the effort to enhance the role of the Native Courts. These included a review of the jurisdiction of the Native Courts and of laws, administration and infrastructure; a proposal to establish a Native Court Judiciary Department; and the role of advocates in the Native Court of Appeal. Another important issue was on how communities and village heads can participate actively in revitalising the *adat* and how the Native Courts can provide advice to such efforts.

Additionally, the Forum considered the issue of selection of village heads, and district and native chiefs. This is a subject of grave concern, particularly to native communities who expect justice to be dispensed fairly. The appointment of district and native chiefs is seen to have compromised the independence of the Native Courts.

Chairman of the Commission, Tan Sri Hasmy Agam, opens the Forum, stressing the importance of Native Courts in providing access to justice for indigenous communities

A major recommendation of the Forum was for the establishment of criteria and a selection process for these important positions that are free of political interference. The Forum called for broad participation of Native Court personnel as well as other interested parties in the review of the Native Courts Enactment 1992 and accompanying Rules of 1995. It was of the view that the State Ministry of Local Government and Housing and the State Attorney-General's Chambers must involve relevant indigenous representations at an early stage, even if it prolonged the review process. Another recommendation was for the setting up of a Native Court Judicial Department.

Follow-up workshops were recommended to transmit the outcome of the Forum and to gather feedback from the Native Courts, village heads, NGOs and relevant departments. Similar activities will be held in Peninsular Malaysia to look into the legal system of the Orang Asli whose traditional justice system is not legally recognised.

(c) Seminar on 'Communal Titles'

The provision for communal titles in the Sabah Land Ordinance 1930 is a positive measure, with potential to resolve many issues and challenges related to customary lands. However, the amendment of Section 76 of the Ordinance has led to questions and complaints about violation of indigenous land rights. More questions have been raised due to the State's introduction of a 'Fast Track Land Alienation' programme to put aside lands under communal title, where joint ventures to develop the land are made a condition for issuance of such titles.

In preparation for the Seminar, the Sabah Office visited the SLSD in three districts and held consultations with four communities that were identified as among the first to receive communal titles under the scheme. The Seminar was held on 28 October to get a better understanding of the situation and to facilitate dialogue between the SLSD and communities identified to receive such titles. Unfortunately the SLSD was not present to provide answers.

The Seminar concluded that land issues in Sabah are complicated enough and that the issuance of communal titles with conditions – such as joint ventures without the free, prior informed consent of the communities – raises serious question about the Government's real intention. Recognition of customary lands is accorded under the Constitution and Article 26[1] of the UN Declaration on the Rights of Indigenous Peoples, among others.

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[1] Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Participants made recommendations to the Commission to work together with the SLSD to hold a follow-up meeting, to investigate the potential impact of the scheme through the Commission's National Inquiry into land rights of IPs and where necessary, urge the Government to stop the scheme until free, prior and informed consent is obtained from the communities.

Field visits and interviews conducted in Kg Korolok, Tenom

(d) Workshop on Indigenous Education

Aware that indigenous education in Sabah needs attention and understanding, the Sabah Office organised a workshop aimed at ascertaining the perspectives of NGOs, the Government and IPs. The 90 participants considered how the IPs could achieve their right to education. Examples of efforts by individuals and groups like the Kadazan Dusun Language Foundation and PACOS Trust provided important insight on the introduction of mother-tongue education and inter-generational transfer of indigenous knowledge through community learning centres. The Workshop came up with several recommendations, including from the Sabah Education Department, on how to achieve culturally-appropriate curricula by introducing vocational subjects that are founded on indigenous economic activities.

The workshop recommended that the Education Department and relevant Ministries should work towards the recognition of indigenous ways of learning and of institutions that are contributing to this. Efforts to introduce indigenous perspectives in the mainstream education system should not be hampered by lack of understanding by the Government, which should work towards overcoming the poor interface between traditional and mainstream education systems and institutions. The Workshop

also recommended looking into the issue of discrimination of IPs, poor accessibility and inadequate public spending, particularly in rural areas where most of the IPs live. The institutionalisation of educational services and tight control by the State – which does not allow much room for NGOs and communities to contribute more effectively in the system – also has to be reviewed.

6. OTHER ACTIVITIES

(a) Meeting with Unions

On 20 March, the Sabah Office organised a dialogue with 30 representatives of MTUC, CUEPACS, NUBE and the Malaysian Timber Union in Sabah. Among the issues raised were the need to give priority to local residents for jobs in every sector; and to raise the minimum wage to RM1,000 in Sabah where most workers receive a monthly wage that is below the national poverty line. The salary is reportedly insufficient to cover the daily cost of living and needs of their families.

(b) Dialogue with NGOs

Held on 5 August, this provided 18 representatives from eight major NGOs in Sabah to meet the resident member of the Commission. They were given an update on the Commission's activities and had an opportunity to discuss further collaboration. One outcome was a commitment by the NGOs to participate in events organised by the Commission. The representatives also advised the Commission on key issues in Sabah, and the need to collaborate in view of the high expectations of the public and the general lack of resources faced by both NGOs and the Commission.

(c) World Indigenous Peoples Day Celebration

In September, the Sabah Office participated in a joint effort between PACOS Trust, the Indigenous Peoples Network of Malaysia and community organisations in Ranau to commemorate World Indigenous Peoples Day. This was held from 15-17 September in Nunuk Ragang, Ranau. The Sabah Office put up an information booth, accepted complaints and gave a presentation, as well as helped with the logistics of organisation. The Commission recommends that the Government participate in future celebration of the day, to foster better understanding and lend support to IPs.

(d) Education on Human Rights

The Sabah Office liaised with the Commission's Education and Promotion Working Group to provide human rights training to RELA recruits. Six sessions were conducted that involved a three-hour module on human rights. The training was well received, evoking many good questions from the participants.

Training for RELA recruits in Sabah was well received

In addition, the Sabah Office delivered an educational talk on human rights at the request of the Papar Protestant Church on 8 June.

CHAPTER 9

REPORT OF THE SARAWAK OFFICE

Much remains to be done in heightening awareness of human rights, especially among rural people. Many are as yet unaware of the services provided by the Commission's Sarawak Office. Hence, the major focus of the year was on road shows and talks to disseminate information on the Commission's role and functions.

At the same time, the Sarawak Office pursued its core function to receive and handle complaints. The main issues were on alleged encroachment into, or acquisition of, land to which native customary rights (NCR) have been exerted. The complainants alleged that this was done without their knowledge or consent. Where compensation was provided, this was insufficient.

1. ACTION ON COMPLAINTS

Of the 51 complaints received, 27 were related to land matters. Complainants alleged that the State Government had not sufficiently recognised their NCR to land and furthermore, failed to issue title deeds to *bona fide* landowners. There were also claims that logging companies had encroached into customary lands.

Other categories of complaints centred on allegations of physical abuse by the police and abuse of administrative power, as well as wage-related problems and difficulty in obtaining identification documents (Table 1).

Memorandum received by the Sarawak Office

Table 1: Complaints Received by the Sarawak Office, 2010

NO.	NATURE OF COMPLAINTS	NO. OF CASES
1.	Native Customary Rights to Land	27
2.	Police	11
3.	Employment	4
4.	Identification Documents	2
5.	Education	1
6.	Miscellaneous	6
	Total	**51**

The Sarawak Office resolved 20 cases in cooperation with Government departments and assistance from non-governmental organisations (NGOs). Another 12 were found to be unrelated to human rights, therefore requiring no further action. The remaining 19 cases were forwarded to the relevant authorities for appropriate action.

2. ROUNDTABLE DISCUSSIONS (RTD)

(a) Access to Clean Water

The RTD was held on 28 January in Kuching. The main aims were to discuss access to water as a basic human right, to obtain an overview of access to water in Sarawak, and to understand underlying factors and challenges in improving the supply of clean, free water.

The 76 participants included community leaders, academicians and Government officers. Speakers from the United Nations Development Programme, the National Resources Environmental Board, the Ministry of Public Utilities Sarawak, the Ministry of Rural and Regional Development and Sahabat Alam Malaysia presented papers.

In a developing state like Sarawak, the supply and distribution of water to the local populace is still at the infancy stage. Communities in rural and coastal areas depend on rivers, gravity-feed wells and rain water for their daily needs. However, logging and plantation activities have polluted many rivers. Members of the Commission therefore highlighted that the State Government – as policy maker and custodian of natural resources – should ensure access to, and distribution of, safe water supply to the populace.

Other speakers emphasised perspectives of human rights and the environment, especially in relation to the protection of water sources and the role of federal and stat e agencies. Community leaders from Kampung Salak, Longa Banga, Mukah and Song shared their experiences.

Issues Raised by Participants

(i) The supply of water should meet consumer expectations.

(ii) In expanding water supply, priority should be given to communities without adequate access currently.

(iii) Enforcement should be stepped up to ensure that water sources are not polluted by commercial or agricultural activities.

(iv) Clear buffer zones should be established around water catchment areas.

(v) Development activities should comply with the relevant rules and regulations.

(vi) Communities and stakeholders, who are now being left out of discussions on development, should be consulted when their land is affected by commercial activities.

(vii) Community leaders should have a bigger role when development takes place, and given more power to make decisions within their jurisdiction.

Recommendations of Panellists and Participants

1. There must be sufficient supply of clean water to rural areas.

2. An open dialogue should be held on the sustainability challenges in the oil palm sector; this should bring together all stakeholders including local communities.

3. A provision for mandatory public participation should be included in the Environmental Impact Assessment process.

4. Information disclosure and transparency should be included in forestry and land governance, for example by way of licensing of plantation concessions.

5. Plantation companies must stringently monitor their operations to ensure compliance with all laws.

(b) Sarawak Timber Association (STA)

On receiving complaints that timber companies had encroached on NCR land, the Commission held a RTD on 23 March. This was to promote dialogue between the STA and the indigenous peoples (IPs).

The RTD revealed differences in perception between the industries and the IPs in terms of establishment of customary ownership to land, and interpretation of the Sarawak Land Code 1958 on NCR. For example, traditional ownership to land is established through the *molong* and *tanah mengurip* practices by the Penan; and though *pemakai menoa* and *pulau galau* by the Iban. These are not recognised under the Sarawak Land Code.

Issues Raised by Participants

(i) The State Government should adopt a mechanism to ensure strict compliance with international human rights standards in line with the UN Declaration on the Rights of Indigenous Peoples and the International Labour Organisation Convention 169.

(ii) There should be clear demarcation between State land and NCR land.

(iii) The State should consider according legal recognition to *temoda* and *pemakai menoa* practices.

(iv) The State should further consider if NCR land can be excluded from provisional leases issued to industries.

(v) Industries should be more receptive to dialogue on land matters.

The Commission's Recommendations

1. There should be continuous dialogue between STA members and communities whose land rights are affected by industries.

2. The Sarawak Land Code should be amended to give recognition to the methods by which native communities establish their right to land.

3. The State Government should conduct parameter surveys to ensure distinct boundaries for Native Communal Reserves.

4. The State Government should issue land titles under the Sarawak Land Code to establish NCR to genuine landowners living in the interior.

3. COURTESY CALLS

The Commission reached out to Government agencies to establish rapport. During these courtesy calls, the Commission explained its duties, provided an update on its activities, and sought improved cooperation on matters of mutual interest.

Table 2: Courtesy Calls by Members of the Commission

NO.	VISIT	DATE	MEMBER
1.	State Secretary	14 Jan	Dr Mohd Hirman Ritom
2.	Ministry of Public Utilities, Sarawak	18 Jan	Dr Mohd Hirman Ritom
3.	Federal Secretary	20 July	Mr Detta Samen
4.	State Prison Director	12 Aug	Mr Detta Samen
5.	State Police Commissioner	17 Aug	Mr Detta Samen
6.	State Immigration Director	15 Oct	Mr Detta Samen

Member of Commission's Courtesy call on the Federal Secretary, Datuk Mohd Yahaya Basimin briefing him on the activities to be carried out by the commission

On 14 September, the Chief Judge of Sabah and Sarawak invited Commission member Mr Detta Samen to a Dinner Talk by the Chief Judge of Papua New Guinea. This was on native land issues in Papua New Guinea and how the Courts there had resolved disputes, as well as on the inherent power of the courts in handling human rights issues.

On 15 October, the Commission received a visit from the Dean of the Law Faculty of Bond University, Gold Coast, Australia. The Commission briefed him on its role and functions, and achievements to date.

4. LUNCHEON TALKS

Three talks were conducted with the Sarawak Advocates Association (26 January); Women-based Organisations (23 February); and Community-based Organisations (23 July). Dr Mohd Hirman Ritom delivered the Commission's remarks at the first two events, and Mr Detta Samen at the third. The main objectives of the talk were to create awareness of the role and functions of the Commission in promoting human rights, and to enable networking among the participants.

Luncheon Talk with Community-based Organisations on promoting human rights values

5. ROAD SHOWS

The Commission conducted a dialogue on 28 October with the assistance of the Sub District Office in Song, Kapit. Participants included civil servants, members of political parties, community leaders, NGOs and students. Commission member Mr Detta Samen spoke on what constitutes human rights and the Commission's role in protecting and promoting human rights.

Issues Raised by Participants

(i) The State Government is reluctant to issue titles to land occupied by indigenous communities.

(ii) When private companies or Government agencies acquire land for development, there are issues with compensation – it is either not paid, inadequate, or payment is delayed.

(iii) There are insufficient economic activities or access to spin-off benefits from development projects.

(iv) There is inadequate access to a social safety net for the poor, disabled, elderly and single mothers.

(v) There is undue delay in processing land applications from individuals.

(vi) The services rendered by the local authorities, civil servants and some elected representatives are unsatisfactory.

(vii) Allowances for retired army personnel need to be reviewed, as these are insufficient.

On 8 November, Mr Detta Samen delivered a talk on human rights to criminal investigation personnel in Sarawak, stressing the elements that the police must observe when discharging their duties.

6. VISITS

The Commission visited a rehabilitation school and a shelter for children.

(a) Visit to Sekolah Tunas Bakti, Kuching

The visit on 19 January was carried out pursuant to complaints received on 18 October 2009 from trainees. They claimed to have been assaulted, abused and treated badly by the trainers.

Denying this, the principal, Mr Mohd Che Azman, explained that:

- The daily schedule includes physical training and spiritual guidance.
- Teachers conducting the training are fully committed to their duties.
- The environment is clean.
- Facilities are provided for trainees to perform their religious obligations.

The Commission's Recommendations

1. Security aspects should be improved to deter any incident, as the school is located close to a residential area.
2. The ratio of staff-members to trainees should be increased; currently, three staff-members are in charge of 80 trainees.

(b) Visit to Taman Seri Puteri, Kuching

The Commission visited this shelter for children to observe the conditions and ensure their consistency with provisions of the Convention on the Rights of the Child. The acting principal briefed the team, noting that:

- The children are free to celebrate their respective festivals;
- The children are free to perform their religious obligations, and that facilities have been provided for this;
- The academic syllabus can be improved; and
- There is a need to consider the future of those who turn 18 years old, including transferring them to other institutions.

The Commission has since proposed to the Education Department that more trained teachers should be placed at the shelter to meet needs.

7. MEETING WITH THE ROYAL MALAYSIAN POLICE

The Commission held a meeting on 19 January with the officer-in-charge of the Kota Samarahan police station, to take up complaints received on 18 October 2009.

Commission member Dato' N Siva Subramaniam explained that the purpose of the visit was to ascertain the truth of complaints by several individuals that they had been assaulted in the lock-up while under remand.

The officer-in-charge denied the complaints. He also explained that family-members of the complainants are not allowed to visit them during the remand period. This is in accordance with legal procedure, so as not to hamper the investigations.

SUHAKAM
HAK ASASI UNTUK SEMUA

APPENDICES

CHARTER OF THE HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)

PREAMBLE

SUHAKAM, the National Human Rights Institution established by the Human Rights Commission Act 1999 (Act 597), with due compliance with the 1993 Paris Principles Relating to the Status of National Institutions:

ASSERTS its mandates to promote and protect human rights in Malaysia,

ADHERES to the Universal Declaration of Human Rights (UDHR) 1948, to the extent that it is not inconsistent with the Federal Constitution,

RECOGNIZES the diversity of the cultures, religions and moral values in a multi-racial society,

RECOGNIZES that human rights continue to be universally developed,

HEREBY DECLARES:

The statutory responsibilities of SUHAKAM are:

- To promote awareness and provide education relating to human rights;
- To advise and assist the Government in formulating legislation and procedures and recommend the necessary measures to be taken;
- To recommend to the Government with regard to the subscription or accession to treaties and other international instruments in the field of human rights;
- To inquire into complaints regarding infringements of human rights.

SUHAKAM shall fulfil these responsibilities by:

- Promoting awareness of human rights and undertaking research and conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;
- Advising the Government and/or relevant authorities of complaints against them and to recommend appropriate measures to be taken;
- Investigating and verifying any infringement of human rights;
- Working with civil society organizations and human rights defenders for the promotion and protection of human rights;
- Conducting Public Inquiries on major infringements of human rights;
- Visiting places of detention in accordance with procedures as prescribed by laws relating to places of detention and to make necessary recommendations;
- Issuing public statements on human rights as and when necessary;
- Undertaking appropriate activities as are necessary.

Development of annual strategic plans of action on core areas of concern:

- Inculcation of human right values in all Malaysians;
- Promotion and protection of Economic, Social and Cultural Rights as well as Civil and Political Rights;
- Advocacy and monitoring for the ratification, accession and implementation of international human rights treaties by the State;
- Advocacy and recommendations to amend or repeal laws that are against the principles of human rights.

The framework of operation for SUHAKAM shall be guided by the following core values:

Respect

Respect for differences in cultures, religions and social sensitivities with due recognition of the rights and responsibilities of the State as in Article 29 of the UDHR

Independence

Exerting independence in the performance of its functions in relation to the legislative, judiciary and executive branches of the Government

Integrity

Ensuring that the Commission and its members operate to the highest level of integrity, responsibility and accountability in performing their tasks and responsibilities

Engagements

Enhancing relations with all stakeholders which include the Government, civil societies, regional and international networks and United Nations (UN) human rights bodies and mechanisms.

Efficiency

Promptly responding to public complaints, through active assistance to resolve difficulties, within the provisions of existing laws and regulations

Openness

Maintaining transparency and providing sufficient avenues to obtain feedbacks and opinions from the public

Capacity development

Recognizing the value of human resources and the important need for continuous capacity building for Commission members, staff, and other stakeholders

APPENDIX II

THE COMMISSION'S PRESS STATEMENTS 2010

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1.	12 Jan	Fundamental Rights To Freedom Of Religion	127
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8.	8 Sept	Press Statement to Commemorate SUHAKAM Day, 9 September: Human Rights in Malaysia and Moving Forward	138
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10.	27 Oct	*SUHAKAM Gesa Kerajaan Hentikan Penahanan Suspek Pemerdagangan Orang di Bawah ISA*	143
11.	8 Dec	Rights to Peaceful Assembly and Freedom of Expression are Fundamental Human Rights Principles	144
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SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

FUNDAMENTAL RIGHTS TO FREEDOM OF RELIGION

The Human Rights Commission of Malaysia (SUHAKAM) is very concerned with the attacks on several churches and a surau in the Klang Valley and other parts of Malaysia. Any intolerance of religious differences can undermine the fundamental right to freedom of religion as enshrined in the Universal Declaration of Human Rights and in Article 11 of the Federal Constitution.

SUHAKAM strongly condemns any attacks on places of worship and hopes that investigations carried out by the Police will be swift, fair, and impartial so that perpetrators will be charged without delay. The Police should ensure protection for Malaysians to practise their religions in safety.

SUHAKAM further calls for dialogues between leaders of different religions and that the Government should provide mechanisms for such dialogues to take place. SUHAKAM calls on all Malaysians to help maintain peace and goodwill in the country.

SUHAKAM hopes that leaders will refrain from making statements which could be perceived to condone activities detrimental to religious understanding and harmony in the country.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN
DATUK DR CHIAM HENG KENG
DATO DR MICHAEL YEOH OON KHENG
DATO' CHOO SIEW KIOH
DATUK DR DENISON JAYASOORIA

Commissioners
Human Rights Commission of Malaysia (SUHAKAM)
12 January 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM RETAINS ITS STATUS 'A'

SUHAKAM's 'A' Status in the international ranking system accorded by the International Coordinating Committee of National Institutions for the promotion and protection of human rights in Geneva (ICC) has been officially re-confirmed.

On 22nd January 2010, the Sub-Committee on Accreditation (SCA) conveyed the official re-confirmation of the ICC to SUHAKAM via e-mail. A report of the SCA of its Reaccreditation Session 16-18 November 2009 upon which the ICC re-confirms SUHAKAM's Status is published on the ICC website. Paragraph 4.3 of the SCA report embodies the review on Malaysia.

In support of SUHAKAM's retention of its Status 'A', the SCA accorded foremost the role of SUHAKAM in taking the necessary steps to maintain its own position. The SCA ***"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".***

In its report, the SCA has concerns regarding the introduction of Key Performance Indicators (KPIs) on SUHAKAM by the Government. Such introduction, while within the domestic discretion of a government, is without precedence in the protection and promotion of human rights in all countries where National Human Rights Institutions (NHRIs) have been established. Thus the SCA ***"While acknowledging the value of such indicators in making clear the expectations placed on Commissioners, the SCA noted that the KPIs are yet to be adopted. It is therefore not in a position to assess whether the concerns expressed in the March 2009 session 'that the KPIs must be clearly established; appropriately circumscribed, so as not to interfere in the independence of members; and made public' have been addressed....The SCA notes that both the new selection process and the KPIs will be in effect for the selection of new or renewing members in April 2010. The SCA will therefore consider these issues at its second session in 2010."***

SUHAKAM urges the Government to take note of the SCA's intention to consider again the issue of KPIs in its second session in 2010 which normally takes place in the month of November of a calendar year. Any adverse observation in that respect might prejudice the international standing of SUHAKAM and that of Malaysia, notwithstanding the present re-confirmation of SUHAKAM's "A" Status. It could constitute a critical re-assessment of SUHAKAM's compliancy with the Paris Principles within the next two years.

SUHAKAM recommends that the Government considers positively the set of KPIs which it has drafted at the latter's invitation and which the former has submitted to the Government on 10 November 2009. The KPIs submitted by SUHAKAM to the Government were drafted after due consultation with representatives of civil society. SUHAKAM's formulation of KPIs which is relevant and specific to the functions of an independent NHRI, has been made public on SUHAKAM's website from November 2009 and also at the same time was conveyed to the SCA before its final decision to reconfirm SUHAKAM's status. In a response to the SCA's concern on the issue, SUHAKAM had also stated that whether the KPIs as drafted and proposed by SUHAKAM or those eventually formulated by the Government, will be made public or not, rests with Government decision.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI ABU TALIB OTHMAN
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
25 January 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

PUBLIC CAN STILL LODGE HUMAN RIGHTS COMPLAINTS

We refer to reports highlighted in the media with regards to SUHAKAM, we would like to highlight that it is at the discretion of the Government to decide on the appointment of the new SUHAKAM's commissioners. As for the time being, until the appointment has been made, SUHAKAM Secretary would be on hand to receive memorandums and the administrative work would still go on.

As an advisory body without the executive power, SUHAKAM has been effective in our findings; and will continuously submit the views and recommendations on violations and protection of human rights to the Government. In the interim, the public can still lodge any complaints on human rights violations to SUHAKAM via phone calls at 03-2612 5600, e-mails (humanrights@suhakam.org.my or complaints@suhakam.org.my) and drop by the head office in Menara Tun Razak, Jalan Raja Laut, Kuala Lumpur.

- END -

"HUMAN RIGHTS FOR ALL"

By authority of SUHAKAM,

HASHIMAH NIK JAAFAR
Secretary
Human Rights Commission of Malaysia (SUHAKAM)
29 April 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

ARBITRARY DETENTION IS AN INFRINGEMENT OF HUMAN RIGHTS

SUHAKAM concurs with the initial findings and recommendations of the UN Working Group on Arbitrary Detention, which among others recommends the Government to repeal the four preventive laws *vis-a-vis* the Internal Security Act 1960 (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance (EO), the Dangerous Drugs (Special Preventive Measures) Act (DDA), and the Restricted Residence Act (RRA).

The statement was released by the Working Group concerning its country visit to Malaysia from June 7–18, 2010. The Working Group held a meeting with SUHAKAM on June 16.

SUHAKAM's position on the ISA is well-known ever since it initiated a study on the ISA soon after its inception and developed long and short term recommendations through its Report "The Review of the Internal Security Act 1960" for the Government's consideration in 2003. SUHAKAM has consistently called for the repeal of the ISA and its replacement with a new, comprehensive legislation that takes a tough stand on the threat to national security which should also fall in line with the fundamental human rights principles.

While SUHAKAM welcomes the Government's move to amend the ISA, it calls upon the Government to ensure that the amendments adhere to the human rights principles with regard to the detainees' right to personal liberty, the right to a fair trial and the right to be presumed innocent until proven guilty as enunciated in Articles 3, 10 and 11(1) of the Universal Declaration of Human Rights 1948 (UDHR).

SUHAKAM welcomes the Working Group's recommendation for the Government to strengthen the status, powers and functions of SUHAKAM, in line with the Paris Principles and to take necessary measures to ensure SUHAKAM's "A" status is maintained in the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). SUHAKAM urges the Government to take note of the Special Review on SUHAKAM's status by the ICC Sub-Committee on Accreditation (SCA) in November 2010.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
24 June, 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM URGES RESPECT FOR FREEDOM OF MEDIA

The Human Rights Commission of Malaysia (SUHAKAM) regrets the recent banning of political cartoon books by author Zunar, non-renewal of publication permit of *Suara Keadilan* and warning to *Harakah* by the Ministry of Home Affairs.

SUHAKAM considers these decisions as infringement of freedom of speech, expression and information, which are enshrined in Article 19 of the Universal Declaration of Human Rights 1948. In this regard, SUHAKAM calls on the Ministry of Home Affairs to lift the said actions and immediately initiate the formation of an independent media council to self-regulate through a mandatory industry code, enforced through a complaint bureau to arbitrate disputes or complaints and compliance monitoring

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
7 July 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

THE RIGHTS OF THE INDIGENOUS PEOPLES TO LIFE, PHYSICAL AND MENTAL INTEGRITY AND SECURITY SHOULD BE UPHELD

The Human Rights Commission of Malaysia (SUHAKAM) is deeply concerned over the alleged rape and sexual abuse of the Penan women and girls in Ulu Baram, Sarawak. Such accounts were brought to light through the media in year 2008 and were again reported in the recent publication by a coalition of non-governmental organizations called Penan Support Group (PSG), "*A Wider Context of Sexual Exploitation of Penan Women and Girls in Middle and Ulu Baram, Sarawak*" that highlights the issue of sexual violation and exploitation and other factors contributing to the alleged abuses.

Rape and sexual abuses are serious criminal offences and are issues of grave concern for SUHAKAM especially on the safety, welfare and dignity of the women and young Penan girls. It is important to note that the fact-finding report by a task force formed in 2008 by the Ministry of Women, Family and Community Development (MWFCD) has revealed testimonies of the abuses. Some recommendations with regard to other factors contributing to the abuses were also presented in the said report.

SUHAKAM noted that the MWFCD and the Police are taking this matter seriously. However, SUHAKAM urges the Police and other relevant agencies to initiate their investigations into the alleged rape and sexual abuses and consider the merits of other reports to ensure that the perpetrators are prosecuted accordingly. These victims should be encouraged to come forward and give statements, protected from any repercussions of their testimonies and not threaten or criminalised by the authorities.

Articles 11 of the Universal Declarations of Human Rights 1948 (UDHR) clearly states that "no one shall be held guilty of any penal offences on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed". Besides, indigenous individuals have the rights to life, physical and mental integrity and security of person as enshrined in Article 7 of the United Nations Declaration on the Rights of the Indigenous Peoples 2007 (UNDRIP). In addition, Articles 3 and 5 of the UDHR further support that everyone has the right to life, liberty and security and no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

SUHAKAM therefore, urges that the plight of the victims be seriously looked into by the Government in the spirit of ensuring compliance of their human rights obligations to the people. In the interim, SUHAKAM is in the midst of assessing the possible action to be taken.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
21 July 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

INABILITY TO ASSEMBLE PEACEFULLY IS A VIOLATION OF HUMAN RIGHTS

The Human Rights Commision of Malaysia (SUHAKAM) expresses its regrets over the inability of the public to assemble peacefully during the 50 years of ISA vigil that took place on 1st August, 2010 at Dataran Petaling Jaya. SUHAKAM was present at the event to observe and monitor the situation.

SUHAKAM, through its observation found that the right to assembly was denied during the event as authorities stopped the gathering and dispersed the crowds with much haste. Proper warning and ample time to disperse were not given by authorities, thus resulting in a commotion where 22 men and eight women were arrested because they were suspected as participants of the vigil.

SUHAKAM has constantly urged the Government to consider and take into account the recommendations made by the Commission on freedom of assembly as expressed in the reports relating to the Kesas Highway and KLCC "Bloody Sunday" Public Inquiries. SUHAKAM would therefore, recommended that in the event where the Police finds it necessary to control or disperse a crowd, proportionate and nonviolent methods should be employed.

SUHAKAM strongly reiterates its stand that the people have the right to participate in peaceful assemblies, as all citizens have the right to assemble peacefully and without arms as guaranteed by article 10(1)(b) of the Federal Constitution. The right to freedom of assembly is also guaranteed in Article 20(1) of the Universal Declaration of Human Rights (UDHR).

SUHAKAM also wishes to address the ordeal of the detainees of the vigil at the Petaling Jaya Police Station where the authorities requested the lawyers to provide separate witness statements. This unusual practice forced the lawyers to pull out from giving legal counsel to the detainees. Apart from that, SUHAKAM feels that the authorities could have expedited the process of bail at the police station as the detainees had to endure long hours before they could be released.

However, SUHAKAM wishes to record that full cooperation was extended by the Police to the Commission which enabled SUHAKAM to observe and monitor the 50 years of ISA vigil and the recording of statements at the Petaling Jaya Police Station.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
3 August 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

PRESS STATEMENT TO COMMEMMORATE SUHAKAM DAY, 9 SEPTEMBER

HUMAN RIGHTS IN MALAYSIA AND MOVING FORWARD

A decade since its establishment on 9th September 1999, the Human Rights Commission of Malaysia (SUHAKAM) is gratified that an increasing number of Malaysians are now familiar with the notion of human rights. More and more people are coming forward to use the mechanism of SUHAKAM which the Commission tries to deal with promptness and diligence, within its budgetary and statutory limitations. These include those who are disadvantaged and vulnerable, such as indigenous peoples, women and children and the aged and the economically deprived, among others, who have no other recourse to channel their grievances.

In 2009 SUHAKAM continued to undertake a number of human rights-related activities, including, among others, a Public Enquiry into the Arrest and Detention of Lawyers of the Kuala Lumpur Legal Aid Centre at the Brickfields Police Station on 7 May, 2009, visits to Police lock-ups and detention centres (Prisons and Immigration Centres), human rights training for Police and RELA officers, visits and dialogues on the rights of indigenous peoples, meetings with NGOs, workshops on the Convention on the Rights of the Child (CRC) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), human rights colloquium for the Judiciary, roundtable discussions on the right of the Mentally Challenged Persons to Care with Dignity, and on the Rights of Older Persons, and human rights talks and exhibitions for University and College students.

Over the years, the Commission had worked tirelessly to address human rights issues and raise awareness through dialogues and consultations with various stakeholders. It had carried out public inquiries; conducted research; organised workshops, forums and roundtable discussions on human rights issues; recommended the repeal of the Internal Security Act 1960 (ISA), the review of the Printing Presses and Publications Act, Section 27 of the Police Act and the Official Secrets Act, and the abolition of the death penalty and natural life sentence. While SUHAKAM welcomes the move to amend the ISA, which it hopes is a first step towards its eventual repeal, it calls upon the Government to ensure that the amendments adhere to human rights principles vis-a-vis the detainees' right to

personal liberty, the right to a fair trial and the right to be presumed innocent until proven guilty as enunciated in Articles 3, 10 and 11 of the Universal Declaration of Human Rights.

The Commission has also formed an ad-hoc committee on Universal Periodic Review (UPR) with respect to the implementation by the Government of its UPR commitments. It had urged that major legislative bills be referred to the Select Committee of Parliament and State Assemblies and that the Government accedes and observes various human rights instruments and treaties, especially those that have been under consideration for a long time.

Notwithstanding these efforts, SUHAKAM continues to face a number of challenges, not the least of which is the need to continue to engage with Government agencies, especially those with enforcement powers, so as to create greater awareness, understanding and observance of, and respect for, human rights, as well as of the statutory mandate and role of SUHAKAM.

SUHAKAM will continue to deal with a number of human rights complaints that have been constantly lodged to the Commission which include Police inaction, arbitrary arrest and detention, excessive use of force by the enforcement officers, selective investigations, and the denial of the right to peaceful assembly and to freedom of speech and expression. In an effort to uphold the rights of the indigenous peoples, the Commission has recently formed the Indigenous Peoples' Rights Committee to look into the plight of the indigenous peoples relating to their rights to the native customary lands, and access to education and health services. The Commission is currently accumulating facts and information before considering holding a national inquiry into the rights of the indigenous peoples.

Another issue of concern is relating to religious converts. The Commission had submitted a memorandum to the Rulers' Conference on 3rd October, 2009 and had recommended uniformity in the States and Federal Territories' administration of syariah laws and for a clear procedure in conversion cases, an issue which SUHAKAM would be following up with the Attorney-General's Chambers.

A perennial challenge is to persuade the Government to have a Parliamentary debate on SUHAKAM's Annual Report to Parliament which the Commission had never failed to submit every year. The Commission believes that such a debate would allow the people to better appreciate the state of human rights observance in the country, while allowing the Commission to benefit from the views of the Members of Parliament from both sides of the aisle. As an advisory body without enforcement and prosecution powers, the Commission encourages Members of Parliament to pick up the issues and recommendations contained in the Annual Report and work towards the human rights betterment of the people as the nation progresses towards attaining its developed country status in 2020. For its part, SUHAKAM will make renewed efforts to convince and encourage the Government to implement its numerous recommendations and take a more serious view of human rights violations that have been highlighted in its reports and statements.

Yet another challenge is the upcoming review of SUHAKAM's "A" status by the United Nations International Coordinating Committee of National Human Rights Institutions for the Promotion and

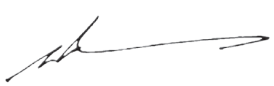
Protection of Human Rights (ICC). While the Government had taken speedy action to amend Act 597, which SUHAKAM very much appreciated, the issue will be revisited and a definitive position on the Commission's international ranking will be made this October by the ICC, within the context of Malaysia's compliance with the Paris Principles relating to the Status of National Institutions adopted by the United Nations General Assembly in 1993. It is SUHAKAM's earnest hope that it will remain an 'A' status national human rights institution which would certainly inspire the Commission to undertake more serious efforts for the attainment of a higher level of human rights observance and promotion in the country. However, irrespective of the outcome of the ICC meeting relating to its status, SUHAKAM will continuously and diligently work to promote and protect human rights in the country.

SUHAKAM applauds some positive actions taken by the Government to protect and uphold human rights, namely, the inclusion of "gender" as one of the grounds prohibited from discrimination; improvement of conditions in detention centres and Police lock-ups; ratification of the Convention against Corruption, and of the Convention on the Rights of Persons with Disabilities (CRPD); the enactment of the Anti-Trafficking in Persons Act 2007; the recent removal of Articles 1, 13 and 15 of the Convention of the Rights of the Child (CRC); withdrawal of reservations to Articles 5(a), 7(b) and 16(2) of CEDAW; improvement of public housing and accessibility to healthcare; and making primary education compulsory and free.

These are, indeed, positive steps in the right direction towards the amelioration of the human rights condition in Malaysia. It is hoped that further such steps would be taken by the Government so that by raising its standards it would not be unreasonable to expect, at some point in the future, for the country to join the ranks of the leading nations of the world in terms of their observance of human rights principles and practice. Certainly, it is a goal worth striving for. Towards this end, SUHAKAM will build on what it had achieved in the past and aside from engaging in a dialogue process with the relevant Government agencies, it will continue to unremittingly engage and establish good working relationships with other stakeholders, such as Members of Parliament, non-governmental organisations (NGOs), civil society organisations (CSOs) and the media. The Commission believes that the promotion and protection of human rights in the country is not the exclusive domain or prerogative of a single entity, group, organisation or individual but is the concern of every member of an enlightened society who understands and is prepared to assert these rights as a good and law-abiding citizen, as long as it is pursued with a sense of responsibility.

- END -

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM
Chairman
Human Rights Commission of Malaysia (SUHAKAM)
8 September 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

PILIHANRAYA KECIL DI GALAS: SUHAKAM LANCAR KAUNTER ADUAN BERGERAK

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) akan memantau pilihan raya kecil DUN Galas yang akan diadakan pada 4 November 2010. Untuk tujuan itu Kaunter Aduan Bergerak SUHAKAM akan beroperasi pada hari ini (Isnin, 25 Oktober 2010) di perkarangan Pejabat Tanah Gua Musang.

Objektif utama pemantauan ini adalah bagi memastikan proses pilihan raya kali ini menghormati hak asasi manusia terutama sekali dalam kebebasan bersuara, kebebasan berhimpun, berpesatuan, akses kepada maklumat dan hak kepada keselamatan. Antara pihak yang akan dipantau termasuklah badan-badan berkuasa (Polis, RELA), media serta para pengundi manakala skop pemantauan adalah seperti berikut:

i. Keganasan atau kekecohan

ii. Intimidasi terhadap pengundi

iii. Kekeliruan atau ketidakcekapan petugas di pusat mengundi

iv. Kehadiran individu yang tidak dibenarkan di dalam pusat mengundi

v. Kempen yang berterusan selepas masa yang ditetapkan untuk berkempen

vi. Bahan kempen di dalam tempat mengundi

vii. Masa operasi pusat mengundi

viii. Kegagalan kakitangan yang telah dipertanggungjawabkan di pusat mengundi untuk mematuhi peraturan dan prosedur yang telah ditetapkan oleh Suruhanjaya Pilihanraya (SPR)

ix. Aktiviti yang tidak berpatutan oleh mana-mana pihak yang bertanding

x. Tindakan oleh penjawat kerajaan yang dipertanggungjawabkan untuk menjalankan tugas dan pengamanan tempat mengundi

xi. Kesesuaian pusat mengundi (terutama untuk golongan OKU dan warga emas)

Untuk sebarang pertanyaan dan maklumat lanjut hubungi Sekretariat Media di kaunter aduan bergerak SUHAKAM di Galas – Encik Megat Adzwan Shah 010 2917021, Puan Noor Azizah Atdenan 012 2067406 atau Puan Jasliza Jamil 017 3396008.

- TAMAT -

"HAK ASASI UNTUK SEMUA"

HASHIMAH NIK JAAFAR
Setiausaha
Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)
25 Oktober 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM GESA KERAJAAN HENTIKAN PENAHANAN SUSPEK PEMERDAGANGAN ORANG DI BAWAH ISA

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) menggesa Kerajaan untuk mengkaji semula penahanan tujuh pegawai Imigresen dan suspek-suspek pemerdagangan orang di bawah Akta Keselamatan Dalam Negeri (ISA) baru-baru ini. Pegawai-pegawai imigresen yang ditahan dilaporkan bertugas di Lapangan Terbang Antarabangsa Kuala Lumpur (KLIA) dan Terminal Penerbangan Tambang Murah (LCCT), Sepang kerana terlibat dengan sindiket pemerdagangan orang.

SUHAKAM menyifatkan penggunaan ISA terhadap suspek-suspek pemerdagangan orang tersebut jelas melanggar prinsip hak asasi manusia. Ini kerana terdapat undang-undang khusus yang tersedia ada bagi kes-kes pemerdagangan orang, iaitu ***Akta Anti Pemerdagangan Orang 2007***.

SUHAKAM memandang berat penggunaan penahanan tanpa bicara dan menyarankan semula supaya semua tahanan ISA didakwa di mahkamah untuk menjamin pengadilan sebagai hak asasi manusia serta sebagai tindakan pencegahan jenayah yang berkesan.

Tindakan menahan seseorang tanpa sebarang perbicaraan adalah bercanggah dengan Perisytiharan Hak Asasi Manusia Sejagat 1948 (UDHR) yang memberi penekanan terhadap hak kepada nyawa, kebebasan dan keselamatan diri; tiada sesiapapun boleh dikenakan tangkapan, tahanan atau pembuangan negeri secara arbitrari; dan setiap individu berhak kepada perbicaraan adil dan terbuka oleh tribunal bebas dan saksama (Artikel 3, 9 dan 10).

- TAMAT -

"HAK ASASI UNTUK SEMUA"

TAN SRI HASMY AGAM
Pengerusi
Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)
27 Oktober 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

RIGHTS TO PEACEFUL ASSEMBLY AND FREEDOM OF EXPRESSION ARE FUNDAMENTAL HUMAN RIGHTS PRINCIPLES

The Human Rights Commission of Malaysia (SUHAKAM) regrets the high-handed manner in which the authorities dealt with the participants of the peaceful assembly who gathered at Masjid Negara on 5th December 2010 to hand over a memorandum to the Yang DiPertuan Agong Tuanku Mizan Zainal Abidin on the Selangor State water issue. In particular, the Commission regrets the use of tear gas and water cannons to disperse the participants.

The Commission had earlier advised the Police to facilitate the assembly with adequate and appropriate traffic flow management along the routes involved. The Commission is very disappointed with the manner in which the Police had handled the situation; instead of ensuring an orderly assembly, they erected roadblocks along most of the roads entering Kuala Lumpur city, thereby causing traffic jams and inconvenience to the public.

The Commission has consistently urged the Government and the relevant authorities to urgently consider and implement the recommendations on freedom of assembly as expressed in the reports relating to the Kesas Highway and the KLCC "Bloody Sunday" Public Inquiries. The Commission reiterates its recommendations that in the event the Police deem it necessary to control or disperse a crowd to avert any threat to public safety and security, **proportionate and non-violent methods should be employed**.

The Commission is of the view that while the Police has the ultimate responsibility and authority to decide on the applications for public assemblies, it should act fairly, independently and professionally in respecting the rights of all citizens. Summary denial of any request for a permit without reason though legal, is not in line with the spirit and intent of such power as vested in the Police under the Police Act. All enforcement agencies should practise transparency and independent control based on the principles of democracy and the rule of law.

The Commission again strongly reiterates its stand that the people have the right to participate in peaceful public assemblies, as guaranteed by Article 10(1)(b) of the Federal Constitution. Everyone has the right to freedom of opinion and expression and freedom of peaceful assembly and association as enshrined in Articles 19 and 20 of the Universal Declaration of Human Rights (UDHR).

- END -

"HUMAN RIGHTS FOR ALL"

PROFESSOR DATUK DR KHAW LAKE TEE
Vice Chairman
Human Rights Commission of Malaysia (SUHAKAM)
8 December 2010

SUHAKAM
HAK ASASI UNTUK SEMUA

SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

PRESS STATEMENT TO COMMEMMORATE HUMAN RIGHTS DAY 10 DECEMBER

HUMAN RIGHTS DEFENDERS WHO ACT TO END DISCRIMINATION

The Human Rights Commission of Malaysia (SUHAKAM) wishes to record its gratitude for the commitment of the human rights defenders who advocate and seek for remedies and protect the victims of human rights abuses and violation; human rights defenders who live with the Universal Declaration of Human Rights (UDHR) in mind and aspire to see all human beings in this world live with dignity and respect, protected against discrimination, exclusion, oppression and violence.

Today we celebrate the 62nd anniversary of the UDHR, an international declaration that sets out freedom, rights and entitlements for all humanity to claim. This year we celebrate to give due recognition to all human rights defenders who act to end discrimination. Although often perceived to be critical of government's policies and actions, the work and efforts of the human rights defenders are actually providing room for independent, open and free debates and discussions on issues pertaining to human rights. This is fundamental, and is a tried and tested way of establishing a better level of protection of human rights. Human rights defenders can and do assist the government in promoting and protecting human rights. As part of consultation processes they can play a key role in helping to draft appropriate legislation, and drawing up national plans and strategies on human rights. This role too should be recognised and supported.

It is a known fact that no country in this world – including Malaysia – can claim to be free from discrimination. Discrimination takes on many forms and sometimes it can be passive, as in the failure to extend the benefits to groups of certain ethnic origins or beliefs. Grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin are used as the basis for discrimination and for denying the rights to recognition, enjoyment or exercise by all persons, on equal footing, of all rights and freedoms.

Discrimination has always been an area of concern for the Commission in its effort to ensure the equal enjoyment of human rights in this country. Over the years, the efforts and responsibilities in combating and ending discrimination has been through various ways, but mainly through advice and advocacy.

Since its inception in 1999, the Commission has been playing its role in advising the government and its relevant authorities on matters pertaining to the reformation of laws and policies, the implementation, as well as the monitoring of such laws and policies to ensure consistency between the national laws and the human rights principles.

And to date, through the efforts of the Commission and the human rights defenders, some positive actions have been taken by the Government in upholding human rights, particularly in combating and ending discrimination.

The ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC) in 1995 signified the Government's commitment and actions towards elimination of discrimination against women and children by balancing and protecting their respective rights. The withdrawal of the reservations to Articles 1, 13 and 15 of the CRC in July 2010 is laudable and moves us closer to the realisation of the full objectives of the Convention and ensuring equal rights among children particularly in relation to their survival, protection, development and participation. Notwithstanding such development, the Commission and the human rights defenders will continue to strive for the withdrawal of the remaining reservations to the CEDAW and the CRC.

The amendment to Article 8(2) of the Federal Constitution, in September 2001 making it unconstitutional to discriminate on the basis of among others, gender, is another significant move by the Government as a result of the efforts of the human rights defenders.

The ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in July 2010, almost two years after it was signed further protects and strengthens the rights of persons with disabilities.

The above are, indeed, positive steps in the right direction towards the improvement and betterment of the human rights condition in Malaysia. Nevertheless, more needs to be done especially in realisation to the adoption of international human rights standards. The Commission has also been urging the Government to work towards the ratification of the remaining core of human rights international treaties like the *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention against Torture and other cruel, Inhuman or*

Degrading Treatment or Punishment (CAT); International Covenant on the Protection of the Rights of All Migrant Workers and members of their families (ICRMW) and the International Convention on the Protection of All Persons from Enforced Disappearance (CED).

The Commission in its 2002 Annual Report had proposed that the Government draw up a National Human Rights Action Plan (NHRAP). In February 2006, the Commission had, on its own initiative, presented a proposed draft of the NHRAP to the Government. The plan would be beneficial for a number of reasons, including protecting the value of human rights and eliminating all kinds of discrimination in this country. More important, a NHRAP would provide a roadmap for the Government in terms of objectives, achievable targets and activities to improve the human rights situation in Malaysia.

The efforts of the Commission have finally bore fruit; in October this year, the Government appointed a focal agency to helm the preparation and development of a NHRAP. Currently the Commission is involved in discussions with the focal agency on the logistics for the way forward. The preparation and development of a NHRAP will involve consultations with government agencies and authorities, NGOs, civil society, among others, and it is hoped that all will come forward to make our own NHRAP a reality and a success.

Nevertheless, any laws, policies or recommendations on the protection of human beings from discrimination would be moving at a snail's pace and would come to nought if society does not change its mindset and perception. Thus, the Commission advocates human rights by promoting human rights awareness through research; and conducting programmes, seminars and workshops with the ultimate aim of disseminating and inculcating human rights values. It has provided training for various sectors of society such lawmakers, the judiciary, the law enforcement officials, and the school administrators including the teachers and students.

The Commission has also carried out public inquiries; recommended the repeal of the Internal Security Act 1960 (ISA), the review of the Printing Presses and Publications Act, Section 27 of the Police Act and the Official Secrets Act, and the abolition of the death penalty and natural life sentence. While the Commission welcomes the move to amend the ISA, which it hopes is a first step towards its eventual repeal, it calls upon the Government to ensure that the amendments adhere to human rights principles *vis-a-vis* the detainees' right to personal liberty, the right to a fair trial and the right to be presumed innocent until proven guilty as enunciated in Articles 3, 10 and 11 of the UDHR.

The Commission will continue to deal with the number of human rights complaints received on a regular basis. Based on these complaints, the Commission has put forth recommendations, among others, with regard to the failure of the Police to act, arbitrary arrest and detention, excessive use of force by the enforcement officers, and the denial of the right to peaceful assembly and to freedom of speech and expression. The Commission has decided to conduct a National Inquiry on indigenous land matters, the first ever national inquiry to be held.

The Commission is very grateful to all human rights defenders in the country for their strong and sincere efforts and will continue to work together with anyone who shares the same ideals and goals to instill further awareness on the elimination of all kinds of discrimination within our society. As we progress, the voices of people all over the world for their rights to live as equal, with dignity and respect, must be heeded.

- END -

"HUMAN RIGHTS FOR ALL"

PROFESSOR DATUK DR KHAW LAKE TEE
Vice Chairman
Human Rights Commission of Malaysia (SUHAKAM)
10 December 2010

APPENDIX III

ACTIVITIES OF THE COMMISSION IN 2010

PR - Public Affairs Division
EWG - 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
ECOSOCWG - Economic, Social and Cultural Rights Working Group
Sabah - Sabah Office
Sarawak - Sarawak Office
SUHAKAM - Human Rights Commission of Malaysia

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
1.	13 Jan	Meeting with the Election Commission	Putrajaya	CIWG
2.	13 Jan	Meeting with the Education Planning, Research and Development Division of the Ministry of Education on the Memorandum of Understanding	Putrajaya	EWG
3.	18 Jan	Courtesy call on the State Ministry of Public Utilities	Kuching, Sarawak	Sarawak
4.	19 Jan	Talk on human rights and exhibition at Universiti Pendidikan Sultan Idris	Tanjung Malim, Perak	PR & EWG
5.	19 Jan	Visit to Tunas Bakti School	Kuching, Sarawak	Sarawak
6.	19 Jan	Visit to Taman Seri Puteri	Kuching, Sarawak	Sarawak
7.	19 Jan	Technical Working Group Meeting on the Rules of the Southeast Asia National Human Rights Institutions Forum (SEANF)	SUHAKAM, Kuala Lumpur	IICC

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
8.	19 Jan	Meeting with the Royal Malaysian Police	Kota Samarahan, Sarawak	Sarawak
9.	20 Jan	Meeting with the Sub-Committee on Women's Rights	SUHAKAM, Kuala Lumpur	EWG
10.	21 Jan	Courtesy visit to the Royal Malaysian Police College	Kuala Kubu Bharu, Selangor	EWG
11.	26 Jan	Luncheon Talk with Sarawak Advocates Association	SUHAKAM, Sarawak	Sarawak
12.	28 Jan	Roundtable Discussion on Access to Clean Water	Kuching, Sarawak	Sarawak, ECOSOCWG & PR
13.	2-3 Feb	Talk on human rights and exhibition, at Universiti Pendidikan Sultan Idris	Tanjung Malim, Perak	PR & EWG
14.	4 Feb	Meeting with the police on the Memorandum from *Mahasiswa Malaysia*	Kuala Lumpur	CIWG
15.	5 Feb	Meeting with the police on the death in custody of P Babu	Bahau, Negeri Sembilan	CIWG
16.	6-8 & 11 Feb	Public Inquiry into the Arrest of Five Lawyers from the Kuala Lumpur Legal Aid Centre	SUHAKAM, Kuala Lumpur	CIWG
17.	10 Feb	Guidance visit to SMK Sultan Abdul Aziz on the Human Rights Best Practices in School programme	Teluk Intan, Perak	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
18.	18 Feb	Visit to the Kamunting Detention Camp	Taiping, Perak	CIWG
19.	19 Feb	In-house training: Screening of *Gadoh*	SUHAKAM, Kuala Lumpur	EWG
20.	23 Feb	Roundtable Discussion on Sexual Harassment at the Workplace	SUHAKAM, Kuala Lumpur	EWG
21.	23 Feb	Luncheon Talk with Women-based Organisations	SUHAKAM, Sarawak	Sarawak
22.	24 Feb	2nd Meeting with United Nations Country Team on the Universal Declaration of Human Rights Publication Project	SUHAKAM, Kuala Lumpur	IICC
23.	24 Feb	Meet-the-People Session with the State Public Complaints Bureau	Sandakan, Sabah	Sabah
24.	25 Feb	Visit to the Sungai Buloh Prison to meet with a detainee, Raja Azman Raja Petra	Sungai Buloh, Selangor	CIWG & PR
25.	27 Feb	SUHAKAM Road Show	Semporna, Sabah	Sabah
26.	1 March	Meeting with the Counter-terrorism Department of Bukit Aman on the arrest of 10 foreigners under the Internal Security Act	Kuala Lumpur	CIWG
27.	3 March	In-house training: Talk on Economic, Social and Cultural Rights	SUHAKAM, Kuala Lumpur	EWG
28.	4 March	Roundtable Discussion on Status on the Right to Education of Indigenous Children	SUHAKAM, Kuala Lumpur	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
29.	10 March	Guidance visit to SMK Datok Mansur on Human Rights Best Practices in School Programme	Bahau, Negeri Sembilan	EWG
30.	10 March	Meeting with Vice-Chancellors of Public Institutions of Higher Learning	Kuala Lumpur	CIWG
31.	13 March	Visit-cum-talk at two villages	Rantau Panjang, Kelantan	ECOSOCWG & LRITWG
32.	14 March	Forum on Awareness Raising on Anti-Trafficking in Persons in Kelantan	Kota Bharu, Kelantan	ECOSOCWG & LRITWG
33.	15 March	Courtesy visit by students and lecturers of Universiti Malaysia Terengganu	SUHAKAM, Kuala Lumpur	PR
34.	15 March	Meeting with United Nations High Commissioner for Refugees (UNHCR)	Kuala Lumpur	CIWG
35.	15 March	Meeting with the Department of Orang Asli Affairs and the Management of the Gombak Hospital	Gombak, Selangor	CIWG & EWG
36.	20 March	Public Inquiry into the Arrest of Five Lawyers from the Kuala Lumpur Legal Aid Centre	SUHAKAM, Kuala Lumpur	CIWG
37.	20 March	Meeting with unions	SUHAKAM, Sabah	Sabah
38.	22 March	Guidance visit to SMK Seksyen 9 on Human Rights Best Practices in School Programme	Shah Alam, Selangor	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
39.	23 March	Guidance visit to Sekolah Tun Dr Ismail on Human Rights Best Practices in School Programme	Kuala Lumpur	EWG
40.	23 March	Roundtable Discussion with the Sarawak Timber Association	SUHAKAM, Sarawak	Sarawak
41.	24 March	Visit to the Simpang Renggam Rehabilitation Centre	Simpang Renggam, Johor	CIWG
42.	25 March	Meeting at Parliament House with Dato' Seri Mohamed Nazri Abdul Aziz, the Minister in the Prime Minister's Department and Barisan Nasional Backbenchers Club	Kuala Lumpur	ECOSOCWG LRITWG CIWG PR
43.	28-29 March	Workshop on Human Rights Best Practices in School Programme	Kuala Lumpur	EWG
44.	29 March	Talk on human rights in conjunction with World Social Workers Day, organised by Sarawak General Hospital	Kuching Sarawak	Sarawak
45.	30 March	Visit to the Seberang Perai Prison	Seberang Perai, Pulau Pinang	CIWG
46.	31 March	Participation in Integrated Mobile Counter Programme organised by the Federal Public Complaints Bureau	Kudat, Sabah	Sabah
47.	31 March - 1 April	Workshop on Human Rights for Prison Officials	Pulau Langkawi, Kedah	EWG
48.	31 March	Roundtable Discussion on Human Rights and Religious Freedom in Malaysian Society	SUHAKAM, Kuala Lumpur	ECOSOCWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
49.	2 April	Meeting with the police on the shooting of Noorizan Salleh	Kuala Lumpur	CIWG
50.	2 April	Visit to the Kajang Prison and Sungai Buloh Prison	Selangor	CIWG
51.	2-4 April	Training-of-Trainers human rights workshop for youth in NGOs	Selangor	EWG
52.	4 April	Visit to the Kajang Prison and Sungai Buloh Prison	Selangor	CIWG
53.	9-10 April	Visit to the Kamunting Detention Camp and Taiping Prison	Taiping, Perak	CIWG
54.	12 April	Visit to the Bukit Jalil Remand Centre on the arrest of the actor, Khaireyll Benjamin Ibrahim *aka* Benjy	Bukit Jalil, Selangor	CIWG
55.	19 April	Visit to the Semenyih Detention Depot	Semenyih, Selangor	CIWG
56.	21 April	Guidance visit to SMK Seksyen 9 on Human Rights Best Practices in School Programme	Shah Alam, Selangor	EWG
57.	26 April	Guidance visit to SMK Munshi Abdullah on Human Rights Best Practices in School Programme	Batu Berendam, Melaka	EWG
58.	29 April	Meet-the-People Session with the State Public Complaints Bureau	Kuala Penyu, Sabah	Sabah
59.	7-9 May	Training-of-Trainers human rights workshop for student leaders in Universiti Pendidikan Sultan Idris	Kuala Lumpur	EWG
60.	13 May	Visit to SK Lanchang in preparation for follow-up meeting on Status of the Right to Education of Indigenous Children	Lanchang, Pahang	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
61.	16-18 May	Workshop on Human Rights for Officers-in-charge of Police Stations	Kota Bharu, Kelantan	EWG
62.	24 May	In-house training: Talk on the Rights of Indigenous Peoples	SUHAKAM, Kuala Lumpur	EWG
63.	24 May	Meet-the-People Session with the State Public Complaints Bureau	Tenom, Sabah	Sabah
64.	25 May	Meet-the-People Session with the State Public Complaints Bureau	Keningau, Sabah	Sabah
65.	27 May	Guidance visit to SMK Munshi Abdullah on Human Rights Best Practices in School Programme	Batu Berendam, Melaka	EWG
66.	3-4 June	Participation at the Inti University College 'Law Awareness Week 2010' exhibition	Nilai, Negeri Sembilan	PR
67.	8 June	Follow-up meeting at SK Lanchang on Status on the Right to Education of Indigenous Children	Lanchang, Pahang	EWG
68.	8 June	Talk on human rights at the Papar Protestant Church	Papar, Sabah	Sabah
69.	11 June	In-house training: Screening of *10 Tahun Sebelum Merdeka*	SUHAKAM, Kuala Lumpur	EWG
70.	15 June	Visit by the United Nations Working Group on Arbitrary Detention	SUHAKAM, Kuala Lumpur	PR & IICC
71.	15 June	Talk on human rights at the Police Training Centre	Kuching, Sarawak	Sarawak
72.	16 June	Luncheon with the Media	SUHAKAM, Kuala Lumpur	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
73.	17 June	Meeting with the Malaysian Anti-Corruption Commission's Committee on Gazetting of Lock-ups	Kota Bharu, Kelantan	CIWG
74.	21 June	Visit to the Kuala Lumpur International Airport Detention Depot	Sepang, Selangor	CIWG
75.	23 June	Visit by Universiti Teknologi Mara students	SUHAKAM, Kuala Lumpur	PR
76.	24 June	Meeting with the Malaysian Anti-Corruption Commission's Committee on Gazetting of Lock-ups	Johor Bahru, Johor	CIWG
77.	25 June	In-house training: Talk on Human Rights and the Environment	SUHAKAM, Kuala Lumpur	EWG
78.	27-30 June	Workshop on Human Rights for Prison Officials	Pulau Langkawi, Kedah	EWG
79.	1 July	Visit to shelter for women and children	Bukit Ledang, Kuala Lumpur	CIWG, ECOSOCWG & PR
80.	13 July	Meeting with the Ministry of Home Affairs on the revocation of citizenship of P Mageswari d/o Koothan	Putrajaya	CIWG
81.	14-15 July	Follow-up meeting at SK Kuala Betis on Status on the Right to Education of Indigenous Children	Gua Musang, Kelantan	EWG
82.	15 July	Inspection of the Istana Negara construction site in relation to workers' complaints	Kuala Lumpur	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
83.	20 July	Inspection of hostels in schools for indigenous children - SMK Tengku Kudin and SK Hulu Sungai	Raub, Pahang	EWG
84.	20 July	Courtesy call on the Federal Secretary of Sarawak	Kuching, Sarawak	Sarawak
85.	22 July	Talk and exhibition on human rights at the International Islamic University Malaysia	Gombak, Selangor	PR
86.	22 July	Meeting with the Ministry of Women, Family and Community Development	Kuala Lumpur	CIWG & ECOSOCWG
87.	22 July	Road Show with the Federal Public Complaints Bureau	Tenom, Sabah	Sabah
88.	23 July	Luncheon Talk with Community-based Organisations	SUHAKAM, Sarawak	Sarawak
89.	25-27 July	Workshop on Human Rights for Officers-in-charge of Police Stations	Cherating, Pahang	EWG
90.	27 July	Visit to the Taman Kinrara low-cost flats on the issue of the disconnection of water supply by the management	Puchong, Selangor	CIWG
91.	28 July	Meeting with Mr Philip Robertson, Deputy Director for Asia Division of Human Rights Watch	SUHAKAM, Kuala Lumpur	IICC
92.	28 July	Meet-the-People Session with the State Public Complaints Bureau	Tenom, Sabah	Sabah
93.	30 July	In-house training: Talk on Anti-Trafficking in Persons	SUHAKAM, Kuala Lumpur	ECOSOCWG
94.	31 July	Participation in FOMCA's exhibition in conjunction with Consumers' Day	Ipoh, Perak	PR & CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
95.	1 Aug	Visit and dialogue at Kampong Tambatuon	Kota Belud, Sabah	Sabah
96.	1 Aug	Monitoring of events at the ISA 50th Anniversary Candlelight Vigil organised by *Gerakan Mansuhkan ISA*	Petaling Jaya, Selangor	CIWG & EWG
97.	2 Aug	Workshop on Indigenous Peoples and Decision Making	SUHAKAM, Sabah	Sabah
98.	3 Aug	Meeting with the UNHCR	Kuala Lumpur	CIWG
99.	3 Aug	Meeting with the Labour Department on the complaints of Istana Negara construction workers	Putrajaya	CIWG
100.	4 Aug	Guidance visit to SMK Munshi Abdullah on Human Rights Best Practices in School Programme	Batu Berendam, Melaka	EWG
101.	5 Aug	Meeting with NGOs	SUHAKAM, Sabah	Sabah
102.	6 Aug	Inspection at the Royal Malaysian Air Force base	Kuantan, Pahang	CIWG
103.	6 Aug	Guidance visit to SMK Seksyen 9 on Human Rights Best Practices in School Programme	Shah Alam, Selangor	EWG
104.	8 Aug	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
105.	10 Aug	Guidance visit to SMK Datuk Mansur on Human Rights Best Practices in School Programme	Bahau, Negeri Sembilan	EWG
106.	12 Aug	Meeting with Alliance Anti-Traffic, Thailand, on trafficking in persons	SUHAKAM, Kuala Lumpur	ECOSOCWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
107.	12 Aug	Courtesy call on the State Prison Director	Kuching, Sarawak	Sarawak
108.	13 Aug	Visit and dialogue at Kampong Imahit	Tenom, Sabah	Sabah
109.	13 Aug	Guidance visit to SMK Sultan Abdul Aziz on Human Rights Best Practices in School Programme	Teluk Intan, Perak	EWG
110.	16-19 Aug	Workshop on CRC and CEDAW Training for officers from the Sexual Abuse and Child Investigation Department, Royal Malaysian Police	Kuala Lumpur	EWG
111.	16-20 Aug	Visit to indigenous peoples settlement and school	Batang Padang, Perak	EWG
112.	17 Aug	Courtesy call on the State Police Commissioner	Kuching, Sarawak	Sarawak
113.	19 Aug	Seminar on Native Courts and Native Customary Law	Kota Kinabalu, Sabah	Sabah
114.	23 Aug	Meeting with NGOs and Community-based Organisations to discuss economic, social and cultural rights in Malaysia	SUHAKAM, Kuala Lumpur	ECOSOCWG
115.	26 Aug	Talk and breaking of fast with juvenile inmates of the Integrity School, Kajang Prison	Kajang , Selangor	PR
116.	28 Aug	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
117.	1 Sept	Inspection of the Bukit Jalil Remand Centre	Bukit Jalil, Selangor	CIWG
118.	1 Sept	Visit to police lock-up	Damansara, Selangor	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
119.	2 Sept	Roundtable Discussion on Human Rights and Business	SUHAKAM, Kuala Lumpur	ECOSOCWG
120.	2 Sept	Roundtable Discussion on Rights of Lesbians, Gays, Bi-Sexuals and Transgender Groups, from the Islamic Perspective	SUHAKAM, Kuala Lumpur	LRITWG
121.	14-16 Sept	Co-organisation of World Indigenous Peoples' Day at Nunuk Ragang	Ranau, Sabah	Sabah
122.	18 Sept	Visit to indigenous peoples' settlement in Kg Penderas	Temerloh, Pahang	EWG
123.	19 Sept	Dinner Talk by the Chief Judge of Papua New Guinea	Kuala Lumpur	Sarawak
124.	20 Sept	4th Meeting with the United Nations Country Team on the Universal Declaration of Human Rights Publication Project	SUHAKAM, Kuala Lumpur	IICC
125.	21 Sept	Participation in the Monash University NGO Fair exhibition	Petaling Jaya, Selangor	PR
126.	23 Sept	Discussion with NGOs on Preventive Detention Laws	SUHAKAM, Kuala Lumpur	CIWG
127.	23 Sept	Courtesy visit to *Bernama*	Kuala Lumpur	PR
128.	23 Sept	Roundtable Discussion on Accessibility Issues of Persons with Disabilities	SUHAKAM, Kuala Lumpur	LRITWG
129.	26-29 Sept	Workshop on Human Rights for Prison Officials	Pulau Langkawi, Kedah	EWG
130.	26 Sept – 1 Oct	Visit to indigenous peoples' school and settlement	Hulu Perak, Perak	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
131.	30 Sept	Courtesy visit to *Malaysiakini*	Kuala Lumpur	PR
132.	30 Sept	SUHAKAM Road Show	Penampang, Sabah	Sabah
133.	1 Oct	Meeting on the National Human Rights Action Plan	SUHAKAM, Kuala Lumpur	LRITWG
134.	4 Oct	Courtesy visit from students and lecturers of Universiti Teknologi Mara, Sarawak	SUHAKAM, Kuala Lumpur	PR
135.	7 Oct - 30 Nov	SUHAKAM Photography Competition 2010: Human Rights from Your Perspective	SUHAKAM, Kuala Lumpur	PR
136.	9 Oct	Visit to indigenous peoples' settlement in Kg Buluh Nipis	Rompin, Pahang	EWG
137.	10 Oct	Meet-the-People Session with the State Public Complaints Bureau	Papar, Sabah	Sabah
138.	11 Oct	Visit to Tok Siak and Setanggi villages on the issue of flooding	Johor Bahru, Johor	CIWG
139.	12 Oct	Forum on Customary Law System	Kota Kinabalu, Sabah	Sabah
140.	13 Oct	Visit to indigenous peoples' settlement and school	Gerik, Perak	EWG
141.	14 Oct	Follow-up meeting on Status on the Right to Education of Indigenous Children	Gerik, Perak	EWG
142.	15 Oct	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
143.	15 Oct	Courtesy call on the State Immigration Director	Kuching, Sarawak	Sarawak

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
144.	15 Oct	Visit by the Dean of the Law Faculty, Bond University, Australia	SUHAKAM, Sarawak	Sarawak
145.	17-19 Oct	Workshop on Human Rights Education for Teachers Training Institute	Cheras, Kuala Lumpur	EWG
146.	19 Oct	Courtesy visit to *The Star*	Kuala Lumpur	PR
147.	19 Oct	Meeting with the Department of Orang Asli Affairs	Kuala Lumpur	CIWG
148.	20 Oct	Seminar on Empowering the Rights of Single Mothers	Petaling Jaya, Selangor	ECOSOCWG
149.	21-22 Oct	8th Technical Working Group Meeting of SEANF	SUHAKAM, Kuala Lumpur	IICC
150.	22 Oct	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
151.	25 Oct	Seminar on Public Complaints Management	Kota Kinabalu, Sabah	Sabah
152.	25-26 Oct	Visit by the Vietnamese Institute of Human Rights, Ho Chi Minh National Academy of Politics and Public Administration	SUHAKAM, Kuala Lumpur	IICC & PR
153.	25 Oct - 5 Nov	Human rights awareness programme and monitoring of N45 Galas by-election	Gua Musang, Kelantan	CIWG, PR & EWG
154.	28 Oct	Forum on Communal Titles	Kota Kinabalu, Sabah	Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
155.	28 Oct	Seminar on Indigenous Peoples: Land Issues and Obstacles	Kota Kinabalu, Sabah	Sabah
156.	28 Oct	SUHAKAM Road Show	Kapit, Sarawak	Sarawak
157.	1 Nov	Roundtable Discussion on Human Rights and Business	SUHAKAM, Kuala Lumpur	ECOSOCWG
158.	2 Nov	Visit by European Parliamentarians	SUHAKAM, Kuala Lumpur	PR
159.	2-3 Nov	In-house training: Talk on Non-Discrimination	Kuala Lumpur	EWG
160.	7 Nov	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
161.	8 Nov	Training on human rights for police personnel	Kuching, Sarawak	Sarawak
162.	10 Nov	Meeting with Mr S Samydorai, Convenor of the Task Force on ASEAN Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
163.	11 Nov	Seminar on Native Customary Law	Penampang, Sabah	Sabah
164.	11 Nov	Signing of Memorandum of Understanding with Universiti Pendidikan Sultan Idris	SUHAKAM, Kuala Lumpur	EWG
165.	12 Nov	In-house training: Motivational talk on Work Ethic	SUHAKAM, Kuala Lumpur	EWG
166.	13 Nov	Participation in exhibition at *Sekolah Wawasan* USJ 15 in conjunction with World Children's Day	Subang Jaya, Selangor	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
167.	15-16 Nov	7th Annual Meeting of SEANF	Kuala Lumpur	IICC LRITWG ECOSOCWG EWG PR
168.	22 Nov	Talk on human rights for RELA members	Tuaran, Sabah	Sabah
169.	22 Nov - 3 Dec	Meeting with Sexual Minorities on the Rights of the Lesbians, Gays, Bi-Sexuals and Transgender Groups	SUHAKAM, Kuala Lumpur	LRITWG
170.	25 Nov	Visit from the Bangladeshi Election Commission	SUHAKAM, Kuala Lumpur	PR
171.	26 Nov	5th Meeting with United Nations Country Team on the Universal Declaration of Human Rights Publication Project	SUHAKAM, Kuala Lumpur	IICC
172.	26 Nov	Meet-the-People Session with the State Public Complaints Bureau	Beaufort, Sabah	Sabah
173.	29 Nov	Workshop on Indigenous Education	Kota Kinabalu, Sabah	Sabah and EWG
174.	29 Nov – 1 Dec	Workshop on Human Rights for Prison Officials	Pulau Langkawi, Kedah	EWG
175.	2 Dec	Conference on the Rights of Indigenous Peoples, in collaboration with European Union	Kuala Lumpur	PR
176.	3 Dec	Meeting on UNHCR Justifications for the Accession to the Convention Relating to the Status of Refugees 1951	SUHAKAM, Kuala Lumpur	LRITWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
177.	9 Dec	Human Rights Day conference in collaboration with United Nations Country Team	Kuala Lumpur	PR
178.	15 Dec	Forum on Abandonment of Babies	Petaling Jaya, Selangor	LRITWG
179.	16 Dec	Consultation Meeting with Government agencies on the SEANF Paper on Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
180.	20 Dec	Meeting on the follow up to the Universal Periodic Review Recommendations	SUHAKAM, Kuala Lumpur	IICC

APPENDIX IV

TALKS, MEETINGS, WORKSHOPS AND CONFERENCES – NATIONAL 2010

MOC - Member of Commission

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	25-27 Jan	Introductory Course on Anti-trafficking in Persons	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
2.	25-27 Jan	Training on Anti-trafficking in Persons	Putrajaya	Rafidah Yahya, Officer
3.	28 Jan	Meeting with the Director of School Division on Human Rights Best Practices in School programme	Putrajaya	Tan Sri Dato' Dr Asiah Abu Samah (MOC) Dato N Siva Subramaniam (MOC) Simon Karungaram, Officer
4.	2 Feb	Meeting on Draft Amendments to the Indigenous Peoples Act 1954	Kuala Lumpur	Eda Mazuin Abdul Rahman, Officer
5.	12 Feb	Meeting with the Director-General of Education on Human Rights Best Practices in School Programme and education of indigenous children	Putrajaya	Tan Sri Dato' Dr Asiah Abu Samah (MOC) Dato N Siva Subramaniam (MOC) Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer
6.	6 March	Talk on human rights for law students at Universiti Kebangsaan Malaysia	Bangi, Selangor	Simon Karunagaram, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
7.	6-11 March	Training on Communication Skills by APCO	Putrajaya	Noor Azizah Haji Atdenan, Officer Jasliza Jamil, Officer Megat Adzwan Shah, Officer Mohamad Norismadi Ismail, Officer
8.	17-18 March	National Action Plan Workshop on Anti-trafficking in Persons	Nilai, Negeri Sembilan	Akhdiat Nur Zahhir, Officer
9.	20-21 March	Course on Writing for the Media	Kuala Lumpur	Noor Azizah Haji Atdenan, Officer
10.	30 March	Talk on Indigenous Peoples Consumer Culture	Jelebu, Negeri Sembilan	Hasmah Abdul Manaf, Officer
11.	6 April	Review of Indigenous Peoples Land Ownership and Development Workshop at *Institut Kemajuan Desa*	Kuala Lumpur	Eda Mazuin Abdul Rahman, Officer Rafidah Yahya, Officer
12.	15 April	Launch of the Asia Pacific Human Development Report on Gender: Power, Voice and Rights: A Turning Point for Gender Equality in Asia and the Pacific	Kuala Lumpur	Wan Kasim Wan Kadir, Officer
13.	10 May	Conference on Human Rights Education	Kuala Lumpur	Noor Azizah Haji Atdenan, Officer Simon Karunagaram, Officer Intan Farida Adnan, Officer Paremeswari Subramaniam, Officer
14.	27 May	Workshop on Empowering Women's Rights under Islamic Family Law	Kuala Lumpur	Eda Mazuin Abdul Rahman, Officer
15.	27 May	Attendance at Subsidy Rationalisation Lab Open Day	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
16.	9 June	Briefing at Parliament House on amendments to the Anti-Trafficking in Persons Act 2007	Kuala Lumpur	Rafidah Yahya, Officer
17.	19 June	National Strategy Workshop on Communication and Information Technology and its Connection to Violence against Women	Subang Jaya, Selangor	Eda Mazuin Abdul Rahman, Officer
18.	23 June	National Workshop on Strategic Project on Empowering Single Mothers	Kuala Lumpur	Eda Mazuin Abdul Rahman, Officer
19.	29 June	Seminar on the Use of Islamic Law in Malaysia in Coping with Social Problems	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
20.	3-4 July	Workshop on The Art Of Emceeing	Kuala Lumpur	Megat Adzwan Shah, Officer
21.	8 July	Lecture at Universiti Malaya on Burma Democracy and Ethnic Rights Movement	Kuala Lumpur	Wan Kasim Wan Kadir, Officer
22.	15 July	Public Forum on The Family Institution and Polygamy in Malaysia	Bangi, Selangor	Eda Mazuin Abdul Rahman, Officer
23.	18 July	Stakeholder Workshop: Developing of Guidelines and Procedures to Assess and Monitor the Social Operation of Forest Management	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer
24.	23 July	Discussion at the Curriculum Development Centre on the Special Curriculum for Indigenous Students	Putrajaya	Hasmah Abdul Manaf, Officer
25.	29 July	UNICEF – Child Rights Reporting Progress	Petaling Jaya, Selangor	Eda Mazuin Abdul Rahman, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
26.	16-20 Aug	Visit to school for indigenous students	Batang Padang District, Perak	Hasmah Abdul Manaf, Officer
27.	23 Aug	NGO programme implementation at Government shelter homes	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
28.	26 Aug	Meeting with the Malaysian Bar Council to discuss *amicus curiae* status	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
29.	17-18 Sept	3rd Regional Consultation Meeting on ASEAN and Human Rights	Kuala Lumpur	Mrs Jannie Lasimbang (MOC) Mr Muhammad Sha'ani Abdullah (MOC) Wan Kasim Wan Kadir, Officer
30.	22 Sept	Talk on human rights for police detectives	Kuala Lumpur	Simon Karunagaram, Officer
31.	23 Sept	Talk and lunch with the European Union Delegation to Malaysia	Kuala Lumpur	Tan Sri Hasmy Agam (Chairman) Mr James Nayagam (MOC) Noor Azizah Haji Atdenan, Officer
32.	26-29 Sept	Workshop on Human Rights for Prison Officials	Pulau Langkawi, Kedah	Simon Karunagaram, Officer Abdul Rahman Abdullah, Officer
33.	13 Oct	ICC Sub-Committee on Accreditation tele-conference	SUHAKAM, Kuala Lumpur	Tan Sri Hasmy Agam (Chairman)
34.	15 Oct	Visit to Kamunting Detention Camp	Taiping, Perak	Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer
35.	17-19 Oct	Workshop on Human Rights for Teacher Training Institute	Cheras, Kuala Lumpur	Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer Ahmad Firdaus Abdul Shukor, Assistant Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
36.	19 Oct	Meeting with the Department of Orang Asli Affairs	Kuala Lumpur	Hasmah Abdul Manaf, Officer
37.	25 Oct	Talk on human rights for police detectives	Merlimau, Melaka	Simon Karunagaram, Officer
38.	26 Oct	Economic Transformation Programme Road Map Launch at Putra World Trade Centre	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer
39.	26 Oct	Seminar on Challenges Faced by the Aging Society in Malaysia – The Legal Perspective	Putrajaya	Mohamad Azizi Azmi, Officer
40.	26-27 Oct	Action Plan Workshop on Overcoming Baby Abandonment/Dumping	Kuala Lumpur	Akhdiat Nur Zahhir, Officer
41.	28 Oct	Forum on Mass Media Towards 1Malaysia	Kuala Lumpur	Noor Azizah Haji Atdenan, Officer
42.	29 Nov	Talk on human rights for police detectives	Kuala Kubu Bharu, Selangor	Abdul Rahman Abdullah, Officer
43.	29 Nov	Meeting with Legal Affairs Division on developing the National Human Rights Action Plan	Putrajaya	Prof Datuk Dr Khaw Lake Tee (Vice Chairman), Natalie Chew Qi Wei, Officer
44.	29 Nov – 1 Dec	Workshop on Human Rights for Prison Officers	Pulau Langkawi, Kedah	Abdul Rahman Abdullah, Officer
45.	1 Dec	Asia Pacific Forum Secretariat tele-conference	SUHAKAM, Kuala Lumpur	Prof Datuk Dr Khaw Lake Tee (Vice Chairman)
46.	1-2 Dec	Talk on Constitutionalism: The Way Forward After 50 Years of Independence	Putrajaya	Natalie Chew Qi Wei, Officer
47.	6 Dec	Briefing on Whistle Blower's Act 2010 (Act 711)	Kuala Lumpur	Prof Datuk Dr Khaw Lake Tee (Vice Chairman) Eda Mazuin Abdul Rahman, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
48.	6-9 Dec	Workshop on Preventive Torture – The Role of National Human Rights Institutions, organised by Asia-Pacific Forum of National Human Rights Institutions and the Association for the Prevention of Torture	Kuala Lumpur	Simon Karunagaram, Officer Abdul Rahman Abdullah, Officer Ameer Izyanif Hamzah, Officer Razim Mahfuz Othman, Officer Helmi Fendy Mohd Idris, Officer Mohamad Azizi Azmi, Officer Siti Zaihan Zulkarnain, Officer Natalie Chew Qi Wei, Officer Mohd Hairul Fahmi Mohd Haris, Officer Lau Sor Pian, Officer
49.	9 Dec	Seminar on Options for Management Of Drug-using Offenders	Kuala Lumpur	Mohamad Azizi Azmi, Officer Siti Zaihan Zulkarnain, Officer
50.	10 Dec	Launch of Bar Council's MyConstitution Phase 8 booklet	Kuala Lumpur	Mrs Jannie Lasimbang (MOC) Mr Muhammad Sha'ani Abdullah (MOC) Lee Pei Hsi, Officer Nurul Hasanah Ahamed, Officer Intan Farida Adnan, Officer Norashikin Hamzah, Officer
51.	13 Dec	Workshop on United Nations High Commissioner for Refugees Mandate on Refugees and Stateless Persons	Kuala Lumpur	Natalie Chew Qi Wei, Officer
52.	14 Dec	Open Forum on ISO 26000 Social Responsibility	Kuala Lumpur	Paremeswari Subramaniam, Officer

APPENDIX V

VISITS, MEETINGS AND CONFERENCES – INTERNATIONAL 2010

MOC - Member of Commission

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	11-15 Jan	Thematic Protection Learning Programme On Statelessness	Bangkok, Thailand	Akhdiat Nur Zahhir, Officer
2.	26 Jan	Visit to the National Human Rights Commission of Korea	Seoul, Korea	Tan Sri Abu Talib Othman (Chairman) Dato' Choo Siew Kioh (MOC)
3.	19-20 Feb	6th Technical Working Group Meeting South East Asia National Human Rights Institutions Forum (SEANF)	Jakarta, Indonesia	Tan Sri Abu Talib Othman (Chairman) Dato' Choo Siew Kioh (MOC) Mrs Hashimah Nik Jaafar, Secretary Rafidah Yahya, Officer Wan Kasim Wan Kadir, Officer
4.	2-3 March	AICHR APF Workshop on the Universal Periodic Review Mechanism	Sydney, Australia	Tan Sri Abu Talib Othman (Chairman)
5.	6-12 March	South East Asia Regional Workshop: Development of Human Rights Education Curriculum for Law Enforcement, Security and Intelligence Agents	Antipolo City, Philippines	CIWG & EWG Officers

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
6.	9-12 March	Regional HIV / AIDS and Human Rights Workshop for National Human Rights Institutions	Bangkok, Thailand	Siti Zaihan Zulkarnain, Officer
7.	22 March	Meeting of the International Coordinating Committee Of National Institutions For The Promotion and Protection Of Human Rights (ICC) Bureau	Geneva, Switzerland	Dato' Choo Siew Kioh (MOC) Lee Pei Hsi, Officer
8.	23-25 March	23rd Session of the ICC	Geneva, Switzerland	Tan Sri Abu Talib Othman, (Chairman) Dato' Choo Siew Kioh (MOC) Mrs Hashimah Nik Jaafar, Secretary Lee Pei Hsi, Officer
9.	25-26 March	Strategy Meeting on the Establishment of an Independent National Human Rights Commission in Cambodia	Siem Reap, Cambodia	Tan Sri Simon Sipaun, (Vice Chairman) Mohd Hairul Fahmi Mohd Harris, Officer
10.	26 March	Regional Workshop of Preventive Detention Legislations and its Impact on Human Rights	Indonesia	CIWG & LRITWG
11.	29-30 March	7th Technical Working Group Meeting of SEANF	Manila, Philippines	Tan Sri Abu Talib Othman (Chairman) Dato' Choo Siew Kioh (MOC) Mrs Hashimah Nik Jaafar, Secretary Rafidah Yahya, Officer Wan Kasim Wan Kadir, Officer.

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
12.	2-5 June	International Conference on Economic Stress, Human Capital and Families in Asia : Research and Policy Challenges	Singapore	Mohamad Azizi Azmi, Officer Paremeswari Subramaniam, Officer
13.	3-4 June	SEANF Technical Staff Meeting	Jakarta, Indonesia	Lee Pei Hsi, Officer, Rozalina Sahat, Officer
14.	7-9 July	10th Informal Asia-Europe Meeting on Human Rights & Gender Equality	Manila, Philippines	Professor Datuk Dr Khaw Lake Tee (Vice Chairman) Eda Mazuin Abdul Rahman, Officer
15.	3-5 Aug	15th Annual Meeting of the APF	Bali, Indonesia	Tan Sri Hasmy Agam (Chairman) Mr Detta Samen (MOC) Mrs Hashimah Nik Jaafar, Secretary Eda Mazuin Abdul Rahman, Officer Lee Pei Hsi, Officer
16.	22-26 Sept	Capacity Building on Human Rights and Migrant Workers in the Asia/Pacific Region - A Training Program for Advocates	Lombok, Indonesia	Mohd Hairul Fahmi Mohd Harris, Officer
17.	7 Oct	Meeting of the ICC Bureau	Scotland, Great Britain	Mr James Nayagam (MOC) Lee Pei Hsi, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
18.	7-10 Oct	10th International Conference of NHRIs & ICC Bureau Meeting	Edinburgh, Great Britain	Mr James Nayagam (MOC)
19.	8-10 Oct	10th International Conference for NHRIs	Scotland, United Kingdom	Mr James Nayagam (MOC) Lee Pei Hsi, Officer
20.	11-12 Oct	Office of the High Commissioner of Human Rights Invitation to Consultation on the Secretary-General's Guidelines on Business and Human Rights	Geneva, Switzerland	Mr James Nayagam (MOC) Lee Pei Hsi, Officer
21.	13 Oct	8th Session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action	Geneva, Switzerland	Mr James Nayagam (MOC) Lee Pei Hsi, Officer
22.	18-22 Oct	The 3rd Beijing Forum On Human Rights. Human Rights and Development - Rethinking Concepts, Models and Approaches	Beijing, China	Mr Detta Samen (MOC) Paremeswari Subramaniam, Officer
23.	28-29 Oct	Regional Round Table Discussion on Statelessness	Bangkok, Thailand	Mr James Nayagam (MOC)
24.	11-12 Nov	Workshop on Developing National Human Rights Action Plans in ASEAN	Manila, Philippines	Professor Datuk Dr Khaw Lake Tee (Vice Chairman) Natalie Chew Qi Wei, Officer
25.	12-14 Nov	Regional Seminar on Human Rights: Experiences and Challenges	Dhaka, Bangladesh	Mr Detta Samen (MOC)

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
26.	22-23 Nov	Regional Consultation on NHRIs and Civil Society Organisations with the International Human Rights System: Enhancing the Protection of Human Rights on the Ground in Asia	Bangkok, Thailand	Lee Pei Hsi, Officer
27.	29-Dec 4 Nov	The Operationalisation of the UN Declaration on the Rights of the Indigenous Peoples by NHRIs	Auckland, New Zealand	Mrs Jannie Lasimbang (MOC) Mr Muhammad Sha'ani Abdullah (MOC)
28.	7-12 Dec	Centennial of Human Rights in Taiwan: Retrospect and Prospect	Taiwan	Mr Detta Samen (MOC)
29.	12-17 Dec	3rd Session of The Forum Minority Issues	Geneva, Switzerland	Mr Muhammad Sha'ani Abdullah (MOC) Rafidah Yahya, Officer
30.	24 Dec	International Human Rights Education Conference	Sydney, Australia	Simon Karunagaram, Officer Hasmah Abdul Manaf, Officer

APPENDIX VI

THE COMMISSION'S PUBLICATIONS 2010

NO.	CATEGORY	TITLE
1.	Report	SUHAKAM Annual Report 2009 (*Bahasa Malaysia* & English)
2.	Report	Human Rights Day Conference 2009
3.	Report	*Status Pendidikan Orang Asli*
4.	Report	Report on Orang Asli: Rights, Problems and Solutions
5.	Report	Rights of Ethnic Minorities and Marginalised Communities
6.	Report	Status Report on Women's Rights in Malaysia
7.	Report (Reprint)	Penan Benalih: Blockade Issue
8.	Report	South East Asia National Human Rights Institutions Forum Paper on Migrant Workers
9.	Report (Reprint)	Penan in Ulu Belaga: Rights to Land, Socio-Economic Development
10.	Poster	Universal Declaration of Human Rights (UDHR) Poster (*Bahasa Malaysia* & English)
11.	Brochure	SUHAKAM Brochure (*Bahasa Malaysia* & English)
12.	Brochure	Anti-Trafficking in Persons Brochure (*Bahasa Malaysia* & English)
13.	Pamphlet	Universal Declaration of Human Rights (UDHR)
14.	Pamphlet	SUHAKAM Charter
15.	Bulletin (Oct - Dec 2009)	SUHAKAM Bulletin
16.	Bulletin (March 2010)	SUHAKAM Bulletin
17.	Bulletin (June 2009)	SUHAKAM Bulletin
18.	Journal	Human Rights Journal
19.	Booklet	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
20.	Booklet	United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

APPENDIX VII

MONTHLY MEETINGS 2010 – ATTENDANCE OF MEMBERS OF THE COMMISSION

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
1.	118th Meeting	Jan 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 Dato' Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Sri Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramaniam a/l Nagaratnam Datin Paduka Zaitoon Dato' Othman Prof Tan Sri Dr Khoo Kay Kim Dato' Dr Michael Yeoh Oon Kheng Dato' Haji Khalid Haji Ibrahim Mrs Hashimah Nik Jaafar	Datuk Dr Denison Jayasooria	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
2.	119th Meeting	Feb 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 Dato' Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Sri Muhammad Shafee Abdullah Dato' Siva Subramaniam 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 Mrs Hashimah Nik Jaafar	Datin Paduka Zaitoon Dato' Othman Tunku Datuk Nazihah Tunku Mohamed Rus	✓ ✓	
3.	120th Meeting	March 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 Dato' Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
			Dato' Sri Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramaniam a/l Nagaratnam Prof Tan Sri Dr Khoo Kay Kim Datin Paduka Zaitoon Dato' Othman Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Mrs Hashimah Nik Jaafar			
4.	121th Meeting	April 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 Dato' Dr Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Datuk Dr Raj Abdul Karim Dato' Choo Siew Kioh Dato' Sri Muhammad Shafee Abdullah Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramaniam a/l Nagaratnam Dato' Dr Michael Yeoh Oon Kheng Datuk Dr Denison Jayasooria Dato' Haji Khalid Haji Ibrahim Mrs Hashimah Nik Jaafar	Prof Tan Sri Dr Khoo Kay Kim	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
5.	1-2010 Meeting 1st Meeting with New Members of Commission	June 16	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Hashimah Nik Jaafar	Mrs Jannie Lasimbang	✓	
6.	2-2010 Meeting	July 19	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar			
7.	3-2010 Meeting	Aug 10	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
8.	4-2010 Meeting	Aug 24	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar			
9.	5-2010 Meeting	Sept 21	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar			
10.	6-2010 Meeting	Oct 26	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
11.	7-2010 Meeting	Nov 23	Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr Muhammad Sha'ani Abdullah Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar	Tan Sri Hasmy Agam Mr James Nayagam	✓ ✓	
12.	8-2010 Meeting	Dec 14	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Datuk Dr Mahmood Zuhdi Hj A Majid Mr James Nayagam Mr Detta Samen Mrs Jannie Lasimbang Mrs Hashimah Nik Jaafar	Mr Muhammad Sha'ani Abdullah	✓	

APPENDIX VIII

PHOTOGRAPHY COMPETITION 2010 WINNERS

The Human Rights Commission of Malaysia (SUHAKAM), is proud to announce the winners of its first ever Photography Competition. The competition with the theme *'Human Rights from Your Perspective'* was held to commemorate the 62nd Anniversary of the Universal Declaration of Human Rights (UDHR).

The objective of the competition was to provide an alternative platform to promote and create awareness on human rights and to give a chance for Malaysians to express their understanding on human rights through photographs from their own perspectives.

The first prize winner received RM2,000 and a certificate of participation. The second and third prize winners received RM1,000 and RM800 respectively while the three consolation prize winners received RM300 each and certificates of participation.

1st Place: Lim Kien Hock
Title: 'Childhood Innocent'

2nd Place: Kamarulzaman Russali
Title: 'This is Life'

3rd Place: Mohammad Naim Firdaus Bin Abdul Aziz
Title: 'Space'

CONSOLATION PRIZE WINNERS

Azman Muhamed Asmayatim
Title: 'Is this fate?'

Nandakumar Haridas
Title: 'Juxtaposition – Graciousness with Arms'

Ang Kok Weng
Title: 'Displaced Elderly'

APPENDIX IX

CERTIFICATE OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF HUMAN RIGHTS COMMISSION OF MALAYSIA FOR THE YEAR ENDED 31 DECEMBER 2010

SIJIL KETUA AUDIT NEGARA
MENGENAI PENYATA KEWANGAN
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
BAGI TAHUN BERAKHIR 31 DISEMBER 2010

Penyata Kewangan Suruhanjaya Hak Asasi Manusia Malaysia bagi tahun berakhir 31 Disember 2010 telah diaudit oleh wakil saya. Pihak pengurusan bertanggungjawab terhadap Penyata Kewangan ini. Tanggungjawab saya adalah mengaudit dan memberi pendapat terhadap Penyata Kewangan tersebut.

Pengauditan telah dilaksanakan mengikut Akta Audit 1957 dan berpandukan piawaian pengauditan yang diluluskan. Piawaian tersebut menghendaki pengauditan dirancang dan dilaksanakan untuk mendapat kepastian yang munasabah sama ada Penyata Kewangan adalah bebas daripada kesilapan atau ketinggalan yang ketara. Pengauditan ini termasuk memeriksa rekod dan dokumen secara semak uji dan bagi memastikan ketepatan angka dan pendedahan yang mencukupi dalam Penyata Kewangan. Penilaian juga dibuat terhadap prinsip perakaunan yang digunakan, unjuran signifikan oleh pengurusan dan persembahan Penyata Kewangan secara keseluruhan. Saya percaya pengauditan yang dilaksanakan memberi asas yang munasabah terhadap pendapat saya.

Pada pendapat saya, Penyata Kewangan ini memberi gambaran yang benar dan saksama terhadap kedudukan kewangan Suruhanjaya Hak Asasi Manusia Malaysia pada 31 Disember 2010 serta hasil operasi dan aliran tunainya untuk tahun tersebut adalah selaras dengan piawaian perakaunan yang diluluskan.

(SAADATUL NAFISAH BINTI BASHIR AHMAD)
b.p. KETUA AUDIT NEGARA
MALAYSIA

PUTRAJAYA
1 MAC 2011

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA OLEH PENGERUSI DAN SALAH SEORANG AHLI SURUHANJAYA

Kami, TAN SRI HASMY BIN AGAM dan DATUK DR.KHAW LAKE TEE yang merupakan Pengerusi dan Naib Pengerusi SURUHANJAYA HAK ASASI MANUSIA MALAYSIA, dengan ini menyatakan bahawa, pada pendapat Suruhanjaya, lembaran imbangan pada 31 Disember 2010, penyata pendapatan, penyata perubahan dana serta penyata aliran tunai bagi tahun berakhir pada tarikh tersebut, dan nota-nota yang disertakan, adalah disediakan menurut piawaian perakaunan yang diluluskan yang berkenaan di Malaysia untuk menunjukkan gambaran yang benar dan saksama berkenaan kedudukan SURUHANJAYA HAK ASASI MANUSIA MALAYSIA pada 31 Disember 2010 dan hasil kendaliannya serta aliran tunainya bagi tahun berakhir pada tarikh tersebut.

Bagi pihak Suruhanjaya,

TAN SRI HASMY BIN AGAM
Pengerusi
Kuala Lumpur
Tarikh: 28 JAN 2011

Bagi pihak Suruhanjaya,

DATUK DR.KHAW LAKE TEE
Naib Pengerusi
Kuala Lumpur
Tarikh: 28 JAN 2011

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENGAKUAN OLEH PEGAWAI UTAMA YANG BERTANGGUNGJAWAB KE ATAS PENGURUSAN KEWANGAN SURUHANJAYA

Saya, Hashimah Binti Nik Jaafar, Pegawai Utama yang bertanggungjawab ke atas pengurusan kewangan SURUHANJAYA HAK ASASI MANUSIA MALAYSIA, dengan ikhlasnya mengakui bahawa lembaran imbangan pada 31 Disember 2010, penyata pendapatan, penyata perubahan dana serta penyata aliran tunai bagi tahun berakhir pada tarikh tersebut dan nota-nota yang disertakan, mengikut sebaik-baik pengetahuan dan kepercayaan saya, adalah betul dan saya membuat ikrar ini dengan sebenarnya mempercayai bahawa ia adalah benar dan atas kehendak-kehendak Akta Akuan Berkanun, 1960.

Sebenarnya dan sesungguhnya diakui)
oleh penama di atas,)
Hashimah Binti Nik Jaafar)
di Kuala Lumpur pada) 28 JAN 2011

Di hadapan saya,

SURUHANJAYA SUMPAH
NO. W465
KAPT (B) JASNI BIN YOSOFF
MALAYSIA

Lot 1.08, Tingkat 1,
Bangunan KWSP, Jln Raja Laut,
50350 Kuala Lumpur.
Tel: 019-6680745

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

LEMBARAN IMBANGAN PADA 31 DISEMBER 2010

	Nota	2010 RM	2009 RM
ASET BUKAN SEMASA			
Loji dan peralatan	3	2,341,969	2,025,860
			-
ASET SEMASA			
Penghutang, deposit dan prabayar	4	1,070,820	737,321
Simpanan tetap	5	3,026,972	-
Tunai dan baki di bank	6	1,385,669	2,733,225
		5,483,461	3,470,546
LIABILITI SEMASA			
Pelbagai pemiutang dan akruan	7	1,489,268	627,498
		1,489,268	627,498
ASET SEMASA BERSIH		3,994,193	2,843,048
		6,336,162	4,868,908
Dibiayai oleh:			
Dana Terkumpul		1,197,763	1,026,434
Geran Kerajaan Tertunda	8	5,138,399	3,842,474
		6,336,162	4,868,908

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PENDAPATAN
BAGI TAHUN BERAKHIR 31 DISEMBER 2010

	Nota	2010 RM	2009 RM
PENDAPATAN			
Geran Kerajaan		9,319,075	10,167,775
PENDAPATAN LAIN			
Hibah		6,440	7,315
Faedah ke atas simpanan tetap		45,910	-
Keuntungan ke atas pelupusan		118,890	-
Lain-lain		89	1,420
		171,329	8,735
Jumlah Pendapatan		9,490,404	10,176,510
PERBELANJAAN			
Emolumen	9	3,168,297	3,180,133
Perjalanan dan sara-hidup		825,460	1,273,567
Pengangkutan		47,800	8,390
Perhubungan dan utiliti		228,799	233,838
Sewaan		1,506,002	1,515,798
Alat ganti dan pembaikan		77,587	126,047
Bekalan dan bahan-bahan lain		102,598	257,463
Penyelenggaraan dan pembaikan kecil		552,191	452,374
Perkhidmatan ikhtisas dan hospitaliti	10	1,689,662	2,487,377
Susutnilai		632,640	619,613
Ganjaran		123,269	13,175
Hutang ragu		364,770	-
		9,319,075	10,167,775
Lebihan pada tahun		171,329	8,735

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PERUBAHAN DALAM DANA TERKUMPUL
BAGI TAHUN BERAKHIR 31 DISEMBER 2010

	Dana terkumpul RM
Pada 1 Januari 2009	1,017,699
Lebihan bagi tahun	8,735
Pada 31 Disember 2009/ 1 Januari 2010	1,026,434
Lebihan bagi tahun	171,329
Pada 31 Disember 2010	1,197,763

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA ALIRAN TUNAI
BAGI TAHUN BERAKHIR 31 DISEMBER 2010

	2010 RM	2009 RM
ALIRAN TUNAI DARI AKTIVITI OPERASI		
Penerimaan	10,615,000	10,779,790
Pembayaran untuk perbelanjaan	(8,870,336)	(9,705,541)
Tunai bersih dari aktiviti operasi	1,744,664	1,074,249
ALIRAN TUNAI DARI AKTIVITI PELABURAN		
Hibah	6,439	7,315
Keuntungan diterima dari simpanan tetap	26,672	-
Mudharabah	-	1,420
Pendapatan dari jualan aset	122,400	-
Belian loji dan peralatan	(220,759)	(633,361)
Tunai bersih digunakan untuk aktiviti pelaburan	(65,248)	(624,626)
Peningkatan bersih dalam tunai dan bersamaan tunai	1,679,416	449,623
Tunai dan bersamaan tunai pada awal tahun	2,733,225	2,283,602
Tunai dan bersamaan tunai pada akhir tahun	4,412,641	2,733,225
ANALISA TUNAI DAN BERSAMAAN TUNAI		
Simpanan tetap	3,026,972	-
Tunai dan baki di bank	1,385,669	2,733,225
	4,412,641	2,733,225

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

NOTA-NOTA KEPADA PENYATA KEWANGAN 31 DISEMBER 2010

1. OBJEKTIF-OBJEKTIF/FUNGSI-FUNGSI UTAMA

1.1 Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) ditubuhkan oleh Parlimen Malaysia di bawah Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999, (Akta 597) dengan objektif untuk melindungi dan memajukan hak asasi manusia di Malaysia. Akta ini diwartakan pada 9 September 1999.

1.2 Fungsi utama SUHAKAM adalah untuk:

1.2.1 memupuk kesedaran dan menyediakan pendidikan yang berhubungan dengan hak asasi manusia.

1.2.2 menasihati dan membantu Kerajaan dalam merumuskan perundangan dan arahan dan tatacara pentadbiran dan mengesyorkan langkah-langkah yang perlu diambil.

1.2.3 mengesyorkan kepada Kerajaan berkenaan dengan penandatangan atau penyertaan dalam perjanjian triti dan suratcara antarabangsa yang lain dalam bidang hak asasi manusia; dan

1.2.4 menyiasat aduan berkenaan dengan pelanggaran hak asasi manusia.

2. DASAR PERAKAUNAN PENTING

2.1 Asas Perakaunan

Penyata kewangan ini telah disediakan menurut kelaziman kos sejarah dan mematuhi piawaian perakaunan yang diluluskan terpakai di Malaysia.

2.2 Loji dan Peralatan dan Susutnilai

Loji dan peralatan dinyatakan pada kos ditolak susutnilai terkumpul.

Susutnilai diperuntukkan berdasarkan kaedah garis lurus dikira untuk menghapus kira kos setiap aset sepanjang anggaran hayat kegunaannya.

Kadar susutnilai tahunan adalah 20%.

2.3 Tunai dan Bersamaan Tunai

Tunai merangkumi wang tunai di tangan dan di bank dan simpanan. Bersamaan tunai merangkumi pelaburan mudah tunai yang boleh ditukarkan kepada amaun tunai yang diketahui yang tertakluk kepada risiko pertukaran nilai yang tidak

(Samb.)

signifikan. Pihak Suruhanjaya telah menggunakan kaedah langsung di dalam penyediaan Penyata Aliran Tunai.

2.4 Faedah Kakitangan

Faedah Jangka Pendek

Upah, gaji dan bonus diiktiraf sebagai perbelanjaan pada tahun yang mana perkhidmatan berkaitan diberikan oleh kakitangan Suruhanjaya.

Pelan Caruman Tetap

Suruhanjaya membuat caruman kepada Kumpulan Wang Simpanan Pekerja ('KWSP'). Caruman sedemikian diiktiraf sebagai perbelanjaan dalam Penyata Pendapatan seperti yang ditanggung. Apabila caruman telah dibayar, Suruhanjaya tiada obligasi bayaran lagi.

2.5 Peruntukan

Peruntukan dibuat bila pihak Suruhanjaya mempunyai obligasi sah atau konstruktif pada masa kini berikutan peristiwa lepas, di mana kemungkinan aliran keluar sumber akan diiktirafkan untuk menjelaskan obligasi, dan bila anggaran yang boleh diyakini boleh dibuat bagi amaun tersebut.

2.6 Geran Kerajaan

Geran daripada Kerajaan diiktiraf pada nilai saksamanya di mana terdapat jaminan munasabah bahawa geran akan diterima dan Suruhanjaya akan mematuhi semua syarat yang ada padanya.
Geran kerajaan berkaitan dengan pembelian Loji dan peralatan dimasukkan dalam liabiliti bukan semasa sebagai pendapatan tertunda dan dikreditkan kepada penyata pendapatan sepanjang hayat dijangka ke atas Loji dan Peralatan berkaitan, asas-asas yang seimbang dengan susut nilai Loji dan Peralatan yang berkaitan.

2.7 Pengiktirafan Pendapatan hibah, Faedah Simpanan Tetap Dan Mudharabah-Insuran

Pendapatan Hibah, Faedah Simpanan Tetap dan Mudharabah – Insuran diiktiraf berdasar asas tunai.

(Samb.)

3. LOJI DAN PERALATAN

2010	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Kerja Dalam Kemajuan	Jumlah
	RM	RM	RM	RM		RM
Kos						
Pada 1 Januari	887,162	460,438	3,008,050	777,093	-	5,132,743
Tambahan	56,526	202,958	6,274	-	786,400	1,052,158
Pelupusan/Pelarasan	(77,977)	(40,537)	(516,211)	(480)	-	(635,205)
Pada 31 Disember	865,711	622,859	2,498,113	776,613	786,400	5,549,696
Susutnilai Terkumpul						
Pada 1 Januari	798,211	307,053	1,523,820	575,699	-	3,204,782
Caj untuk tahun	55,247	80,531	418,121	78,741	-	632,640
Pelupusan	(75,445)	(37,675)	(516,207)	(368)	-	(629,695)
Pada 31 Disember	778,013	349,909	1,425,734	654,072	-	3,207,727
Nilai Buku Bersih						
Pada 31 Disember	87,698	272,950	1,072,379	122,541	786,400	2,341,969

2009	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Kerja Dalam Kemajuan	Jumlah
	RM	RM	RM	RM	RM	RM
Kos						
Pada 1 Januari	881,396	380,613	2,544,894	777,093	97,899	4,681,895
Tambahan	5,766	79,825	463,155	-	-	548,746
Pada 31 Disember	887,162	460,438	3,008,049	777,093		5,230,641
Susutnilai Terkumpul						
Pada 1 Januari	729,110	252,522	1,108,846	494,690	-	2,585,168
Caj untuk tahun	69,099	54,531	414,974	81,008	-	619,612
Pada 31 Disember	798,210	307,053	1,523,820	575,698	-	3,204,780
Nilai Buku Bersih						
Pada 31 Disember	88,952	153,385	1,484,229	201,395	97,899	2,025,860

(Samb.)

4. PELBAGAI PENGHUTANG, DEPOSIT DAN PRABAYAR

	2010 RM	2009 RM
Pelbagai penghutang	4,780	366,200
Deposit	1,062,308	371,212
Prabayar	3,732	(91)
	1,070,820	737,321

5. SIMPANAN TETAP

Simpanan tetap dengan bank berlesan tidak dicagarkan untuk sebarang tujuan. Kadar faedah efektif bagi simpanan tetap dengan bank berlesen ialah antara 2.55%-2.8% setahun. Tempoh matang ialah antara 30 hari hingga 90 hari.

6. TUNAI DAN BAKI DI BANK

	2010 RM	2009 RM
Tunai di tangan	1,527	2,175
Tunai di bank	1,384,142	2,731,050
	1,385,669	2,733,225

7. PELBAGAI PEMIUTANG DAN AKRUAN

	2010 RM	2009 RM
Pelbagai pemiutang	1,113,684	55,528
Akruan	375,584	571,970
	1,489,268	627,498

(Samb.)

8. **GERAN KERAJAAN TERTUNDA**

	2010 RM	2009 RM
Baki pada 1 Januari	3,842,474	3,790,249
Terimaan tahun semasa	10,615,000	10,220,000
Tolak: Pelunasan tahun semasa		
Perbelanjaan operasi	8,686,435	9,548,162
Susut nilai	632,640	619,613
	9,319,075	10,167,775
Baki pada 31 Disember	5,138,399	3,842,474

9. **EMOLUMEN**

Pembayaran emolumen bagi 81 (2009:74) jawatan Pegawai dan Kakitangan Tetap adalah seperti berikut:

	2010 RM	2009 RM
Gaji	1,842,122	1,860,188
Imbuhan Khidmat Awam	116,591	119,002
Elaun Perumahan	245,144	250,729
Elaun Keraian	108,171	110,511
Lain-lain Elaun	379,435	381,815
Sumbangan Badan Berkanun	321,090	330,834
Faedah Kewangan Lain	155,744	127,054
Jumlah	3,168,297	3,180,133

10. **PERKHIDMATAN IKHTISAS DAN HOSPITALITI**

Termasuk didalam perbelanjaan ini adalah pembayaran emolumen kepada Pesuruhjaya adalah sebanyak RM847,359.34

11. **MAKLUMAT KAKITANGAN**

Jumlah kakitangan SUHAKAM pada akhir tahun adalah 81 (2009:74).

(Samb.)

12. **INSTRUMEN KEWANGAN**

Objektif dan Polisi Pengurusan Risiko Kewangan

Polisi pengurusan risiko kewangan Suruhanjaya bertujuan memastikan sumber kewangan mencukupi untuk menjalankan operasi-operasinya dengan lancar.

(a) Risiko Mudah Tunai

Pihak Suruhanjaya mengamalkan pengurusan risiko mudah tunai yang hemat untuk meminimumkan ketidakpadanan aset dan liabiliti kewangan dan untuk mewujudkan tahap tunai dan bersamaan tunai yang mencukupi bagi memenuhi keperluan modal kerja.

(b) Nilai Saksama

Nilai dibawa tunai dan bersamaan tunai, pelbagai dan lain-lain belum terima, pelbagai dan lain-lain belum bayar menghampiri nilai saksama kerana sifat instrumen kewangan yang jangka pendek.

13. **ANGKA-ANGKA PERBANDINGAN**

Angka-angka perbandingan di tahun lalu telah diselaraskan berikutan perubahan di dalam persembahan penyata kewangan di tahun semasa.