



2011 ANNUAL REPORT

HUMAN RIGHTS COMMISSION OF MALAYSIA



S U H A K A M
HUMAN RIGHTS FOR ALL

ANNUAL REPORT

2011

HUMAN RIGHTS COMMISSION
OF MALAYSIA

FIRST PRINTING, 2012

© Copyright Human Rights Commission of Malaysia (SUHAKAM)

The copyright of this report belongs to the Commission. All or any part of this report may be reproduced provided acknowledgement of source is made or with the Commission's permission. The Commission assumes no responsibility, warranty and liability, expressed or implied by the reproduction of this publication done without the Commission's permission. Notification of such use is required. All rights reserved.

Published in Malaysia by
HUMAN RIGHTS COMMISSION OF MALAYSIA

11th Floor, Menara TH Perdana
1001, Jalan Sultan Ismail, 50250 Kuala Lumpur
Email: humanrights@suhakam.org.my
URL: <http://www.suhakam.org.my>

Designed & Printed in Malaysia by
Reka Cetak Sdn Bhd
No. 14, Jalan Jemuju Empat 16/13D
Seksyen 16, 40200 Shah Alam
Selangor Darul Ehsan

National Library of Malaysia

Cataloguing-in-Publication Data

ISBN: 1675-1159



MEMBERS OF THE COMMISSION 2011

STANDING FROM LEFT

PROF DATO' DR MAHMOOD ZUHDI HJ AB MAJID, MR JAMES NAYAGAM, MS JANNIE LASIMBANG,
MR MUHAMMAD SHA'ANI ABDULLAH, MR DETTA SAMEN

SEATED FROM LEFT

PROF DATUK DR KHAW LAKE TEE (Vice-Chairman), TAN SRI HASMY AGAM (Chairman),
MRS HASHIMAH NIK JAAFAR (Secretary)

HUMAN RIGHTS COMMISSION OF MALAYSIA ANNUAL REPORT 2011

CONTENTS

CHAIRMAN'S MESSAGE		1
EXECUTIVE SUMMARY		7
KEY ISSUES		13
CHAPTER 1	REPORT OF THE EDUCATION AND PROMOTION WORKING GROUP	23
CHAPTER 2	REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP	39
CHAPTER 3	REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP	53
CHAPTER 4	REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP	69
CHAPTER 5	REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE	89
CHAPTER 6	REPORT OF THE INDIGENOUS PEOPLES' RIGHTS COMMITTEE	101
CHAPTER 7	REPORT OF THE SABAH OFFICE	113
CHAPTER 8	REPORT OF THE SARAWAK OFFICE	125
CHAPTER 9	REPORT OF THE PUBLIC INQUIRY	133
CHAPTER 10	REPORT OF THE NATIONAL INQUIRY COMMITTEE	135
CHAPTER 11	REPORT ON THE HUMAN RIGHTS AWARDS	145

APPENDICES

APPENDIX I	The Commission's Press Statements 2011	155
APPENDIX II	Activities of the Commission in 2011	201
APPENDIX III	Talks, Meetings, Workshops and Conferences – National 2011	222
APPENDIX IV	Visits, Meetings and Conferences – International 2011	228
APPENDIX V	The Commission's Publications 2011	233
APPENDIX VI	Monthly Meetings 2011 – Attendance of Members of the Commission	234
APPENDIX VII	The Commission's Audited Accounts	239
LIST OF ABBREVIATIONS		254

CHAIRMAN'S MESSAGE

This is the 11th Annual Report of the Human Rights Commission of Malaysia and the second by the current Commission. As in the past, the Commission submits its Annual Report to Parliament during its first sitting for the year, and it remains our hope and expectation that it will be closely read and, for the first time, debated by legislators so that they and the nation as a whole are better informed of the state of human rights and can contribute toward its advancement in the interests of the people.

The challenge for the Commission, as always, has been one of ensuring that its many recommendations are acted upon by the authorities concerned and other stakeholders so that Malaysia's human rights standards are fully compliant with universally accepted principles and norms, as is incumbent upon a responsible Member-State of the United Nations and a sitting member of the UN Human Rights Council. Admittedly, some progress has been made, but the pace has been rather slow and the record rather patchy and inconsistent, requiring more serious and strenuous effort on the part of everyone who wishes to see more tangible achievements in the human rights field.

As in previous years, 2011 continued to be a challenging one for human rights promotion. The year witnessed renewed and more robust calls by civil society organisations (CSOs) for greater freedom of peaceful assembly, the most notable being the street march organised by a coalition of non-governmental organisations (NGOs) under 'Bersih 2.0', to call for electoral reform. The coalition and the rally were declared illegal by the authorities, resulting in a number of unfortunate incidents, which subsequently compelled the Commission to set up a Public Inquiry to determine what had transpired and if there had been violations of human rights in the process.

In the wake of this public gathering, the Government tabled the Peaceful Assembly Bill in Parliament, which speedily approved it. While the Act dispenses with the need to obtain a police permit prior to holding a peaceful assembly, it nevertheless imposes stringent conditions for organising such assemblies and was, not surprisingly, poorly received by members of the public who desire a more open and free society and a more robust democracy. The Commission hopes that, before enforcing the Act, the Government will open to further consultations for the purpose of receiving additional



Admittedly, some progress has been made, but the pace has been rather slow and the record rather patchy and inconsistent, requiring more serious and strenuous effort on the part of everyone who wishes to see more tangible achievements in the human rights field.

input from the public and the Commission, so that this highly contentious issue can be satisfactorily resolved toward bringing the Act in line with contemporary international practice.

The Commission continues to be concerned with a number of other issues that have also been taken up by CSOs, relating to preventive detention, freedom of expression, freedom of religion, the rights of vulnerable groups, and the plight of migrant workers, among others. A matter of perennial concern is the allegation of use of excessive force by the police, especially in the interrogation of detainees. The Commission would urge enforcement agencies to be more compliant with international human rights standards in carrying out their responsibilities, and make a determined effort to bring up to date their policing and interrogation methods and procedures, so that they can be considered to be among the best in the Asia-Pacific region, if not the world.

With regard to the plight of vulnerable groups, the Commission is working closely with the Government, specifically the Ministry of Women, Family and Community Development, on a number of initiatives. These include persuading the Government to consider withdrawing its remaining reservations to the Convention on the Elimination of All Forms of Discrimination against Women, and to ratify, at least initially, its Optional Protocols. The Commission will continue to highlight the human rights perspective by way of various platforms, including in the context of its recent appointment as a member of the National Advisory Consultative Council for Children, while carrying out its independent monitoring functions as a national human rights institution (NHRI).

Indigenous peoples are among the world's most vulnerable groups and those in Malaysia are no exception. Following persistent complaints from members of this community over the years, the Commission launched its first-ever National Inquiry focusing on the issue of their land rights which are either not recognised or have been challenged, or infringed or trampled upon, thereby pushing them further to the fringes of society even as Malaysia is galloping steadily to attain developed country status. It is the Commission's hope that, on completion of its findings by the middle of 2012 and submission of its Report to Parliament as well as to State Legislative Assemblies, the recommendations will be favourably considered and followed up in the interests of resolving, or at least substantially ameliorating, the plight of this largely forgotten people who are among the original inhabitants of this great country of ours.

In fulfilling its advisory role, the Commission hopes to be able to work closely with the relevant government agencies in ensuring that those obsolete laws are quickly abolished or replaced by legislation that is consistent with universally accepted human rights and democratic principles.

The year witnessed a number of positive developments, the most notable of which was the Honourable Prime Minister's decision to do away with the Internal Security Act 1960, the Banishment Act 1959 and the Restricted Residence Act 1933; along with the repeal of the existing but obsolete Emergency Proclamations; and a review of the Printing Presses and Publications Act 1984 and sections of the

Police Act 1967. The Commission has warmly welcomed the Prime Minister's bold and historic decision, consistent with his desire to see the nation mature into a fully functioning and vibrant democracy. In fulfilling its advisory role, the Commission hopes to be able to work closely with the relevant government agencies in ensuring that those obsolete laws are quickly abolished or replaced by legislation that is consistent with universally accepted human rights and democratic principles.

Another welcome development was the Government's positive response to the Commission's proposal to develop a National Human Rights Action Plan (NHRAP), as a mechanism and roadmap for more effective and systematic promotion and protection of human rights, which will be monitored and audited like a national development plan. The Commission looks forward to working with the Government and other stakeholders in completing the much-awaited NHRAP, and to subsequent independent monitoring of the implementation of the action plan.

It is pertinent to recall that the Government set up the Commission to assist the State in promoting human rights by monitoring infringements of these rights wherever they occur; and to advise the Government on the improvement of laws, regulations and practices. The Commission has no enforcement or executive power and, in carrying out its work as a 'watchdog', it often finds itself compelled to make critical comments about certain policies and practices of government agencies as well as other parties. In speaking out on what it perceives to be non-compliance with the Universal Declaration of Human Rights (UDHR), it seeks to enhance the human rights record of the nation. The Commission, which considers its work to be an important aspect of public service, is committed to carrying out its tasks, even if this draws criticism from certain quarters who fail, or refuse, to understand the *raison d'être* of its existence.

The Commission has continued with, and benefitted from, its programmes of dialogues and engagement with various stakeholders – government departments and agencies such as the Royal Malaysian Police, Prison Department and other enforcement bodies, NGOs, academicians and the media. These programmes and activities are essential not only in creating awareness and promoting understanding of human rights, but also in obtaining important feedback from our interlocutors. These will be pursued even more actively in the future, with particular emphasis on policy- and law-makers for the important roles that they play and the influence they exert on the future direction of the country in the area of human rights. In this regard, we look forward to more active engagement with parliamentarians and members of the State Legislatures with a view to generating increased interest in human rights issues, and to encourage them to establish an appropriate mechanism or forum for deliberations, such as a Parliamentary Standing or Select Committee, and a similar committee in State Legislatures. After all, human rights is an overarching subject that affects the people from the cradle to the grave.

A more focused and informed consideration of basic rights issues among legislators would not only be good for the electorate whose rights issues would have a high forum for discussion, but would also bolster parliamentary democracy; for, in a thriving democracy, policies and laws formulated in

the interests of the nation must not only comply with the provisions of the national constitution, but also universal principles and norms that the country subscribes to as a member of the international community.

Having served slightly more than half of their term, the members of the Commission are now in a better position to assess the human rights situation in the country. Having travelled far and wide in the course of their work, and having first-hand experience and observation of the situation on the ground, they are of the view that – in spite of some gains that have been attained in terms of human rights – there is still a lot of room for improvement, *inter alia*, in freedom of peaceful assembly, of speech or expression, as well as of beliefs and worship.

There is also the need for the country to ratify or accede to the remaining six of the nine core international human rights instruments, and to remove the reservations it had made to the three that have been ratified. The Commission is also of the view that the Government should begin to address more seriously and constructively the issues relating to migrant workers, refugees, asylum seekers, human trafficking victims and the like, as these are long-standing problems. Indeed, as an increasingly influential member of the international community, Malaysia should seriously consider ratifying or acceding to the relevant international instruments, as many other States have done, and do its part as a responsible member of the international community.

The Commission strongly believes that education plays a vital role in the inculcation of human rights values and awareness, and that this should begin with children at an early age, both at home and in school. Parents and teachers therefore have an important role in imparting these values. By the time Malaysians reach adulthood and assume their role as responsible citizens, human rights values should have been integrated into their personalities. In this way, human rights training at the work place would largely be to reinforce embedded values that are second nature to all.

At the international level, while the Commission was able to retain its 'A' status, specifically at the UN International Coordinating Committee of National Human Rights Institutions for Promotion and Protection of Human Rights, based in Geneva, there is a continual need to ensure that its structures, systems and *modus operandi* remain fully compliant with the 'Paris Principles' that govern the performance and credibility of NHRIs. As NHRIs are subjected to a peer-evaluation process toward re-accreditation every five years, it is essential for the Commission to remain vigilant and to ensure, by its programmes and activities, that it maintains its credibility as a NHRI and that it retains its status.

The issue of national peace and security and harmony in a multi-racial and multi-cultural and multi-religious country like Malaysia is of unquestionable importance. However, the time has come for us to look at these issues in the context of our times and our obligations as a member of the international community, and to effect a change in the way we deal with the issues – indeed, to effect a fundamental change in our approach – so that the mostly outdated laws can be modernised and brought in line with the practice of leading countries in the field of human rights.

Malaysia is being constantly monitored by international human rights bodies, including those of the United Nations, which expect Member-States to maintain high standards of human rights compliance. We cannot continue to ignore the critical scrutiny and comments of these bodies, which come at regular intervals, as such monitoring of activities has become part and parcel of the international system in this age of globalisation. Indeed, as Malaysia marches toward joining the ranks of the developed countries, it is imperative that – in the realm of human rights – it makes a serious effort to improve internal systems and to fully comply with international standards.

It is worth reiterating that in a multi-ethnic, multi-cultural and multi-religious nation like Malaysia, there is a need to go beyond tolerance – albeit an essential prerequisite for national harmony – toward greater understanding, respect and acceptance of the differences that prevail among us. Hence, akin to the inculcation of human rights values, the process of building on the bedrock of tolerance toward greater respect and harmony should also begin early, at home and in school.

In this regard, the Commission is heartened and is fully supportive of the Prime Minister's initiative to establish a Global Movement of the Moderates. This is a bold and noble move to tap the synergies of the so-called silent majority of humankind who are moderate and reasonable in their attitudes and views but who are very often overwhelmed and sidelined by those who are their very opposite and who attempt, rather successfully, to dictate the agenda of interaction between nations and peoples, especially since the tragic events of 11 September 2001. It goes without saying that, for Malaysia to play a leading or catalytic role in this projected global movement, it is vitally important for it to begin the process of promoting moderation at home by taking the necessary measures, including substituting the tough laws of a bygone era with moderate, civilised and humane ones that are consistent with the values and needs of our times.

The members of the Commission sincerely believe that Malaysia, which is much respected by the international community for its many achievements in the economic and other fields, could and should do more in improving its human rights record so as to be on par with leading nations. The Commission is convinced that with more effort and the necessary political will, this challenge can be met. The key to further progress lies in an unquestioned obligation and commitment to uphold and promote human rights. This can best be achieved through a paradigm shift – from regarding the UDHR as an externally-driven imposition of alien values, as often alleged, to accepting it as a set of universal principles to be attained to the best of the country's ability. This is imperative as these principles have been accepted by all Member-States of the United Nations and, in a globalised and inter-connected world, the nation can ill afford to exist in splendid isolation. I sincerely believe that Malaysia can live up to higher standards of human rights and become a model nation to be emulated by others. The Commission will do its utmost to fulfil

This can best be achieved through a paradigm shift – from regarding the UDHR as an externally-driven imposition of alien values, as often alleged, to accepting it as a set of universal principles to be attained to the best of the country's ability.

its mandate and looks forward to receiving increased support and understanding from all Malaysians who are the main stakeholders of human rights.

It is my fervent hope, shared by the other members of the Commission, that sooner or later – hopefully, sooner rather than later – Malaysia will fully subscribe to universal human rights principles and values once the people have a better appreciation and understanding of these principles and values, so that as a nation we can stand tall and proud in the company of countries that have impeccable human rights standards. Until that is achieved, it is hoped that Malaysia will continue to learn and emulate the best practices of other countries, especially those with which we share similar cultural and social traditions.

For, promoting, protecting and advancing human rights is not only the responsibility of the Commission or the Government or CSOs, but of all Malaysians who value freedom and the right to live in peace and harmony with fellow-citizens.

I am greatly indebted to my fellow-Commissioners for their warm comradeship, strong support, encouragement and unstinted contributions in terms of ideas, experience and expertise that have, to a great extent, lightened the burden of the chairmanship of the Commission. I am especially grateful to Prof Datuk Dr Khaw Lake Tee, the Vice-Chair, for her sound advice and, in particular, her leadership in steering the work of preparing and completing this Annual Report on time, with the support and cooperation of Commissioners, Officers and Staff-Members.

In submitting this Annual Report to Parliament, I once again recommend it to all Malaysians and invite them to join the challenge of bringing the country into the fold of States that fully respect and uphold the fundamental and inalienable rights of their peoples regardless of race, creed or colour. For, promoting, protecting and advancing human rights is not only the responsibility of the Commission or the Government or CSOs, but of all Malaysians who value freedom and the right to live in peace and harmony with fellow-citizens.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia

EXECUTIVE SUMMARY

This was undoubtedly an extraordinary year for the human rights movement in Malaysia. As civil society groups kept up pressure for change, the Government responded by taking initial steps toward reform. The Commission is appreciative of the Prime Minister's aspirations for the nation and his recognition of, and respect for, basic human rights alongside the rule of law.

The highlight was the passage of the Peaceful Assembly Bill in Parliament on 20 December. The Commission notes, however, that the Government's amendments to the draft law were not in line with suggestions from concerned parties, including the Commission itself. Therefore, the Government is urged to review the Act, taking into account international human rights principles. In the interim, the Commission calls on the Government to ensure that enforcement of the Act complies with the human rights principle that guarantees freedom of assembly, and to open up avenues for public discourse on contentious provisions of the Act.

Having consistently called for all preventive detention legislation to be repealed because such laws go against human rights principles, the Commission lauds the Government's decision to annul existing Proclamations of Emergency and to repeal the Internal Security Act 1960 (ISA). The Commission hopes that, in the course of drafting legislation to replace the ISA, all relevant parties will be consulted and that its long-standing recommendations will be given due regard.

In keeping with the Commission's mandate to promote and protect human rights, its Working Groups pursued their key objectives through on-going programmes and activities during the year, while extending outreach to new target groups or integrating additional issues that require attention and intervention.

REPORT OF THE EDUCATION AND PROMOTION WORKING GROUP (EWG)

Following the success of the pilot Human Rights Best Practices in Schools (HRBPS) project, the EWG took it a step further by bringing 12 more schools within the programme. At the same time, a team of researchers carried out a formative study into the pilot project, eventually recommending the continuation of the programme with some improvements.

In highlighting the right to education for Orang Asli children, the EWG pursued solutions to factors that still keep them out of school. Another concern was that two religious schools in Perlis had experienced difficulty in attaining registration, due to the policies and procedures of the Ministry of Education and Department of Religious Affairs.

Achievements were recorded in expanding human rights awareness by involving student leaders from polytechnic institutes, and the signing of a three-year Memorandum of Understanding between the Commission and Universiti Kebangsaan Malaysia. At a different level, a permanent human rights-based training curriculum is in the offing for prison officials.

The EWG worked closely with the Training Centre for Local Authorities to promote human rights to enforcement officers from Selangor and Penang. For the first time, a workshop was held to expose community leaders to issues of human rights and good governance. In addition, artistes were drawn into discussion of their role in disseminating information on human rights through the arts.

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP (CIWG)

The Commission received 1,232 complaints at its Kuala Lumpur, Kota Kinabalu and Kuching offices from individuals, political parties and civil society groups. Most of the complaints were on the provisions of preventive detention laws, in particular the 60-day remand period, two-year detention order or two-year restriction order under the ISA, Emergency (Public Order and Prevention of Crime) Ordinance 1969 and Dangerous Drugs (Special Preventive Measures) Act 1985.

The detention of minors and young adults under preventive detention laws remains a disturbing practice. Alleged offences involving this group could well be dealt with under the Penal Code, for example. This would ensure protection of the human rights of young offenders both under domestic law and international treaties.

A notable activity during the year was the monitoring of 19 public assemblies in response to requests from organisers. As the secretariat, the CIWG assembled a team comprising Commissioners and officers to observe each event and, if required, to mediate between the police and organiser during the assembly.

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

Human rights issues involving freedom of expression, freedom of association, preventive detention, refugee rights, the death penalty, and the rights of sexual minorities provided further scope for the Working Group's activities.

Efforts continued to persuade the Government to accede to such international human rights treaties as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of all Forms of Racial Discrimination.

The Commission also began preparations for the submission of independent reports on the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women to the United Nations in 2012.

The Commission was appointed a member of the National Advisory Consultative Council for Children, under the Ministry of Women, Family and Community Development. With the Bar Council's support and assistance, the Commission held watching brief in court cases of interest, as well as engaged the Chief Justice of Malaysia on the judiciary's role in advancing human rights.

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

The ECOSOCWG added to national initiatives to deter trafficking in persons. It produced a multi-lingual brochure on Anti-Trafficking in Persons (ATIP), to alert foreign nationals to inherent dangers as well as to the rights of victims. The Commission, as a member of the Council for ATIP and Anti-Smuggling of Migrants, Malaysia, provided input on such matters as shelter audits, the Council's standard operating procedure, and a risk management survey.

The rights of persons with disabilities, rights of indigenous peoples and women's rights, and the human rights approach to business and climate change were addressed through other programmes and activities.

REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE (IICC)

The Commission supported the strategies and work of international and regional groupings. These include the UN International Coordinating Committee of National Human Rights Institutions for Promotion and Protection of Human Rights (ICC). The Commission was involved in the development of the ICC Operational Plan for the period from November 2011 to March 2013.

At the 16th Annual Meeting of the Asia Pacific Forum (APF) of National Human Rights Institutions (NHRIs) in September, the Commission and the Jordanian National Human Rights Commission were re-elected by APF Forum Councillors to continue their role as representatives to the ICC Bureau from March 2012-2014. The Commission participated in the APF conference on 'Business and Human Rights' in October, highlighting its plan to formulate a policy to be submitted for the Government's consideration.

The Commission handed its Universal Periodic Review Interim Report to the Human Rights Council in August, also participating in the 18th Regular Session in its capacity as an 'A' status NHRI.

The Southeast Asia National Human Rights Institutions Forum has appointed the Commission the lead institution in a joint project on the rights of indigenous peoples. The Commission prepared a concept paper on the subject.

On the home front, the Commission met with the Legal Affairs Division of the Prime Minister's Department in March to discuss the drafting of the National Human Rights Action Plan.

REPORT OF THE INDIGENOUS PEOPLES' RIGHTS COMMITTEE (IPRC)

Four main activities were organised to promote the rights of indigenous peoples (IPs), including a seminar on the right of IPs to be involved in decision-making processes, a workshop on the indigenous legal system and fora on indigenous economic development and indigenous education respectively.

The IPRC lent a hand with needs in conjunction with the Commission's pioneer National Inquiry (NI) into the Land Rights of IPs in Malaysia, and kept close watch on developments in the Government's move to amend the Aboriginal Peoples Act 1954.

REPORT OF THE SABAH OFFICE

In practical terms, the protection of human rights in Sabah revolves around investigation of complaints and education of stakeholders. Toward this end, the Commission's Office in Kota Kinabalu looked into the 250 complaints it received over the year.

The Commission also organised talks and dialogues, five sessions of a Forum and Training on the Indigenous Legal System, and handled the ground work in relation to the NI process in the State.

REPORT OF THE SARAWAK OFFICE

Apart from handling complaints and conducting field visits in relation to these, the Commission organised eight talks on human rights with the assistance of other agencies to raise awareness of human rights. In addition, assistance was provided in conducting the NI public consultation process in Sarawak.

REPORT OF THE PUBLIC INQUIRY (PI)

Responding to several memoranda, the Commission began a Public Inquiry in October into allegations of infringements of human rights by the authorities prior to and during the Bersih 2.0 assembly on July 9, in support of demands toward reforms for clean and fair elections.

The Panel of Inquiry comprises Prof Datuk Dr Khaw Lake Tee (Chairperson), Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

As at 31 December, seven sittings had been held and 16 witnesses had testified before the Panel of Inquiry, which also conducted site visits to Tung Shin Hospital and Jalan Travers in Kuala Lumpur. The Public Inquiry is scheduled to be concluded in 2012.

REPORT OF THE NATIONAL INQUIRY COMMITTEE (NI)

Persistent complaints by IPs about infringements of their right to native customary land have necessitated a comprehensive examination of the root causes. As such, the Commission is conducting its first NI into the land rights of IPs. Critical issues are expected to be raised, and will be reviewed against international human rights standards and commitments aimed at restoring IPs' right to land.

The NI Committee is engaging the Federal and State Governments, indigenous communities, the private sector, academicians and civil society groups in the nationwide search for information and answers. The process has involved introductory briefing sessions for key groups, public consultations with stakeholders and acceptance of written submissions. Public hearings will follow in January 2012.

To support the process, the Commission has appointed researchers to undertake in-depth research into land conflicts, laws and policies affecting indigenous land and the extent to which these comply with international human rights standards, among other aspects. GIS mapping of claimed indigenous boundaries/territories will also be conducted for key cases.

The NI Committee is due to complete its Report in 2012.

REPORT ON THE HUMAN RIGHTS AWARDS

In conjunction with World Human Rights Day on 10 December, the Commission presented its inaugural Human Rights Awards. This was to acknowledge and honour outstanding contributions of individuals and organisations who have contributed much energy and effort to the promotion and protection of human rights.

Nominations were invited for three different categories - Community Award (Individual), the Community Award (Organisation) and the Media Award.

The winners were Ms Tijah Yok Chopil for her active contribution to the Orang Asli communities; SUARAM for its relentless campaigns to promote equal rights; and Ms Selina Kong Lik Hwan (Siasat, Mandarin Edition, NTV7) for her report, 'Young Maid for Sale 1'.

In addition, the Commission presented a Special Award to the Integrity Schools established by the Prison Department for championing and defending the rights of juvenile offenders to education.

KEY ISSUES

Everyone is born free and equal in dignity and rights.

Article 1, Universal Declaration of Human Rights

Compelling calls for reform incorporating human rights were heard from many sections of civil society over the year, both from citizens at home and abroad. On the eve of Malaysia Day, the Prime Minister delivered a historic commitment to repeal or amend specific laws that have long been deemed oppressive of human rights.

Nonetheless, many groups and individuals have continued to bring pressing human rights issues to the Government's attention on their own and through the Commission.

The issues, which have also attracted attention in the international media and social media, mainly involve freedom of assembly, preventive detention, freedom of expression, freedom of religion and the rights of vulnerable groups.

.. I wish to emphasise that free of any suspicion and doubt, the Malaysia that we all dream of and are in the process of creating is a Malaysia that practises a functional and inclusive democracy where peace and prosperity are preserved in accordance with the supremacy of the Constitution, rule of law and respect for basic human rights and individual rights.

*Honourable Dato' Sri Najib Abdul Razak,
Prime Minister of Malaysia,
in his 2011 Malaysia Day message*

1. FREEDOM OF ASSEMBLY

The fundamental liberty to assemble peacefully and express concerns and opinions is an essential element of democracy as guaranteed by Article 10(1)(b) of the Federal Constitution and as enshrined in Article 20 of the Universal Declaration of Human Rights (UDHR). The Commission welcomes the repeal of Sections 27, 27A, and 27B of the Police Act 1967 and the enactment of the Peaceful Assembly Act 2011, insofar as it does away with the requirement to seek the permission of the police to hold public assemblies. However, it is concerned that new provisions now give the police discretion to impose conditions, which could potentially undermine the right of the public to organise or participate in peaceful assemblies.

During the passage of the Bill through Parliament, amendments were made with regard to the period of notification to organise an assembly. Nevertheless, the Commission urges the Government to review the Act through meaningful public consultation to ensure that its provisions comply with the human rights principle that guarantees freedom of assembly.

In the interim, the Commission calls on the police to facilitate the exercise of the right to assemble in an orderly and peaceful manner. At the same time, the Commission urges all parties to exercise their rights responsibly in ensuring peace and the safety of all involved; importantly, the rights of others who are indirectly affected should also be respected and protected.

2. REVIEW OF PREVENTIVE DETENTION LEGISLATION

In line with its previous calls for repeal of all preventive detention legislation, the Commission welcomes the Government's decision to annul the existing Proclamations of Emergency, and to repeal the Internal Security Act 1960 (ISA), the Banishment Act 1959 and the Restricted Residence Act 1933. This will enhance the protection and promotion of human rights.



While the Banishment Act 1959 and the Restricted Residence Act 1933 have been repealed as promised, the Commission is deeply concerned over two subsequent developments; the first being the detention of 13 suspected militants under the ISA; and the second, the statement by the *de facto* Law Minister that legislation to replace the ISA will still enable detention without trial, albeit for a shorter period. These developments have elicited criticism in various quarters including Human Rights Watch, which has called on the Government “to demonstrate its intent to end unlawful detention and immediately revoke the abusive laws and release or fairly prosecute those being held in preventive detention”.

The Human Rights Watch has called on the Government ‘to demonstrate its intent to end unlawful detention and immediately revoke the abusive laws and release or fairly prosecute those being held in preventive detention’.

The Commission recognises that the authorities have a duty to maintain public safety and national security. However, this should not extend to use of laws which allow for detention without trial. The Commission urges the Government to give due consideration to its recommendations in its Report *The Review of the Internal Security Act 1960*. A tough stand should be taken on threats to public safety and national security, but without undermining fundamental human rights principles.

The Commission also urges the authorities to release all those detained under the ISA and to accord them their right to an open trial with legal representation.

3. FREEDOM OF EXPRESSION AND RIGHT TO INFORMATION

Restrictive laws such as the Printing Presses and Publications Act 1984 (PPPA) have curtailed freedom of expression. In line with the changing socio-political landscape, however, the Government has announced that media censorship policies will be reviewed and has pledged to amend the licensing requirement in the PPPA.

Reforms in this area should not be restricted to addressing procedural matters in licence renewals; these should extend to lifting restrictions on freedom of expression and a review of other laws such as the Official Secrets Act 1972 and the Sedition Act 1948. This would help ensure that the media can carry out its functions and responsibilities without fear or favour, and to assist in highlighting human rights violations and injustices. In order to ensure transparency, accountability and proper checks and balances, the Commission reiterates its stand that laws affecting the duties of the media must be reviewed and the right to equal access of information must be safeguarded as provided by Article 10 of the Federal Constitution and Article 19 of the UDHR.

In order to ensure transparency, accountability and proper checks and balances, the Commission reiterates its stand that laws affecting the duties of the media must be reviewed and the right to equal access of information must be safeguarded as provided by Article 10 of the Federal Constitution and Article 19 of the UDHR.

4. LAW ENFORCEMENT

Allegations of police inaction in investigating reports, the use of excessive force during interrogations, and abuse of remand procedures were among the main complaints received during the year. The Commission therefore recommends that closed-circuit television cameras be installed in every interrogation room; that every detainee be examined before and after an interrogation session by a medical doctor; and that every report against police officers be investigated by personnel from Bukit Aman or the state police contingent headquarters to avoid the perception of bias. The Commission reiterates its call for the establishment of an independent body or a monitoring mechanism, such as the Independent Police Complaints and Misconduct Commission, to strengthen public confidence in the operations of the police force.



5. RIGHTS OF VULNERABLE GROUPS

(a) Women and Children

The Commission is concerned about the exploitation of children at a religious school in Kedah, who have been used to collect donations. This contravenes Article 32 of the Convention on the Rights of the Child (CRC) and breaches provisions in law that protect children, including Section 2(1) of the Children and Young Persons (Employment) Act 1966 and Section 32 of the Child Act 2001. The Commission, on visiting the school together with representatives of the Kedah Social Welfare Department, Education Department, Islamic Affairs Department and Department of Islamic Development, advised the school management to comply with the laws, especially Section 32 of the Child Act 2001. It has also written to the Ministry of Women, Family and Community Development about the situation to recommend that strict action be taken to ensure that the children are not exploited.

The Commission is also monitoring the implementation of the CRC and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It is also striving for removal of the Government's remaining reservations to Articles in both treaties, as well as accession to their Optional Protocols.

In addition, the Commission is monitoring the status of gender equality to ensure that this is in line with the rights-based framework set out in CEDAW. It is also in the midst of preparing an independent CEDAW report for submission to the United Nations in 2012.

(b) Indigenous Peoples

The Commission has completed public consultation sessions for its National Inquiry (NI) into the Land Rights of the Indigenous Peoples in Malaysia. The purpose was to gather information on areas of conflict and related evidence, as well as applicable laws, procedures and policies relating to indigenous land. Written submissions have also been accepted. The Commission is examining the cases and identifying the witnesses to be called during the public hearings that are scheduled to start in January 2012. The NI process is set to be completed by July 2012.

Many indigenous communities in the Peninsula have issues with the Government's proposal to amend the Aboriginal Peoples Act 1954 for the purpose of implementing the Land Ownership Policy. Mainly, they are not satisfied with the consultation process and many of the proposed amendments. The Commission has appealed to the Ministry of Rural and Regional Development to delay tabling the proposed amendments until the completion of the NI process.

Other issues which the Commission has taken up, and for which recommendations have been made to the Federal and State Governments, include recognition of indigenous peoples' education, and economic and legal systems.

(c) Persons with Disabilities (PWDs)

PWDs continue to experience hardship and neglect in the planning and provision of public amenities, which has led to denial, or limited means, of access to public areas. Additionally, they have insufficient support services to enable inclusive education; as well as face discrimination in developing their careers or accessing job opportunities.

Although Malaysia has ratified the Convention on the Rights of Persons with Disabilities, it has also expressed reservations to certain articles. The Commission urges the Government to fulfil its obligations by ensuring that PWDs enjoy their inherent right to life, absence of discrimination, equal rights, access to justice, and participation in political life. PWDs are entitled to exercise their civil, political, social, economic and cultural rights on an equal basis with others.

(d) Sexual Minority Groups

The Commission is concerned by the ill-treatment, discrimination, bullying, humiliation and intimidation of the sexual minority groups. Some sections of the media have sensationalised issues involving the groups, displaying lack of sensitivity and respect for them. The Commission stands firm that the sexual minority groups' rights and fundamental liberties must be upheld and respected at all times. They are entitled to enjoy their human rights like all human beings. Brutality and violation of their rights cannot be justified.

(e) Migrant Workers, Asylum Seekers and Refugees

(i) Rights of migrant workers

Most of the complaints that the Commission received with regard to migrant workers were about incomplete or irregular payment of wages, lack of compensation for accidents at work and delays in renewal of work permits. The Commission relayed the complaints to the relevant agencies and has monitored the cases to ensure that action is taken. As for delays in the renewal of work permits, the Commission has recommended that the Immigration Department should expedite the process to avoid potential harassment and arrest of migrant workers.

The Government's latest amnesty programme for migrant workers, carried out during the year, was aimed at deriving the actual number of irregular migrant workers in Malaysia and issuing them with documents for work or returning them to their countries of origin at their own cost and without penalty. The Commission welcomes the programme as it will provide those retained with fair and responsible work and appropriate protection under the law to ensure that they are not exploited. The Commission urges the Government to ensure that there is no attempt to exert further control over migrant workers and to also ensure that they are treated fairly. It is hoped that the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 will protect migrant workers from being exploited by irresponsible parties.

(ii) Rights of asylum seekers and refugees

Malaysia is not a party to the UN Convention Relating to the Status of Refugees 1951 (1951 Convention) and the 1967 Optional Protocol. There are no laws governing asylum seekers and refugees in Malaysia and their rights are limited in terms of access to formal education, employment and healthcare services. In this regard, the Commission reiterates 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 1951 Convention.

The swap deal on asylum seekers and refugees between the Malaysian and Australian Governments in July created a public outcry among human rights activists and NGOs in both countries, mainly due to the negative perception of Malaysia's treatment of these vulnerable groups. Furthermore, Malaysia is not a party to the 1951 Convention. Subsequently, the Australian High Court issued an injunction against the agreement, but the Australian Government has announced that it is making attempts to pursue the agreement. The Commission recommends that, should the agreement be implemented, the human rights of the asylum seekers and the refugees must be guaranteed.

The Commission commends the Government for initiating the registration programme between the United Nations High Commissioner for Refugees and Malaysia, as this could pave the way for recognition of the status of refugees and asylum seekers. This may also be considered a major step toward accession to the 1951 Convention.

6. UNIVERSITIES AND UNIVERSITY COLLEGES ACT 1971 (UUCA)

While the Commission welcomes the Government's move to amend Section 15 of the UUCA, it also recommends that other provisions be reviewed to allow university students to enjoy more freedom and rights as guaranteed by Article 10(1) of the Federal Constitution and as enshrined in Articles 19-21 of the UDHR.

In particular, the Commission recommends amending Sections 15(5)(a), 5D(1), 16C(2) and 16B(3B). These provisions violate the freedom of association, the freedom of expression, the right to a fair hearing, the right to legal representation of one's own choice, and the right to education.

The Commission welcomes the Court of Appeal's decision which declared Section 15(5)(a) of the UUCA to be unconstitutional and in violation of freedom of expression. The Commission urges the Government to reconsider its plan to appeal the decision.

7. THE COMMISSION'S ROLE IN COURT

The Commission held watching briefs in two court cases, *Low Swee Siong v Tan Siew Siew* with regard to child's rights; and *Noorfadilla binti Saikin v Chayed bin Basirun and 5 others* involving women's rights. The Commission's submissions to the court were based on the CRC and CEDAW respectively. It looks forward to further involvement in court cases involving human rights. The Commission is also moving toward promoting human rights to the judiciary, in the belief that judges have a key role in upholding and protecting such rights.

8. DEATH PENALTY

The Commission's efforts to strengthen its call for abolition of the death penalty included co-organising a public seminar with a European Union delegation to Malaysia and the Bar Council, holding a discussion with Members of Parliament and creating awareness through media interviews.

Pending a decision, the Commission recommends that the Government considers a moratorium on the death sentence or commuting it to life imprisonment, especially for those who have been on death row for more than five years. In addition, the Commission calls on the Government to consider adopting the International Standard Minimum Rules for Treatment of Prisoners, to ensure the well-being of those on death row as well as all other prisoners.

9. FREEDOM OF RELIGION

On several occasions during the year, individuals who subscribe to the Shiah school of Islam claimed that the authorities in the State of Selangor had harassed them at gatherings at which religious talks were given. While the Commission notes the sensitivity surrounding the issue, it is of the view that the right to religion is for all, regardless of differences in beliefs, and that everyone has freedom to profess their faith. In an effort to mediate over the issue from a human rights perspective, the Commission had initiated discussions with the Selangor Islamic Affairs Department, the Department of Islamic Development and other religious authorities and figures. At the time of writing, the discussions were still in progress.

10. BUSINESS AND HUMAN RIGHTS

Business operations and activities can have a negative impact on human rights. For example, when corporations encroach into native customary land to carry out commercial activities, they may displace indigenous communities, curb access to native sources of livelihood, or pollute water resources.

Other human rights at the work place involve health and safety issues, freedom to form associations and unions, freedom from discrimination and protection from sexual harassment. All these have given rise to debate on the roles and responsibilities of business actors in the promotion and protection of human rights.

The Commission has therefore embarked on disseminating information on the 'Protect, Respect and Remedy Framework', consisting of guiding principles on business and human rights that were endorsed by the UN Human Rights Council, with the aim of creating awareness for the respect of human rights.

The Commission has engaged the business community on their roles and responsibilities and urged it to strengthen corporate social responsibility by integrating human rights principles into their activities. The sector is further encouraged to minimise and remedy infringements of human rights by developing proper guidelines or a code of best practices to protect workers and other parties affected by business activities.

11. UNIVERSAL PERIODIC REVIEW (UPR)

With Malaysia approaching its next review of the UPR, it is incumbent upon the Government to ensure speedy implementation of all the Recommendations it adopted in 2009. The Commission has established a UPR Follow-up Committee to facilitate consultations with key stakeholders and to acquire status updates of implementation by the relevant agencies. By disseminating information on the UPR process and outcomes to stakeholders, the Committee aims to raise awareness of the importance of this mechanism in improving human rights standards. The Commission hopes that the numerous reforms promised by the Government will materialise and that tangible changes will be recorded.

The Commission submitted its UPR Interim Report and presented an oral statement to the 18th session of the Human Rights Council (HRC) in September. The Commission's efforts with regard to the UPR Follow-up were well received by international human rights bodies and organisations.

The 'protect, respect and remedy' framework lays the foundations of a system for better managing business and human rights challenges based on distinct yet complementary responsibilities for States and corporations and effective remedy in case of abuse.

*Professor John Ruggie,
Special Representative of the
UN Secretary-General on human
rights and transnational corporations
and other business enterprises*

12. RATIFICATION OF CORE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Malaysia has acceded to three international human rights conventions to date, albeit with reservations. It is noted, however, that there has not been any real move to ratify or accede to the other six international instruments. The Commission will continue to press the Government to ratify these, to demonstrate commitment toward eradicating poverty, protecting socio-economic rights, enhancing human dignity and promoting the civil and political rights of citizens.

The Government should also accede to the Rome Statute of the International Criminal Court without delay, to end impunity for crimes against humanity, genocide and war crimes. Accession would be in line with Malaysia's participation in the HRC. Upon accession, progressive work can be undertaken to bring domestic legislation into compliance with the requirements of the Rome Statute.

13. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

The Commission is pleased with the positive steps taken by the Government to develop a NHRAP to improve the promotion and protection of human rights. The Commission will play a significant role in drafting the NHRAP, as well as in monitoring its implementation. It is noted that the features of an effective NHRAP are 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.

The Commission appreciates the Government's initiative in engaging it at the preparatory stage and hopes that this relationship will be strengthened through regular consultations and engagements. The Commission will work closely with the focal agency for the NHRAP, the Legal Affairs Division of the Prime Minister's Department. The Commission hopes that the Government will consider incorporating the recommendations derived from the UPR and treaty bodies' sessions on Malaysia into the NHRAP.

14. PARLIAMENTARY DEBATE ON THE COMMISSION'S ANNUAL REPORT

Since its establishment, the Commission has been submitting its Annual Report to Parliament at the first sitting for the year, as required by Section 21(1) of the Human Rights Commission of Malaysia Act 1999. Unfortunately, none of the Reports has ever been debated. The Commission urges Members of Parliament to pick up key human rights issues from the Annual Report and give full support to the recommendations at every opportunity during debate.

KEY ISSUES

The Commission further urges the Government to consider setting up a Parliamentary Select Committee to look into human rights matters, as an additional measure in upholding the rights of the people and reinforcing parliamentary democracy.

CHAPTER 1

REPORT OF THE EDUCATION AND PROMOTION WORKING GROUP

Education is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development.

Kofi Annan

Concurring with Mr Kofi Annan, the former United Nations Secretary-General, the Commission considers education to be fundamental in building a human rights culture in which the rights of all people are understood and respected, and which elevates their dignity.

Education programmes were therefore implemented over the year to empower the people in promoting and protecting human rights. In doing so, the Education and Promotion Working Group (EWG) expanded its outreach to new target groups, including artistes and local authorities. Another development was the addition of 12 primary and secondary schools to the five involved in the Human Rights Best Practices in Schools Programme.

As in the past, the EWG continued to promote human rights to higher learning institutions, persons with disabilities, youth, indigenous peoples and law enforcement agencies.

1. RIGHT TO EDUCATION

(a) School-based Programmes

The aim was to widen participation and to improve implementation of programmes.

(i) Human Rights Best Practices in Schools (HRBPS)

The Commission had embarked on the programme in 2009 in collaboration with the Ministry of Education (MoE) to instil human rights awareness and values in the school community. Five schools were selected for the pilot project – SMK Sultan Abdul Aziz, Teluk Intan, Perak, SMK Taman Tun Dr Ismail, Kuala Lumpur, SMK Seksyen 9, Shah Alam, Selangor, SMK Munshi Abdullah, Batu Berendam, Melaka and SMK Datuk Mansor, Bahau, Negeri Sembilan.

In 2011, the programme was expanded to 12 more schools:

- SMK Kuala Krau, Temerloh, Pahang
- SMK Sultan Ahmad Shah, Cameron Highlands, Pahang

- SMK Muhibbah, Sungai Siput, Perak
- SMK Ulu Kinta, Kinta, Perak
- SJKT Thiruvalluvar, Alor Setar, Kedah
- SK Ulu Geruntum, Gopeng, Perak
- SK Kg Kenang, Sungai Siput, Perak
- SK Penderas, Temerloh, Pahang
- SK Batau, Kuala Lipis, Pahang
- SJKC Sin Ming, Petaling, Selangor
- SJKC Chio Chiao, Salak, Selangor
- SJKT Sepang, Sepang, Selangor

From 19-21 April and 20-22 June, the Commission conducted workshops to expose those schools to basic principles and concepts of human rights. The schools were represented by the principal and teachers, as well as officers from the relevant State Education Department. Subsequently, the Commission visited the schools to provide guidance and assistance in the planning of activities.

Meanwhile, the five schools under the pilot project have improved the implementation of activities in line with the objectives of HRBPS. Most have taken into account the Universal Declaration of Human Rights (UDHR) and Convention on the Rights of the Child (CRC) in their activities and in school management. For example, there is active participation by students in selecting leaders, while there are avenues for students to voice their concerns through the *Peti Suara Hati* programme. While the Commission sees this as a step forward, there is room for improvement. Efforts must be intensified to make human rights a way of life within the school environment.

(ii) Formative study by Universiti Pendidikan Sultan Idris (UPSI)

To evaluate the effectiveness of the implementation of HRBPS, the Commission appointed a team of researchers from UPSI to carry out a formative study of the pilot project. In general, the study found that this has benefited schools and recommended that the Commission should retain the programme and its objectives.

However, it was pointed out the schools need support from various stakeholders including the Commission, State Education Department, parents and civil society to ensure the success of the programme. The findings and recommendations of the study will be used to improve implementation of the HRBPS, particularly in the newly-added schools.

(b) Right to Education for Orang Asli Children

Although primary education is compulsory for all children, there has not been much improvement in attendance among Orang Asli children especially those living in the interior. At the same time, the Commission has observed that Orang Asli children who are enrolled are deprived of quality education. In some cases, children are deprived of education simply because there are no schools in or around their settlement.

Mastering the 3Rs (reading, writing, arithmetic) is still a major concern for the children. At a meeting of the Focus Group on Orang Asli Education – steered by Department of Orang Asli Development (JAKOA) – the Commission was informed that the Orang Asli form the majority of ‘hardcore illiterate’ children in the MoE’s Literacy and Numeracy Screening Programme (LINUS).

The Commission’s Observations

(i) Transportation

A key factor holding back attendance is the lack of transportation to school. The Commission noted that the JAKOA has been making an effort to improve accessibility by providing vehicles. However, it was found that the number of vehicles is insufficient, thereby contributing to overloading. Those affected are students of SK Satak, Raub in Pahang, SK Batu 7 and SK Batu 14, Batang Padang in Perak and SK Pos Brooke in Gua Musang, Kelantan.



Orang Asli children are frequently late or absent from school because of vehicle breakdowns

The respective agencies must also look into the condition of roads, for example those leading to SK Pos Musuh in Perak, SK Bihai and SK Tohoi in Gua Musang, Kelantan, and SK Kg Peta and SK Kudung in Johor. These stretches are not properly maintained and the safety of the school community has been compromised.

(ii) Right to clean water

The MoE had initiated the 'Clean Water Supply' project to cover all rural schools in 2009. However, the Commission has observed that some still depend on untreated water from natural sources. Among these are SK Pos Betau in Kuala Lipis, Pahang and the hostel in SK Bidor in Bidor, Perak. The Commission has twice informed the MoE in writing about the problem, but there has been no reply to date. In the Government Response to the Commission's Annual Report 2010, it was stated that the MoE had been notified and would upgrade the system under the Tenth Malaysia Plan. While the Commission welcomes the move, it would like to emphasise that clean water is a basic human right; hence, the MoE has to expedite the upgrading process.



Water supply is also murky at the teachers' quarters in an Orang Asli school

The Commission has been informed that insufficient water supply has contributed to absenteeism in schools. Furthermore, the use of untreated water has exposed the school community to leptospirosis and water-borne diseases caused by pollution.

(iii) Electricity supply

During its visit to SK Pos Betau in Kuala Lipis, Pahang, the Commission observed that the school does not have round-the-clock electricity supply. The generator supplied to the school has broken down and has not been repaired despite several requests by the management. This has affected the well-being of the 581 students.

(iv) Hostel facilities

The Commission visited the hostel in SK Bidor in Bidor, Perak, on 15 August after sending two letters to the MoE about the unsatisfactory conditions. The Commission noted that there is still no supply of clean water, and that the water tank has not been replaced – it is insufficient to cater to the needs of 150 students. The warden has not been provided accommodation at the hostel. Moreover, the hostel is being managed by the primary school (SK Bidor) even though the students are in the secondary school.

The Commission takes a serious view of the situation, which has compromised the right of indigenous children to quality education in a safe and comfortable environment. The Government Response to the Commission's Annual Report 2010 stated that the MoE has noted the problem and that an investigation is underway.

In contrast, the Commission found the hostel in SK Satak in Raub, Pahang, and in SK Kudung in Segamat, Johor, to be good examples of management in terms of facilities provided, cleanliness and an environment that is conducive to learning. The students have the opportunity to practise their culture and to expand their potential. It was observed that the management is committed and carries out its responsibilities with full dedication and honesty. The students look tidy, and are friendly and confident.

(v) Meals

During visits to hostels in Kelantan, Perak and Pahang, the Commission was informed that the indigenous children are not in favour of several types of food, including fruit, listed in the menu provided by the MoE. As a result, the children will not eat these items. While the Commission appreciates the MoE's intention to provide nutritious food, it should consider the special needs of Orang Asli children. As stated in Article 12 of the CRC, the views of children must be given due consideration in decision making.

(vi) Student Management Assistant (SMA)

The MoE has created the post of SMA to help with the care of primary students, especially Orang Asli children who stay in hostels. The Commission has been informed that the SMAs go through a short training course before being assigned their duties. However, this preparation is insufficient to enable them to carry out their responsibilities. The Commission is of the view that the training of SMAs should include parenting skills, child psychology and children's development. This is particularly because of complaints that SMAs have been harsh in disciplining students.

The Commission is of the view that the training of SMAs should include parenting skills, child psychology and children's development.

(vii) Alternative curriculum for Orang Asli children

The Government Response to the Commission's Annual Report 2010 stated that the MoE has developed an Integrated Curriculum for Orang Asli and Penan primary students (*Kurikulum Asli Penan*, KAP). The MoE, through the Alternative Development Assessment Sector in the Examination Board, will plan assessments. The Commission had received a similar reply when it raised the issue with the MoE in 2010 via a letter.

However, during a visit and discussion with school managements and MoE officers, the Commission was informed that the Ministry had stopped implementing the KAP midway and that schools had been directed to use the LINUS programme instead. The students will sit for the UPSR examination in 2012 instead of the alternative assessment as planned. The Commission is very concerned as this development will affect indigenous children, especially those with learning problems.

(viii) Children not in school

Due to all the factors described, a number of Orang Asli children do not attend primary school despite the compulsory education policy under the Education Act 1996. In 2010, there was an increase of 784 children aged 7-12 years who did not attend school, compared to 2007 (Table 1).

During the Commission's visit to Orang Asli settlements in Kg Pos Gop in Gua Musang, Kelantan, and Kg Selaoh and Kg Sungai Kejar in Grik, Perak, it was noted that there was no school in these settlements. The Government Response to the Commission's Annual Report 2010 stated that the JAKOA and MoE had taken the initiative to provide a cabin and non-formal education for children at Kg Sungai Kejar. However, the Commission was informed that the move has yet to be implemented.

Some of these issues were discussed at the forum on 'Indigenous Education' organised by the Commission on 9 November. (Please see Report of the Indigenous Peoples Rights Committee, page 106).

During the Commission's visit to Orang Asli settlements in Kg Pos Gop in Gua Musang, Kelantan, and Kg Selaoh and Kg Sungai Kejar in Grik, Perak, it was noted that there was no school in these settlements.

Table 1: Number of Indigenous Children Not in School, 2010

YEAR	NUMBER OF CHILDREN			TOTAL
	5-6 Years	7-12 Years	13-18 Years	
2010	Not available	2,746	Not available	
2007	2,553	1,962	2,514	7,029

Source: Department of Orang Asli Affairs, 2010

Table 2: Number of Indigenous Children Not In School by State, 2007

STATE	NUMBER OF CHILDREN			TOTAL
	5-6 Years	7-12 Years	13-18 Years	
Perak/Kedah	524	1,088	362	1,974
Pahang	743	543	669	1,955
Selangor	567	96	753	1,416
Johor	659	173	229	1,061
Negeri Sembilan	9	47	484	540
Kelantan/Terengganu	51	15	17	83
TOTAL	2,553	1,962	2,514	7,029

Source: Department of Orang Asli Affairs, 2009

(c) Other Concerns on Education

The Commission visited two Islamic schools in Perlis. It was informed that the schools are facing difficulty in being registered due to the policies and procedures of the MoE and State Religious Affairs Department. Additionally, the schools do not receive assistance such as trained teachers, facilities to teach science subjects, or basic needs such as chairs, desks and textbooks.

The MoE and Religious Affairs Department should make an effort to assist schools that provide alternative education. The authorities should take into consideration the key principles of the UDHR and the CRC that emphasise non-discrimination and the best interests of the child.

In the case of the two schools in Perlis, the Commission was able to resolve the registration issue with the cooperation of the Religious Affairs Department.

2. HUMAN RIGHTS EDUCATION FOR INSTITUTIONS OF HIGHER LEARNING

(a) Human Rights Training for Students in Polytechnic Institutes

The Commission expanded its human rights awareness programmes by engaging student leaders in polytechnic institutes throughout Peninsular Malaysia. Workshops were conducted in the northern, central and southern region respectively. The participants were familiarised with concepts of human rights, and their responsibilities as student leaders. They were also exposed to international human rights treaties and the responsibilities of governments. The Commission believes that youth and



An activity in progress for polytechnic student leaders from the northern region

students are future leaders. As such, they should be exposed to human rights and develop an understanding of issues while still young.

At the end of each workshop, participants were assigned the task of mapping a plan of action. They had to work out how to share the knowledge that they had gained with fellow-students. The Commission will work with them to ensure they implement their plan of action effectively, as well as monitor the process.

The Commission believes that youth and students are future leaders. As such, they should be exposed to human rights and develop an understanding of issues while still young.

(b) Collaboration with Universiti Kebangsaan Malaysia (UKM)

The Commission and UKM signed a Memorandum of Understanding (MoU) on 9 December to enhance human rights awareness and knowledge among students and academicians. Several activities will be implemented under this joint venture, which will include a 'Study on Human Rights Knowledge among Final-year Students of Law Schools at Public Universities'. Other programmes are awareness-raising seminars/conferences, internship for staff and students, exchange of information and establishing a human rights unit in the Faculty of Law. The MoU will be in effect for three years.

3. HUMAN RIGHTS TRAINING FOR ENFORCEMENT AGENCIES

(a) Training for the Royal Malaysian Police

The Commission has conducted human rights training for officers-in-charge of police stations (OCS) on an annual basis since 2008. Between February and October during the year under review, the Commission trained 155 OCS from districts in Pahang, Negeri Sembilan, Melaka and Perlis. These sessions also brought the series of training workshops to a close.

The right to a fair trial and the presumption of innocence should form the basis for investigating every crime.

The workshops were aimed at raising the officers' awareness of the need to promote and protect human rights. Another goal was to build their ability to prepare standing orders for subordinates, to execute daily tasks taking human rights into account. The focus, therefore, was on fine-tuning departmental procedures based on human rights principles and compliance with international human rights standards in law enforcement.

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. Discussion of related issues included the rights of individuals during arrest and detention, rights of police officers and misuse of power by police personnel.

During the sessions, the Commission raised the issue of freedom of assembly. It emphasised that peaceful assembly should be allowed as this is guaranteed by the Federal Constitution. The police have to ensure the smooth running of an assembly and the security of participants. Unfortunately, there have been cases where the police have prevented people from assembling, ostensibly due to security reasons. However, the police have never been able to explain or justify the actual security risks.

The Commission also emphasised the need for the police to conduct their work in accordance with the law, without discrimination stemming from politics, religion or other factors. Based on the Commission's observations, there have been incidents where the police have taken action against assemblies associated with opposition parties, but not against assemblies conducted by parties in the federal ruling coalition.

The Commission is of the opinion that police officers in their investigatory capacity play a critical role in the judicial process. The detection of crime through investigation and gathering of evidence is the first step in the judicial process that can subsequently lead to successful conviction and punishment of criminals. The right to a fair trial and the presumption of innocence should form the basis for investigating every crime. A lawful and ethical investigation can protect the right to a fair trial, but

an unlawful or unethical investigation can subvert that right even before the trial commences. There are also practical reasons for proper investigation to avoid the possibility of a conviction being lost because of procedural 'shortcuts' by the police.

(b) Training for Prison Officials

(i) Human Rights workshops

Five workshops were jointly organised by the Commission and the Prison Department's Correctional Academy, for a total of 120 senior officials throughout Malaysia. The objective was to sensitise prison officials to their particular role in promoting and protecting human rights and to integrate these in their daily work. The workshops also emphasised that the role of a prison is to rehabilitate prisoners and not to punish them. Role play and discussion of case studies complemented the presentation of papers.

Participants were also exposed to international human rights standards relevant to their duties. Among the topics discussed were the rights of women and children, the right to physical and moral integrity, right to an adequate standard of living, health rights of prisoners, making prisons a safe place, the best use of prisons and special categories of prisoners including women, juveniles and persons under detention without sentence.



Prison officials participating in an activity on 'History of Human Rights'

In addition, the Commission conducted two workshops focusing on the rights of children. These were held at the Prison Training Centre in Taiping, Perak, from 21-23 November and in Pulau Langkawi, Kedah, from 12-14 December, for a total of 45 officials.

(ii) Curriculum development

The Commission moved a step forward by engaging the Prison Department in introducing a permanent human rights curriculum for prison officials. The first meeting took place on 3 August. The department has been very supportive of the curriculum development work. Following this, the Commission organised a brainstorming session from 19-20 September for representatives of all Prison Training Schools in Malaysia. During the session, the Commission presented details of its draft human rights module for prison officials.

(c) Talks for RELA Members

The Commission continued to receive invitations to give talks on human rights at RELA training courses across the country. This has been a practice over the past five years to educate recruits on human rights requirements that they must observe, and to highlight regulations and international guidelines such as the UDHR which must be complied with, so as not to violate individual human rights.

(d) Training for Local Authorities

To widen engagement with local government agencies, the Commission accepted an invitation from the Selayang Municipal Council to conduct a human rights workshop for youth in the district. The participants were briefed on the main principles of human rights and were guided on their role and responsibilities in bringing about improvements in their community.

The Commission has also worked closely with the Training Centre for Local Authorities in promoting human rights among enforcement officers. A workshop was held for 50 enforcement officers from 12 local authorities in Selangor and 310 enforcement officers from two local authorities in Penang. In addition to the exposure to human rights principles and international standards relevant to their work, the session discussed the rights of enforcement officers, rights during investigation and arrest, and the use of force and firearms.

For the first time, the Commission organised a human rights workshop for community leaders, comprising village heads and committee members in Seberang Perai, Penang. The issues of human rights and good governance focused on topics like corruption and its impact on development at the local level. Participants were taught to identify violations of human rights and how to report these to the relevant authorities.

4. RIGHTS OF PERSONS WITH DISABILITIES (PWDs)

The rights of PWDs have been raised and discussed at length. They are among groups currently marginalised by society; hence there is a need to review the situation to protect their rights. Malaysia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 6 July 2010, albeit with reservations to Articles 15 and 18. Malaysia has not signed the Optional Protocols to the treaty. However, ratification of the CRPD is a step toward proving that Malaysia intends to translate these rights into action.

Currently, there is no specific law or regulation on parking space, and no action can be taken against those who abuse parking space for PWDs.

The EWG organised three Roundtable Discussions (RTDs) with local authorities and PWDs in Selangor, the Federal Territory of Kuala Lumpur, Perak and Penang. The RTDs focused on issues of accessibility and what local authorities can do to improve procedures, rules and regulations. The need to introduce facilities for a PWD-friendly environment and the removal of physical barriers were among the issues raised.



A participant shares her views on the importance of education

Of special concern to PWDs is the continuing abuse of parking space reserved for their vehicles. They raised the need for a standardised sticker to be displayed on their vehicles, as well as for legislation to penalise able-bodied drivers who park in reserved spaces.

It was also pointed out that enforcement is sorely lacking in delivering provisions for PWDs under Section 34A of the Uniform Building By-Laws 1984, under the Street, Drainage and Building Act 1974. For example, ramps do not comply with specifications, leading to such 'facilities' being of little use to PWDs and potentially life-threatening as well.

It is time that authorities show more concern and implement the law. Accessibility should be accorded to all and not just able-bodied persons or it would be a form of discrimination.

5. HUMAN RIGHTS AND THE ARTS

Exercising its mandate to extend awareness of human rights, the EWG invited artistes for a discussion of the role they could play. At a meeting on 4 April, it was agreed that human rights would be more attractive if it receives the attention of artistes, especially those of the younger generation. There was also consensus that more materials should be produced by way of movies and songs that demonstrate what human rights are about. However, the guidelines imposed by the Censorship Board often place constraints on their ability to express themselves in a creative manner. The Commission will pursue the dissemination of human rights awareness through the popular media and with the assistance of public figures.

However, the guidelines imposed by the Censorship Board often place constraints on their ability to express themselves in a creative manner.

6. NATIONAL CONFERENCE ON NON-DISCRIMINATION AND ANTI-RACISM

The preamble of the International Convention on the Elimination of All Forms of Racial Discrimination states in part:

Discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State.

There is therefore a need to identify the challenges involved and ways to overcome these, so the people can continue to live in peace, harmony and with greater tolerance. In furtherance of this, the Commission co-organised a National Conference on Non-Discrimination and Anti-Racism with Pusat KOMAS and the Institute of Ethnic Studies, UKM.

Issues and incidents of discrimination were discussed. Speakers and participants agreed that discriminatory practices are committed knowingly or unknowingly in Malaysia. More worrying is that some quarters have played the racial card to champion the so-called rights of their ethnic group, and that certain parties have adopted a racial stance to justify their actions or to defend their demands. Some official policies and decisions have raised questions and caused dissatisfaction among civil society.



Leaders of political parties contribute to the session on ‘Political Parties and Racism ... A Revamp?’

The Commission believes that such conferences can create a safe and open space for discussion and dialogue. This is important if society is to move toward the eradication of discrimination.

7. IN-HOUSE TRAINING

The Commission holds strongly to its belief that officers and staff must keep abreast of human rights issues and developments at the global level. The EWG has therefore been assigned the task of organising in-house training. Speakers from other organisations are often invited to facilitate the sessions.

Table 3: In-house Training for Staff, 2011

NO.	TOPIC	DATE
1.	Non-Discrimination and Anti-Racism, by Pusat KOMAS	15-16 February
2.	Land Rights of Indigenous Peoples and National Inquiry	25 February
3.	Reconstituting Earth v 2.0, by the Bar Council	25 March
4.	Sexual Harassment, by the All Women’s Action Society, Malaysia	8 April
5.	Rights of LGBT, by Pink Triangle Foundation	27 May

8. LIBRARY

The Commission's library houses a broad range of publications relating to human rights. At least 4,000 books, reports, and journals have been collected to date.

During the year, the library implemented a resource sharing network involving the establishment of a Human Rights Section in the National Library, state libraries and university libraries. This cooperative effort makes it simpler for the public, researchers and students to access materials on human rights.

9. LOOKING FORWARD

Looking at changes in the political and social environment today, it is evident that the level of understanding of human rights among civil society and the authorities has seen reasonable improvement.

In the year ahead, the EWG hopes to strengthen implementation of the HRBPS programme toward a higher benchmark, and to work closely with the schools that have just been added to the programme.

Efforts will continue toward the completion of the training curricula drafted for law enforcers, including the police and prison officials. The EWG will also follow up on several recommendations that the Commission has made to the authorities in relation to the rights of marginalised groups, with emphasis on indigenous peoples and PWDs.

CHAPTER 2

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

...when we speak of human rights in Islam we really mean that these rights have been granted by God; they have not been granted by any king or by any legislative assembly. The rights granted by the kings or the legislative assemblies can also be withdrawn in the same manner in which they are conferred. The same is the case with the rights accepted and recognised by the dictators. They can confer them when they please and withdraw them when they wish; and they can openly violate them when they like.

But since in Islam human rights have been conferred by God, no legislative assembly in the world, or any government on earth, has the right or authority to make any amendment or change in the rights conferred by God. No one has the right to abrogate them or withdraw them. Nor are they the basic human rights which are conferred on paper for the sake of show and exhibition and denied in actual life when the show is over. Nor are they like philosophical concepts which have no sanctions behind them.

Abul A'ala Maududi, Muslim Scholar

In keeping with its functions, the Complaints and Inquiries Working Group (CIWG) investigated cases referred to the Commission over the year. It also visited places of detention including prisons, police lock-ups, detention centres and a rehabilitation centre under the jurisdiction of the National Anti-Drugs Agency.

1. RESOLUTION OF COMPLAINTS

The Commission received 1,232 complaints¹ at its Kuala Lumpur, Kota Kinabalu and Kuching offices during the year, of which 51 were in the form of memoranda.

¹ The number increased significantly compared to 2010 because of complaints recorded during the public consultation sessions held in conjunction with the Commission's on-going National Inquiry into the Land Rights of Indigenous Peoples in Malaysia.

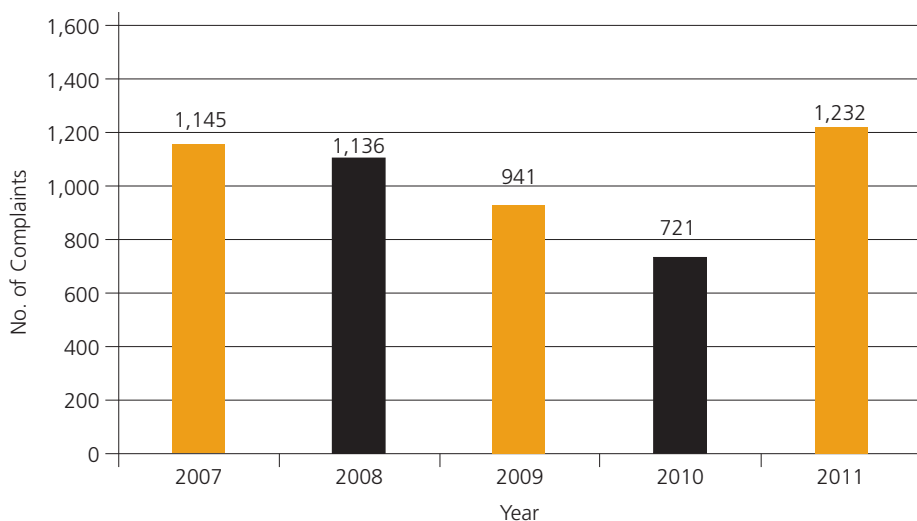


Figure 1: Complaints Received, 2007-2011

After careful deliberation, the Commission found that 407 complaints fell outside its jurisdiction. These included:

- Administrative issues which should be addressed by the relevant agencies without delay;
- Cases that are criminal in nature and which were therefore referred to the police or other investigation agencies;
- Complaints that are pending before the courts or have been disposed of by the courts; and
- Complaints that are under the jurisdiction of professional bodies.

Complaints classified as 'cases outside the Commission's jurisdiction' were referred to the appropriate agencies for action, while complainants were advised to file a report with the relevant agencies.

Of the 825 complaints accepted (Table 1), the Commission has completed investigations into 215 cases, while the rest are still being investigated.

Table 1: Breakdown of Human Rights Complaints, 2011

NO.	COMPLAINTS	PENINSULA	SABAH	SARAWAK
1.	Government Agencies			
	(i) Police Force			
	(a) Inaction	66		1
	(b) Abuse of power	34		
	(c) Excessive use of force	10		2
	(ii) Prison Department	11		
	(iii) National Registration Department	3	27	
	(iv) Immigration Department	2		
2.	Preventive Detention Laws			
	(i) Emergency (Public Order and Prevention of Crime) Ordinance 1969	34	9	1
	(ii) Dangerous Drug (Special Preventive Measures) Act 1985	6		
	(iii) Internal Security Act 1960	3		1
3.	Land Matters	6	153	48
4.	Indigenous Peoples	156		
5.	Refugees	65		
6.	Migrant Workers	36	10	
7.	Persons with Disabilities	7		
8.	Freedom of Expression	5		
9.	Freedom of Religion	1		
10.	Others	108	20	
	TOTAL	553	219	53

The nature of complaints varied at each location:

- In Kuala Lumpur, these were related mainly to matters involving indigenous peoples (156 cases) and alleged police inaction (66 cases).
- In Sabah, the majority of grievances were about land matters (153 cases).
- In Sarawak, most of the complaints were about alleged infringement of Native Customary Rights to land (48 cases).

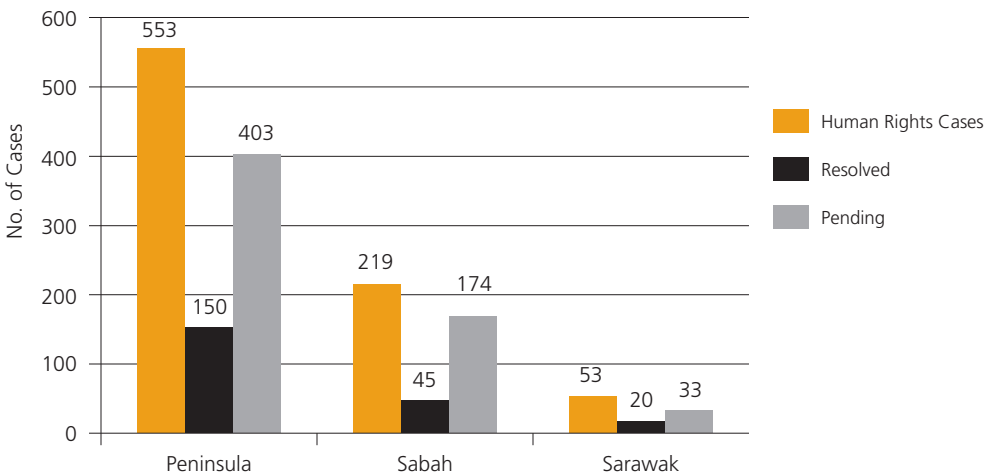


Figure 2: Resolved and Pending Cases, 2011

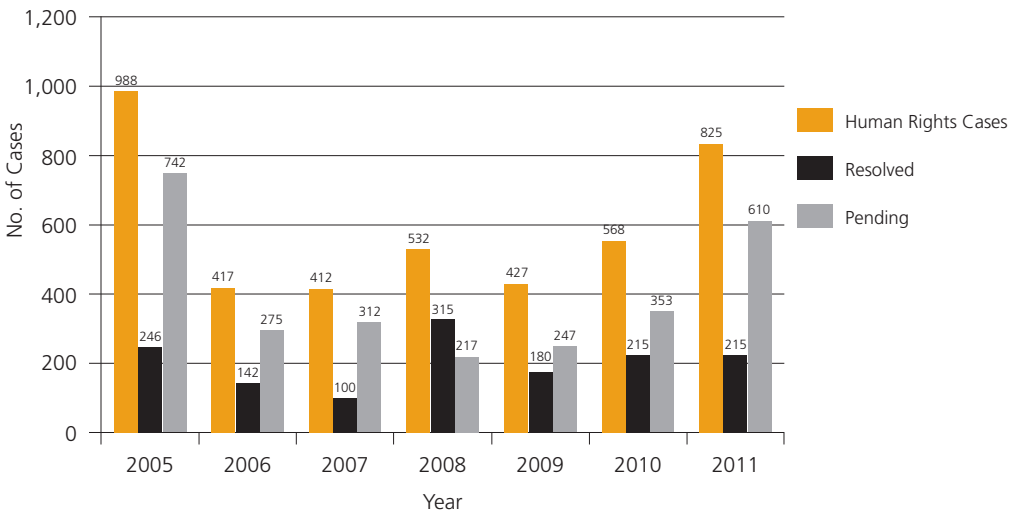


Figure 3: Resolved and Pending Cases, 2005-2011

2. ISSUES OF CONCERN

(a) Exercise of Police Powers

The Commission received 113 complaints alleging abuse of power, delays in action on reports, and use of excessive force by the police to obtain information during interviews with, or interrogation of, detainees. In several cases, family members lodged police reports after seeing injuries on the detainees during visits. In response to such complaints and to enhance public confidence in police operations, the Commission makes these recommendations:

1. Closed-circuit television cameras should be installed in every interview room; no detainee should be questioned except in a designated interview room under constant audio-visual surveillance.
2. Every detainee should be examined by a medical officer before and after the interview/interrogation session. The results of the examination should be meticulously recorded.
3. Any police report alleging use of force by personnel at any police station must be investigated by the federal police headquarters or the state police contingent headquarters to avoid allegations of bias.

(b) Delivery of Services to Indigenous Peoples

(i) Management of healthcare services

The Commission has been raising the need for more efficient management of healthcare services for the Orang Asli since 2009, to no discernible effect. During the year under review, the Commission again raised the matter during a series of discussions with the Department of Orang Asli Development (JAKOA), and made several recommendations.

In the Government Response to the Commission's Annual Report 2010, the Ministry of Health (MoH) indicated that it was in the midst of taking over healthcare management from the JAKOA. On 15 September, the Government announced that the MoH would take over these services from January 2012. The Commission, which welcomes this, is of the view that the MoH is in a better position to deliver improved services to the Orang Asli.

(ii) Social services

The CIWG set up complaints counters during public consultations held in conjunction with the on-going National Inquiry into the Land Rights of Indigenous Peoples in Malaysia. The majority of the complaints received over the year were recorded during this exercise and related mainly to the followings:

- Lack of amenities such as roads, water and electricity supply
- Difficulty in obtaining MyKad
- Education
- Requests by the Orang Asli for the Gombak Hospital to be managed by the MoH or, alternatively, for improvements to services under the current management

(c) Use of Preventive Detention Laws

Individuals, political parties and civil society groups kept up complaints relating to the Internal Security Act 1960 (ISA), Emergency (Public Order and Prevention of Crime) Ordinance 1969 and Dangerous Drugs (Special Preventive Measures) Act 1985. The 60-day remand period, two-year detention order and two-year restriction order remained the subject of many complaints.

In several cases, it was alleged that the police had acted on false and malicious information. There were also claims that the police had abused their power in recommending to the Home Minister that action should be taken against individuals under these laws. Three meetings were held with the police to highlight and discuss the Commission's concerns about the use of these laws. The Commission reiterated its stand against detention without trial.

... the Commission observed that many minors and young adults had been detained on suspicion of theft and involvement with triads. The Commission is of the view that these alleged offences could have been dealt with under different laws such as the Penal Code.

Preventive detention laws have also been applied to minors and young adults. From the complaints received and a visit to the Machang Drug Rehabilitation Centre in Kelantan, the Commission observed that many minors and young adults had been detained on suspicion of theft or involvement with triads. The Commission is of the view that these alleged offences could have been dealt with under different laws such as the Penal Code. This would have ensured that the rights of minors are protected in line with the Convention on the Rights of the Child (CRC), which Malaysia has ratified.

On 15 September, the Prime Minister, Hon Dato' Sri Najib Abdul Razak, announced that the ISA and Banishment Act 1959 would be repealed. On 5 October, the Prime Minister presented two Bills to abolish the Banishment Act 1959 and Restricted Residence Act 1933. These were unanimously passed by Members of Parliament. The Prime Minister also announced that a comprehensive law would be drafted to replace the ISA. The Commission welcomes this, in line with its stand and recommendations in *The Review of the Internal Security Act 1960*, published in 2003.



Submission of a memorandum on detention under the Emergency Ordinance

(d) Right to Peaceful Assembly

Freedom of peaceful assembly is a right guaranteed by Article 10(1) (b) of the Federal Constitution² and Article 20(1) of the Universal Declaration of Human Rights (UDHR).³ Based on these articles, the Commission reiterates its position that it is the right of members of the public to assemble and express their views in a peaceful manner. However, the Commission stresses that these rights should be carried out responsibly.

The Commission lauded the Prime Minister's announcement on 15 September that the Government would review and amend or repeal laws which are no longer relevant, including Section 27 of the Police Act 1967. The Commission also welcomed certain aspects of the Peaceful Assembly Bill 2011, passed by Parliament on 20 December. However, the Commission is of the opinion that extensive consultations should have taken place with the public, as the Bill may not reflect their wishes for a more open and free society and a more robust democracy.

The Commission reiterates its position that it is the right of members of the public to assemble and express their views in a peaceful manner. However, the Commission stresses that these rights should be carried out responsibly.

² Article 10(1): Subject to Clauses (2), (3) and (4)(b), all citizens have the right to assemble peaceably and without arms

Article 10(2): Parliament may by law impose on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order

³ Article 20(1): Everyone has the right to freedom of peaceful assembly and association

Over the year, the Commission was asked by students' groups, NGOs and other associations to monitor the public assemblies they organised. The Commission decided that a team – comprising Commissioners and officers – would be assembled and assigned to such events. The CIWG serves as the secretariat for the monitoring activities.

The teams sent to observe 19 events (Table 2) received cooperation from the police. It is the Commission's observation that, at most of the events, the organisers were allowed to hand over their demands to the respective authorities and that, after negotiations with the police, the gathering was given time to disperse.

Table 2: Monitoring of Public Assemblies, 2011

NO.	EVENT	DATE
1.	Assembly organised by <i>Gabungan Mahasiswa Islam SeMalaysia</i> , Selangor	1 January
2.	Submission of memorandum to Ministry of Higher Education by <i>Solidariti Mahasiswa Malaysia</i>	28 January
3.	By-election process, Tenang, Johor	21-22 January, 29-30 January
4.	Submission of memorandum to Wisma Putra by <i>Solidariti Mahasiswa Malaysia</i> , on Malaysian students in Egypt	2 February
5.	By-election process, Kerdau, Pahang	26 February
6.	By-election process, Merlimau, Melaka	26 February
7.	Eviction of urban pioneers at Ladang Bukit Jalil, Selangor	15 March
8.	Submission of memorandum to Parliament on the Lynas project, Kuala Lumpur	30 March
9.	Submission of memorandum to the Ministry of Defence, Kuala Lumpur, by SUARAM	12 April
10.	Assembly organised by 1 May Committee, Kuala Lumpur	1 May
11.	Press Conference on launch of <i>Kempen Mahasiswa Selamatkan Rakyat</i> , by <i>Solidariti Mahasiswa Malaysia</i> , Kuala Lumpur	4 May
12.	Protest against the Lynas project at Australian Embassy, Kuala Lumpur	20 May
13.	Protest against the proposed Refugee Exchange Agreement at Australian Embassy, Kuala Lumpur	25 May
14.	Demolition of urban pioneers' dwellings at PJS 1, Selangor	31 May
15.	Bersih 2.0 rally, Kuala Lumpur	9 July
16.	Assembly organised by MTUC at Parliament, Kuala Lumpur, against amendments to the Employment Act	3 October
17.	<i>Hijau 109</i> in conjunction with Earth Charter Initiative, Taman Gelora, Pahang	9 October
18.	<i>Himpunan Sejuta Umat</i> , Shah Alam Stadium, Selangor	22 October
19.	Assembly organised by Bar Council against the Peaceful Assembly Bill 2011, Kuala Lumpur	29 November



Monitoring of assembly and dissemination of information to the public and the police

On 1 January, a monitoring team went to Dataran MBPJ, Petaling Jaya, where a peaceful assembly was being organised by two groups of university students, *Gabungan Mahasiswa Islam SeMalaysia* and *Himpunan Mahasiswa untuk Malaysia*. At the venue, the organisers told the Commission's team that they did not have a permit to hold the assembly as required under Section 27(2) of the Police Act 1967.⁴ However, following discussions between the organiser and the police officer in charge with the Commission's team acting as mediators, the police allowed the assembly to proceed but within a set time period. There were no untoward incidents.

⁴ 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.

On 1 May, a team was sent to observe a planned parade from Jalan Chow Kit to Dataran Merdeka, Kuala Lumpur, to mark Labour Day and to show support for the Minimum Wage Bill. However, the police prevented the event from proceeding because the organiser – a group of NGOs – did not have a permit for the assembly. Several individuals were arrested when they did not heed police instructions to disperse. A discussion took place between the organiser, police and the Commission's team. Those who had gathered were then given time to disperse.

On 9 July, however, participants of the Bersih 2.0 rally in Kuala Lumpur were dispersed forcefully by the police. Based on complaints received, the Commission has initiated a Public Inquiry into alleged infringements of human rights, including the alleged use of excessive force by the authorities prior to and during the event. The Inquiry is in progress. (Please see Report of the Public Inquiry, page 133).

The Commission has previously recommended that, in the event the police find it necessary to control or disperse a crowd, appropriate and non-violent measures should be adopted. It hopes that the proposal can be implemented for the development of human rights in Malaysia.

(e) Treatment of Detainees

On 18 August, the Commission received a complaint from families of detainees at the Machang Rehabilitation Centre in Kelantan. It was alleged that the detainees had been beaten by a group of officers from the Prison Department headquarters during a spot check on 17 August. The identity of the alleged perpetrators could not be established because the officers had been wearing face masks during the spot check.

The Commission visited the centre and met with the detainees on 6 September. The Commission also met with officers of the Machang Police District Headquarters to get feedback on the status of reports lodged.

Based on its observations during the visit to the centre and feedback from the Prison Department, the Commission has recommended the following measures to avoid the recurrence of such incidents:

- The Prison Department should come up with a Standard Operating Procedure (SOP) on the wearing of face masks by officers conducting cell inspection.
- Injured detainees should be taken to hospital for treatment as soon as possible. In this case, the detainees had only been sent for treatment four days after the alleged incident.
- Items sold at the prison canteen should be in line with guidelines set by the Prison Department. In this case, it was alleged that the officers had confiscated items that the prisoners had bought from the canteen.

In a letter dated 14 November, the Prison Department responded to these recommendations:

- (i) A guideline had been issued in 2004 instructing all prison officers to wear face masks while conducting checks, as a safety precaution against potential infection from diseases.
- (ii) The Prison Department SOP provides for detainees to be taken to hospital immediately in the event of an 'extraordinary incident'. The delay in sending the detainees for treatment in this case was because they had not complained to the warders about any injuries. The authorities only knew about the injuries after the family-members of the detainees lodged police reports.
- (iii) Apart from contraband, any items bought from the prison canteen which exceed the permitted quantity will be confiscated.

(f) Freedom of Religion

Freedom to profess a religion is a right guaranteed by the Federal Constitution, in line with the UDHR. Article 3(1) of the Federal Constitution states that Islam is the religion of the Federation, but other religions may be practised.

The Commission received a complaint from a group of *Shiah* followers in Gombak, Selangor, after a team from the Selangor Islamic Affairs Department (JAIS) entered the premises where they were conducting a closed ceremony. Several of their leaders were arrested. The Commission took the initiative to meet separately with the complainants, who maintained the stand that they have a right to freely profess their faith. The Commission has begun discussing the matter with JAIS, the Department of Islamic Development, and other religious figures and authorities. The discussions are still in progress.

The Commission is of the opinion that the right to religion is for all, as guaranteed by the Federal Constitution and the UDHR, and regardless of differences in the school of thought as is the case with *Shiah* followers. The Commission is aware of the sensitivity surrounding the issue but reiterates that every individual has the right to freedom of faith. However, the Commission also takes note of the provision that State or Federal law may control or restrict the propagation of any religious doctrine or belief among people professing Islam.

(g) Children's Welfare

In May, a media report highlighted that children at a religious school in Kedah were being used to collect donations at petrol stations and at 'Rest and Recreation' centres throughout Malaysia. This issue attracted the Commission's attention as it contravenes Article 32 of the CRC, which obliges State Parties to protect children from economic exploitation that can interfere with their education.

The Commission was also concerned about the breach of provisions in laws that protect children such as:

- Section 2(1) of the Children and Young Persons (Employment) Act 1966 which bars children from being involved in work except in the four areas stipulated in Sections 2(2) and 2(3); and
- Section 32 of the Child Act 2001, which makes it an offence to allow children to be on the street, premises or any place for the purpose of receiving alms, whether or not there is an offer to sell goods.

On 9 May, the Commission visited the school together with representatives of the Kedah Social Welfare Department, Education Department, Islamic Affairs Department and Department of Islamic Development. The Commission found that:

- The Social Welfare Department had, on several occasions, picked up the children while they were selling or begging. However, action could not be taken against the school management because parents said they had given consent for the children to be involved in activities arranged by the school.
- Although the school functions as a *tahfiz* school, it is not registered with either the Kedah Islamic Affairs Department or Education Department. Instead it is registered with the Registrar of Companies.
- The school does not emphasise formal education. Its objective is to train the children to be involved in business. The children are given basic education, but do not have the opportunity to sit public examinations.

During the visit, the Commission and other agencies advised the school management to comply with the law, especially Section 32 of the Child Act 2001. Following the visit, the Commission wrote to the Minister of Women, Family and Community Development with an account of the findings of the visit, as well as recommending that strict action be taken to ensure the children are not being exploited.

(h) Rights of Migrant Workers

Between January and August, the Commission received 25 complaints relating to salary, compensation for accidents at work, and delays in the renewal of work permits of migrant workers. Some cases concerned domestic helpers, who were allegedly tortured and imprisoned by their employer. This information was relayed to the police and Labour Department, and the CIWG will monitor the cases to ensure that action is taken.

On delays in renewal of work permits, the Commission has recommended that Immigration Department should expedite the process. This is to prevent migrant workers from being arrested by the authorities while their documents are in the process of being renewed.

Another commonly raised allegation was that employers did not comply with the terms of contract, as illustrated by complaints from migrant workers at Asahi Kosei Sdn Bhd (Asahi Kosei). They alleged that Asahi Kosei had failed to honour the contract on the issue of wages and unpaid leave. Several workers protested and two were sent back to their country of origin, but the rest chose to continue with their employment. Upon investigation, the CIWG discovered that the workers were actually employees of a sub-contractor to Asahi Kosei and alerted the Labour Department to the dispute.

The Commission is of the opinion that, in contractual disputes, migrant workers should be given priority in taking the matter to the Industrial Court or Labour Court, should the Minister in charge or Labour Department decide that the matter warrants such intervention. It is further recommended that migrant workers be provided with a special pass to allow them to remain and work until the disposal of their case; and that the pass should be provided free of charge.

The Commission also intervened in a case involving 13 Bangladeshi crew of *MV Banga Biraj* who had been stranded on board the vessel and not paid their salary for a year. The situation was highlighted to the authorities. The crew were rescued and placed under the protection of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007. The crew returned to Bangladesh on expiry of the temporary protection order.

(i) Interests of Refugees

As Malaysia has not acceded to the Convention on Status of Refugees 1951 (1951 Convention) and the 1967 Optional Protocol, the laws do not recognise the difference between a refugee, asylum seeker or illegal immigrant.

Most of the complaints received by the Commission are on the issue of applications for refugee status that have yet to be approved or rejected by the United Nations High Commissioner for Refugees (UNHCR). Other refugees want the Commission's help with expediting resettlement to third countries as most face difficulties living in Malaysia, since there are no privileges or recognition for education, employment and security.

The Commission has also received complaints on the arrest and detention of refugees at Immigration detention depots, including those in the process of applying for refugee status; the absence of documentation is a major problem for them. Whenever the Commission is informed about detained refugees, it provides details to the UNHCR. Under a standing arrangement between the UNHCR and the Immigration Department, *bona fide* persons of concern are released to the UNHCR. The Commission itself does not undertake such responsibilities due to resource constraints.

Complaints about health and financial problems among refugees include difficulties in paying hospital bills. These cases are referred to the UNHCR for consideration and possible financial aid.

The Governments of Australia and Malaysia announced on 25 July that an agreement on the transfer and resettlement of refugees and asylum seekers had been inked. Under the arrangement, for the next four years, Australia would send 800 unprocessed asylum seekers who land on its shores to Malaysia where they would be administered by the UNHCR. In return, Australia would accept 4,000 UNHCR-certified refugees based in Malaysia.

From the onset, this deal was heavily criticised by various quarters since Malaysia has yet to ratify the 1951 Convention and 1967 Optional Protocol. On 25 May, a gathering by concerned parties was held at the Australian High Commission to hand over a memorandum protesting against the arrangement. The Commission's monitoring team was present and the crowd dispersed after submission of the memorandum. On 14 June, the Commission received a memorandum from several organisations objecting to the agreement.

In Australia, a legal challenge was mounted to prevent the deal from proceeding and, on 31 August, the Australian High Court declared the agreement to be invalid because the rights of asylum seekers could not be guaranteed in Malaysia, which has not signed the 1951 Convention.

3. LOOKING FORWARD

The trend of demanding greater accountability, transparency and upholding of rights has featured prominently throughout the year, being actively pursued by civil society. The Commission, through the CIWG, engaged all stakeholders in order to get a balanced view of issues.

In the coming year, the CIWG will make the Commission's presence felt on the ground by monitoring public activities and by facilitating discussions between aggrieved parties and the authorities to resolve points of contention. Visits to places of detention will be conducted on a regular basis to enable the Commission to ensure there is adherence to human rights standards.

CHAPTER 3

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

A right is not what someone gives you; it's what no one can take from you.

Ramsey Clark

The focus of the Law Reform and International Treaties Working Group was on the core international human rights treaties, with the ultimate aim of urging the Government to accede to treaties such as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of all Forms of Racial Discrimination.

Over the year, initial preparations were made in anticipation of the submission of independent reports to the United Nations in 2012, on the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination Against Women.

The Working Group took further steps to highlight pertinent thematic human rights issues such as preventive detention, refugee rights, the death penalty, and the rights of the sexual minorities.

1. RIGHTS OF REFUGEES

(a) Meeting with the Malaysian National Security Council and other Government Agencies

The Commission continued to monitor the situation of refugees. In March, a meeting was held with the Malaysian National Security Council and other government agencies to convey the outcomes of the Commission's meeting in December 2010 with the United Nations High Commissioner for Refugees (UNHCR), which had focused on current developments affecting refugees in Malaysia and strategies toward accession to the Convention Relating to the Status of Refugees 1951 (1951 Convention).

During the meeting with the Malaysian National Security Council and the government agencies, the Commission highlighted issues of concern, particularly on the refugees' rights to recognition, work, healthcare and education. The Commission also took the opportunity to inform the meeting that there are NGOs and corporate bodies which are interested in providing assistance to the refugees, but which are uncertain of the Government's reaction because Malaysia does not recognise the status of refugees.

Based on the meeting with the government representatives and the meeting with the UNHCR in 2010, it is the Commission's assessment that even though Malaysia is not a party to the 1951 Convention, it has been providing assistance to refugees on humanitarian grounds, which may be considered to be in compliance with the Convention. As such, it is the Commission's view that there is room for the Government to comply with the Convention on a progressive basis, with the view to ultimately acceding to it.

Subsequent to these meetings, the Commission sent a paper on refugee rights to the Malaysian National Security Council, outlining proposals for the Government to allow NGOs and corporate bodies to provide assistance to the refugees. The Government has yet to respond to the proposals, which include:

It is the Commission's assessment that even though Malaysia is not a party to the 1951 Convention, it has been providing assistance to refugees on humanitarian grounds, which may be considered to be in compliance with the Convention.

(i) Health aspects

- To allow NGOs and corporate bodies to provide donations and to support refugees' medical costs so that they can enjoy free treatment at government hospitals; although a discount of 50% is given, most of the refugees still cannot afford treatment
- To allow NGOs and corporate bodies to offer the services of volunteer doctors to provide medical treatment to refugees

(ii) Work aspects

- To allow NGOs and corporate bodies to employ refugees
- To be more lenient towards refugees with UNHCR cards should they be caught for working without a permit

(iii) Education aspects

- To allow NGOs and corporate bodies to build or support the establishment of more community schools for refugee children so that they can enjoy a better future
- To allow NGOs and corporate bodies to donate educational materials such as computers, books and stationery to community schools
- To consider admitting refugee children into government schools

(iv) Guidelines for NGOs and corporate bodies

- To provide guidelines for NGOs and corporate bodies interested in assisting refugees, so that they are able to carry out projects that are compatible with the Government's policies

- To implement a pilot project with a cut-off date for NGOs and corporate bodies that are interested in extending assistance to refugees

(b) Swap Agreement between Malaysia and Australia on Asylum Seekers

In July, Malaysia signed a bilateral agreement with Australia to deal with the problem of asylum seekers and refugees. Under the agreement, 800 asylum seekers from Australia would be sent to Malaysia to be processed by the authorities; in return, Australia would accept from Malaysia 4,000 refugees registered with the UNHCR. The two Governments claimed that the objective of the agreement was to end human smuggling activities into Australia by sending smuggled individuals to Malaysia where their claims would be processed, instead of allowing them to enter Australia, the destination country.

The agreement received strong reactions especially from Malaysian and Australian activists and NGOs because Malaysia is not a party to the 1951 Convention. Furthermore, given Malaysia's poor human rights record in terms of its treatment of refugees and asylum seekers, they are of the view that the human rights of those sent by Australia could be abused.

In May, the Commission held a meeting with the UNHCR to obtain views on the agreement. In June, representatives of the Home Ministry briefed the Commission on the objectives and aims of the agreement.

On 31 August, the Australian High Court declared the agreement to be illegal, therefore halting implementation. Both the Malaysian and Australian Governments reiterated their intention to pursue the agreement at the Commonwealth Heads of Government meeting in October.

The Commission recommends that, should the agreement be carried out in the future, the human rights of asylum seekers and the refugees must be safeguarded and guaranteed. This recommendation was also conveyed to the Home Ministry at a meeting with the Commission.

(c) Registration of Refugees and Asylum Seekers

The Government announced that, in January 2012, asylum seekers and refugees in the country holding a UNHCR card would be registered as part of an agreement between the UNHCR and Malaysia. The Commission commends the Government for taking this major step toward compliance with the 1951 Convention. The Commission hopes that the registration will pave the way for recognition of the status of the refugees and asylum seekers, as emphasised by the Convention.

(d) Forced Repatriation of the Uighur

The Commission is deeply concerned about media reports that the Government had deported 11 Uighur to China on the ground of their alleged involvement in human trafficking. The Commission is concerned that these individuals will face persecution on account of their ethnicity and religion. The Commission urges the Government to respect the principle of *non refoulement* and provide individuals with protection on humanitarian grounds whenever there is a likelihood of persecution and whenever there is a claim for refugee status, even though the Government does not recognise the status of refugees. The Commission is also of the view that, if the 11 Uighur were suspected of human trafficking crimes as alleged, they should have been charged under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 instead of being forcibly returned to China.

2. THE COMMISSION'S ROLE IN COURT

(a) Involvement in Court Cases

Following consultations in 2010 with the judiciary and the Bar Council, the Commission held a follow-up consultation with the Bar Council on the possibility of the Commission playing a role in court proceedings involving human rights issues. The Bar Council was supportive of the proposal and agreed to assist the Commission by providing the services of its members on *probono* basis. Since then, the Commission has held a watching brief in two cases: *Low Swee Siong v Tan Siew Siew* and *Noorfadilla binti Saikin v Chayed bin Basirun and 5 others*. The first case involved child's rights while the second concerned women's rights.

The Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination Against Women respectively formed the basis of the Commission's submissions to the court. The Commission was represented by a Commissioner and a lawyer from the Bar Council in both cases. Subsequent to these cases, there were applications from other litigants requesting the Commission to hold a watching brief in their cases. These included *Asahi Kosei Sdn Bhd v Charles Hector Fernandez*, a defamation suit, which was later settled out of court through a consent judgement; a case involving the right to cross dress; and another on the freedom of religion.

The Commission looks forward to further involvement in human rights cases, as its role in court provides the opportunity for the promotion of human rights principles as provided in the Federal Constitution and international human rights treaties. The Commission firmly believes that the judiciary can play a key role in upholding and protecting human rights; therefore, it is hoped that human rights principles will be given due regard and recognition by judges.

The Commission firmly believes that the judiciary can play a key role in upholding and protecting human rights; therefore, it is hoped that human rights principles will be given due regard and recognition by judges.

(b) Courtesy Visit to the Judiciary

In December, the Commission paid a courtesy visit to the judiciary to meet the newly-appointed Chief Justice, the Right Honourable Tan Sri Arifin Zakaria, and other senior judges. The visit was mainly for the Commission to discuss the planned colloquium with the judiciary to be held in 2012. With the Chief Justice's approval for the judges to participate in the colloquium, the Commission will begin preparations for the programme which aims, among others, to promote human rights within the judiciary.

The Commission took the opportunity to seek the Chief Justice's views on certain human rights concerns, such as the recognition and the implementation of human rights principles in court, and the death penalty in Malaysia. The Commission also sought better cooperation from the judiciary, to open up opportunities for the promotion of human rights.

3. DEATH PENALTY

The Commission has been calling for the abolition of the death penalty, as such punishment is considered to be cruel, inhuman and degrading. Pending eventual abolition, it is recommended that the Government considers a moratorium on the death penalty or commuting this form of punishment to life imprisonment, especially for those who have been on death row for more than five years.

The Commission has been calling for the abolition of the death penalty, as such punishment is considered to be cruel, inhuman and degrading.

To strengthen the call for the abolition of the death penalty, the Commission with the Delegation of the European Union to Malaysia and the Bar Council jointly organised a public seminar in October.

The co-organisers welcomed the keynote address by the Hon Dato' Seri Mohamed Nazri Abdul Aziz, the Minister in the Prime Minister's Department, who in his individual capacity showed support for the abolition of the death penalty in Malaysia. The speakers from the All-Party Parliamentary Group on the Abolition of the Death Penalty, House of Lords, United Kingdom, Malaysians against Death Penalty and Torture and Amnesty International Malaysia presented strong views, refuting the idea that the death penalty deters potential criminals. They cited examples of countries, particularly in Europe, that have abolished the sentence; there has been no evidence to show that this has caused the crime rate to rise.

While the Commission remains firm on the call to abolish the death penalty, it recognises that there are strong views in support of the death penalty especially in murder cases. The Commission is currently involved in a public survey, led by a team from Universiti Malaya, to gather public opinions on the death penalty.

4. RIGHTS OF CHILDREN

(a) Report on the Convention on the Rights of the Child (CRC) 2012 to the United Nations

In the Government Response on the Commission's Annual Report 2010, it states that the Government will preserve its reservation to Article 2, 7, 14, 28(1)(a) and 37 CRC. This is for the reason that, the compliance with these provisions is difficult and contrary to the Constitution, State law and Government policies. However, the Commission reiterates that the withdrawal of reservations to the provisions will be able to fully realize the objectives of the CRC to ensure the children's right to life, protection, development and participation.

The Commission is preparing to submit the report to highlight issues of concern affecting children and the protection of their rights. In upholding children's rights to expression and opinion as emphasised by the CRC, the Commission plans to engage students to obtain their views on specific issues, for example, bullying in school, freedom of expression and racism. The Commission has identified a group of children from various backgrounds whose opinions will be sought in preparing the report. The Commission has contacted the Ministry of Education and the respective State Education Departments for approval to involve the students.

... the Commission reiterates that the withdrawal of reservations to the provisions will be able to fully realize the objectives of the CRC to ensure the children's right to life, protection, development and participation.

(b) National Advisory and Consultative Council for Children

The Commission has been appointed a member of the National Advisory Consultative Council for Children, under the Ministry of Women, Family and Community Development (MWFCDD). The Commission appreciates the MWFCDD's gesture and hopes to be able to assist the Council in discharging its duties in protecting and promoting the rights of children.

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

The Commission welcomes the move by the MWFCDD to consider ratifying the Optional Protocol to the CEDAW, as discussed at a meeting in 2010. The Commission has since sent a justification paper for the Ratification of the Optional Protocol to the CEDAW, for the MWFCDD's consideration.

The Commission is also in the midst of preparing an independent CEDAW report for presentation to the United Nations in 2012.

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

A proposal was submitted during the year to the MWFCD for the Commission to be appointed as the National Monitoring Mechanism on the rights of persons with disabilities (PWDs) as stated in Article 33(2)¹ of the CRPD. Although the proposal was not accepted, the MWFCD appointed the Commission in July as an attending member to the National Meeting for PWDs, to assist in monitoring and channeling input relating to the rights of this group.

The Commission has engaged an external researcher to conduct a study on 'Malaysia – Its Compliance with the CRPD, Persons with Disabilities Act, Malaysian Standards and Policies'. The findings will be used to assist the Commission in undertaking work on the rights of PWDs. This will include preparation of an independent report to the United Nations on Malaysia's compliance with the CPRD.

7. UNIVERSITIES AND UNIVERSITY COLLEGES ACT 1971 (UUCA)

The Commission's research into the provisions of the UUCA has found that Section 15(5)(a) violates the freedom of association, the freedom of expression, the right to a fair hearing, the right to legal representation of one's own choice, and the right to education. The Commission's report, which was sent to the Attorney-General's Chambers and the Ministry of Higher Education (MoHE), recommended amendments to:

- (i) Section 15(5)(a), to allow students attaining the age of 21 (voting age) to express their support for or sympathy with or opposition to political parties; the section clearly violates Article 119 of the Federal Constitution which provides that every citizen above the age of 21 is qualified to vote
- (ii) Sections 15D(1) and 16C(2), to make it necessary for the universities to allow students to be charged and tried accordingly before any suspension is imposed; the current application of these sections denies the right to a fair hearing – which is inconsistent with the principle of 'innocent until proven guilty' – while the students charged are also denied education pending trial or proceedings

¹ 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 of human rights.

- (iii) Section 16B(3B), so that students are represented by a legal practitioner of their own choice in proceedings brought against them, and that they are not limited to representation by employees or students of the university as currently provided

In June, the Attorney-General's Chambers invited the Commission to present its findings and recommendations. The Attorney-General's Chambers agreed to look into some of the recommendations to ensure that students are not deprived of their rights.

The Commission welcomes the decision of the Court of Appeal on 31 October, in *Muhammad Hilman bin Idham, Woon King Chai, Muhammad Ismail bin Aminuddin and Azlin Shafina binti Mohama Adza v Kerajaan Malaysia, Menteri Pengajian Tinggi and Universiti Kebangsaan Malaysia*, which held Section 15(5) (a) of the UUCA to be unconstitutional and a violation of the freedom of expression. The Commission urges the Government to reconsider its plan to appeal the decision.

The Commission also welcomes the move by the MoHE in December to hold its first consultation on controversial provisions of the UUCA, to obtain the views of student representatives and other stakeholders, including the Commission, in considering appropriate action. The Commission hopes this will lead to students attaining more rights and freedoms.

8. RIGHTS OF THE SEXUAL MINORITIES

(a) Meeting with Non-Muslim Groups

A meeting was held in February with representatives of non-Muslim groups to discuss the rights of the sexual minorities, following a similar meeting with representatives of Muslim organisations in 2010. Representatives of Christian and the Hindu groups explained their perspective of the sexual minorities. They also expressed concern about growing hatred of the sexual minorities, highlighting death threats against a man who had come out about his sexuality on *Youtube*.

The Commission observed that the Christian group based its opinions on the principle of love as emphasised by the Bible. According to the group, this principle is extended to the sexual minorities; therefore any violation of their rights is not acceptable. The Hindu group presented its views based on the Hindu scripture as well as the social context. It said some activities of the sexual minorities, such as cross-dressing, are not prohibited because the religion recognises gender diversity; for example, some Hindu deities are manifested in both the female and male form. In the social context however, certain acts, such as sexual intercourse between those of the same sex, are not acceptable as these are linked to bad karma.

The Commission stands firm that all people, regardless of their sexual orientation should be able to enjoy the full range of human rights without exception.

The Commission is appreciative of the input and hopes to hear the views of other groups, such as the Buddhists and Taoists, at a later date. The Commission notes that there are other views within the religious groups on the rights of the sexual minorities. The Commission stands firm that all people, regardless of their sexual orientation should be able to enjoy the full range of human rights without exception. Violence, abuse and violations of the rights of the sexual minorities cannot be justified.

(b) Human Rights Conference, 2nd Asia-Pacific OutGames, Wellington, New Zealand

The Commission's representatives attended the event, held in March, to expand knowledge of the wide range of issues involving the sexual minorities. The objectives of the Conference were to connect individuals and organisations, to share experiences and knowledge, and to provide opportunities for collaboration. The participants included representatives of other national human rights institutions, governments, NGOs and international organisations. The topics covered the challenges and human rights violations that the sexual minorities face worldwide, the relationship between the sexual minorities and religion, politics and culture and the rise of the sexual minorities agenda at the international level.

The Commission presented its recent work on the rights of the sexual minorities and shared some experiences in relation to the issue. The knowledge gained from the Conference will assist the Commission in carrying out its work on the sexual minorities within the Malaysian context.



Participants at the Human Rights Conference in Wellington, New Zealand

9. INTERNATIONAL CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT)

Since its inception, the Commission has been calling on the Government to accede to, among others, the CAT with a view to abolishing laws and practices that amount to torture, as described by the Convention.

To further understand the underlying principles and the issues concerning the CAT, the Commission organised a Roundtable Discussion in November. It was facilitated by Dr Silvia Casale, an expert consultant to the Asia Pacific Forum of National Human Rights Institutions and an expert to the European Committee for the Prevention of Torture.

The topics for discussion included the reasons why Malaysia should accede to the CAT, the definition of 'torture', the work of the CAT Committee, examples of implementation of the CAT by State Parties, measures for prevention of torture, and the challenges for Malaysia in acceding to the CAT.

The facilitator and some Government and NGO representatives expressed support for accession to the CAT, highlighting some of Malaysia's practices in preventing torture that are already in line with principles embodied in the treaty. For example, a government representative said CCTVs are beginning to be utilised to monitor the interrogation process at the Malaysian Anti-Corruption Commission.

The facilitator emphasised that no country has fully complied with any treaty, and that accession to treaties such as CAT should be used as a basis for gradual changes and improvements in laws and policies. In this, she disagreed with Malaysia's approach of acceding to treaties only after laws and policies are put in place. The Commission concurs with the facilitator's stance on the approach towards accession to treaties.

The Commission reiterates that Malaysia should accede to the CAT as soon as possible and calls on the Government to fulfil its commitment as expressed in the Universal Periodic Review Report, in which it was stated that the appropriate steps are being taken to accede to the CAT.

The Commission reiterates that Malaysia should accede to the CAT as soon as possible and calls on the Government to fulfil its commitment as expressed in the Universal Periodic Review Report, in which it was stated that the appropriate steps are being taken to accede to the CAT.



A group discussion in progress at the RTD on CAT

10. PREVENTIVE DETENTION LAWS

Since its inception, the Commission has consistently called for the repeal of the Internal Security Act 1960 (ISA) and all other preventive detention laws. The Commission therefore welcomes the decision of the Prime Minister, Hon Dato' Sri Najib Abdul Razak, to annul the existing Proclamations of Emergency and to repeal the ISA and the Banishment Act 1959. On 5 October, the Prime Minister tabled Bills in the Dewan Rakyat to repeal the Banishment Act 1959 and the Restricted Residence Act 1933; these were unanimously passed by the Members of Parliament.

The step is in line with the protection and promotion of human rights. The Commission also lauds the Government's move to release detainees being held under the ISA and Emergency (Public Order and Prevention of Crime) Ordinance 1969.

Where the ISA is concerned, recommendations for its abolition and the related issues have been highlighted in the Commission's Report, *The Review of the Internal Security Act 1960* (ISA Report).

In the view of the Government's decision to replace the ISA with new legislation, the Commission reiterates, as highlighted in the ISA Report, that any such law should take a tough stand against threats to national security, including terrorism, without undermining fundamental human rights principles.

In this respect, the Commission is deeply concerned about the Government's announcement that detention without trial will be retained in the proposed law. The Commission urges the Government to revoke its decision in view of the human rights violations that are likely to occur should detention without trial remain in place.

The Attorney-General's Chambers sought the Commission's recommendations for the proposed law, at a briefing in October. It is hoped that the Commission's recommendations, based on the ISA Report, will be given due consideration.

11. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD)

The Commission reiterates its call to the Government to accede to the ICERD. It is unfortunate that Malaysia, with its multi-cultural society, is among 16 countries that have yet to accede to the Convention.

In July, the Commission's representatives attended a Technical Committee meeting on the ICERD at the Department of National Unity and Integration, in the Prime Minister's Department. The possibility of Malaysia's accession to the ICERD was discussed.

The Commission presented four arguments to assuage any reservations that the Government might have in acceding to the Convention.

- (i) There is a need to highlight provisions in the Federal Constitution as well as other practices that are in line with the ICERD, instead of focusing only on Article 153 of the Federal Constitution which is seen as the stumbling block to accession.
- (ii) Accession will not compromise Malaysia's sovereignty. Safeguards under Article 14 of the ICERD enable a country to decide whether or not to recognise the competency of the ICERD Committee.
- (iii) As a member of the Human Rights Council, Malaysia already has an obligation to address racial issues. Such responsibility does not arise only upon accession to the ICERD.
- (iv) Malaysia should have the courage to face international scrutiny and explain itself, should it be considered to be in breach of treaty obligations. This is a normal procedure for State Parties under any Convention. (Spain is the only country to have been brought to justice to date for breaching the ICERD; it was questioned about its language policy.)

12. EMPLOYMENT ACT 1955

The Government amended the Employment Act 1955 during the year. The Commission recorded its views on several provisions:

- (i) Section 2(1): The introduction/legalisation of 'contractor for labour' may result in the exploitation of workers.
- (ii) Section 81A: The incorporation of the definition of 'sexual harassment' and related provisions is to be lauded. However, the Commission notes NGO comments that the definition is not comprehensive – this is because the employer (not the employee) determines if sexual harassment has taken place, the definition is confined to alleged occurrences at the workplace and the processes for complaints and penalties are inadequately covered.
- (iii) Section 81D(1): The Commission is concerned particularly about the complaints procedure in cases against an employer, as the amendments authorise the Director-General of Labour to direct the employer to inquire into complaints. This could result in bias.
- (iv) Section (2)(1): The Commission welcomes the definition of 'confinement' which is amended from 28 weeks to 22 weeks to enable female employees to enjoy maternity protection in the event of a premature birth or miscarriage.
- (v) Section 37(4): The Commission commends the amendment which penalises an employer who terminates the services of a female employee during the period in which she is entitled to maternity leave.

13. PEACEFUL ASSEMBLY BILL 2011

In September, the Prime Minister announced the repeal of Sections 27, 27A and 27B of the Police Act 1967 in relation to public assembly. In October, the Attorney-General's Chambers consulted the Commission on certain aspects of a new law to deal with public assembly. However, the Commission was not provided a copy of the draft law before it was tabled.

In principle, the Commission welcomed those provisions that are in line with freedom of assembly as guaranteed by Article 10(1)(b) of the Federal Constitution and Article 20 of the Universal Declaration of Human Rights. However, it expressed the view that some provisions would undermine the right of the public to organise or participate in peaceful assemblies, with the police being given wider discretion. This would defeat the purpose of repealing Sections 27, 27A and 27B of the Police Act 1967 in the first place.

On 29 November, the Peaceful Assembly Bill was passed by the Dewan Rakyat and on 20 December by the Dewan Negara, after amendments by the Government. However these amendments are not in line with the Commission's suggestions. Therefore, the Commission urges the Government to review the Act, taking international human rights principles into account.

The Commission's Recommendations

1. A clearer distinction should be made between the definition of an 'assembly' which includes processions, and of a 'street protest'.
2. The right to assemble peacefully without arms should be extended to non-citizens as they too have the right to express themselves and to be heard.
3. There should be a review of the barring of an assembly within 50 metres of a prohibited place, as such prohibition would be impractical and unrealistic in most cities and towns.
4. The provision on participation of children should be reviewed to lower the permissible age of 15 to a more appropriate age in the light of Malaysia's obligations under the CRC, now that the reservation to Article 15 has been removed.
5. Clause 13 should be reviewed to put in place a cooperative model which would allow the police and the organiser of a public assembly to arrive at a consensus on matters relating to the assembly, for the purpose of facilitating the assembly in line with the objectives of the Act.
6. There should be review of the provision on appeals against restrictions and conditions imposed by the police, to enable these to be made to the court rather than to the Minister in charge.
7. Clause 19 – which deems organisers to be persons who promote, sponsor, hold or supervise the assembly, or who invite or recruit participants, or who are speakers for the assembly – should be reviewed. These persons are merely exercising their basic democratic rights and should not be held fully responsible in the event of any non-compliance.
8. Provisions of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials should be incorporated in Part V of the Act which deals with enforcement.
9. Clause 24 should allow for full, and not just reasonable, access of the media to public assemblies.
10. A provision should be included to allow external parties, such as the Commission, the Bar Council and other relevant statutory bodies, to monitor public assemblies.

14. LOOKING FORWARD

The Working Group will continue to push for Malaysia's accession to the remaining human rights treaties, by creating awareness among government agencies and other stakeholders on the rationale and essential features of these treaties and the obligations and responsibilities of State Parties upon accession. Having introduced the CAT to various government agencies and stakeholders, the Working Group will extend awareness programmes to those yet to be covered.

In preparing the Commission's shadow reports on CEDAW and CRC, the Working Group will engage with stakeholders at the national and international levels, in the belief that the exchange of views can contribute constructively to the promotion and protection of human rights.

In the coming year, the Working Group will take up a review of laws to ensure compliance with Malaysia's treaty obligations under the CRPD. In addition, it will study the Human Rights Commission of Malaysia Act 1999 with a view to strengthening the Commission's powers and functions, to enable it to play a more effective role.

CHAPTER 4

REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP

Recognising that in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.

*Preamble, International Covenant on
Economic, Social and Cultural Rights*

The work of the Economic, Social and Cultural Rights Working Group (ECOSOCWG) has been facilitated by its long-standing relationship with government agencies, NGOs and civil society organisations. This enabled progress on a number of fronts – anti-trafficking in persons, rights of persons with disabilities, rights of indigenous peoples and women's rights – during the year. The human rights approach was also introduced in issues of business and climate change.

1. ANTI-TRAFFICKING IN PERSONS (ATIP)

(a) Visit to Shelter

On 7 April, the Commission visited a facility for victims of human trafficking known as Shelter 4,¹ operated by the Council for ATIP and Anti-Smuggling of Migrants, Malaysia. The visit was to monitor facilities provided by the Government in line with its obligation to protect victims of human trafficking.

The Commission's team was headed by the Chairman, Tan Sri Hasmy Agam. Officials from the Council present at the Shelter included representatives of the Home Ministry and the Attorney-General's Chambers.

¹ For the safety of rescued victims, the location is not disclosed. Shelter 4, which opened on 15 August 2010, can currently accommodate 150-180 male victims. During the visit, 35 Bangladeshis, ranging in age from 22-42 years were being provided shelter. The Commission was led to understand that 32 of them had been rescued by the police after alleging that their employer, Atlantic Fair Sdn Bhd, had failed to pay their wages/salaries for two months. Additionally, the victims claimed that they had given money to their employer to renew their work permit, but that Atlantic Fair had failed to do so. At the time of the Commission's visit, their permits had expired.

During a briefing by the Council, the team had the opportunity to listen to concerns expressed by rescued victims. The team then inspected the premises and amenities provided. Based on the discussion and visit, the Commission made a number of observations.

(i) Security

A high electrified fence surrounds the shelter. The Council's representative explained that this is necessary to prevent potential traffickers from entering the compound. A security unit, currently consisting of 67 RELA members, guards the shelter. This unit is headed by a deputy commandant from the Prison Department. The premises are also monitored through closed-circuit television cameras.

(ii) Healthcare services

The Commission's team was led to understand that rescued victims are provided with psychological and physical healthcare services and support, including counselling. Victims are kept busy with a number of indoor and outdoor sports and recreational activities that also serve as therapeutic exercise. Physically ill victims are taken to clinics or hospitals for treatment.

(iii) Telephones

While the shelter does not provide telephones, victims are permitted to bring in mobile phones, so that they can contact family members. They pay the associated costs.

(iv) Standards at shelters

The Commission was told that the shelters have received visits and assessments by officials of the Australian Government and the International Organisation for Migration (IOM). A post-visit assessment by IOM in a report entitled *The Provision of Protection to Victims of Trafficking in Malaysia – An Assessment of Malaysia's Shelter for Trafficking Victims* includes a list of recommendations that are being considered by the Government.

(v) Feedback from victims

Through discussions and interviews, victims informed the Commission that they were satisfied with the condition of the premises, the facilities and treatment provided by officials.

However, they were concerned about the court's pace in setting a date to record their statements. Several victims had been at the shelter for nearly 10 months due to this. Many said their families do not have any source of income in Bangladesh. Their extended stay has therefore created psychological stress because they are unable to provide for their families. The Council later informed the Commission

... they were concerned with the court's pace in setting a date to record their statements. Several victims had been at the shelter for nearly 10 months Their extended stay has created psychological stress because they are unable to provide for their families.

that it had relayed this matter to the Attorney-General's Chambers, leading to a court date being set.

The victims further said that the Bangladeshi High Commission had not visited them. On their request, the Commission wrote to the diplomatic mission in April with information about the victims and the assistance they had requested.

(b) Trafficking in Persons (TIP)

The ECOSOCWG produced a multilingual brochure on TIP, translated from the Bahasa Malaysia and English versions. This provides basic information on the dangers of TIP as well as the rights of victims. Written in the Mandarin, Tamil, Thai, Myanmar, Sinhala and Tagalog languages, the multilingual version is targeted at foreign victims and Malaysians who are not fluent in Bahasa Malaysia and English. The brochure will be distributed at the Commission's road shows and 'Meet-the-People' sessions. Copies will also be placed at airports, in travel agencies and, where feasible, places frequented by migrants in Malaysia.

(c) Council for ATIP and Anti-Smuggling of Migrants, Malaysia

As an active member of the Council, the Commission provided input on matters raised at meetings, including shelter audits, the Council's standard operating procedure, and a risk management survey.

The Commission focused on the capacity and health of the protection and security personnel at shelters for rescued victims. The Commission put the Council in touch with several NGOs and associations, such as the Sunway Rotary Club and SUKA Society Malaysia, to carry out immunisation of the personnel, and to conduct cardio-pulmonary resuscitation training for them.

(d) Government Response to TIP Issues

The Government Response on the Commission's Annual Report 2010 was received early in the year. The Commission affirms that the responses satisfy some of the recommendations on TIP. However, the following issues are reiterated for the Government's further consideration:

(i) Awareness-raising activities

The Commission had recommended the empowerment of the public to report suspected TIP activities by educating them on the issue. The Government said that, while it has implemented various awareness-raising programmes and campaigns, it considers the awareness level of the public and their willingness to report suspected TIP activities to be two different matters. The latter, in particular, is a role that cannot be imposed as it depends on the individual's sense of responsibility.

While the Commission agrees that the lodging of reports on suspected TIP activities greatly depends on self-responsibility and cannot be forced, it is of the view that this role can certainly be encouraged. Empowering the public with the required information on, for instance, the difference between human trafficking for sexual exploitation as opposed to prostitution, the correct report-lodging procedure and the legal rights accorded to whistleblowers – especially the assurance of safety and protection of identity – could encourage and heighten confidence among the public in rendering assistance to curb this menace.

(ii) Wider NGO participation

The Government agreed with the Commission's recommendation that NGOs should be provided avenues to offer their expertise to the Council, since many victims are more inclined to approach them for assistance. Accordingly, the Council has welcomed increased NGO participation in line with Section 6(n) of the ATIP Act. This section was amended in 2010 to raise the number of NGOs represented in the Council. The Government is also working closely with other local and international organisations like the SUKA Society and the IOM on related matters.

The Commission commends the Council for ensuring the participation of NGOs in its work. Such initiatives could be extended through joint ventures with NGOs with expertise in specific areas of TIP – for example, P.S. the Children could help with child victims and the Malaysian Trades Union Congress (MTUC) could assist with victims of forced labour.

(iii) Focus on offenders

The Commission had recommended that the Government should take steps to identify and capture traffickers, and to deal stringently with civil servants found to be agents of TIP. In its response, the Government said that persons proved to have committed any trafficking offence would be charged based on the appropriate legislation, irrespective of status or position.

This, however, raises a key issue relating to fairness and justification of charges brought against different TIP offenders. There seems to be a difference in the recent punishment of offenders. For instance, in December 2008, Malaysia convicted its first human trafficking offender who had forced a female domestic worker into prostitution. The offender was sentenced to eight years' imprisonment. The same sentence was imposed by the Penang Sessions Court on a contractor in August 2011, when it found him guilty of engaging in the trafficking of an Indonesian man two years earlier.

Although the ATIP Act was already in effect, the immigration officers were investigated and punished under the Internal Security Act 1960 instead. They were released in August 2011, less than a year after being detained.

This contrasted with a case in October 2010, when eight immigration officers were detained for human trafficking. Although the ATIP Act was already in effect, the officers were investigated and punished under the Internal Security Act 1960 instead. They were released in August 2011, less than a year after being detained. Another case involved the deportation of 11 Chinese nationals of Uighur ethnicity to China, after it was claimed they were involved in human trafficking.

The Commission therefore invites the Government to specify the rationale for the differences in penalties imposed.

2. WOMEN'S RIGHTS

(a) Assistance for Women and Single Mothers

The Commission's seminar on 'Empowering the Rights of Single Mothers' held in 2010 had enabled it to identify issues that are critical to the realisation of women's rights. One such issue was the need to extend information on, and access to, sources of available assistance for women including single mothers, especially those in economic, social and even mental and physical distress.

The Commission responded by producing a booklet listing the contact details of more than 50 government agencies and organisations, as well as the types of assistance and services that they provide for women. Examples include financial aid for single mothers/parents, counselling services, legal aid, and services relating to women and families who are economically disadvantaged. The booklet will be distributed to the public with particular emphasis on women living in public housing schemes, interior areas and isolated villages.

(b) Roundtable Discussion (RTD) on 'Gender Equality'

On 31 October, the Commission and *Persatuan Kesedaran Komuniti Selangor* organised a RTD on 'Gender Equality: Unaddressed Women's Rights Issues'. This was aimed at assessing the status of gender equality in Malaysia, to determine if it is in line with the rights-based framework set out in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Some 40 representatives of government agencies, NGOs and civil society organisations participated in the RTD. Based on the overarching objective, they discussed issues of violence against women from different backgrounds, refugee women, gender identity and sexual orientation, and family law. Also discussed were the Government's obligations in delivering the rights under CEDAW.

Issues Raised by the Participants

(i) Women's rights

- Protection of women's right to work

It was suggested that Malaysia should monitor the implementation of the International Labour Conventions to which it has acceded. There is also a need to address unimplemented provisions of these Conventions. Legislation and policies could be enacted to protect the rights of women workers.

The Government should revise the Occupational Classification Categories to appropriately reflect the changing spectrum of skills of workers in general and women in particular.

- Protection of women's economic, social and cultural rights
There is the need to ensure that fair and equal wages are established for all in both the public and private sector. A minimum wage of at least RM1,500 should be implemented in view of the current cost of living. This could be done through the review or enactment of appropriate laws and policies.

There is the need to ensure that fair and equal wages are established for all in both the public and private sector. A minimum wage of at least RM1,500 should be implemented in view of the current cost of living. This could be done through the review or enactment of appropriate laws and policies.

With respect to women's empowerment, it was suggested that in-depth research be undertaken by the Government toward developing gender-sensitive institutional capacity, policy tools and decision-making processes. A long-term national employment strategy for women should be developed and implemented to facilitate women's participation and upward mobility, as well as training and access to skills and technology.

- Social security among women workers

The establishment of special employment schemes that address redundancies and re-entry into the labour market is needed especially in times of a volatile economy. Furthermore, transparent and accountable reporting of social safety nets should be ensured for workers, especially women, in times of recession, retrenchment and other periods of adversity in employment.

Maternity leave of 90 days and paternity leave of four weeks could be implemented and guaranteed, while cash payment should be allocated for home-based care. Additionally, available childcare services should be extended to all.

(ii) Rights of women refugees

- Legal protection

The Government should recognise/legalise 'refugee' status by amending the relevant laws. This, however, does not include the granting of citizenship. Additionally, the Immigration Act 1956/63 should be reviewed to ensure that alleged offenders have meaningful access to justice, including the right to apply for judicial review and to appeal, as well as access to legal aid and interpreters.

Those found to be victims of human trafficking must be fully protected, while offenders should be investigated and prosecuted under the relevant human trafficking legislation.

It was also suggested that the Commission should be empowered, by way of amendment of its enabling Act, to ensure that its recommendations are implemented.

- Ratification of international treaties

The Government should take cognizance of, and implement, the Concluding Comments to CEDAW, and ratify and implement the Convention Relating to the Status of Refugees 1951 and its 1967 Optional Protocol, the Convention Relating to the Status of Stateless Persons 1954 and the Convention on the Reduction of Statelessness 1961.

- Arrest, detention and treatment of refugees

The absence of recognition of 'refugee' status by Malaysia has led to arrests and detention of refugees. There have been many allegations that the refugees' human rights have been abused during this process. To address this, the Government should conduct a formal inquiry into alleged abuse of human rights by enforcement officers attached to the Immigration Department and Royal Malaysian Police.

It was further proposed that refugees who cannot be formally deported or repatriated should not be detained.

The powers of RELA personnel to search and arrest, including arrest without a warrant, should be placed within strict limits, while inquiries should be conducted into alleged abuse of power and violations of human rights by these personnel.

There have been many allegations that the refugees' human rights have been abused during this process. To address this, the Government should conduct a formal inquiry into alleged abuse of human rights by enforcement officers attached to the Immigration Department and Royal Malaysia Police.

- Refugees' right to work

The Government should implement a work scheme that involves the issuance of a Refugee Card Scheme (or the IMM13 permit) on discretion, as provided by Section 55 of the Immigration Act, as an interim measure to alleviate the hardship faced by refugees.

- Refugees' right to basic social services

It was unanimously agreed the Government should give refugees access to education, employment and healthcare services while they await verification of their status and resettlement by the United Nations High Commissioner for Refugees. More importantly, access to these services should be ensured for children of refugees and unaccompanied minors.

...the Government should give refugees access to education, employment and healthcare services while they await verification of their status and resettlement by the United Nations High Commissioner for Refugees.

- Protection of the Rohingya in their country of origin

The oppression of the Rohingya in Myanmar stems from the fact that the Myanmar Government does not recognise this ethnic group. Malaysia, together with ASEAN Member States, could lend a hand in stopping the atrocities by identifying comprehensive and sustainable solutions in dialogue with the ASEAN Intergovernmental Commission on Human Rights and its Commission on the Promotion and Protection of the Rights of Women and Children.

(iii) Rights of the sexual minorities

- Public awareness of issues

The public must be made aware of the rights of all human beings without distinction; of constitutional provisions on the protection of human rights; and the spirit and core values of the Universal Declaration of Human Rights (UDHR) and the Yogyakarta Principles. Research findings of *Projek Kasturi* should be disseminated to highlight issues confronting the sexual minorities like lesbians, bisexual women and the transgender. Public service messages are required to promote this group's rights. Non-judgmental, just and fair education on sexual health should be provided in schools, while pregnant schoolgirls should not be discriminated against and stigmatised.

- Protection from violence

In discussing cases of violence against the sexual minorities, the RTD recommended the full implementation of the CEDAW Committee's Concluding Comments at the 35th Session relating to violence against women. There is a need to establish legal and other forms of protection and redress in the event of violence against the sexual minorities, in full consultation with them. Laws should also be enforced against vigilantism toward the sexual minorities, while the Domestic Violence Act 1994 could be expanded to include the protection of the sexual minorities.

- Identity of the transgender

There is a need to recognise the transgender by ensuring an enabling environment. Research could be conducted to identify the needs of this group including education, employment and healthcare services. They should be given access to skills-development training to avail themselves of wider employment choices. Public amenities must take into consideration the needs of the transgender.

In the light of CEDAW, relevant laws should be reviewed to prevent discrimination of persons based on gender identity and sexual orientation. Article 8(2) of the Federal Constitution could be expanded to bar discrimination on the basis of gender identity and sexual orientation. The Government should withdraw its reservations to Articles 5(a) and 7(b) of CEDAW.

(iv) CEDAW and family law

A comprehensive review of family law is required, to repeal all provisions that effectively discriminate against women. A dedicated Family Court should be set up in all States. Only trained and gender-sensitised judges should handle family matters. There is also a need for an inquisitorial rather than adversarial system of justice in family matters.

Women should be provided access to effective and efficient legal aid services to ensure justice. Alternatively, families could be encouraged to resolve matters through mediation by ensuring the availability and accessibility of the service.

3. RIGHTS OF INDIGENOUS PEOPLES

The impact of the Murum Hydroelectric Dam Project (Murum HEP) on affected indigenous peoples (IPs) in Sarawak was one of many issues that the Commission has continued to address.²

The Commission had the opportunity to observe negotiations between the affected communities and the State Planning Unit (SPU) and other agencies, when it was invited by the State Government to observe a dialogue between the parties on 29 March. Commissioner Mr Detta Samen attended the session alongside Mr Andrew Tunku anak Salang of the SPU, Mr Abdul Halim Abdullah, the Belaga District Officer (DO) and representatives of Sarawak Electricity Bhd (SEB) and the Land and Survey Department.

² The ECOSOCWG conducted research and published a Report relating to the construction of the Murum Hydroelectric Dam Project (Murum HEP) and its impact on the economic, social and cultural rights of affected Penan communities in Sarawak. The Commission has continued to observe the project, in particular, the impact on indigenous communities in the surrounding area. The plan to construct the dam was formulated in 1985 and contracted out by the Sarawak Government to the China Three Gorges Project Corporation. Construction began in 2008 with completion due in late 2012; the dam is due to be commissioned the following year.

The main aim of the dialogue was to discuss the proposed sites for resettlement of the affected communities.³ The villages include Long Menapa, Long Singu, Long Wat, Long Tangau, Long Luar and Long Malim. Their headmen appointed a Penan leader, Mr Saran Ju, to be their representative and spokesperson at the dialogue.

In relation to this, the Commission recalled that, at a dialogue on 13 September 2008, leaders from Long Jaik, Long Peran, Long Luar, Long Wat, Long Tangau, Long Singu, Long Malim and Long Menapa, together with representatives of Balui Liko, Long Bangan, Sg Arip and Sg Asap, had voiced objections to being relocated, to make way for the Murum HEP. Their concerns were based on the negative experiences of those who had been relocated earlier to the Sg Asap resettlement site. The complaints included insufficient access to utility supplies, basic amenities, jobs and land for cultivation, as well as inadequate compensation.⁴



*Representatives of the Sarawak Government and Penan headmen
at the dialogue on 29 March*

³ This dialogue followed up on similar sessions between the Sarawak Government, consultant and affected communities to negotiate the terms and details of the relocation of, and new settlements for, Penan villagers affected by the construction of the Murum HEP. The dialogue, which took place at the Asap Koyan Development Community Meeting Hall at the Uma Balui Liko in Sungai Asap, was coordinated by Chemsain Konsultant Sdn Bhd (CKSB), the State Government-appointed consultant responsible for preparing the social and environmental impact assessment for the dam in the Belaga District. CKSB said the session was called to inform Penan representatives of the outcome of discussions with the State Government on demands of affected villagers.

⁴ See the Commission's *Report on the Murum Hydroelectric Project and Its Impact towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak*, 2009, pg 30

(a) Outcome of Negotiations

Issues surrounding the resettlement sites were resolved when all negotiating parties agreed on Tegulang and Melatun in the Belaga District. They also agreed to the composition of villages to be resettled. The Penan representatives urged the State Government to implement this expeditiously.

Participants agreed on facilities to be provided by the State Government – a service centre, access to the jetty reservoir, agricultural land, playground, community hall, pre-school facility, foraging grounds and a new cemetery. The headmen unanimously agreed to the recommended plot and its size, as compensation by the authorities to each household.

Additionally, the dialogue noted that the State Government agreed to a financial allocation to enable animist Penan to perform their annual *Batu Tungun Miring* ceremony. The SEB will construct a ‘chapel’ near the *Batu Tungun* for the communities to perform the ceremony.⁵

Notwithstanding this, the Penan spokesperson reminded those present of the communities’ other demands. Among these are an allowance for each headman, allowance for Christmas expenses and provision of vehicle(s) in times of emergency. They requested a response in the shortest period of time.

Participants also discussed the matter of assistance to Long Luar villagers whose settlement had been razed by fire. The Belaga DO expressed his commitment to assist the villagers. He said he had approached the Ministry of Rural and Regional Development, which later agreed to rebuild the longhouse and to construct houses for the victims once agreement had been reached on the resettlement sites.

The dialogue also discussed problems relating to personal identification documents among Penan villagers. The Belaga District Office and the SPU have initiated visits to all villages in the area to collect the names of those who do not have a MyKad. The names will be submitted to the National Registration Department (NRD) for further action. The DO assured that he would obtain the NRD’s cooperation in conducting, at the very least, biannual visits to all villagers in the area with effect from the current year.

While commending the efforts made to ensure that the villagers are actively involved in this decision-making process, the Commission notes that the relocation of communities has come about forcibly ... This is against Article 10 of the UNDRIP.

⁵ The *Batu Tungun* is a rock located in Belaga and is believed by the Penan community to be the location where their first Penan ancestor arrived. The *Miring* ceremony is practised by animist Penan to appease the spirit of their ancestors. The ceremony is crucial for the Penan to obtain permission from their ancestors to move to the new locations and to ask for protection from misfortune.

(b) Follow-up Action by the Commission

The Commission's participation at the dialogue enabled it to observe the negotiation process between the State Government and affected communities. In a letter to the SPU sent on 5 May, the Commission communicated its views and recommendations:

(i) Free, prior and informed consent

This is a fundamental human rights principle, and its importance is heightened for vulnerable groups such as IPs. This is clear as the principle is repeatedly mentioned in Articles 10, 19, 28 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The series of dialogues held between the Sarawak Government, project consultant and affected communities on the terms of resettlement appear to have complied with the principle of free, prior and informed consent. The process has enabled the villagers to ascertain, negotiate and provide consent to the terms of their relocation and compensation, as well as details of housing arrangements and facilities to be made available in the resettlement areas.

While commending the efforts made by the State Government and consultant to ensure that the villagers are actively involved in this decision-making process, the Commission noted that the relocation of communities has come about forcibly as a result of the construction of the Murum HEP and is not a choice freely made by the communities concerned. This is against Article 10 of the UNDRIP.

The Commission therefore recommended that the requirement for free, prior and informed consent be incorporated through policy changes covering the whole process of a project.⁶

(ii) Adequate housing

With respect to housing for the communities to be resettled in Tegulang and Melatun, the Commission recommended that:

- The new houses are constructed according to the agreed specified design and are of good quality, and not built using sub-standard materials; and
- The provision of housing takes into consideration other components of the right to adequate housing, including legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and culturally adequate elements;⁷ and

⁶ See <http://www2.ohchr.org/english/issues/indigenous/docs/guidelines.pdf> p 28 on elements of free, prior and informed consent

⁷ For a further explanation, please see the Commission's *Report on Adequate Housing: A Human Right (A Report of the Commission's Seminar on Human Rights Pertaining to Basic Needs)*, 2004; Report available at: http://www.the Commission.org.my/conf_forum_wshop_report

- The resettlement areas in Tegulang and Melatun are completed and the facilities fully operational, including those highlighted by the authorities in their presentation on 29 March, before the communities move in.

(iii) Shelter for Long Luar villagers

The fire that destroyed the Long Luar village has left some residents without adequate housing. The Commission noted that the communities did not object to the Ministry of Rural and Regional Development's proposal that new houses would only be constructed after the resettlement exercise. Nevertheless, the Commission recommended that those forced to live in makeshift huts should be temporarily transferred – with their informed consent – to other Penan longhouses while waiting for completion of the new settlement. Care should be taken to ensure that this is not done by force.

(iv) Development assistance to resettled communities

The Commission is of the view that assistance to villagers should not end with their relocation. Support should be maintained to facilitate the communities' ability to cope with their new environment. Capacity building must anchor any community development system to ensure that the communities reach a self-reliant position.

(v) Undocumented Penan

The issue of undocumented Penan needs to be immediately resolved as they are restricted from accessing basic needs such as education, healthcare services, employment and government-run poverty eradication programmes. Difficulties could also arise with payment of compensation during acquisition of land. Moreover, they might be mistaken as undocumented migrants and become liable under the immigration law.

4. BUSINESS AND HUMAN RIGHTS

(a) RTD on 'Business and Human Rights'

The preamble of the UDHR calls for every individual and every organ of the society to promote and protect human rights. The activities of every company have an impact on human rights. Health and safety, the absence of discrimination, freedom of association and to form unions, eradication of poverty and protection against sexual harassment are examples of human rights that are relevant to the corporate sector. Every company therefore has a role to play in promoting and protecting human rights.

In continuance of its RTDs with government agencies and NGOs, the ECOSOCWG organised its third session on 'Business and Human Rights' on 16 March. This time, the Commission met with representatives of the business sector to obtain preliminary views on the issue. The Commission will

use feedback received from the series of RTDs to prepare a draft policy on business and human rights, to be recommended to the Government for application to businesses entities.

Issues Raised by Participants

(i) Lack of awareness

Human rights awareness appears to be lacking in the business sector. Some business entities are even unaware of Corporate Social Responsibility (CSR). Thus, participants affirmed the importance of developing programmes and training activities that promote the practice of human rights in this sector.



Participants at the RTD on 'Business and Human Rights' on 16 March

(ii) Human rights through CSR

Many in the business circle give CSR their utmost attention. Many companies have developed programmes that entail voluntary undertakings for the benefit of the wider community. Environmental preservation and sponsorship of students for higher education are illustrative of this. To strengthen such initiatives, it was suggested that human rights principles be integrated into CSR practices. Companies should also develop policies to keep from perpetrating or facilitating human rights abuses.

(iii) Code of best practice

There are no proper guidelines relevant to human rights that can be followed by those in the business sector. Therefore, participants agreed on the importance of developing a code of best

practice to enable them to map areas that require further attention and improvement. This would minimise the risk of violating the human rights of workers and other parties affected by business activities.

(iv) Workers' rights

Allegations have been increasing about the abuse or mistreatment of foreign workers in Malaysia. Businesses need to be reminded of the right of workers to be protected and treated in a humane manner. Managements should ensure that they provide a safe working environment in which workers are respected and treated with dignity, irrespective of origin, race, colour, religion, gender, physical ability and other characteristics of identity.

(v) Cost considerations

While noting the need for businesses to be more accountable in terms of human rights, concern was expressed about the financial implications. As most businesses are profit-oriented, participants suggested that the Government introduces tax incentives, corporate grants and other monetary reliefs to offset the expense of putting human rights into practice.

Allegations have been increasing about the abuse or mistreatment of foreign workers in Malaysia. Businesses need to be reminded of the right of workers to be protected and treated in a humane manner.

(b) Technical Committee on Social Responsibility (TCSR)

The Commission also pursued the promotion of human rights in the business sector via the platform provided by its membership in the TCSR, chaired by SIRIM Bhd. Other members represent agencies and organisations like the Ministry of Domestic Trade, Cooperatives and Consumerism, Ministry of Human Resources, MTUC, Attorney-General's Chambers, SME Corporation Malaysia, Standards Users, National Council for Women's Organisations, Transparency International and the MARA University of Technology.

The TCSR has resolved to draft a standard on social responsibility that is suitable for the current context in Malaysia. This standard is being drafted based on, and toward, full compliance with the ISO 26000 on Social Responsibility. The Commission has been assigned to the Task Group on Human Rights headed by the Attorney-General's Chambers. This sub-group is entrusted with assessing the human rights clause of the ISO 26000 to be adapted and included in the draft standard.

At a meeting of the TCSR on 4 October, the Commission was able to ensure that most of the provisions in the human rights clause of the ISO 26000 were included in the draft standard. The Commission will monitor the finalised standard for inclusion of a human rights chapter that sufficiently spells out the role of businesses in promoting and protecting human rights.

5. HUMAN RIGHTS AND CLIMATE CHANGE

On 14 November, the Commission organised a RTD on 'Climate Change from a Human Rights Perspective' to sensitise policy makers and other participants to the impact of climate change on human rights, and how the human rights approach can strengthen existing strategies. The RTD was also intended to raise awareness of current initiatives by the Government and other organisations to address climate change, and to identify factors that could hamper the effectiveness of these moves.

Issues Raised by Participants

- (i) Greenhouse gas (GHG) emissions
Globally, carbon dioxide (CO₂) emissions have been increasing since the Industrial Revolution. Combustion of fossil fuel for energy has been identified as the largest contributor to emissions, followed by land-use changes or deforestation. There are also significant levels of methane and nitrous oxide in the atmosphere.
- (ii) Three distinctive characteristics of climate change
Firstly, climate change is cumulative – GHGs emitted during the Industrial Revolution are still in the atmosphere today. Secondly, the effects of climate change are irreversible. And finally, climate change has a time lag between cause (time of emission) and effect (changes to the climate). Thus, emission today would affect the climate 20 years from now.
- (iii) Early expiry of the 21st century carbon budget
The 21st century global carbon budget was set at 1,456 gigatonnes; meaning that the quantity of GHGs emitted in this timeframe should not exceed the carbon budget, as additional amounts will alter the balance of the carbon cycle in the environment. However, it is estimated that the carbon budget will expire as early 2032 or in 2042 as the current rate of emissions is running at twice this level.
- (iv) Human development tipping points
When climate change occurs, five human development tipping points are expected – reduction of agricultural productivity, heightened water insecurity, increased exposure to extreme weather events, collapse of ecosystems and increased health risks.
- (v) Link between climate change and human rights
The United Nations human rights treaty bodies recognise the essential link between the environment and the realisation of a range of human rights. For instance, climate change affects the arability of land; without arable land, human capacity to cultivate would be curtailed and

thus affect the right to food. Natural disasters which come about from climate change would cause deaths and, therefore, affect the right to life.

(vi) Risks to achievement of Millennium Development Goals (MDGs)

Climate change poses risks to a country's ability to achieve the MDG goals. For instance, flash floods that destroy paddy fields would impact some communities' or families' main source of income and sustenance. This would have great impact on domestic achievement of Goal 1 of the MDGs – to eradicate extreme poverty and hunger – especially in countries that are heavily reliant on crop cultivation. Climate change would also reduce the ability of children to participate in full-time education in the event of loss of infrastructure, or lead to an increase in the number of displaced families.

(vii) Malaysian initiatives to address climate change

Apart from adopting international conventions like the United Nations Framework Convention on Climate Change and the *Ramsar* Convention, the Government has implemented environmental protection measures at the national level. One of the most innovative of these is the recycling and processing of used cooking oil for fuel in diesel-engine vehicles.

(viii) Public transportation

The transportation industry contributes to very high levels of CO₂ emission. Several car-makers have advanced green technology by introducing electric and hybrid vehicles. Such initiatives could be adopted in the public transportation system.

(ix) Green initiatives

The application of such initiatives should be intensified to sensitise all organs of society to the adverse impact of current practices on the environment and to the importance of adopting an environmentally-friendly approach. The Roundtable on Sustainable Palm Oil certification scheme and Malaysian Timber Certification Scheme are examples of initiatives described as having a positive bearing on environmental protection.

(x) Challenges to implementing green technology

Many industries have refused to adopt green technology, deeming it to be unprofitable. Green technology is profitable, although the margin is lower when compared to utilisation of climate-unfriendly technology.

The ECOSOCWG will organise a follow-up RTD in early 2012 for NGOs and industry players, to introduce and promote the human rights approach in environmental protection efforts.

6. RIGHTS OF PERSONS WITH DISABILITIES

The seminar on 'Rights of Persons with Disabilities' (PWDs), organised on 5 December, reviewed the situation in Malaysia following the enactment of the Persons with Disabilities Act 2008 (PWD Act). The seminar was also to raise public awareness of the PWDs' rights as enshrined in the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and to identify areas for improvement.

The seminar brought together about 200 participants, comprising persons with disabilities, as well as representatives of NGOs and government agencies like local councils, and interested groups and individuals.

.... the PWD Act does not address their right to be free of discrimination.... For example, PWDs are not entitled to insurance coverage in Malaysia, which is a clear act of discrimination



PWDs made up a large number of those who attended the seminar on 5 December

Issues Raised by Participants

- (i) While the PWD Act entitles PWDs to use various facilities, amenities and services, it does not address their right to be free of discrimination. For example, PWDs are not entitled to insurance coverage in Malaysia, which is a clear act of discrimination. The human rights perspective should be the anchor of the Act.
- (ii) The Government should ensure that provisions of the PWD Act are strictly implemented by ensuring that a monitoring mechanism is in place.

- (iii) Malaysia's accession to the CRPD is a step in the right direction. To strengthen its commitment and accountability to protect the rights of PWD, Malaysia should ratify the Optional Protocol to the Convention.
- (iv) While there have been improvements in ensuring disabled-friendly public facilities and amenities, such initiatives should be accelerated. The 'Baby Boomer' generation is ageing and will present Malaysia with a big group who would have some sort of physical disability or limitation. Disabled-friendly public buildings, public transportation and even walkways must be put in place immediately.
- (v) Training for PWDs should be intensified to enhance their capacity to find jobs.
- (vi) PWDs should be given ample opportunity to obtain employment. Currently, many encounter difficulty as a result of limited or inaccurate knowledge of their abilities and skills.
- (vii) There is a need to increase the availability of disabled-friendly housing. This should be made affordable, given the current lack of access among PWDs to jobs and income. The Government could allocate a 25% discount for house buyers who are PWDs.

The report of the seminar, together with the Commission's recommendations, will be ready in 2012 for the Government's consideration.

7. LOOKING FORWARD

The ECOSOCWG, in addition to highlighting the plight of vulnerable groups, will work on the draft policy on the role of the business sector in protecting human rights. It will monitor the Government's actions on the Commission's recommendations and identify areas for further advocacy. It will further ensure, wherever feasible, the participation of stakeholders – affected communities, the Government, NGOs and interested groups and individuals – in the Commission's activities.

REPORT OF THE INTERNATIONAL ISSUES AND COOPERATION COMMITTEE

A national institution shall, inter alia ... cooperate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights.

*Principles Relating to the Status and Functions of National Institutions
for Protection and Promotion of Human Rights – The Paris Principles*

The Commission actively engaged international and regional human rights mechanisms, thereby eliciting wider recognition for its role and work in the promotion and protection of human rights.

1. THE INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (ICC) NETWORK

The Commission supported the ICC in achieving its strategic priorities in promoting and strengthening the role and work of national human rights institutions (NHRIs) at the domestic and international levels. It participated in key events of the ICC, in particular the 24th Annual General Meeting of the ICC (ICC24) held from 17-19 May in Geneva, Switzerland.

The ICC24 showcased the significant progress made in implementing the ICC's Strategic and Operation Plans for 2010-2011, resulting from active involvement and advocacy efforts in a wide range of activities and avenues. These cover:

- Human rights and business and the role of NHRIs
- NHRIs and the rights of Indigenous Peoples (IPs)
- NHRIs and the Declaration on Human Rights Education and Training
- NHRI standing at the Commission on the Status of Women

- NHRIs and the rights of persons with disabilities (PWDs)
- The new Optional Protocol to the Convention on the Rights of the Child
- Increased engagement between NHRIs and the Human Rights Council (HRC) and other UN mechanisms, particularly the Treaty Bodies and Special Procedures



*Chairman Tan Sri Hasmy Agam and Commissioner Detta Samen
at one of the sessions of the ICC24 in Geneva*

Apart from highlighting the key challenges confronting NHRIs across four regions – Africa, Asia Pacific, Europe and the Americas – the ICC24 observed the increasing need for NHRIs to identify and monitor domestic human rights situations that may undermine peace and sustainable development, and to advise governments and civil society on feasible solutions that are compliant with human rights.

As a Bureau Member of the ICC, the Commission contributed to the Bureau Meetings held on 16 May and 10 October in Geneva and Seoul respectively. The Commission was also involved in the development of the ICC Operational Plan for the period from November 2011 to March 2013. This will serve as a core reference for the ICC in advancing its mandate as an international network of NHRIs.

The Bureau Meetings identified several important issues to be discussed at the next ICC General Meeting, including a panel discussion on IPs. The Commission has been invited to share its experience

on conducting its on-going National Inquiry into the Land Rights of IPs in Malaysia. In addition, given its experience in a previous ICC accreditation exercise, the Commission has been invited to share the lessons learnt from the process, at an event which will take place on the sidelines of the next ICC General Meeting in March 2012.

The Bureau Members were pleased to note that the Office of the High Commissioner for Human Rights (OHCHR), through its National Institutions and Regional Mechanisms Section, has renewed support for work toward the establishment and strengthening of NHRIs. The OHCHR, in an effort to promote greater visibility and accessibility of the work of the ICC and its member-institutions, has expressed readiness to assist in reviewing the ICC website, and to assign a staff-member to oversee development and maintenance of the website.

As part of its advocacy effort to widen the participation of NHRIs in UN fora, the ICC had submitted a position paper on the HRC review. It participated intensively in informal consultations, led by the HRC Review Working Group, that were convened from October 2010 through February 2011. The ICC position paper was aimed at securing greater recognition for, and broader participation of, Paris Principles-compliant NHRIs in the Council and its mechanisms.

Given its experience in a previous ICC accreditation exercise, the Commission has been invited to share the lessons learnt from the process, at an event which will take place on the sidelines of the next ICC General Meeting in March 2012.

In November, the ICC contributed input to the UN General Assembly (UNGA) Resolution on NHRIs, initiated by Germany, for the adoption of the 66th session of the UNGA. The Resolution sought to accord recognition for, and support of, the roles and work of NHRIs and the ICC, as well as the development of partnerships between the ICC and UN agencies and the OHCHR.

In support of the ICC's advocacy, the Commission took steps to lobby the Ministry of Foreign Affairs to co-sponsor the Resolution. The Government did not do so, but joined the consensus when the UNGA adopted it without a vote on 19 December.

2. UN HUMAN RIGHTS COUNCIL (HRC)

The HRC, at its 16th Regular Session in March, adopted a consensus Resolution on the outcome of the review of the work and functioning of the HRC (Resolution HRC/16/L.39). The Resolution reflected a number of significant outcomes resulting from the ICC's position paper, particularly on the participation and engagement of 'A' status NHRIs with the Council's mechanisms, in relation to the Universal Periodic Review and Special Procedures.

At its 17th Regular Session in June, the HRC adopted a landmark Resolution on NHRIs (Resolution HRC/17/L.18). This calls on the UN Secretary-General to report to the HRC on NHRIs and the accreditation process of the ICC in promoting Paris Principles-compliant NHRIs. The Resolution encourages States to provide additional voluntary funds to the OHCHR to support the work of the ICC and its regional coordinating bodies. The Resolution, mooted by the ICC, was sponsored by the Australian Government. It enjoyed the support of more than 115 States across all regions. The Commission was encouraged by the fact that some of the co-sponsoring States were those that have yet to establish Paris Principles-compliant NHRIs.

The Commission deems the adoption of both Resolutions as a positive assertion of the HRC on the important role and valuable work of NHRIs in promoting and protecting human rights in all regions. It is noteworthy that the adoption of the Resolutions was made possible by the individual and collective advocacy efforts of the ICC and its member-institutions at both national and international levels.

On 13 September, the Commission's Vice-Chairman, Prof Datuk Dr Khaw Lake Tee, on the invitation of the HRC, took part in a panel discussion on the 'Promotion and Protection of Human Rights in the Context of Peaceful Protests', in conjunction with the 18th Regular Session of the HRC (HRC18). Apart from reaffirming the right of individuals to participate in peaceful protests *vis-à-vis* the obligations of the State in ensuring its primary responsibility for promoting and protecting human rights, the panel also aimed at identifying ways and means to improve the protection of human rights in the context of peaceful protests in accordance with international laws.

The five prominent panellists from various regions included the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association. The keynote address was delivered by the President of the Maldives, H.E Mr Mohamed Nasheed, who shared his personal experience as a protest leader who had been arrested and imprisoned for the cause of demanding reform.

Prof Datuk Dr Khaw, representing the NHRI perspective, spoke on the Commission's involvement in the events prior to, during and after the public rally organised by the Coalition for Clean and Fair Elections (Bersih 2.0) on 9 July in Kuala Lumpur. She also highlighted, among others, the need for:

- NHRIs to monitor and observe protests as well as to mediate before a protest and in dealing with the aftermath;
- The authorities to act in good faith in a timely, non-selective and reasonable manner to requests for permits to assemble from legal persons and bodies; and

The Commission also participated in several key sessions of HRC18 and delivered its oral and written statements to the Council concerning the rights of Indigenous Peoples and UPR, in its capacity as an 'A' status NHRI.

- Guidelines on how recommendations of a NHRI should be acted on by the State, in ensuring the exercise of freedom of peaceful assembly.

The Commission participated in several key sessions at HRC18 and delivered oral and written statements on the rights of IPs and on the Universal Periodic Review, in its capacity as an 'A' status NHRI. On the sidelines, the Commission's delegation held meetings with key stakeholders involving the OHCHR, the UN Committee on the Rights of PWDs, and Malaysia's Permanent Representative to the UN in Geneva. The delegation participated in an expert meeting on 'Child Rights and the Business Sector', organised by the Committee on the Rights of the Child.

The Commission's participation at HRC18 was beneficial in strengthening its engagement with international human rights mechanisms. It further enabled the Commission to share good practices with various stakeholders in the cause of advancing human rights.

3. COMMONWEALTH FORUM OF NHRIS (CFNHRI)

Established in 2007, the CFNHRI is a body of NHRIs and other mechanisms with a human rights mandate in Commonwealth Member-States. Its objective is to promote networking and the sharing of information, experience and good practices. It does not seek to duplicate the activities of the ICC, OHCHR or other regional mechanisms, but aims to complement and support such mechanisms.

As a member of CFNHRI, the Commission participated in the 3rd Biennial Meeting held in Bracknell, United Kingdom, in May. Member-institutions deliberated on issues concerning human rights and climate change, business and human rights, the role of the NHRI as the national monitoring mechanism for Convention on the Rights of PWDs and rights of the sexual minorities.

Following the Biennial Meeting, the CFNHRI submitted a Communiqué to the Commonwealth Heads of Government Meeting (CHOGM), highlighting the need to prioritise human rights in their discussions and to recognise the close link between human rights and peace, security and development.

In addition, the CFNHRI submitted feedback on the Commonwealth Eminent Persons Group's (EPG) proposal paper on the Commonwealth's championing values. Among the main recommendations was that a 'Charter of the Commonwealth' be developed to recognise the importance of respect for human rights as a core value, and that a Commissioner for Democracy, the Rule of Law and Human Rights be appointed. The CHOGM, held from 28-30 October in Perth, Australia, agreed to develop the Charter of Commonwealth. It also requested the Secretary-General and the Commonwealth Ministerial Action Group to evaluate relevant options relating to the EPG's proposal for a Commissioner for Democracy, the Rule of Law and Human Rights.

4. UNIVERSAL PERIODIC REVIEW (UPR)

The Commission has an important role in monitoring implementation of UPR Recommendations by the Government and other stakeholders.

From 21-22 April, the Commission, with expertise provided by the OHCHR, conducted a training workshop on the UPR process for its members and staff. Separate briefing sessions were held for government agencies and representatives of civil society organisations (CSOs).

In August, the Commission submitted its UPR Interim Report and, through its ICC representative, presented an oral statement to the HRC18. The Commission's efforts with regard to the UPR follow-up were well received by the international human rights bodies and organisations.

The Commission welcomed significant changes in the HRC review of the UPR mechanism. These now allow 'A' status NHRIs to intervene immediately after the State under review, during the adoption of the outcome report at the HRC plenary session; and provide for a separate section for contribution of information.

Recognising the importance of sharing best practices with regard to the UPR follow-up, the OHCHR Cambodia country office invited the Commission to a Consultation Meeting on the UPR Recommendations between Ministries and Civil Society from 27-28 July in Phnom Penh. The meeting provided an opportunity for government agencies and CSOs to discuss effective ways to follow up on the UPR Recommendations accepted by Cambodia, through joint initiatives by all stakeholders.

In August, the Commission submitted its UPR Interim Report and, through its ICC representative, presented an oral statement to the HRC18.

Apart from sharing its experience in the UPR follow-up process, the Commission assisted in the facilitation of group discussions between the Cambodian Government and CSOs towards developing an action plan on implementation of the UPR Recommendations for that country.

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

Furthering its role as an independent sub-regional human rights mechanism, SEANF held a Strategic Planning Workshop from 9-11 June in Jakarta, Indonesia. The main objective was to formulate a plan which will define the strategic priorities and directions of SEANF in the coming years. The Five-Year Strategic Plan was adopted by SEANF members in Bangkok, Thailand, on 6 September. It defines the context of work of SEANF from 2012-2016 with specific activities and indicators. An operation plan will be developed by SEANF to ensure the implementation of the Strategic Plan on year-by-year basis.



SEANF representatives after a meeting on the sidelines of ICC24 on 18 May in Geneva

SEANF saw through its vital role to engage with regional human rights issues and mechanisms, particularly in the drafting of the ASEAN Human Rights Declaration (AHRD) spearheaded by the ASEAN Intergovernmental Commission for Human Rights (AICHR). The AHRD will serve as the basis for the establishment of a framework for human rights cooperation as provided in Article 4.2 of the AICHR's Terms of Reference.

The Commission, as the lead NHRI for the SEANF project on migrant workers, pursued recommendations made in the SEANF Paper on Migrant Workers, published in November 2010. On 9 August, the Commission conducted a Follow-up Consultation Meeting with government agencies in Malaysia to obtain official responses to the recommendations. In addition to the feedback provided during the meeting, the government agencies agreed to submit a consolidated report that would contain comprehensive responses to the recommendations. At the time of writing, the Commission has yet to receive this report.

Nevertheless, the Government's general responses were that:

- It would only respond to the Commission as it does not recognise the establishment and legitimacy of SEANF;
- The recommendations are too general; and
- The Commission should also take into consideration the situation of employers when looking into issues concerning migrant workers.

The 8th Annual Meeting of SEANF was held in Quezon, The Philippines, from 18-19 October. Member-institutions agreed to undertake several new thematic projects:

- Business and human rights (jointly led by the Indonesian and Philippine Commissions)
- Environment and climate change (led by the Thai Commission)
- Indigenous peoples (led by the Malaysian Commission)
- Detention and monitoring (led by the Indonesian Commission)
- Movement of peoples (led by the Timor Leste Commission)

The Commission, as the lead institution for the project on IPs, prepared a concept paper in line with the SEANF Strategic Plan that proposed a number of activities that could be jointly implemented by member-institutions. The activities would involve partnership between SEANF focal points and various stakeholders including the Asia Pacific Forum of NHRIs, ICC, UN agencies and organisations related to IPs.

The meeting also approved the SEANF Position Paper on AHRD, which had mainly incorporated the Commission's input and which flagged the following core elements:

- Principles of universality, indivisibility, interdependence and interrelatedness of human rights
- Balance of rights, freedom and responsibilities
- Applicable human rights principles and standards
- Reference to ASEAN particularities
- The role of NHRIs and other stakeholders
- Evolution of the AHRD

The Commission has forwarded the SEANF Position Paper to Malaysia's Representative to the AICHR for consideration and possible engagement in drafting the AHRD.

In reaffirming its presence as a credible human rights entity, SEANF agreed to strengthen its engagement with human rights defenders from CSOs and institutions of learning in the region, in accordance with its strategic priority.

On 27 November, SEANF held a dialogue session with UN High Commissioner for Human Rights, Ms Navanethem Pillay, in Bali, Indonesia, during her visit to the Asian region. The following issues were discussed:

- The work of SEANF and its Strategic Plan for 2012-2016
- Positive developments including the establishment of the Myanmar National Human Rights Commission (MNHRC)
- SEANF's engagement with the MNHRC and AICHR
- NHRIs' role in the international human rights system, particularly the UPR process
- Possible cooperation between SEANF and the OHCHR
- Reform of national security laws in Malaysia

The OHCHR invited the Commission's Chairman to share among others, best practices, experience and challenges with regard to the establishment of a NHRI and its conformity with the Paris Principles.

The Commission's Chairman participated as an expert speaker at a human rights seminar for government officials of the Republic of the Union of Myanmar. Held in Yangon from 14-15 November, it was organised by the OHCHR Regional Office for Southeast Asia, with attendance by representatives from various Ministries and members of the MNHRC. The OHCHR invited the Commission's Chairman to share among others, best practices, experience and challenges with regard to the establishment of a NHRI and its conformity with the Paris Principles. Taking cognizance of this, the High Commissioner reiterated the important need for SEANF to engage with this fifth NHRI in ASEAN.

SEANF members also participated in the 4th Regional Consultation on ASEAN and Human Rights organised by Asian Forum for Human Rights and Development (FORUM-ASIA). A number of CSOs from the region attended, as did the current Chair of the AICHR. The consultation reaffirmed the need for the AICHR to engage with civil society and NHRIs in drafting the AHRD

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

From 20-21 June, the Commission hosted a regional conference on 'Integrating Reproductive Rights into the Work of NHRIs' in Kuala Lumpur. It was co-sponsored by the APF and the UN Population Fund (UNFPA). The conference proved useful as the NHRIs and the UNFPA were able to discuss a relatively new area of work particularly for NHRIs, and issues for future collaboration.



APF Conference on 'Business and Human Rights', 11-13 October in Seoul

The APF 16th Annual Meeting and Biennial Conference (APF16) were held from 6-8 September in Bangkok, Thailand. At the Annual Meeting, the Commission and the Jordanian National Human Rights Commission were re-elected by APF Forum Councillors to continue their role as the APF representatives to the ICC Bureau from March 2012 to March 2015.

The APF16 discussed several significant issues pertaining to the new membership of the Bangladeshi Human Rights Commission, engagement with the UN Open- Ended Working Group on Ageing, review of the ICC accreditation process and its General Observations, as well as thematic issues on sexual orientation, right to development and NHRIs' engagement with UN human rights mechanisms.

The Commission participated in the APF conference on 'Business and Human Rights' from 11-13 October, jointly hosted by the South Korean Commission and the APF in Seoul, to follow up on the Edinburgh Declaration adopted in October 2010. Commissioner James Nayagam highlighted the Commission's initiatives in organising roundtable discussions on 'Business and Human Rights' with key stakeholders in Malaysia, as well as the Commission's plan to formulate a policy on business and human rights to be observed by the private sector, and which will be submitted to the Government for its consideration.

From 20-21 June, the Commission hosted a regional conference on 'Integrating Reproductive Rights into the Work of NHRIs' in Kuala Lumpur.

The Conference concluded with the adoption of the Conference Outcomes by APF member-institutions. Among other aspects, these require member-institutions to:

- Review and revise their Strategic Plan to ensure that action is identified and prioritised to address human rights violations by the business sector;
- Review their institutional capacity and identify training needs so that they can take effective action in relation to business and human rights;
- Create a focal point for business and human rights within their respective institutions, if they have not already done so; and
- Develop relationships with key stakeholder groups, including the government, business sector and civil society, for on-going dialogue on business and human rights.

7. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

Following its first meeting with the Commission in November 2010, the Legal Affairs Division of the Prime Minister's Department (BHEUU) – being the focal agency for the NHRAP – held a follow-up meeting with the Commission on 14 March to discuss the drafting of the NHRAP.

The meeting saw the attendance of representatives of relevant government agencies and from the OHCHR Regional Office for Southeast Asia and the UN Country Team in Malaysia. Apart from discussing the important aspects to be included in the NHRAP, the meeting recognised the need for BHEUU to hold broad consultations with government agencies and various stakeholders, prior to the development of the NHRAP.

Given the importance of the NHRAP and the positive outcomes it could bring to the state of human rights, the Commission is of the view that there should be a reasonable timeframe to complete it. The Commission is committed to assisting the Government, especially during the preparatory and development phases, by sharing views and suggestions whenever required.

8. LOOKING FORWARD

In support of the Commission's commitment to advance human rights, the International Issues and Cooperation Committee (IICC) will engage key stakeholders in dialogue. The Commission will also play an active role as a member of the ICC Bureau, and as the lead NHRI for the SEANF joint project on the rights of IPs. Involvement in regional and international mechanisms will contribute towards advocacy at home for the adoption and implementation of international human rights standards.

The IICC will monitor implementation of the UPR Recommendations accepted by Malaysia. And in anticipation of Malaysia's next UPR session in 2013, the IICC intends to organise meetings with government agencies and CSOs to obtain input for the Commission's submission to the HRC. In addition, the IICC looks forward to assisting the Government by offering input and recommendations toward the development of a good and workable NHRAP.

REPORT OF THE INDIGENOUS PEOPLES' RIGHTS COMMITTEE

We are not myths of the past, ruins in the jungle, or zoos. We are people and we want to be respected, not to be victims of intolerance and racism.

Rigoberta MenchuTum

The Indigenous Peoples' Rights Committee (IPRC) organised four main activities during the year. Its representatives also contributed actively to the Commission's on-going National Inquiry into the Land Rights of Indigenous Peoples (IPs) in Malaysia, and attended related activities organised by other bodies.

The IPRC worked closely with government departments and agencies, indigenous groups, NGOs and civil society organisations to identify challenges faced by IPs and to recommend solutions, as well as to improve understanding of indigenous rights and cultural life. Meetings were held with Working Groups and Committees within the Commission to coordinate relevant activities.

1. SEMINAR ON 'INDIGENOUS PEOPLES AND THE RIGHT TO PARTICIPATE IN DECISION MAKING'

Representatives of the Government, IPs, NGOs and academia attended the seminar organised by the IPRC on 28 January. The output was a report that was sent to the Secretariat of the United Nations Expert Mechanism on the Rights of IPs, to contribute to its study on the same subject. A submission from the Commission's report was inserted in the final report to the Human Rights Council in paragraph 78:

The Human Rights Commission of Malaysia has adopted cooperative and responsive approaches to developing solutions designed to improve the status and recognition of indigenous peoples' rights to land, through its national inquiry into the land rights of indigenous peoples. The methods of the inquiry will include calling for public submissions and holding consultations and public hearings where indigenous peoples would be among the key stakeholders. The research, which includes community mapping activities, would ensure the participation of indigenous peoples and organisations in obtaining data for Geographic Information System maps showing indigenous lands claims.

The Secretariat welcomed the Commission's input and made reference to the role of national human rights institutions in paragraph 39 in the Expert Mechanism Advice No. 2 (2011) on IPs and the right to participate in decision making, as follows:

National human rights institutions, as independent bodies, should play an important role in bringing together representatives of Government and indigenous peoples, thus promoting indigenous peoples' participation in discussions and decisions on issues that concern them. National human rights institutions can also stress the need for all stakeholders to ensure indigenous representatives are involved in decision making. Such institutions, through their own programmes, could also actively involve indigenous peoples in decision making on related issues.

The Commission has consistently recommended that the Government should ensure effective and adequate representation of IPs at all levels of decision making.

2. WORKSHOP ON 'THE INDIGENOUS LEGAL SYSTEM'

The IPRC conducted a workshop on 23 March to promote awareness of the indigenous legal system and the related rights of IPs. Four indigenous leaders presented papers on the community's legal system and customs, while the Commission delivered a paper outlining the recognition of indigenous legal systems in international law.

Several issues were raised and recommendations were offered. Although the IPs legal system is not recognised by the Government, as in the case of Sabah and Sarawak, it is still widely practised in resolving internal disputes within communities. The IPs legal system is closely linked to customs of the respective indigenous groups. A key recommendation was on the establishment of traditional courts in Peninsular Malaysia, similar to the Native Courts of Sabah and Sarawak.

On the appointment of the *batin* (village headmen), it was pointed out that there are differing views among the traditional *batin* (selected by the community) and the 'new' *batin* appointed by the Department of Orang Asli Development (JAKOA). Whereas the 'new' *batin* are usually more educated and follow procedures outlined by JAKOA, the traditional *batin* tend to follow customary ways and the *adat*, and to practise a more collective decision-making process.

The IPs' legal system is closely linked to customs of the respective indigenous groups.

It was recommended that the current policy of appointing *batin* through the JAKOA be amended to recognise *batin* selected by the communities themselves, and to ensure that the main role of the *batin* is to promote the *adat* of the IPs.

3. FORUM ON 'INDIGENOUS ECONOMIC DEVELOPMENT'

The Sabah Office and the IPRC co-organised the forum on 8 August, in conjunction with World Indigenous Peoples' Day. This was to identify economic issues and challenges faced by IPs and to make recommendations, as well as to improve understanding of indigenous socio-economic life. The forum drew more than 300 representatives of the Government, NGOs and IPs from all over Malaysia. Speakers were from the Sabah Economic Development and Investment Authority (SEDIA), the Sabah Rubber Industry Board (SRIB) and Yayasan Sabah College.

SEDIA's main aims are to promote and accelerate the development of the Sabah Development Corridor (SDC) into a leading economic region and destination for investment, work and living; and to ensure that social development and sustainable development are kept as priorities while driving economic growth in the SDC. Its speaker elaborated on joint-venture projects involving IPs' land through the issuance of Communal Titles and Agropolitan projects. The SRIB representative described its model of group-planting of rubber on land belonging to smallholders, and discussed the challenges of managing an Agropolitan project.

Participants highlighted concerns about the new joint-venture approach to development by communities and private companies through Communal Titles, as a means of improving the economic status of IPs. Doubts were expressed with regard to the ability of such schemes to improve the economic status of IPs, taking into account the failure of similar approaches in Sarawak under the *Konsep Baru* (New Concept) scheme for communities and *Tanaman Semula Komersial* (Commercial Replanting) programme in Peninsular Malaysia on IPs' land. Despite explanation of the security that Communal Titles afford, some participants pointed out that there is no guarantee that other State and private interests will not supersede their own interests since they do not have control over the Communal Titles, as stated in the special terms of these titles. The special terms also impact negatively on the cultural values of IPs in relation to their land.

Similarly, participants expressed disagreement with the Agropolitan projects and questioned whether the agencies involved had adequately consulted the affected villagers before implementation. The forum was informed that some communities now face water and river pollution as a result of the projects. It was stressed that safety and health are vital to the communities, apart from economic considerations. It was recommended that parties should carry out field inspections to ascertain the impact of the projects. Also raised were issues of encroachment by companies into indigenous lands and the loss of land not only due to the weaknesses and ignorance of the communities, but also to the lack of transparency by the authorities concerned.

'.....safety and health are vital to the communities, apart from economic considerations'.



Question-and-answer session during the forum

On the high incidence of poverty in Sabah, it was pointed out that the problem is mainly caused by the large presence of illegal immigrants. This has not been factored into the financial allocations to Sabah for basic services and infrastructure. It was further claimed that many development projects are not what the people need.

Based on those issues, the participants made several recommendations.

- (i) The Commission should educate private companies and related government departments and agencies on the importance of the IPs' Native Customary Rights (NCR) to land.
- (ii) The Commission should engage NGOs in drafting laws that affect the interests of IPs and in projects proposed by the Government for IPs.
- (iii) SEDIA, SRIB and the Performance Management and Delivery Unit should be serious in taking up the concerns of IPs on the impact of economic development on their customary lands and to respect the rights of IPs, in particular to their land, cultures and values.
- (iv) Educational institutions like Yayasan Sabah College should design subjects that include the economic activities and knowledge of IPs, such as iron-smithing (making of agricultural tools), food preparation, healing (massage) and making of handicraft.

4. WORLD INDIGENOUS PEOPLES' DAY

(a) National-level Event

The IPRC, Public Relations Unit and the Sabah Office mounted an exhibition on the Commission's activities promoting the rights of IPs, in conjunction with the national-level World Indigenous Peoples' Day celebration on 9 August. The event, held from 6-9 August in Sabah, was organised by the Indigenous Peoples Network of Malaysia (JOAS) and local indigenous organisations.

In her speech when closing the event, Commissioner Jannie Lasimbang recommended that the Government, including State Governments, should support the event and participate in it in future. The organisers were also urged to incorporate a dialogue with government agencies into the event, to discuss indigenous issues and development.

(b) Additional Events

The Bar Council Committee on Indigenous Peoples' Rights organised a dinner on 13 August. Several members of the Commission attended the event, during which a 30-minute documentary entitled *Hak Dinafikan* (Rights Denied) was screened. It featured cases of violation of land rights of the IPs.

The IPRC and Education and Promotion Working Group delivered talks at other events and discussed IPs' land rights at a dialogue in October, organised by JOAS.



*Exhibition on the Commission's activities in conjunction with
World Indigenous Peoples' Day*

5. PROPOSED AMENDMENTS TO THE ABORIGINAL PEOPLES ACT

In 2010, the Government had announced its intention to amend the Aboriginal Peoples Act 1954 to enable implementation of the Land Ownership Policy. Since many indigenous communities do not agree with the policy and are not satisfied with the consultation process on the proposed amendments, the Commission appealed to the Ministry of Rural and Regional Development to delay the tabling of the proposed amendments until the completion of the National Inquiry into the Land Rights of Indigenous Peoples in July 2012.

The Commission also recommended that the Government should defer the process of finalising any new policies or laws on customary lands for submission to the Cabinet and the National Land Council (NLC), until all efforts have been made to obtain free, prior and informed consent from all stakeholders, particularly the affected IPs.

However, the Commission was disappointed to note an announcement on 16 August by the JAKOA, that it had concluded discussions with all State Governments on the policy to grant land titles to IPs and would take this up with the Cabinet and later, the NLC. Although the Government has not formally responded to the Commission's appeal, it put off its plan to table the amendments at the November session of Parliament.

6. FORUM ON 'INDIGENOUS EDUCATION'

On 9 November, the IPRC and the EWG co-organised a forum on 'Indigenous Education' to discuss and understand the education needs of the IPs; to identify actions to meet targets on education of IPs; to review the Education Act and efforts made to recognise IPs' education system; and to formulate recommendations to be submitted to the Government. The forum focused on four issues of concern on IPs' education systems – the lack of facilities, financial support, appropriateness of the mainstream curriculum for the IPs, and the high number of IPs children who have dropped out of school.

The 130 participants included representatives of the Government, IPs, NGOs and academia from around Peninsular Malaysia. Five academicians and representatives of government agencies presented papers.

Participants pointed out the shortcomings of financial support provided by the Government to encourage indigenous students to pursue their studies. Some participants claimed that the Student Trust Fund Scheme either did not reach the target groups or there were delays in disbursement. Participants also expressed their disappointment that no monetary support is given if these students attend Chinese and Tamil primary schools or private higher education institutions. As a result, offers to further their studies in private colleges have had to be turned down.



Participants at the forum on the 'Indigenous Education' holding a group discussion.

The forum was told that problems occur primarily because of the poor delivery system and communication gaps between relevant government agencies and the indigenous communities. Information on the provision of financial support does not reach indigenous communities and even the *batin* is not informed about the allocation for education of indigenous students. It was recommended that the JAKOA should explain details of procedures on scholarship or any financial support allocated to indigenous students.

'Information on the provision of financial support does not reach indigenous communities and even the *batin* is not informed about the allocation for education of indigenous

Based on the issues, the participants made several recommendations.

(i) Reduce the dropout rate among indigenous students

- Modify the system/educational curriculum to suit the culture and environment of indigenous communities.
- Give priority to the quality of transportation and appropriate hostel facilities; and expose teachers and students of different races to the culture and sensitivities of the IPs to stop discrimination in schools.
- Inculcate a self-esteem programme for better confidence among indigenous students or parents.

- Socialise the school by holding programmes through which teachers understand the indigenous communities and through which parents become part of the school community, in order to eliminate an environment where schools and communities are separate entities.
- (ii) Include essential elements of a culturally-appropriate education system
- Introduce the history, culture and traditional sports/crafts/economy/music of the IPs as subjects to be taught in schools, wherever there are indigenous children.
 - Employ indigenous teachers as far as possible to teach indigenous students.
 - Create curriculum content and pedagogical studies to suit the IPs situation and environment.
- (iii) Adopt a multilingual education system
- Employ qualified indigenous language teachers.
 - Test and produce books in IPs languages.
 - Introduce foundational language programmes at pre-school level.
- (iv) Recommendations to the Ministry of Education to strengthen education and pedagogy of indigenous education
- Recognise indigenous languages and adopt these in the national education system.
 - Actively involve implementing agencies and indigenous communities, including village organisations and Parent-Teacher Associations.
 - Improve the education system at all levels.
 - Allow flexibility in requirements and create a bigger quota for indigenous students to enter universities, Teacher Education Institutes and other tertiary institutions.
- (v) Recommendations to the JAKOA
- Provide in-depth explanation of scholarship procedures to the IPs.

- Streamline and improve the delivery system, including providing accurate information/data for smooth delivery of aid and support to the target groups.
- Inform the *batin* to ensure more effective dissemination of information.
- Provide financial assistance to indigenous students who wish to study in Chinese and Tamil primary schools.

(vi) General recommendations to the Government

- All departments and agencies involved with IPs should work together in restructuring and formulating the relevant policies.
- Appoint more IPs to government posts.

7. SUPPORT FOR HUMAN RIGHTS EVENTS

Speakers from the Commission provided input at the Universiti Malaysia Sabah's Land Symposium on 15 June; at the Universiti Malaya's Land Conference on 25 and 26 January; at a talk by the Bar Council on 18 November; at the Bali Conference on 'Human Rights and Business' from 28-30 November, and at a seminar by PROHAM on 8 December. Visits to IPs settlements were also conducted.

8. COURT DECISIONS INVOLVING INDIGENOUS PEOPLES

Several disputes were taken to court over the year, alleging violation of the rights of IPs. Most of these were in relation to their NCR to land.

(a) *Rambilin binti Ambit v Assistant Collector of Land Revenues*

In March, the Federal Court decided in favour of Rambilin in dismissing a businessman's application for leave to appeal against the decision of the Court of Appeal. Basically, the High Court of Sabah and Sarawak, sitting in Kota Kinabalu, Sabah, had affirmed that NCR to land of IPs, being a pre-existing right before any land legislation, has continued till today; and that Rambilin, being a native of Sabah, is not required to seek the permission of the authorities before entering State land to establish NCR claims. The ruling means that NCR prevail under the common law and the State's interests or rights in land must be subjected to native rights over land.

(b) *Andawan Ansapi & Ors v Public Prosecutor*

In April, the High Court of Sabah and Sarawak, sitting in Kota Kinabalu, Sabah, decided that IPs have the right to be on land to which they have exerted NCR, even in forest reserves established under the Sabah Forest Enactment 1968. The judge also dismissed the Tenom Magistrate Court's decision to fine six indigenous Imahit villagers who were accused of encroaching into a forest reserve to grow hill rice in 2009. The High Court struck out the charge and directed the Forestry Department to return the fine of RM6,000 to them.

(c) *Grace Mark Sdn Bhd & 7 Ors v Persons in Occupation of Lands (Serudung Laut, Tawau)*

In June, the High Court of Sabah and Sarawak, sitting in Tawau, Sabah, set aside a lower court's order which had expelled indigenous villagers from their native customary land in Kg Serudung, Kalabakan, Tawau. The High Court ordered eight companies, which had been issued a land title by the State Government, not to interfere with or expel these villagers as they have the right to live in, and develop, their traditional land.

(d) *Darinsok Pangiran Apan & Ors v Hap Seng Consolidated Bhd & Ors*

In July, the Federal Court allowed the appeal by Darinsuk and four others in a suit against Hap Seng Consolidated Bhd and four companies. It remitted the case to the High Court of Sabah and Sarawak, sitting in Kota Kinabalu. The Federal Court also ruled that the High Court should not have dismissed the villagers' claim based on a preliminary objection and that the order of the High Court, as affirmed by the Court of Appeal, should be set aside. This case involved IPs from several villages in Tongod who claimed NCR to land that had been alienated by the Sabah Government to Hap Seng and the four companies.

The court also ordered the Assistant Collector of Land Revenues to conduct a public inquiry within 60 days, relating to the appellants' NCR claim under the Sabah Land Ordinance 1930.

(e) *Indah Tilaong binti Marahil & Ors v Mohd Apas bin Samsu*

In June, the High Court of Sabah and Sarawak, sitting in Tawau, Sabah, dismissed with costs an application by Mohd Apas to evict villagers at Kampung Tonggulungan, Semporna, from part of their customary land. Mohd Apas had applied to invoke the summary proceeding under Order 89 of the Rules of the High Court 1908 to evict Indah Tilaong binti Marahil and all other persons in occupation of the land. The 50-acre plot, which belongs to the community of Kampung Tonggulungan, had been lent to the plaintiff for planting but he subsequently gained ownership of it.

(f) *Bato Bagi & Ors v Kerajaan Negeri Sarawak & Another; and Jalang Paran & Anor v Government of the State of Sarawak & Anor*

In September, the two appeals were heard together at the Federal Court in Putrajaya. The appellants in both cases are natives who had exerted NCR to land on which they were then residing. In both cases, their NCR were extinguished by the State Government for the Bakun Hydroelectric Project (*Bato Bagi*) and for a pulpwood mill which was never built (*Jalang*). The Federal Court unanimously dismissed the appeals and upheld the orders of the High Court of Sabah and Sarawak and Court of Appeal in *Jalang*; and the High Court of Sabah and Sarawak in *Bato Bagi*. It ruled that Sections 4 and 5(3) of the Sarawak Land Code relating to the extinguishment of customary rights did not violate Articles 5 and 13 of the Federal Constitution.

The court also highlighted an alternative remedy for IPs who have lost ancestral land to the State Government. The court held that, although the Sarawak Land Code refers only to 'compensation' and not 'adequate compensation' as provided by the Federal Constitution, the intention underlying the two provisions cannot be distinguished. Hence, compensation must mean adequate, fair or sufficient compensation.

(g) *Luking Uding & Ors v Superintendent of Lands and Surveys, Kota Samarahan Division, & Ors*

In February, the High Court of Sabah and Sarawak, sitting in Kuching, recognised *pemakai menoa* under NCR to land in Sarawak. The plaintiffs stated that they had, since 1954, been in occupation of their *pemakai menoa*. This follows a defined boundary based on permanent landmarks which separate Kampung Merakai from the *pemakai menoa* of neighbouring villages. The defendants and their servants, agents, assignees and successors were restrained from entering, occupying, clearing or carrying out any works on any part of the plaintiffs' customary land.

(h) *Public Prosecutor v Udin Tan & Ors*

In March, the Rompin Magistrate's Court in Pahang freed three IPs, from Kampung Buluh Nipis, of a charge of stealing oil palm from the Rubber Industry Smallholders Development Authority (RISDA). They had been charged under Section 379 of the Penal Code which provides for imprisonment of seven years or a fine, or both, upon conviction. The IPs were caught in the area they consider to be customary for foraging (*rayau*), but which RISDA had planted with oil palm. Following the ruling, RISDA promised compensation, but the IPs did not accept it as those who had previously received compensation had found the amount to be unreasonable. The court's decision has given the IPs the means to defend their NCR to land and *rayau* area.

9. LOOKING FORWARD

Based on output from activities during the year, the IPRC looks forward to the adoption of recommendations and action by relevant authorities. Regular follow-up checks will be carried out to ensure the recognition of IPs' rights and that they are included in all levels of decision making.

Apart from working with government agencies, the IPRC hopes to strengthen relations with international and regional human rights mechanisms, as well as the Special Rapporteur on the Rights of IPs, to share good practices. This will enable the pursuit of IPs' rights on equal basis with those of other communities in Malaysia.

REPORT OF THE SABAH OFFICE

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.

Article 18, UNDRIP

The Sabah Office promotes and protects human rights through programmes and activities that are often organised with government agencies and NGOs to extend outreach.

Over the years, the programmes have succeeded in raising awareness of human rights, particularly among rural communities. With its focus on achieving common education goals, the process has also strengthened cooperation among the organisers.

The Commission also took up complaints on alleged human rights violations, and offered advice on related issues. The majority of the visitors to the Sabah Office were from rural areas, reflecting the progress made in disseminating information on the Commission's roles and functions as a defender of human rights.

1. ACTION ON COMPLAINTS

Over the year, 250 complaints were received, the majority of which were related to land issues (Table 1). The Commission resolved 45 cases and is attending to 148 others; another 57 have been marked as requiring 'No Further Action'.

Most of the complainants came personally to the Sabah Office. Other complaints were submitted by way of memoranda and letters, while oral statements were recorded through interviews during activities organised by the State and Federal Public Complaints Bureaux in different districts.

Table 1: Complaints Received by the Sabah Office, 2011

COMPLAINTS/ISSUES	NO. OF CASES
Land Matters	153
Undocumented Migrant Workers	29
Citizenship	15
Birth Certificates	12
Social Services (welfare, education)	11
Employment Issues (accidents, unpaid salary/EPF, work permits)	10
Police Matters (preventive detention and inaction on reports)	9
Detention of family members at Temporary Holding Centres	5
Court Cases	5
Detention under the Internal Security Act 1960	1
TOTAL	250

The Commission accepted four memoranda:

- On 21 January, 20 representatives of Kampong Balaron, Mukim Sapulut, in the Pensiangan district, submitted a memorandum on alleged alienation of their traditional land to a private company.
- On 20 May, villagers from Kemabong, Tenom, complained in their memorandum about encroachment into their traditional land, the proposal to issue Communal Titles (CTs) without prior consultation and delays in the issuance of native titles.
- On 18 November, the PACOS Trust provided a copy of its memorandum of protest on the issuance of CTs, which had been submitted to the Chief Minister. The NGO also called on the State Government to revert to its amendment to Section 76 of the Sabah Land Ordinance, so that the CTs are once again based on Native Customary Rights (NCR) to land.
- On 21 November, Parti Islam SeMalaysia submitted a memorandum on behalf of three people who had been detained under the Internal Security Act 1960 (ISA).



Representatives of PAS and family members of three people detained under the ISA, with the resident Commissioner, Ms Jannie Lasimbang

Field visits and investigations were carried out to enable the Commission to validate complaints and to gather further information. On 14 March, the resident Commissioner, Ms Jannie Lasimbang, held a dialogue session with more than 200 villagers at Kampong Tangkarason in Paitan. On 29 April, a delegation from the Sabah Office held an informal dialogue with the District Lands and Surveys Department in Keningau to pursue action on complaints received over the last eight years.

2. ACTIVITIES RELATED TO THE NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES

In line with the Commission's on-going National Inquiry (NI) into the Land Rights of Indigenous Peoples (IPs) in Malaysia, the Sabah Office worked with the NI Secretariat to disseminate information and make preparations for the public consultation process.

On 14 February, the resident Commissioner, Ms Jannie Lasimbang, and the Sabah officer, Mr Jasmih Slamet, paid a courtesy call on the State Assembly Speaker, Datuk Seri Panglima Mohd Salleh Tun Said, to confirm a briefing on the NI for State legislators, Members of Parliament and Senators. The meeting was followed by a half-day briefing on 3 March which 45 representatives attended. However, attempts to schedule a similar briefing for the State Secretary and relevant government agencies fell through because a suitable date could not be identified.



The Commission's officers recording statements during a public consultation in conjunction with the NI

On 16 February, a similar briefing was held for 98 representatives of IPs, NGOs, academia and the media. During the dialogue session, several organisations stated their intention to participate actively in the NI.

In preparing for the public consultations, the Sabah Office distributed 3,000 pamphlets and 500 posters, and put up 12 banners all over the State. This was done with the help of volunteers from PACOS Trust and the Indigenous Peoples Network of Malaysia. The *Kaamatan* (Harvest) Festival from 30-31 May provided a timely opportunity to reach large numbers of people.

The consultations were held in six locations – Keningau, Tenom, Penampang, Kota Marudu, Tawau and Sandakan – from 17 June to 5 July. On completion of the process, the Sabah Office continued to assist the NI Secretariat by following up with relevant organisations and government agencies, to encourage written submissions.

The Sabah Office was also involved in the NI research for Sabah, in particular the creation of an online database of complaints by IPs relating to land, and facilitating the coordination meetings with the Sabah Research Team.

3. FORUM AND TRAINING ON THE INDIGENOUS LEGAL SYSTEM (FTILS)

Five such sessions were organised to cover all the districts in Sabah following a recommendation made during the state-level FTILS held in October 2010. The sessions (Table 2) discussed ways to enhance recognition of Native Courts, and the inter-generational protection and promotion of the indigenous legal system. The participants comprised district chiefs, native chiefs and village heads from the respective districts, as well as youth and community representatives.

During the year, the Federal Government allocated RM30 million to Sabah for infrastructure and administrative support for four Native Courts, and the establishment of a Native Court Training Institute. The Commission welcomes this as a means of improving Native Courts, and urges support for the other Native Courts.

Table 2: Forum and Training on Indigenous Legal System

DATE	LOCATION	NO. OF PARTICIPANTS	DISTRICT/SUB-DISTRICT COVERED
20-21 January	Kota Marudu	74	Kudat, Pitas, Kota Marudu, Paitan, Banggi Island and Matunggung
27-29 April	Keningau	65	Tambunan, Keningau, Sook, Tenom, Kemabong and Nabawan
12-14 September	Beaufort	72	Papar, Kuala Penyu, Beaufort and Sipitang
26-28 October	Telupid	74	Ranau, Telupid, Beluran, Sandakan, Tongod and Kinabatangan
22-24 November	Semporna	52	Tawau, Lahad Datu, Kunak and Semporna

The participants described the FTILS sessions as being important in promoting and protecting indigenous rights. The Native Court and arbitration at village level are still considered to be relevant to IPs. Such proceedings are in line with their worldview, and are affordable as well.

The Native Courts themselves were identified as the agency with the most significant role to play in enhancing the indigenous legal system and continuity of the *adat*. These courts are under the jurisdiction of the Office of Native Affairs, Ministry of Local Government and Housing, State Attorney-General's Chambers, and the respective district offices.

The Native Courts themselves were identified as the agency with the most significant role to play in enhancing the indigenous legal system and continuity of the *adat*.

Key recommendations from the five sessions were directed to the relevant government departments and political parties for action:

- (i) While a number of native chiefs have been involved in the on-going review of the Native Court Enactment 1992 and Rules 1995, there has been no continuity in terms of information flow and feedback. It was therefore recommended that the State Attorney-General's Chambers and the Permanent Secretary of the Ministry of Local Government and Housing, in overseeing the review, should involve the widest number of Native Court officials so any amendments are in line with the *adat*.

- (ii) It was recommended that amendments to the Native Court Enactment 1992 should include a provision to enable the Native Courts to play an advisory and/or verification role relating to customary lands and history of native settlements, and to empower district chiefs to provide advice on land-related *adat* to relevant departments, including during Land Utilisation Committee meetings.



Participants and organisers at the FTILS in Telupid

- (iii) Clear guidelines should be in place for the appointment of district and native chiefs and village heads, to ensure their integrity and independence in upholding the *adat*; this should not be tainted by interference from political parties.
- (iv) The Interpretation (Definition of Native) Ordinance 1952 should be reviewed, and the State should conduct proper surveys to validate the status of natives.
- (v) Native Courts should be supported in the documentation of the *adat* and customs related to *sogit* (fines) for each ethnic group, as a reference point for Native Courts and village heads.
- (vi) The State and Federal Governments should continue providing financial and political support to Native Courts and for the establishment of the Native Court Training Institute. Such support should not only be for infrastructure development but also for human and technical resources. This would enable the institute to plan and implement programmes to train court personnel, youth and other members of the indigenous community to appreciate their *adat*.
- (vii) The Native Courts should play a more active role in inter-generational teaching of the *adat* particularly to youth.
- (viii) The Native Courts should hold dialogues with the Syariah Courts to clarify jurisdictional questions in order to promote harmony and respect between the two systems. In particular, Section 9 of the Native Court Enactment 1992 needs to be reviewed in relation to the adoption of children and land heritage claims.

- (ix) The structure and administration of the Native Courts should be reviewed toward greater efficiency, and to bring them in line with the *adat* and culture of IPs. The proposal to establish a Native Court Judiciary Department received strong support from many quarters.
- (x) District offices should provide full support to Native Court personnel, particularly those relying on the district office for administrative personnel and office space. In this respect, it was pointed out that the Beluran District Officer had prevented Native Court personnel from attending the FTILS, even though the director of the Sabah Native Affairs Office – which has jurisdiction over Native Courts – had approved their participation.



Youth participated actively in the FTILS

4. ROAD SHOWS ON HUMAN RIGHTS

The Sabah Office sustained its participation in the mobile complaints counters operated by the Federal and State Public Complaints Bureaux (PCB). Typically, these feature the services of 25-35 government departments and agencies which set up complaints counters to enable easy access to the public in the respective districts. Suggestions are also received on improvements to the efficiency and performance of public services.

The 771 visitors to the Commission's counters over the year comprised:

- 163 in Kudat on 30 March, at the PCB with the Chief Minister's Department (CMD)
- 300 in Kota Kinabalu on 17 April, at the PCB-CMD with the Kota Kinabalu City Council
- 150 in Kota Marudu on 25 June, at the PCB with the Prime Minister's Department (PMD)
- 158 in Putatan on 30 October, at the PCB-PMD

The Sabah Office participated in an exhibition on Anti-Trafficking in Persons, organised by the Kota Kinabalu City Council and several NGOs on 29 July, to enhance awareness of the issue and to promote the Commission's work.

5. WORLD INDIGENOUS PEOPLES' DAY CELEBRATION

The Indigenous Peoples Network of Malaysia invited the Commission to contribute to the national-level celebration of the event, held in Sabah from 5-9 August. The Sabah Office responded with an exhibition on IPs' rights and conducted a day-long forum on 'Indigenous Economic Development' with assistance from the Commission's headquarters. (Please see Report of the Indigenous Peoples' Rights Committee, page 103). The Commission also participated in activities aimed at strengthening cooperation among IPs and educating the public on indigenous rights.



Releasing merbok as a symbolic gesture



Organisers of the forum with speakers

The Commission's Recommendations

1. The Government should provide financial support for the annual event and participate in it.
2. The organisers should include dialogues with the Government in the programme, to discuss the status and development of IPs.
3. The organisers should continue to highlight indigenous issues through public fora and exhibitions during the annual event.

6. MEETINGS WITH GOVERNMENT DEPARTMENTS

A number of meetings were held at the invitation of government departments to discuss issues of common concern. Such focused dialogues have been especially helpful to the Commission in understanding the perspective of the government departments on complaints received from the public. At the same time, the meetings allow the Commission an opportunity to present the essence of such complaints from a human rights perspective. The Commission is committed to continuing such dialogues as part of its mandated function to advise the Government and to bring about amicable solutions to problems.

(a) Briefing on Communal Titles (CTs)

On 11 January, the Director of the Sabah Lands and Surveys Department explained the objectives and process of issuing CTs to a number of stakeholders. The fast-tracked issuance of CTs is a new directive from the State Government, aimed at poverty alleviation among IPs and to ensure land security by prohibiting the sale of land. Questions raised during the session were related mainly to the joint-venture approach for CTs and the status of NCR to land under the CTs.



State Legislative Assembly representatives were also at the briefing on Communal Titles

Without prejudicing the findings of the Report of the NI, due in 2012, the Commission offered these recommendations for the State Government's consideration:

1. Adequate time should be allocated for dialogues with affected communities prior to the issuance of CTs, not just one discussion with community leaders and another with communities.

2. The Sabah Lands and Surveys Department should prepare written materials to address key concerns of communities about the CTs, and ensure these are disseminated as widely as possible.
3. A clear collective decision-making process and mechanism should be outlined to determine whether indigenous communities agree to NCR land falling within the CTs.
4. Affected communities should be given options to develop the land under CTs, including a realistic calculation of benefits and dividends to be paid to beneficiaries as a result of the joint venture.
5. The special conditions attached (now in fine print at the end of every CT) should be reviewed in consultation with the affected communities.
6. To prevent conflicts of interest and misunderstanding, there should be separation of the decision-making process to approve CTs and to develop land under the CTs; currently the Sabah Lands and Surveys Department is heavily involved in both.

(b) Meeting on Issues Related to Forest Reserves

On 31 March, the Director and officers of the Sabah Forestry Department met the resident Commissioner, Ms Jannie Lasimbang, and two NGO representatives to discuss issues relating to land and the NI.

Without prejudicing the outcomes of the NI Report, the Commission made these recommendations for the State Government's consideration:

1. The Forestry Department should undertake a settlement exercise involving land claimed by natives and found within forest reserves, and to identify possible resolution of conflicts that recognises IPs' rights.
2. The police should take a neutral stand during conflicts, and play their role to maintain peace and security.

7. HUMAN RIGHTS ACTIVITIES

(a) Medical Care for Inmates of the Kimanis Temporary Detention Centre

Following up on a visit to the centre in 2010, the Commission facilitated the provision of medical care to inmates. Three visits were conducted through a joint project between the Sabah Office and Mercy Malaysia's Sabah Chapter.



More than 500 inmates received medical care over the three visits to the Kimanis Temporary Holding Centre

- On 12 March, 199 inmates received medical care from 30 Mercy Malaysia volunteers, including 10 doctors.
- The next visit on 9 July, also involving 30 volunteers including 10 doctors, saw treatment provided for 171 inmates.
- On 12 November, 171 inmates received treatment from 29 volunteers including 10 doctors.

At a meeting with the Consul-General of the Philippines and his delegation on 14 October, the Commission shared its experience on this project and discussed other possible ways to collaborate in future.

(b) Education on Human Rights

The Sabah Office liaised with the Education and Promotion Working Group to provide human rights training to RELA recruits as part of their training curricula. These sessions provided the recruits the opportunity to ask questions about the Commission's roles and functions. As a large number of recruits attend such training, this represents an important avenue for education on human rights.

The programme saw 250 participants being trained on 2 March, 200 on 12 April, 250 on 23 April, 215 on 6 May, 220 on 13 May, 200 on 15 June, 220 on 26 September and 200 on 10 October.

The resident Commissioner was involved in giving talks at several events:

- On human rights at an event for some 80 youth, organised by the Rotary Club of Kota Kinabalu on 13 March

- On land rights and IPs at the Universiti Malaysia Sabah's Land Symposium on 15 June; and
- On the rights of persons with disabilities (PWDs), at an event organised by the Sabah Cheshire Home on 14 November

8. LOOKING FORWARD

Having done much of the ground work on indigenous legal systems during the year, the Sabah Office will focus on engaging with relevant bodies to realise the recommendations of the Native Courts and village representatives. In particular, the Sabah Office will contribute to the realisation of the Native Court Training Institute and its future activities.

The Sabah Office will devote part of its energy to assisting in the completion of the NI, and following up on the dissemination and implementation of the Report once it is launched. This will be done by holding specific dialogues with various parties.

Finally, the Sabah Office will endeavour to improve its management of complaints received and enhance public knowledge of human rights. Two new activities are envisaged relating to the rights of PWDs and to citizenship rights.

REPORT OF THE SARAWAK OFFICE

Human Beings, indeed all sentient beings, have the right to pursue happiness and live in peace and freedom.

Tenzin Gyatso, 14th Dalai Lama

The Commission's Office in Kuching has kept up emphasis on promoting and protecting human rights in Sarawak in several ways. The investigation of complaints of human rights violations remains a key responsibility, especially in land-related issues. Field trips were made to the interior to investigate specific complaints.

Coordinating with the relevant Working Groups at the Commission's headquarters in Kuala Lumpur, the Office also organised several talks during the year. These efforts were complemented by cooperation from various government agencies and NGOs.

1. ACTION ON COMPLAINTS

The Commission received 104 complaints over the year (Table 1), of which 68 were related to Native Customary Rights (NCR) to land. It was frequently alleged that the State Government had not sufficiently recognised NCR to land, and had failed to issue documents of title to genuine claimants. There were also claims that logging and plantation companies had encroached into native customary land, and that the quantum of compensation was inadequate.

Other categories of complaints centred on allegations of inaction or delay by the police, environmental issues and abuse of administrative powers. The Commission closed 21 cases (20.2%) over the year, while 51 cases (49%) were found to be unrelated to human rights violations and therefore required 'No Further Action'. In seeking resolution of the complaints, the Commission received cooperation from government departments and assistance from NGOs. Another 32 cases (30.8%) are being processed by the relevant authorities.

Table 1: Complaints Received by the Sarawak Office, 2011

NO.	NATURE OF COMPLAINTS	NO. OF CASES
1.	Native Customary Rights to Land	68
2.	Enforcement	8
3.	Environment	2
4.	Health	2
5.	Miscellaneous	24
	TOTAL	104

2. NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES IN MALAYSIA (NI)

Over the past 10 years the Commission has been receiving complaints from the indigenous communities of Sarawak, expressing disappointment and frustration over what they regard as the Government's failure to resolve land matters that have adversely affected their livelihood. The IPs have expressed concern about the depletion of natural resources, problems with exerting NCR to land, difficulty of access to medical services, and lack of basic educational facilities.

The Commission is therefore carrying out the NI to address the main issues. In line with this, public consultations were held with stakeholders around Sarawak from 17-30 September (Table 2).

Table 2: NI – Public Consultations in Sarawak

NO.	DATE	LOCATION
1.	17 September	Kuching
2.	18 September	Serian
3.	20 September	Betong
4.	22 September	Sibu
5.	24 September	Kapit
6.	26 September	Bintulu
7.	28-29 September	Miri
8.	30 September	Limbang

The IPs living in the interior continue to express bewilderment as to why their land is being taken away for the purpose of development. The Commission has consistently held dialogues to address issues such as flagrant trespass into native customary land or *Tanah Adat* borders by irresponsible logging and plantation companies. For example, in Suai, Batu Niah, plantation companies were found to have cut down trees planted years before, with inadequate compensation for the loss of trees. The companies were also found to have cut trees outside their assigned concession areas.

The IPs have expressed concern about the depletion of natural resources, problems with exerting NCR to land, difficulty of access to medical services, and lack of basic educational facilities.

Other issues raised were the villagers' dissatisfaction with the quantum of compensation for land acquired for development purposes. The authorities are therefore advised to exercise extra caution on matters relating to native customary land, to avoid unsupervised development from taking place. They should also ensure that the Indigenous communities are included in the process.



Public consultation in Serian in conjunction with the NI

3. TALKS ON HUMAN RIGHTS

The Commission organised eight talks with assistance from the Central Prison in Miri and Sibu, Police Training Centre (PULAPOL), the State Treasury Department, UMW Toyota and RELA among others. These were to raise awareness of human rights among various communities, to enable them to stand up for their rights. The sessions also served as a stepping stone for future activities aimed at educating the public on their rights.

The sessions enabled the participants to express opinions or concerns about:

- The Commission’s powers and role as a defender of human rights
- Impending abolition of the Internal Security Act 1960
- Disputes over land between the State Government and indigenous peoples
- Right to vote, for example, by prisoners
- Illegal immigrants



Talk organised with RELA in Limbang

Table 3: Talks on Human Rights, 2011

NO.	DATE	VENUE
1.	27 January	Central Prison, Miri
2.	28 January	Central Prison, Sibu
3.	15 March	PULAPOL, Kuching
4.	20 June	RELA, Limbang
5.	11 July	State Treasury, Kuching
6.	26 July	UMW Toyota, Kuching
7.	24 October	INTAN Kampus, Kota Samarahan
8.	9-10 November	Universiti Malaysia Sarawak, Kota Samarahan

4. VISIT TO BENGOH HYDRO DAM

On 22 February, the Commission visited the Bengoh Hydro Dam site in Kuching. The State Government had proposed the project in 2007 to boost water supply to the Greater Kuching area up to 2030.

Naim Cendera Sdn Bhd briefed the Commission on the project, as well as issues raised by the residents of four villages – Kampung Sait, Kampung Pain Bojong, Kampung Rejai and Kampung Semban – who are affected by the construction work. The villagers are not happy with the location designated for their resettlement and the quantum of compensation. The Commission also visited the proposed resettlement site.



Briefing by Naim Cendera Sdn Bhd

5. DIALOGUE ON THE PROPOSED RESETTLEMENT LOCATIONS FOR THE MURUM PENAN COMMUNITIES

On 29 March, the Commission was invited as an observer to a dialogue session on the proposed locations for resettlement of the Murum Penan communities. This was held at the Asap Koyan Development Community Meeting Hall in Uma Balui Liko in Sungai Asap. The session was organised by the State Planning Unit and coordinated by Chemsain Konsultant Sdn Bhd (CKSB).

The session followed up on dialogues held between the State Government, consultant and affected communities to negotiate the terms and details of relocation of villagers affected by the construction of the Murum Hydroelectric Project. The Penan representatives were informed about the outcome of CKSB's discussions with the State Government in relation to the villagers' demands.

6. LAUNCH OF FREEDOM FILM FESTIVAL 2011

The Commission was invited to launch the event, held for the fourth time in Sarawak. The objective was to create awareness of human rights, and the need to eliminate racism and discrimination among the people.

The State Commissioner, Mr Detta Samen, pointed out ways to overcome discrimination, so the people can live in peace and harmony and with greater tolerance.



Launch of Freedom Film Festival 2011

7. COURTESY CALL ON THE SPEAKER, SARAWAK LEGISLATIVE ASSEMBLY

On 24 November, a courtesy call was paid on Datuk Seri Haji Awang Asfia Awang Nassar, the Speaker of the Sarawak Legislative Assembly. The Commission was represented by its Chairman, Tan Sri Hasmy Agam, and Commissioner Mr Detta Samen. The Speaker was briefed on the Commission's mandate and activities. The purpose of the meeting was to facilitate networking with State legislators and to discuss issues of human rights and relevant current matters.

8. COURTESY CALL ON THE DIRECTOR, RADIO TELEVISION MALAYSIA

A team from the Commission, headed by the Chairman, paid a courtesy call on Abdul Jalani@Jailani Mohd Mahmud, the Director of Radio Television Malaysia in Kuching on 16 December. The objective was to strengthen ties with the broadcast station. The Commission's representative was interviewed on *Sarawak FM*, on issues of human rights and upcoming activities.

9. HUMAN RIGHTS AND THE MEDIA

The Commission held a dinner for the media, hosted by the Chairman, on 16 December in Kuching. This was intended to enhance the Commission's relationship with the local media and to promote human rights issues. About 15 media representatives attended the dinner.

In his speech, the Chairman stressed the importance of the media in disseminating information on human rights and their role as friends and defenders of human rights. He also touched on the Commission's role in international human rights institutions.

10. MEDIA INTERVIEWS

The State Commissioner gave interviews on radio and television and to the print media. The emphasis was on raising the Commission's profile, educating the public on human rights, and informing them about upcoming activities.



Media interview



Interview on NI

11. LOOKING FORWARD

The Commission is committed to enhancing its ties with the State Government, NGOs and local communities in extending awareness of human rights. Through its activities, in particular the on-going NI, it hopes to encourage the State Government to review legislation pertaining to the rights of indigenous peoples. The Sarawak Office will also look into improving the mechanism of receiving and resolving complaints.

REPORT OF THE PUBLIC INQUIRY

Everyone has the right to freedom of peaceful assembly and association.

Article 20, UDHR

The Commission received numerous memoranda from organisations and individuals on allegations of infringement of human rights by the authorities prior to and during a public assembly in July, in support of the demands of Bersih 2.0 for clean and fair elections. Pursuant to Section 12(1) of the Human Rights Commission of Malaysia Act 1999, a Panel was set up to inquire into the allegations.

1. BACKGROUND

On 9 July, a gathering was held to show support for demands by Bersih 2.0 toward clean and fair elections. The Government responded by declaring the movement to be an illegal entity and took certain measures, including arresting individuals who were associated with it. A massive operation was mounted by the police to prevent those who wished to join the assembly from entering the proposed place of assembly in Kuala Lumpur.

The focus of the Public Inquiry is on incidents of human rights infringements allegedly committed by personnel of police.

The Commission received a number of memoranda and complaints from parties and individuals, alleging infringement of human rights. Taking into account the importance of the issues raised, the Commission made the decision on 14 July to hold a Public Inquiry.

Based on the submissions received and interviews conducted with witnesses who had come forward, the Panel decided to focus on incidents of human rights infringements allegedly committed by police personnel in the vicinity of the Tung Shin Hospital, Chinese Maternity Hospital, Puduraya, Menara Maybank, Jalan Pudu, Jalan Travers, Jalan Raja Laut and KL Sentral.

Three Commissioners – Prof Datuk Dr Khaw Lake Tee (Chairperson), Prof Dato’ Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen – were appointed to conduct the Public Inquiry.

2. THE PUBLIC INQUIRY

The terms of reference for the Panel of Inquiry are:

1. To determine whether there were any violations of the human rights of any person or party prior to and during the public assembly;
2. If violations of human rights did occur, to determine:
 - How such violations came about;
 - What administrative directives and procedures or arrangements contributed to such violations; and
 - Which person or agency was responsible for such violations.



*Panel Members (left to right) Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid,
Prof Datuk Dr Khaw Lake Tee (Chairperson) and Mr Detta Samen*

3. To recommend measures to be taken to ensure that such violations do not recur.

As at 31 December, the Panel had conducted seven sittings. These were held on 11 October, 15 November, 16 November, 22 November, 23 November, 19 December and 20 December. To date, 16 witnesses have given testimony. The Panel of Inquiry conducted site visits to Tung Shin Hospital and Jalan Travers respectively, to get a better understanding of the witnesses' accounts.

The sittings will continue into 2012 as certain witnesses have yet to be called. A Report will be published on completion of the Public Inquiry.

REPORT OF THE NATIONAL INQUIRY COMMITTEE

National Inquiries into systemic patterns of human rights violation have been one of the most effective and most innovative means by which national human rights institutions have undertaken their work of protecting and promoting human rights.

*Kieren Fitzpatrick
Director, Asia Pacific Forum of National Human Rights Institutions*

Over the year, the Commission built on its initiative to conduct its first-ever National Inquiry (NI) into the Land Rights of Indigenous Peoples (IPs) in Malaysia. The Commission decided to conduct the NI following numerous complaints and memoranda received over the years on alleged infringement of the rights of the IPs to native customary land.

These alleged infringements, which are in various forms, are long standing, persistent and systemic in nature, affecting the rights of these communities. The NI will examine the root causes of the problems relating to Native Customary Rights (NCR) to land in a comprehensive manner and from a human rights perspective, and recommend appropriate solutions.

1. TERMS OF REFERENCE

The NI is based on these revised Terms of Reference:

- (i) To determine the constitutional, legal, administrative and political recognition of the IPs' right to land and their effectiveness in protecting and promoting the IPs' right to land
- (ii) To inquire into the land-rights situation of the IPs and the impact of the recognition or non-recognition of their right to land on their social, economic, cultural and political rights, taking into consideration relevant international and domestic laws
- (iii) To identify the constraints which impede the full enjoyment of the IPs' right to land in accordance with their needs and requirements
- (iv) To create and promote awareness, knowledge and understanding of the IPs' right to land and their way of life

- (v) On the basis of the facts and determinations arising from the NI, to develop recommendations to the Federal and State Governments relating, but not limited, to:
- The review of land laws and other related laws and policies, with a view to incorporating a human rights focus, addressing in particular the problems faced by IPs in their land claims
 - The formulation of strategies and a plan of action with the aim of protecting and promoting the IPs' right to land as an indivisible and integral part of the protection and promotion of their other human rights

2. COMPOSITION OF THE NI PANEL

The Commission's Chairman, Tan Sri Hasmy Agam, chairs the NI Panel, in which other Commissioners sit as members (Table 1).

Table 1: NI Panel

SABAH	SARAWAK	PENINSULAR MALAYSIA
Tan Sri Hasmy Agam	Tan Sri Hasmy Agam	Tan Sri Hasmy Agam
Ms Jannie Lasimbang	Mr Detta Samen	Prof Datuk Dr Khaw Lake Tee
Mr Muhammad Sha'ani	Mr James Nayagam	Ms Jannie Lasimbang

The NI Panel is assisted by a line of independent consultants who have been selected by the Commission in recognition of their wide knowledge, experience and expertise in the field of indigenous rights. The independent consultants are:

- Tan Sri Datuk Seri Panglima Simon Sipaun (Sabah)
- Dato' Ranita Mohd Husein (Sarawak)
- Mr Andrew Khoo (Sarawak)
- Datuk Dr Denison Jayasooria (Peninsular Malaysia)
- Dr Colin Nicholas (Peninsular Malaysia)

3. THE PROCESS OF THE NI

To ensure that the objectives of the NI are met, the Commission is committed to a comprehensive process involving all stakeholders, in particular the Federal and State Governments, indigenous communities, private sector, academicians and civil society groups.

(a) Introductory Sessions

To ensure that all stakeholders understand the true intention of the Commission; appreciate the Terms of Reference; and participate actively in the process of the NI, the Commission held a series of introductory sessions in the Peninsula, Sabah and Sarawak.

Table 2: Introductory Sessions for Federal and State Representatives

DATE	PROGRAMME
14 January	Chief Secretary to the Government and Attorney-General
2 March	Selangor Government
3 March	Members of Parliament, State Legislators and Senators, Sabah
31 March	Department of Forestry, Sabah
11 April	Kelantan Government
20 April	Department of Wildlife and National Parks
28 April	Department of Orang Asli Development
26 May	State Secretary, Johor
15 June	Department of Lands and Surveys, Sabah
23 June	State Secretary, Perak
28 July	State Secretary, Pahang
25 August	State Secretary, Sarawak

Table 3: Introductory Sessions for Civil Society and the Media

DATE	PROGRAMME
11 February	Civil Society and the Media, Kuala Lumpur
16 February	Civil Society and the Media, Kota Kinabalu, Sabah
23 February	The Media, Kuching, Sarawak
24 February	Civil Society, Kuching, Sarawak



Participants at the NI Introductory Session held in Kuala Lumpur

At those sessions, the Commission invited the stakeholders to participate in the scheduled consultation process, and to contribute submissions on issues affecting the land rights of the IPs from their perspective and purview.

(b) Public Consultations

Through the consultation process, the Commission aimed to gather, as much as possible, information on areas of conflict pertaining to indigenous land and related evidence, as well as applicable laws, procedures and policies. In April, invitations were sent to all stakeholders including, but not limited to, key government departments and agencies, indigenous communities, the private sector, NGOs and the media, to attend the consultations.

The Commission started its consultations in Sabah, followed by the Peninsula and Sarawak. To encourage stakeholders' participation and cooperation, the sessions were held in different areas of the States.

In each consultation area, a briefing on the NI was followed by a short dialogue session with the IPs present. The Commission's officers then recorded statements from those who wished to provide one, either individually or in groups. At the same time, the Commissioners consulted representatives of the Government in a more informal manner to get feedback on cases raised during the dialogue (if any) and from the Government's perspectives and experience pertaining to land issues and recognition of land rights of IPs, and to ascertain measures that have been taken thus far. Meetings were held with some NGOs, the private sector and key individuals.

(i) Consultations in Sabah

The sessions were held over 15 days from 17 June to 5 July in several districts (Table 4).

Table 4: Consultations in Sabah

DATE	VENUE	FOCUS AREA
17 June	Dewan Masyarakat Keningau	Keningau
18 June	Dewan Masyarakat Tenom	Tambunan, Tenom
19 June	Dewan Masyarakat Keningau	Nabawan, Pensiangan
20 June	Dewan Masyarakat Keningau	Sipitang
22 June	Dewan Masyarakat Penampang	Kota Kinabalu, Penampang, Tuaran
23 June	Dewan Masyarakat Penampang	Ranau, Kota Belud
24 June	Dewan Serbaguna Damai, Kota Kinabalu	Papar, Kuala Penyu, Beaufort
26 June	Dewan Masyarakat Kota Marudu	Kudat
27 June	Dewan Masyarakat Kota Marudu	Kota Marudu
28 June	Dewan Masyarakat Kota Marudu	Pitas, Paitan
30 June	Dewan Masyarakat Tawau	Tawau, Semporna
1 July	Dewan Masyarakat Tawau	Lahad Datu, Kunak
3 July	Dewan Institut Latihan Perindustrian, Sandakan	Sandakan
4 July	Dewan Institut Latihan Perindustrian, Sandakan	Kinabatangan
5 July	Dewan Institut Latihan Perindustrian, Sandakan	Beluran

Of the 2,875 participants who attended the consultation sessions in the five districts, 407 were prevailed upon to provide statements and evidence to officers/statement documenters.

(ii) Consultations in the Peninsula

The sessions were held over 14 days from 15 July to 29 July in nine locations in five States (Table 5).



Participants at the NI Consultation in Gua Musang, Kelantan

Table 5: Consultations in the Peninsula

DATE	VENUE
15 July	Dewan Merdeka Tapah, Perak
17 July	Dewan Rumah Rehat, Gerik, Perak
19-20 July	Dewan Komuniti RPS Kuala Betis, Gua Musang, Kelantan
22 July	Dewan Komuniti Pos Betau, Kuala Lipis, Pahang
23 July	Dewan Komuniti Kg Pian, Kuala Krau Temerloh, Pahang
25 July	Dewan Orang Ramai Tenang, Segamat, Johor
26 July	Dewan Orang Ramai Parit Raja, Batu Pahat, Johor
28 July	Dewan Orang Ramai Telok Panglima Garang, Selangor
29 July	Dewan Seroja, Sg Tua, Selayang, Selangor

A total of 2,018 participants attended the sessions; 287 of them provided statements and evidence to officers/statement documenters.



Statements being recorded in Penampang, Sabah

(iii) Consultations in Sarawak

The sessions were held from 17-30 September in several districts (Table 6).

Table 6: Consultations in Sarawak

DATE	VENUE
17 September	Dewan Suarah Kuching
18 September	Dewan Suarah Serian
20 September	Dewan Suarah Betong
22 September	Dewan Suarah Sibu
24 September	Dewan Suarah Kapit
26 September	Dewan Suarah Bintulu
28 September	Dewan Suarah Miri
29 September	Dewan Suarah Miri
30 September	Dewan Suarah Limbang

A total of 1,803 participants attended the sessions, with 198 providing statements and evidence to officers/statement documenters.

(iv) Key issues arising from the consultations

Varying issues were raised by the native communities in Sarawak, Sabah and the Peninsula. However, a key complaint in all three regions was that the IPs' perspectives on land ownership – which differ from those of the Government – are not recognised. Despite constitutional guarantees, current land-related laws and policies only embody the State's perspectives. This gives rise to a high level of dissatisfaction and frustration whenever IPs' claims to land are processed.

A key complaint in all three regions was that the IPs' perspectives on land ownership – which differ from those of the Government – are not recognised.

In Sabah, the communities alleged that there are unreasonable delays on the part of the authorities in processing their land applications; this has led to the deprivation of their right to native land, as well as encroachment by others. Some complainants claimed that they have not received any feedback for land applications made as early as the 1960s. Others alleged that native land that they had applied for had been alienated to other individuals, government agencies and private companies who applied after them. A few objected to the issuance of Communal Titles. A significant number of complainants were unhappy that their native customary lands had been placed within forest and other reserves and plantation schemes.

In Sarawak, the majority of statements were also about unreasonable delays in processing land applications, as well as about encroachment into areas claimed to be native customary lands.

In the Peninsula, a significant number of complainants urged the authorities to expedite the process of gazetting their land as Orang Asli reserve. Others questioned the authorities' action to grant licences for plantation schemes, logging and/or projects on land claimed by the Orang Asli.

Other areas of common dispute related to, among others, water catchment, state/national parks, encroachment by third parties and the compensation process and valuation of land acquired for other purposes.

(c) Research

To support the process of the NI, the Commission appointed researchers to undertake in-depth study into the land rights of the IPs in Malaysia including, but not limited to, cases involving land conflicts, laws and policies affecting indigenous land and the extent to which these comply with international human rights standards. GIS mapping of claimed indigenous boundaries/territories for key cases will be conducted.

The researchers are based in Universiti Malaya, Universiti Malaysia Sabah and Universiti Malaysia Sarawak. Issues, facts, analysis of laws, and practices and procedures involving IPs' land will be reviewed based on international standards and law.

(d) Submissions by Stakeholders

In ensuring that all stakeholders are given equal opportunity to participate in its NI, the Commission welcomes written submissions on matters pertinent to the land rights of IPs in Malaysia. Invitations were sent to key government departments and agencies, community-based organisations, NGOs and the corporate sector, among others, to deliver their submissions by 15 December. The stakeholders were requested to ensure that their submissions are based on the Terms of Reference.

The Commission has received a total of 61 submissions from the indigenous community, government agencies and NGOs (Table 7).

Table 7: Submissions Received

STAKEHOLDERS	NO. OF SUBMISSIONS
IPs Community	35
Government Agencies	18
NGOs	8
TOTAL	61

(e) Public Hearings

On completion of the processes outlined and in order to verify or obtain further information and evidence from the witnesses, the NI Panel will conduct public hearings in several areas around the Peninsula, Sabah and Sarawak. Invitations to appear before the NI Panel will be extended to relevant witnesses such as IPs, government officials, community-based organisations, corporate personnel and the media.

Where unavoidable, subpoenas may be issued to witnesses to assist in the NI. This power will be exercised pursuant to Section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commission thinks necessary or desirable to procure or examine.

The public hearings are scheduled to begin in January 2012 and to be completed in July 2012.

4. LOOKING FORWARD

The NI is expected to highlight critical issues relating to land rights of IPs. It will look into these issues against international human rights standards and commitments, and is aimed at restoring IPs' right to land and contributing to the overall progress of human rights in Malaysia.

It is pertinent to stress that the NI is not meant to resolve individual problems received during the consultations or through public submissions, but to identify key issues based on these processes and to find amicable solutions from a human rights perspective.

Nonetheless, the Commission will ensure that it intensifies its engagement with stakeholders, especially the Government, so that recommendations manifesting from the NI are given serious attention and implemented by the appropriate departments and agencies. It is also envisaged that the Report on the NI will contribute to a more informed public and a better appreciation of the human rights of IPs in general.

CHAPTER 11

REPORT ON THE HUMAN RIGHTS AWARDS

The Commission presented its inaugural Human Rights Awards in conjunction with World Human Rights Day on 10 December in Kuala Lumpur. This was to acknowledge and honour outstanding contributions of individuals and organisations who have contributed much energy and effort to the promotion and protection of human rights. The winners received RM2,000, a certificate and a plaque.



The Commission received a total of 31 nominations for the three categories:

(i) The Community Award (Individual)

To an individual with a proven track record in promoting and advancing human rights in the community on a non-profit basis.

(ii) The Community Award (Organisation)

To a non-governmental or community-based organisation with a proven track record in promoting and advancing human rights in the community

(iii) The Media Award

For work published in Malaysian magazines, newspapers and the online media, or for drama, news or current affairs programme or documentary broadcast on TV or radio for the past two or three years, and particularly but not exclusively, between 31 October 2010 and 1 November 2011.

To qualify, a nominee must have made an outstanding contribution to the promotion and protection of human rights in Malaysia in at least one of the following areas, and must have been active in this area for the past two or three years, and particularly but not exclusively, between 31 October 2010 and 1 November 2011:

- Acting to overcome discrimination or infringement of human rights
- Encouraging greater harmony between people of different ethnic origin, religion, sex, age or other differences

- Enhancing the rights of indigenous peoples
- Promoting equal opportunity for persons with disabilities (PWDs)
- Making exceptional contributions to the promotion and protection of human rights in society
- Increasing awareness of issues of injustice or inequality

1. NOMINATIONS

(a) The Community Award (Individual)

NO.	NOMINEES
1.	Prof Dr Jayum Anak Jawan, Universiti Putra Malaysia
2.	Wong Nam Sang, Activist for PWDs
3.	Prof Emeritus Dato' Dr Hood Mohd Salleh, Universiti Kebangsaan Malaysia
4.	Charles Hector Fernandez, Human Rights Activist
5.	Tijah Yok Chopil, Orang Asli Activist
6.	Dr Poline Bala, Universiti Malaysia Sarawak
7.	Dr Hartini Zainuddin, Yayasan Salam
8.	Norlina Alawi, <i>Persatuan Kebajikan Anak-Anak Pesakit HIV/AIDS Nurul Iman Malaysia</i>
9.	Betty Yeoh, All Women's Action Society Malaysia
10.	Maria Chin Abdullah, All Women's Action Society Malaysia
11.	Nora Murat, Amnesty International Malaysia
12.	Dato' Mah Hassan Hj Omar, <i>Persatuan Orang Cacat Malaysia</i>

(b) The Community Award (Organisation)

NO.	NOMINEES
1.	Amnesty International Malaysia
2.	Education and Research Association for Consumers, Malaysia
3.	<i>Pertubuhan Keselamatan Sosial</i>
4.	SEKSUALITI MERDEKA
5.	<i>Suara Rakyat Malaysia (SUARAM)</i>
6.	All Women's Action Society Malaysia

(c) The Media Award

NO.	NOMINEES	SUBMISSIONS
1.	Araffie Anak Igat, <i>TV3 Sarawak</i>	News reports: • <i>Ibu Muda Penan</i> • <i>Penempatan Empangan Bakun</i>
2.	Stephanie Sta Maria, <i>Free Malaysia Today</i>	News reports: • A Stroke of Seeking Pain • Caning: Deterrent or Abuse?
3.	Thor Kean Keong, <i>Siasat (Mandarin Edition), NTV7</i>	Your Country My Home 1
4.	Selina Kong Lik Hwan, <i>Siasat (Mandarin Edition), NTV7</i>	Young Maid For Sale 1
5.	Chio Keng Lin, <i>Nanyang Siang Pau</i>	News reports: • <i>Keadilan Akhirnya Ditegakkan</i> • Safeguard Your Loved One • It Is A New Malaysia Day
6.	Mohd Nizam Mohamad Yatim, <i>Utusan Malaysia</i>	News report: • <i>Suruhanjaya Hak Asasi Bukan Musuh</i>
7.	Alyaa Abdul Aziz Alhadjri, <i>The Sun</i>	News reports: • Orang Asli Want A Bigger Voice • Call For Help To Educate Migrant Children

NO.	NOMINEES	SUBMISSIONS
8.	Mohd Nazrul Azim Shariddin, <i>Utusan Malaysia</i>	News reports: • <i>Menyelami Kehidupan Orang Asli</i> • <i>Apabila Pelancong Hidup Seperti Orang Asli</i> • <i>Sg Ruil Penempatan Orang Asli Sejak 1960</i>
9.	Mariatul Qatiah Zakaria, <i>Utusan Malaysia</i>	News report: <i>Nasib Anak Pelarian (Bergelandangan di Negeri Orang)</i>
10.	Rosmah Mohd Dain, <i>Utusan Malaysia</i>	News reports: • <i>Suka Duka Pesakit Kusta</i> • <i>Derita Isteri HIV</i> • <i>Stigma Pesakit Mental</i> • <i>Gelandangan Kota</i>
11.	Khairunnisa Sulaiman, <i>Utusan Malaysia</i>	News report: <i>Kraftangan Mah Meri ke Persada Dunia (Produk Orang Asli di Pasaran Internet)</i>
12.	Abdul Samad Muhammad Said, poet and novelist	For voicing human rights issues through his poetry
13.	Jabatan Penyiaran Malaysia	Documentaries: • <i>Kanta Hati</i> • <i>Nyob Wira (Andalah Wira)</i> • <i>Cahaya Bukit Kala</i> • <i>Program Hiburan Sambil Beramal – Hari Amal Sabah Vfm</i> • <i>My World – Zara the Semai Girl/Zara Gadis Semasa</i>

2. RECIPIENTS OF AWARDS

The Commission's Chairman, Tan Sri Hasmy Agam, addressing the Awards ceremony said: "The Commission hopes that every policy or law being formulated in the interests of the country will not only comply with provisions in the Federal Constitution, but also with universal human rights principles and norms."

He congratulated recipients of the awards and recorded his appreciation to the other nominees, activists and human rights defenders: "I believe that such Awards can trigger spirit and determination, and be an inspiration to others to continue their efforts to promote, protect and uphold human rights."

"I believe that such Awards can trigger spirit and determination, and be an inspiration to others to continue their efforts to promote, protect and uphold human rights."

Tan Sri Hasmy Agam

Ms Tijah Yok Chopil received the Community Award (Individual) in recognition of her work in upholding the rights of the Semai communities in particular, and for her active contribution to the Orang Asli communities in the peninsula in general.



Ms Tijah Yok Chopil with the Community Award (Individual)

Suara Rakyat Malaysia (SUARAM) won the Community Award (Organisation) for its relentless campaigns and efforts to promote equal rights.



SUARAM receives the Community Award (Organisation)

Ms Selina Kong Lik Hwan (*Siasat*, Mandarin Edition, NTV7) was honoured in the Media category for her report, *Young Maid for Sale 1*, about the perilous journey of a 14-year-old Cambodian who had been brought to Malaysia illegally to work as a domestic helper.



Ms Selina Kong Lik Hwan won the Media award for 'Young Maid for Sale 1'

In addition, the Commission presented a Special Award to the Integrity School established by the Prison Department, for championing and defending the right of juvenile offenders to education. The Integrity School has been set up in prisons in Kajang, Kluang, Marang, Sungai Petani, Kota Kinabalu and Kuching.



Hj Darussalam Hj Budin accepts the Special Award on behalf of the Prison Department



The Commissioners with recipients of the Human Rights Awards 2011



APPENDICES

THE COMMISSION'S PRESS STATEMENTS 2011

NO.	DATE	TITLE	PAGE
1.	28 Jan	SUHAKAM @ Tenang, Johor: SUHAKAM Launches Mobile Counter	158
2.	8 Feb	SUHAKAM to Review Shi'ah Issues in Malaysia	159
3.	9 Feb	SUHAKAM Retains Its 'A' Status in the ICC After a Long Struggle	160
4.	22 Feb	Capping Political Parties Restricts The Freedom of Association	162
5.	6 April	Cruel, Inhuman and Degrading Punishment Is Against The Principles of Human Right	163
6.	6 April	Freedom of Expression - Restrictive Laws Must Be Reviewed	164
7.	8 April	Roadshow SUHAKAM with The People In Kota Bharu, Kelantan	165
8.	10 May	SUHAKAM to Conduct A National Inquiry Into the Land Rights of Indigenous Peoples In Malaysia	166
9.	31 May	Respect Housing Rights, Stop Forced Demolition of PJS 1	170
10.	8 June	SUHAKAM to Help Facilitate the Early Repatriation of The MV Banga Biraj Crewmen	171
11.	28 June	The Right to Hold Peaceful Assemblies Must Be Protected	172
12.	7 July	The Right to A Peaceful Assembly and Freedom of Expression Must Be Protected	173
13	14 July	SUHAKAM To Hold Public Inquiry Into Allegations of, Amongst Others, Excessive Use Of Force During the Assembly on 9 July 2011	174
14.	21 July	Detention Without Trial Is A Violation of Human Rights Principles	175

15.	22 July	Calling for Public Submission of Evidence And Information On Allegations Of Violations of Human Rights Prior To And During The Public Assembly on 9 July 2011	176
16.	30 July	SUHAKAM Welcomes the Release of The Six Parti Sosialis Malaysia (PSM) Members Detained Under the Emergency (Public Order and Prevention Of Crime) Ordinance 1969	178
17.	2 Aug	Calling for Public Submission of Evidence And Information On Allegations of Violations of Human Rights Prior to and During the Public Assembly on 9 July 2011	179
18.	16 Aug	Public Inquiry Into Allegations of Violations Of Human Rights, Including the Use of Excessive Force by The Authorities Prior to And During The Public Assembly on 9 July 2011 (Update 1/2011 of the Public Inquiry)	181
19.	17 Aug	Positive Moves Towards Upholding the Rights of The People In the Reform of The Electoral System and The Review of Restrictive Media Laws	182
20.	17 Aug	SUHAKAM's Bias: Not Reasonable	183
21.	24 Aug	All Stakeholders Must Be Consulted on The Proposed Amendment to the Aboriginal Peoples Act	184
22.	8 Sept	Press Statement to Commemorate the Malaysian Human Rights Day - 9 September 2011: Moving Forward Towards The Improvement of The Promotion and Protection of Human Rights	185
23.	12 Sept	Malaysian Human Rights Awards 2011 : Calling for Nominations	188
24.	16 Sept	The Repeal of The Emergency Ordinances, the Internal Security Act And The Review Of Existing Security Laws And Other Related is a Positive Move Towards The Improvement of The Human Rights Situation In Malaysia	190
25.	27 Sept	Public Inquiry Into Allegations of Violations Of Human Rights, Including The Use of Excessive Force By The Authorities Prior To and During The Public Assembly On 9 July 2011 (Update 2/2011 of the Public Inquiry)	192

26.	28 Sept	Public Inquiry Into Allegations of Violations of Human Rights, Including The Use Of Excessive Force By The Authorities Prior To And During The Public Assembly On 9 July 2011 (Update 3/2011 of the Public Inquiry)	193
27.	6 Oct	Public Inquiry Into Allegations of Violations of Human Rights, Including The Use Of Excessive Force By The Authorities Prior To And During The Public Assembly On 9 July 2011	194
28.	13 Oct	Death Penalty Is A Grave Violation of Human Rights	195
29.	15 Nov	Public Inquiry Conducted to Inquire Into Complaints On Alleged Human Rights Violations	196
30.	18 Nov	Preventive Detention Laws Contradict The Principles of Human Rights	197
31.	25 Nov	Peaceful Assembly Bill Must Not Impose Restrictions on The Rights of Everyone to Assemble Peacefully	198
32.	25 Nov	Amendment to The Universities And University Colleges Act 1971 Welcomed	200



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM @ TENANG, JOHOR:
SUHAKAM LAUNCHES MOBILE COUNTER

The Human Rights Commission of Malaysia (the Commission) will be monitoring the Tenang By-Election N5, which is scheduled to be held on 30 January 2011. The Commission's Mobile Counter will be operating on Sunday, 30 January 2011 at the Labis bus and taxi terminal, 85300 Labis, Segamat.

The main objectives of the Commission's Mobile Counter is to create awareness of human rights and to ensure that the electoral process respects the universal suffrage especially those of freedom of speech, assembly and association, access to information and rights to safety in relation to elections. Among those who will be monitored include the enforcement bodies, the media and political parties. The Commission's Mobile Counter can be reached during the Tenang By-Election N5 for any complaints on infringement of human rights.

THE COMMISSION'S MOBILE COUNTER (SUHAKAM @ TENANG)

E-mail: complaints@suhakam.org.my

Tel: Commissioner Mr Muhammad Sha'ani Abdullah 013 3363647

Mr Megat Adzwan Shah 010 2917021

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

28 January 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM TO REVIEW *SHI'AH*
ISSUES IN MALAYSIA

The Human Rights Commission of Malaysia (the Commission), in its meeting held today (8 February 2011) has decided that it would review the issue of Shi'ah in the country. This was following several complaints lodged to the Commission on the dissatisfaction with the way the authorities deal with the issue of the Shi'ah in Malaysia.

For this purpose, Commissioner Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid will be responsible to deal with the issue. The Commission will be taking a few actions that involve the relevant parties including the Government agencies, religious bodies, embassies and so forth.

The Commission will also organise a Roundtable Discussion with all stakeholders with the aim to find amicable solutions for all parties. In this regard, the Commission hoped to get full cooperation from all parties concerned.

- END -

"HUMAN RIGHTS FOR ALL"

PROF DATO' DR MAHMOOD ZUHDI HJ AB MAJID

Commissioner

The Human Rights Commission of Malaysia (SUHAKAM)

8 February 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM RETAINS ITS 'A' STATUS IN THE ICC AFTER A LONG STRUGGLE

On 28 January 2011, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) confirmed the Commission's 'A' status.

The Special Review, conducted by the ICC Sub-Committee on Accreditation (SCA) on 13 October 2010, focused on the issues of selection process of new Commission members and the Key performance Indicators (KPIs) of the Commission.

In its report of October 2010 Session, the SCA welcomed the adoption of the two Human Rights Commission of Malaysia (Amendment) Acts and acknowledged the Commission's efforts in pursuing both Amendments Acts. Nonetheless, the SCA also recorded its comments as follows:

1. *(SCA) Notes the ongoing development of KPIs and its previous recommendation that once adopted, they be made public. KPIs should not be used to infringe upon the functional independence and organizational and financial autonomy of an NHRI. The SCA therefore encourages the Commission to ensure that the finalisation of KPIs does not restrict the Institution's ability to review and revise its priorities, dependent upon its assessment of the domestic human rights situation.*
2. *(SCA) Refers to General Observation 1.5 "Cooperation of NHRIs with other human rights institutions" and encourages the Commission to work closely with civil society organizations.*
3. *The Commission is encouraged to continue to seek advice and assistance from Office of the High Commissioner on Human Rights (OHCHR) and the Asia Pacific Forum of NHRIs (APF);*

While the Commission records its appreciation to the Government for the constructive steps taken in the retention of the Commission's 'A' status, it wishes to call upon the Government to finalise and make public the KPIs formulated by the Commission and more importantly, to ensure the KPIs would not infringe upon the functional independence and organisational and financial autonomy of the Commission as commented by the SCA.

Noting the SCA's comment concerning the cooperation with other human rights institutions, the Commission will continue working closely with civil society organisations and other human rights institutions at the local, regional and international levels.

Notwithstanding the challenges facing the Commission, the Commission deems the accreditation process a worthwhile experience and accords its appreciation to all stakeholders who have been great supporters of the Commission's efforts to retain its 'A' status.

- END -

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

9 February 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

CAPPING POLITICAL PARTIES RESTRICTS THE FREEDOM OF ASSOCIATION

The Human Rights Commission of Malaysia (the Commission) expresses its concern with the recommendation made by the Registrar of Societies (ROS) that the number of political parties in the country be capped at 33. While it is within the powers of the ROS to approve or refuse an application for registration under Section 7 of the Societies Act 1966, the Commission strongly feels that limiting the number and restricting new applications are inconsistent with the principles of human rights, curtailing the right to form an association and the right to freedom of expression.

The Commission has, in its Annual Report 2007, recommended that ROS should exercise his powers proportionately to the purpose of the Societies Act; should be transparent and accountable in exercising his powers; that Section 5, which provides for the absolute discretion of the Minister to declare a society unlawful be reviewed; that Section 7 be re-examined to integrate the principles of natural justice; that the applicants be given the right to be heard; that a reasonable timeline and other rules of procedures which affect the registration process be stipulated in the Act; and that the decision must be made and communicated to the applicants within a stated timeframe.

The will of the people forms the basis of the Government's authority, thus the citizens have the right to select their representatives. The right to take part in the Government is a fundamental rights enshrined in Article 119 of the Federal Constitution and Article 21 of the Universal Declaration of Human Rights. Consequently, in any democracy, the freedom to form political parties is an important manifestation of the freedom of association, which allows for the people to express their opinion. Given the fact that the recommendation serves no real purpose and would only generate controversy, the Commission strongly urges the ROS not to proceed with the recommendation, thereby giving due respect to the right of the people to choose their representatives and their political affiliations.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

22 February 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**CRUEL, INHUMAN AND DEGRADING
 PUNISHMENT IS AGAINST THE PRINCIPLES
 OF HUMAN RIGHTS**

The Human Rights Commission of Malaysia (the Commission) expresses its deep regret over the death of a 7-year-old pupil in Perlis allegedly beaten by his teacher for suspected theft. Saiful Syazani Saiful Sopfidee was reported to have succumbed to internal injuries after being beaten and strangled. The Commission deplores such cruelty having been perpetrated on a helpless child of such a tender age, which is against the universal principles of human rights, specifically Article 37 of the Convention of the Rights of a Child (CRC) which states that no child shall be subjected to torture, cruel treatment or punishment, and Article 31(1)(a)(b) of the Child Act 2001 which asserts that it is an offence to abuse a child.

In this regard, the Commission urges all parties concerned to fully respect the provisions contained in the CRC and the Child Act 2001, and reiterates its call for the Government to accede, as soon as possible, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In ensuring the protection and proper development of a child which are consistent with the provisions of the abovementioned Act and Convention and international human rights norms, the relevant authorities should adopt an alternative approach to whipping or caning as a punishment which is more humane and does not adversely affect the child's physical, mental and psychological well-being.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

6 April 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

FREEDOM OF EXPRESSION - RESTRICTIVE LAWS MUST BE REVIEWED

In commemorating the World Press Freedom Day, the Human Rights Commission of Malaysia (the Commission) strongly urges full respect for the fundamental right to freedom of expression as enshrined in Article 19 of the Universal Declaration of Human Rights. Themed '21st Century Media: New Frontier, New Barrier', this year's commemorative day takes note of both the empowering impact of the free exchange and flow of information brought about by the digital age of online media and social networking, as well as of its continuing impediments. In moving with the times, it is opportune for the nation to liberalise its restrictive media laws so as to allow the people to reap the full benefits of this new medium of online information exchange in a sensible, ethical and responsible manner.

The Commission therefore reiterates its call for a review of existing laws relating to the media, in particular, the Printing Presses and Publications Act 1984, and to adopt a more liberal approach to the approval and renewal of printing and publishing permits and licenses by providing for their automatic renewal. In upholding transparency and accountability and ensuring checks and balances, the Commission reiterates its stand that laws affecting the duties of the press must be reviewed and the rights to equal access of information must be safeguarded.

In this regard, the Commission looks forward to the early establishment of the proposed National Media Consultative Council, as a self-regulated body to be managed by media practitioners, which will be a great boost for press freedom, while ensuring ethical and responsible journalism.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

6 April 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**ROADSHOW SUHAKAM WITH THE PEOPLE
IN KOTA BHARU, KELANTAN**

The Human Rights Commission of Malaysia (the Commission) will be organising a roadshow SUHAKAM with the People in Kota Bharu, Kelantan, to provide opportunities for the public especially representatives from the Government agencies and non-governmental organisations (NGOs), school teachers, district officials and heads of villages to engage in a dialogue with the Commission on human rights issues in Kelantan. Details of the program are as follows:

Date : 11 April 2011 (Monday)
Time : 9:30 am – 11:30 am
Venue : Dewan Teratai, Kompleks Kota Darul Naim
Kota Bharu, Kelantan Darul Naim

Participation is open to the public but limited to 200 participants only. Admission is free. For inquiries please contact:

Mrs Noor Azizah Atdenan: 012 206 7406
Mr Syahrizal Bakar: 012 263 4291

-END-

"HUMAN RIGHTS FOR ALL"

HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

8 April 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM TO CONDUCT A NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES IN MALAYSIA

The Human Rights Commission of Malaysia hereby announces that it will be conducting a National Inquiry into the Land Rights of Indigenous Peoples in Malaysia.

The Commission has decided to conduct the National Inquiry following numerous complaints and memoranda it has received over the years on alleged infringements of the rights of the Indigenous Peoples to their customary land. These infringements, which are in various forms, are longstanding, persistent and systemic in nature affecting the rights of these communities. The National Inquiry will examine the root causes of the problems relating to native customary right (NCR) to land in a comprehensive manner from a human rights perspective and will recommend appropriate solutions to the problems.

The National Inquiry Panel (hereinafter 'Panel of Inquiry') will comprise the Commission members which will be assisted by a line of independent consultants (see Annexe for details) who have been selected by the Commission based on their wide knowledge, experience and expertise in the field of indigenous rights.

The **terms of reference of the National Inquiry** are as follows:

- i. To determine the constitutional, legal, administrative and political recognition of the Indigenous Peoples' right to land and their effectiveness in protecting and promoting the Indigenous Peoples' right to land.
- ii. To inquire into the land rights situation of the Indigenous Peoples and the impact of the recognition or non-recognition of the Indigenous Peoples' right to land on their social, economic, cultural and political rights, taking into consideration relevant international and domestic laws.

- iii. To identify the constraints which impede the full enjoyment of the Indigenous Peoples' right to land in accordance with their needs and requirements.
- iv. To create and promote more awareness, knowledge and understanding of the Indigenous Peoples' right to land and their way of life.
- v. On the basis of the facts and determinations arising from the National Inquiry, to develop recommendations to the Federal and State Government relating but not limited to the following:-
 - a. the review of domestic land laws and other related laws and policies, with a view to incorporating a human rights focus therein, addressing, in particular, the problems faced by Indigenous Peoples in their land claims; and
 - b. the formulation of strategies and a plan of action with the aim of protecting and promoting the Indigenous Peoples' right to land as an indivisible and integral part of the protection and promotion of their other human rights.

The National Inquiry process will commence with a series of consultations with relevant stakeholders in Sabah, Sarawak and Peninsular Malaysia respectively. At the same time, to support the process researchers are being appointed to conduct research and study on the subject matter including, cases involving land conflicts, the laws and policies affecting indigenous land and the extent to which they comply with international human rights standards. GIS mapping of claimed indigenous boundaries/territories for key cases will also be conducted.

Upon the completion of the consultation process, the Panel of Inquiry will conduct public hearings in each of the regions to hear testimonies from key witnesses. Invitations to appear before the Panel of Inquiry will be extended to relevant key witnesses such as the Indigenous Peoples, government officials, community-based organisations, corporate personnel, the press and others. Where unavoidable, subpoenas may be issued to any of the abovementioned to assist in the Inquiry. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commission thinks necessary or desirable to procure or examine.

The Inquiry is open to members of the public and the press. However, video or audio recording of the Inquiry by members of the public or the press will not be allowed during the public hearings.

In the meantime, the Panel of Inquiry welcomes public submissions which should reach the Secretariat of the National Inquiry latest by 30 August 2011. The public is advised to ensure that submissions are in consonance with the prescribed Terms of Reference.

Kindly address all submissions to:

Mrs Nurul Hasanah Ahamed and Mrs Rafidah Yahya
National Inquiry Secretariat
SUHAKAM
Level 11, Menara TH Perdana
Jalan Sultan Ismail
50250 Kuala Lumpur
Tel: 03-2612 5606 / 5645
Fax: 03-26125620 / 5673
Email: inkuirinasional@suhakam.org.my

- END -

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM

Chairman
The Human Rights Commission of Malaysia (SUHAKAM)
10 May 2011

ANNEXE

NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES IN MALAYSIA

PANEL OF INQUIRY

SABAH	SARAWAK	PENINSULAR MALAYSIA
1. Tan Sri Hasmy Agam 2. Ms Jannie Lasimbang 3. Mr Muhammad Sha'ani	1. Tan Sri Hasmy Agam 2. Mr Detta Samen 3. Mr James Deva Nayagam	1. Tan Sri Hasmy Agam 2. Prof Datuk Dr Khaw Lake Tee 3. Ms Jannie Lasimbang

INDEPENDENT CONSULTANTS

SABAH	SARAWAK	PENINSULAR MALAYSIA
1. Tan Sri Datuk Seri Panglima Simon Sipaun	1. Dato' Ranita Mohd Husein 2. Mr Andrew Khoo	1. Datuk Dr Denison Jayasooria 2. Dr Colin Nicholas



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

RESPECT HOUSING RIGHTS, STOP FORCED DEMOLITION OF PJS 1

The Human Rights Commission of Malaysia (the Commission) urges all parties including Selangor State Government, Petaling Jaya City Council and Peter's Brickworks Sdn Bhd to respect the public's housing rights and to stop immediately the demolition of longhouses in PJS1.

Commissioner Mr Muhammad Sha'ani Abdullah and several officers visited the longhouse area in PJS1 today, to monitor the forced demolition activities on three squatters who have not moved out because they were not given a home as promised. During the visit, the Commission was informed that the State Government has issued a stop-work order to the developer effective 30 May 2011 until problems of relocation and schools are resolved. Nevertheless, the Commission was informed that the developer continues the demolition work regardless of the notice.

The Commission regards the action of the unscrupulous developer who has allegedly continued to demolish the longhouses is a violation of human rights. Housing rights are basic needs as enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on the Economic, Social and Cultural Rights (ICESR).

The action was indeed contradicted the Declaration of Habitat Agenda 1992, Local Agenda 21 and the resolution of the United Nations Association of the Forced Evictions 1993.

In this regard, the Commission urges the developer to guarantee the provision of an alternative and affordable housing before any demolition work takes place. In addition, the Commission also advises the developer to consult all parties involved in solving this issue amicably. At the same time, the Commission urges the Selangor State Government to ensure that the peoples' housing rights are not violated by any party.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

31 May 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM TO HELP FACILITATE
THE EARLY REPATRIATION OF THE
MV BANGA BIRAJ CREWMEN**

The Human Rights Commission of Malaysia (the Commission) made a visit to Rumah Perlindungan Tanjung Kling, Malacca today to meet the 15 crewmen of the detained container vessel *MV Banga Biraj* to follow up on their case. These Bangladeshi crewmen, who have been stranded for over a year in the Northport, are in good health and are also very appreciative of the assistance provided by the staff of the Rumah Perlindungan.

The crewmen have recounted to Commissioner James Nayagam of their eagerness to return to their home country. They seek the Commission's assistance to bring up their plight to the attention of the relevant ministry and to facilitate their early repatriation. The Commission would be taking all necessary follow-up actions and help ensure that the crewmen's wish for an early return home could be expedited.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman,
The Human Rights Commission of Malaysia (SUHAKAM)
8 June 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

THE RIGHT TO HOLD PEACEFUL ASSEMBLIES MUST BE PROTECTED

The Human Rights Commission of Malaysia (the Commission) refers to the peaceful assembly being planned by the Coalition for Free and Fair Elections (Bersih), scheduled for 9 July 2011, and also to those reportedly planned by UMNO Youth & Perkasa, and reiterates its position that it is the right of members of the public to assemble and to express their views in a peaceful manner, as provided under Article 10(1)(b) of the Federal Constitution, as well as Article 20(1) of the Universal Declaration of Human Rights (UDHR).

The Commission recalls the recommendations it had made in the past for the Government to respect the freedom of assembly, as contained in, among others, its Annual Reports to Parliament, as well as its requests 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 its recommendation that where the Police finds it necessary to control or disperse a crowd during an assembly, proportionate and nonviolent methods should be employed.

The Commission calls on the authorities to allow the planned peaceful assemblies to be held, and on the parties intending to hold these assemblies to exercise their rights in a peaceful and responsible manner. The Commission shall duly monitor the event.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

28 June 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

THE RIGHT TO A PEACEFUL ASSEMBLY AND FREEDOM OF EXPRESSION MUST BE PROTECTED

The Human Rights Commission of Malaysia (the Commission) welcomes the ongoing consultations between the authorities and Bersih relating to the proposed assembly, which will now be held in a stadium, following the advice given by His Majesty Yang Di Pertuan Agong Tuanku Mizan Zainal Abidin on 4 July and the subsequent audience by Bersih with His Majesty on 5 July 2011.

While welcoming this positive development, under the circumstances, the Commission wishes to reiterate that freedom of peaceful assembly is provided under Article 10(1)(b) of the Federal Constitution and Article 20(1) of the Universal Declaration of Human Rights (UDHR), and that freedom of expression and opinion is provided under Article 19 of the UDHR.

The Commission looks forward to the early resolution of the matter between the authorities and Bersih in the spirit of conciliation, as enjoined by His Majesty the Yang Di Pertuan Agong, and shall duly monitor the event.

The Commission also wishes to express its concern over the recent arrests and detentions of several Members of Parliament and activists under Section 3(1) of the Emergency (Public Order and Prevention of Crime) Ordinance 1969 and calls on the authorities to immediately release all those who are still being detained. They should be accorded their rights to an open trial with legal representation as enshrined in Articles 9, 10 and 11 of the UDHR which state that no one shall be subjected to arbitrary detention; everyone is entitled in full equality to a fair public hearing; and everyone has the right to be presumed innocent until proven guilty.

As a member of the UN Human Rights Council, it is incumbent upon the Government to uphold the highest standards in the promotion and protection of the rights of the people. In this regard, the Commission has consistently called for repeal of all preventive detention laws and reiterates that detention without trial is a violation of human rights principles.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

7 July 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM TO HOLD PUBLIC INQUIRY
INTO ALLEGATIONS OF, AMONGST OTHERS,
EXCESSIVE USE OF FORCE DURING THE
ASSEMBLY ON 9 JULY 2011**

The Human Rights Commission of Malaysia (the Commission) refers to the organised assembly on 9 July 2011. On that day monitoring teams from the Commission comprising Commissioners and officers were on the grounds to observe and monitor the situation.

Since the said assembly, the Commission has received two memoranda from different groups including PAS Youth, SUARAM and Bersih alleging, among others, excessive use of force by the law enforcement officials in dealing with and dispersing the crowd during the said assembly, as well as other possible violations of human rights prior to and on 9 July 2011 itself. Concerned over such allegations, and based on the observations of the Commission monitoring team, the Commission has agreed to hold a Public Inquiry into those allegations. At the moment, the Commission is in the midst of setting up the Panel of the Inquiry and its Terms of Reference. Further details of the Public Inquiry will be announced in two weeks' time.

Members of the public who had witnessed any acts or incidents relating to such allegations, or who believe that they may be able to give relevant information and/or documents and other evidence including video/photo recordings pertaining to these allegations are invited to contact the Commission as soon as possible.

Kindly contact:

Mr Ameer Izyanif Hamzah or Mr Shahizad Sulaiman
SUHAKAM

Level 13, Menara TH Perdana, 50250 Jalan Sultan Ismail

Tel: 03 2612 5669 / 5623, Fax: 03 2612 5620 / 5694

Email: complaints@suhakam.org.my / humanrights@suhakam.org.my

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

14 July 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

DETENTION WITHOUT TRIAL IS A VIOLATION OF HUMAN RIGHTS PRINCIPLES

The Human Rights Commission of Malaysia (the Commission) wishes to reiterate its call for the immediate and unconditional release of the six Parti Sosialis Malaysia (PSM) members who have been detained under Section 3(1) of the Emergency (Public Order and Prevention of Crime) Ordinance 1969.

Detention without trial is a violation of human rights principles which are clearly stated in Articles 9, 10 and 11 of the Universal Declaration of Human Rights. The Commission has consistently called for the repeal of all preventive detention laws and therefore urges that all detained under these laws should be released and accorded their rights to an open trial with legal representations. Pending the release of the detainees, their continued safety, welfare and mental and physical health is the responsibility of the authorities.

- END -

“HUMAN RIGHTS FOR ALL”

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

21 July 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

CALLING FOR PUBLIC SUBMISSION OF EVIDENCE AND INFORMATION ON ALLEGATIONS OF VIOLATIONS OF HUMAN RIGHTS PRIOR TO AND DURING THE PUBLIC ASSEMBLY ON 9 JULY 2011

The Human Rights Commission of Malaysia (the Commission) has decided to conduct a Public Inquiry into allegations of violations of human rights, including, the use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. The Panel of Inquiry will be chaired by the Commission's Vice-Chairman Professor Datuk Dr Khaw Lake Tee and assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

The Terms of Reference of the Public Inquiry

The terms of reference of the Public Inquiry are:

1. To determine whether there were any violations of the human rights of any person or party prior to and during the public assembly on 9th July 2011;
2. If violations of human rights did occur, to determine
 - i. How such violations came about;
 - ii. What administrative directives and procedures, or arrangements contributed to such violations; and
 - iii. Which person or agency was responsible for such violations.
3. To recommend measures to be taken to ensure that such violations do not recur.

The Commission's Power to Subpoena Witnesses

Subpoenas will be issued in due course to relevant witnesses including members of the public, the press and the Police. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Commission thinks necessary or desirable to procure or examine.

Calling for Public Submissions

The Commission hereby calls for public submissions of evidence and information following the allegations of amongst others, use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. Members of the public who had witnessed any acts or incidents relating to such allegations, or who believe that they may be able to give relevant information and/or documents and other evidence including video/photo recordings pertaining to these or other such allegations are invited to contact the Commission as soon as possible.

The deadline for Public Submissions

The deadline for public submission is 2nd August 2011.

For enquires and public submission kindly contact:

Mr Ameer Izyanif Hamzah or Mr Shahizad Sulaiman

SUHAKAM

Level 13, Menara TH Perdana

50250 Jalan Sultan Ismail

Tel : 03 2612 5669 / 5623

Fax : 03 2612 5620 / 5694

Email: complaints@suhakam.org.my / humanrights@suhakam.org.my

- END -

"HUMAN RIGHTS FOR ALL"



PROFESSOR DATUK DR KHAW LAKE TEE

Vice-Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

22 July 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM WELCOMES THE RELEASE OF
THE SIX PARTI SOSIALIS MALAYSIA (PSM)
MEMBERS DETAINED UNDER THE EMERGENCY
(PUBLIC ORDER AND PREVENTION OF CRIME)
ORDINANCE 1969**

The Human Rights Commission of Malaysia (the Commission) welcomes the release of the six Parti Sosialis Malaysia (PSM) members who have been detained under Section 3(1) of the Emergency (Public Order and Prevention of Crime) Ordinance 1969 for the past 28 days since 2 July 2011.

The Commission is gratified that the Government has responded positively to the numerous calls made by many quarters, including by the Commission, for the release of the six detainees. It is our earnest hope and expectation that there will be no recurrence of such arbitrary detentions in the future as they are incompatible with a free and democratic society, and renews its call on the Government to repeal all preventive detention laws, and replace them with a new legislation that serves the security needs of the country while complying with universal human rights principles.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

30 July 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

CALLING FOR PUBLIC SUBMISSION OF EVIDENCE AND INFORMATION ON ALLEGATIONS OF VIOLATIONS OF HUMAN RIGHTS PRIOR TO AND DURING THE PUBLIC ASSEMBLY ON 9 JULY 2011

The Human Rights Commission of Malaysia (the Commission) wishes to inform that, due to the request by various parties, the deadline for public submission has been extended to Friday, 5 August 2011. The Commission has decided to conduct a Public Inquiry into allegations of violations of human rights, including the use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. The Panel of Inquiry will be chaired by the Commission's Vice-Chairman Professor Datuk Dr Khaw Lake Tee and assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

Terms of Reference of the Public Inquiry

The terms of reference of the Public Inquiry are:

1. To determine whether there were any violations of the human rights of any person or party prior to and during the public assembly on 9 July 2011;
2. If violations of human rights did occur, to determine:
 - i. How such violations came about;
 - ii. What administrative directives and procedures, or arrangements contributed to such violations; and
 - iii. Which person or agency was responsible for such violations.
3. To recommend measures to be taken to ensure that such violations do not recur.

Calling for Public Submissions

The Commission hereby calls for public submissions of evidence and information following the allegations of amongst others, use of excessive force by the authorities prior to and during the public

assembly on 9 July 2011. Members of the public who had witnessed any acts or incidents relating to such allegations, or who believe that they may be able to give relevant information and/or documents and other evidence including video/photo recordings pertaining to these or other such allegations are invited to contact the Commission as soon as possible.

The deadline for Public Submission

The deadline for public submission has been extended to **Friday, 5 August 2011 by 12 noon.**

For enquiries and public submission, kindly contact:

Mr Ameer Izyanif Hamzah or Mr Shahizad Sulaiman

SUHAKAM

Level 13, Menara TH Perdana

Jalan Sultan Ismail

50250 Kuala Lumpur

Tel: 03-2612 5669 / 5623

Fax: 03-26125620 / 5694

Email: complaints@suhakam.org.my / humanrights@suhakam.org.my

- END -

"HUMAN RIGHTS FOR ALL"

By authority of SUHAKAM,



HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

2 August 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PUBLIC INQUIRY INTO ALLEGATIONS
OF VIOLATIONS OF HUMAN RIGHTS,
INCLUDING THE USE OF EXCESSIVE FORCE
BY THE AUTHORITIES PRIOR TO AND DURING
THE PUBLIC ASSEMBLY ON 9 JULY 2011**

Update 1/2011 of the Public Inquiry

The Human Rights Commission of Malaysia (the Commission) wishes to inform the public of the latest developments in connection with its proposed Public Inquiry into the public assembly of 9 July 2011. As of 15 August, the Commission has undertaken the following actions:

- Completed perusal of the public submissions it has received in the form of documents, statements and video recordings as of the deadline on 5 August 2011;
- Identified the witnesses to be interviewed and commenced the interview process; and
- Written to the Police requesting the cooperation from the Police Personnel on duty on the 9 July public assembly to be interviewed.

The Commission has decided to conduct the Public Inquiry into allegations of violations of human rights, including the use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. The Panel of Inquiry will be chaired by the Commission's Vice-Chairman Professor Datuk Dr Khaw Lake Tee and assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

The number of witnesses invited to testify at the Public Inquiry will be determined once the above interviews are completed. Where required, the Commission will exercise its powers under section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999 to issue subpoenas to the relevant witnesses including members of the public, the press and the Police.

The Commission will also be inviting observers to the hearings during the Public Inquiry.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

16 August 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**POSITIVE MOVES TOWARDS UPHOLDING
THE RIGHTS OF THE PEOPLE IN THE REFORM
OF THE ELECTORAL SYSTEM AND THE REVIEW
OF RESTRICTIVE MEDIA LAWS**

The Human Rights Commission of Malaysia (the Commission) welcomes the announcement made by the Prime Minister, Honourable Dato' Sri Mohd Najib Tun Abdul Razak, on the proposed formation of the Parliamentary Select Committee on electoral reforms and the review of media censorship laws.

The Commission, in its Annual Report 2007, had put forth recommendations with regard to free and fair elections, which among others, include equal access to media, longer campaign period and automatic registration of all eligible voters. It hopes that the Select Committee will be given ample time to discuss the many concerns that have been expressed by various groups and will set forth recommendations for a reform in the electoral system during the next two sittings of Parliament and in time for the next General Election.

Related to the importance of having free and fair elections, the Commission also wishes to reiterate its call for the review of existing laws relating to the media that restrict freedom of expression, in particular the Printing Presses and Publications Act 1984. In upholding transparency and accountability and ensuring checks and balances, the Commission had recommended for a self-regulatory media council that will not only ensure press freedom but also ensure ethical and responsible journalism.

In commending the move to establish the Parliamentary Select Committee on electoral reforms, the Commission wishes to urge the Government to also consider the formation of another Select Committee to look into human rights matters as an additional measure in upholding the rights of the people, thereby further the parliamentary democratic system in the country.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

17 August 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM'S BIAS: NOT REASONABLE

The Human Rights Commission of Malaysia (the Commission) refers to some media reports and would like to refute the claims by some parties that the Commission has been biased in dealing with the sodomy case of the opposition leader where application was made by Azlan Mohd Lazim for the Commission to look into the possibilities of the hearing involving his son being postponed.

For information, the Commission has received the letter recently and the matter was examined and discussed in detail in the Commission Meeting on 16 August 2011. Although the function and power of the Commission are to investigate any complaints relating to alleged human rights violations, but its function and power are subject to the Human Rights Commission of Malaysia Act 1999 (Act 597). The third part of section 12 (2) (a) of the 597 clearly states that the Commission shall not investigate any complaints which are the subject of any proceedings pending in any court, including any appeal. However, the Commission has informed the Honourable Chief Justice to look into the said case and to take appropriate action.

Nevertheless, the Commission will continue to monitor the progress of that case.

- END -

"HUMAN RIGHTS FOR ALL"

HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

17 August 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**ALL STAKEHOLDERS MUST BE CONSULTED
ON THE PROPOSED AMENDMENT TO
THE ABORIGINAL PEOPLES ACT**

The Human Rights Commission of Malaysia (the Commission) refers to the recent announcement made by the Director-General of Orang Asli Development Department (JAKOA) on the Aboriginal Land Titles Policy and expresses its disappointment at the intention of the Government to proceed with the tabling of amendments to the Aboriginal Peoples Act 1954 (Act 134) in Parliament. The Commission recalls its request to the Government to delay the tabling of any amendments to the Aboriginal Peoples Act until after the completion of its National Inquiry into the Land Rights of the Indigenous Peoples (National Inquiry) scheduled for the middle of 2012, and would urge it to defer the process of finalising any new policies and legislation with regard to the customary lands of the Orang Asli for submission to the Cabinet and the National Land Council until all efforts have been made to obtain free, prior and informed consent from all stakeholders, especially the affected Orang Asli.

The Commission, in its Annual Report 2008, had reminded the Government of its fiduciary obligation to consult and obtain consent from native communities prior to taking any actions that may infringe their native title rights. This is consistent with the principles contained in the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP), which Malaysia has committed itself to uphold. Furthermore, the Federal Constitution and relevant court decisions recognise and uphold the status of Orang Asli and their land rights as well as the special relationship between these communities and their lands. Recognition of and protection for native title is also required as part of the constitutional right to livelihood, which guarantees native title based on the essential role of land in the economies and cultural identity of native communities.

The Commission also wishes to emphasise that the ongoing National Inquiry is part of the Commission's commitment to look into the systemic land issues and other matters related to the land – in response to persistent complaints from these communities – and hopes to make specific proposals to deal with Orang Asli land issues in a comprehensive manner that will be consistent with the provisions contained in the UNDRIP and the universal principles of human rights.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

24 August 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

PRESS STATEMENT TO COMMEMORATE THE MALAYSIAN HUMAN RIGHTS DAY - 9 SEPTEMBER 2011 MOVING FORWARD TOWARDS THE IMPROVEMENT OF THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

On this day, 9 September 2011, we mark the 12th year of the establishment of the Human Rights Commission of Malaysia or better known as SUHAKAM, by the Act of Parliament, the Human Rights Commission of Malaysia Act 1999 or Act 597. Since its inception, the Commission has played its statutory role of promoting human rights awareness, inquiring into complaints regarding infringements of human rights and advising the Government and its relevant authorities on matters pertaining to the formulation of laws and policies and their implementation to ensure consistency between the national laws and human rights principles.

Over the years, the Commission has addressed numerous human rights issues and has recommended, among others, the repeal of all preventive detention laws including the Internal Security Act 1960 and the Emergency (Public Order and Prevention of Crime) Ordinance 1969, the review of the Printing Presses and Publications Act and Section 27 of the Police Act, and the abolition of the death penalty and natural life sentence. The Commission takes the position that laws relating to detention without trial goes against the spirit of the Federal Constitution and contravenes Articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR), thus must be repealed and replaced with legislation that serves security needs and at the same time complies with human rights principles. The Commission also firmly reiterates its stand that the people have a right to participate in peaceful assemblies and that inhumane and degrading forms of punishment which infringe human rights principles must be reviewed and replaced with those that are consistent with universally accepted human rights norms and values.

These recommendations have, for almost twelve years, been painstakingly prepared based on the results of numerous researches, consultations, roundtable discussions, public inquiries and other activities, and put forward to the Government through its Annual Reports, which had been submitted at every first sitting of the year. Though to date, none of the eleven annual reports had been debated, the Commission will continuously urge the Members of Parliament to pick up the key human rights issues and recommendations in their interventions in Parliament so that the general public would have a better appreciation of the human rights situation in the country.

In its continuing efforts to carry out its mandate under the Act to promote and protect human rights in the country, the Commission continues to monitor infringements of human rights, and in this regard, monitored the recent public assembly in respect of free and fair elections, and in response to complaints that have been made following that public assembly, will conduct a public inquiry into the alleged excessive use of force by the law enforcement officials in dealing with and dispersing the crowd during the assembly, as well as other possible violations of human rights prior to and on 9 July 2011. The Inquiry panel will be chaired by Professor Datuk Dr Khaw Lake Tee, the Vice-Chair of the Commission, and will be assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi b Ab Majid and Mr Detta Samen.

In this regard, the Commission wishes to reiterate its recommendations as contained in its Public Inquiry report into the KLCC incident on 28 May 2006, that 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 should be repealed, thereby removing the need to apply for any license to hold a peaceful assembly. 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. To this date, the recommendations remain unimplemented as the Government believes that the safety of public at large is of utmost importance in order to maintain public order and security.

The Commission had also monitored several by-election campaigns to ensure that citizens have the right to fair and free elections – the right to select their representatives, the right to access to information as well as the right to have equal access to the media. In commending the move to establish the Parliamentary Select Committee on electoral reforms, the Commission wishes to also urge the Government to consider the formation of another Select Committee to look into human rights matters as an additional measure in upholding the rights of the people, thereby furthering the system of parliamentary democracy in the country.

The Commission has also decided to conduct its first-ever National Inquiry into the land rights of the indigenous peoples in Malaysia, which commenced last June with consultation sessions in Sabah and the Peninsula, and later this month in Sarawak from 16 – 29 September 2011. This effort signifies the Commission's commitment to look into the systemic and pressing land issue of the indigenous peoples and its negative effects, such as those relating to ownership, loss of land through eviction and other forms of encroachment, and the impact of development on the indigenous peoples' lives and environment. The report of this National Inquiry, which will contain short, medium and long term solutions on these critical issues, will be addressed to the Parliament, State Assemblies, as well as the Federal and State Governments for their consideration and follow-up actions with a view to resolving this long-standing issue. In this regard, the Commission welcomes and looks forward to the full support and cooperation of all stakeholders, including the indigenous peoples, the Federal and State Governments and their agencies, the corporate sector, non-governmental organisations and the media.

The Commission is also currently pursuing court cases involving human rights issues, by undertaking an "amicus curiae" role or by holding watching briefs which would provide an opportunity for the promotion of human rights within the judicial process. Thus far, the Commission has held a watching brief for two cases involving women and children's rights, respectively, relevant to the CEDAW and the CRC. It is hoped that the Commission would have an opportunity to pursue more human rights cases in the future.

As the world is becoming increasingly borderless and inter-connected in this information age, it is practically impossible for the country to shut itself off from international scrutiny. In this Global Village in which we live today, Malaysia will have to come to grips with the new realities and to move with the times, in keeping with its march towards a developed country status by the target year of 2020. There should, therefore, be a conscious effort towards greater awareness of, and respect for, human rights in all its dimensions at all levels of society, and to begin the process of its inculcation as early as possible.

The Commission will play an active role in this process by continuing its programme of engagement, in a more comprehensive and focused manner, with all stake-holders, including, in particular Government authorities, international and regional human rights mechanisms and processes, in the interest of the promotion and protection of human rights in the country.

The Commission further encourages the Government to implement its international obligations made in the Universal Periodic Review (UPR) and will continue to monitor its implementation. The Commission welcomes the Government's decision to begin the process of drawing up a National Human Rights Action Plan which would provide a comprehensive roadmap towards improving the promotion and protection of human rights in Malaysia.

While also welcoming the Government's ratification of the Convention on the Rights of Persons with Disabilities (CRPD) and the removal of several reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) in 2010, the Commission would urge the Government to intensify its efforts towards the accession of all the core international human rights instruments and the withdrawal of the remaining reservations it has made to the CRC, CEDAW and CRPD.

As a member of the UN Human Rights Council, it is also incumbent upon the Government to uphold the highest standards in the promotion and protection of the rights of the people. The Commission wishes to call upon the Government, particularly the relevant agencies, to extend their fullest cooperation and support in considering the recommendations made over the years that have not been fully implemented. The Commission wishes to express its gratitude to all stakeholders for their strong support and sincere efforts and will continue to work together with anyone who shares the same ideals and goals to instil further awareness and ensure betterment of the human rights condition in the country.

-END-

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

8 September 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

MALAYSIAN HUMAN RIGHTS AWARDS 2011
CALLING FOR NOMINATIONS

The Human Rights Commission of Malaysia is pleased to announce that it is organising an annual Malaysian Human Rights Awards to acknowledge the outstanding efforts and contributions of individuals and groups in Malaysia in the field of the promotion and protection of human rights in the country.

The Awards will be conferred in conjunction with the World Human Rights Day on 10 December 2011 in Kuala Lumpur. The Commission wishes to extend invitation for nominations, which are open to all Malaysians. Nominations could be made for individuals or organisations for their outstanding contributions in the area of human rights in the country.

Nominees for the Awards compete in three different categories:

- i. The Community Award (Individual) - awarded to an individual with a proven track record in promoting and advancing human rights in the community on a non-profit basis;
- ii. The Community Award (Organisation) - awarded to a non-governmental or community-based organisation with a proven track record in promoting and advancing human rights in the community; and
- iii. The Media Award - awarded to work published in Malaysian magazines or newspapers; or for drama, news or current affairs programme or documentary broadcast on TV or radio for the past two or three years, and particularly but not exclusively, between 31 October 2010 and 1 November 2011.

To be eligible for nomination, entrants must have made an outstanding contribution to the promotion and protection of human rights in Malaysia in at least one of the following areas and been active in this area for the past two or three years, and particularly but not exclusively, between 31 October 2010 and 1 November 2011:

- i. Taking action to overcome discrimination or infringement of human rights within Malaysia
- ii. Encouraging greater harmony between people of different race or ethnic origin, religion, sex, age, or other differences within Malaysia
- iii. Enhancing the rights of the Indigenous Peoples of Malaysia
- iv. Promoting equal opportunity for people with a disability in Malaysia
- v. Exceptional contributions to the promotion and protection of human rights in the society and the country
- vi. Increasing awareness of issues of injustice or inequality in Malaysia

Nominations will close on Tuesday 1 November 2011 for judging and the winners will be presented with their awards at a luncheon ceremony which will take place on Saturday, 10 December 2011 in Kuala Lumpur. Nomination forms can be obtained from www.suhakam.org.my or kindly contact the Commission's Corporate Communications for further information:

Tel: +603-2612 5689/5683

Fax: +603-2612 5673

E-mail: hrawards@suhakam.org.my

Web: www.suhakam.org.my or www.facebook.com/suhakam or www.twitter.com/suhakam

- END -

"HUMAN RIGHTS FOR ALL"



HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

12 September 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE REPEAL OF THE EMERGENCY ORDINANCES,
THE INTERNAL SECURITY ACT AND THE REVIEW
OF EXISTING SECURITY LAWS AND OTHER
RELATED LAWS IS A POSITIVE MOVE TOWARDS
THE IMPROVEMENT OF THE HUMAN RIGHTS
SITUATION IN MALAYSIA**

The Human Rights Commission of Malaysia warmly welcomes the announcement by the Honourable Prime Minister, Dato' Sri Najib Tun Abdul Razak to annul the existing Proclamations of Emergency, to repeal the Internal Security Act 1960 (ISA) as well as the Banishment Act 1959, and to review and amend or repeal laws which are no longer relevant, including the Restricted Residence Act 1933, the Printing Presses and Publications Act 1984 and Section 27 of the Police Act 1967.

The Commission is gratified by these latest moves by the Government and wishes to commend the Prime Minister for his historic and bold decision on the scrapping of the emergency ordinances, the ISA and the other restrictive laws which has long been clamoured for and awaited by the people, and persistently urged upon by this Commission ever since its establishment.

This much-welcomed announcement came in time for all Malaysians to celebrate Malaysia Day and is a positive move towards the overall improvement of the human rights situation in the country. It is very much in the spirit of the Prime Minister's own "1Malaysia" approach and in keeping with his pledge to comprehensively review the Internal Security Act when he assumed office in 2009.

It is the Commission's earnest hope and expectation that this decision will be carried out expeditiously, thereby heralding a new era for Malaysia as it advances towards becoming a developed country in 2020 and takes its place among the ranks of nations that strongly and consistently respect, safeguard and promote human rights in all its aspects. In keeping with this new direction for the nation, based on a recognition of the realities of the times and the needs, aspirations and wisdom of the people, we earnestly hope that the Government will make renewed and more focused efforts towards acceding to the core human rights instruments, of which Malaysia has only ratified three, with reservations.

In enacting any new and necessary legislations pertaining to national security the Commission would urge the Government to ensure that these laws would not only be in compliance with the provisions of the Federal Constitution but also with international human rights principles and norms, specifically as enshrined in the Universal Declaration of Human Rights, which Malaysia is duty-bound to uphold as a responsible member of the United Nations and current member of the UN Human Rights Council.

The Commission looks forward to the Government's continued and unabated commitment towards the protection and promotion of human rights of the people, for which the Government is ultimately responsible. In this regard, the Commission reiterates its proposal for the establishment of a Parliamentary Select Committee on Human Rights as an important mechanism for more informed and focused deliberations on human rights issues among Parliamentarians, thereby strengthening the process of parliamentary democracy in the country.

- END-

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

16 September 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PUBLIC INQUIRY INTO ALLEGATIONS OF
VIOLATIONS OF HUMAN RIGHTS, INCLUDING
THE USE OF EXCESSIVE FORCE BY THE
AUTHORITIES PRIOR TO AND DURING THE
PUBLIC ASSEMBLY ON 9 JULY 2011**

Update 2/2011 of the Public Inquiry

The Human Rights Commission of Malaysia (the Commission) wishes to inform the public of the latest developments in connection with its proposed Public Inquiry into the public assembly of 9 July 2011.

As of 27 September, the Commission has completed perusal of the public submissions it has received from the public in the form of documents, statements and video recordings, and identification of witnesses. It is currently in the process of completing its interview sessions with the witnesses and also making arrangements to interview witnesses residing outside the Klang Valley.

The Commission is awaiting for a response from the Police to its request and subsequent reminder of its intention to interview the Police Personnel who were on duty during the 9 July public assembly.

The Commission will fix and announce the hearing dates for the Public Inquiry as soon as the interview process is over.

The Commission has decided to conduct the Public Inquiry into allegations of violations of human rights, including the use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. The Panel of Inquiry will be chaired by the Commission's Vice-Chairman Professor Datuk Dr Khaw Lake Tee and assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

- END-

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)
27 September 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PUBLIC INQUIRY INTO ALLEGATIONS OF
VIOLATIONS OF HUMAN RIGHTS, INCLUDING
THE USE OF EXCESSIVE FORCE BY THE
AUTHORITIES PRIOR TO AND DURING THE
PUBLIC ASSEMBLY ON 9 JULY 2011**

Update 3/2011 of the Public Inquiry

The Human Rights Commission of Malaysia the Commission wishes to inform the public of an unintended error in its press statement dated 27 September 2011. Contrary to what was stated, the Commission is currently in the process of compiling information as requested by the Police in connection with the Public Inquiry.

The Commission apologies for the above error.

- END-

"HUMAN RIGHTS FOR ALL"

HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

28 September 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PUBLIC INQUIRY INTO ALLEGATIONS OF
VIOLATIONS OF HUMAN RIGHTS, INCLUDING
THE USE OF EXCESSIVE FORCE BY THE
AUTHORITIES PRIOR TO AND DURING THE
PUBLIC ASSEMBLY ON 9 JULY 2011**

The Human Rights Commission of Malaysia (the Commission) wishes to inform that due to some unforeseen circumstances the date of the Public Inquiry has been brought forward from the 12 October to 11 October 2011 as follows;

Date : 11 October 2011 (Tuesday)
Time : 9.00 am
Venue : Inquiry Room, 13th Floor, SUHAKAM's Office
Menara TH Perdana, 50250 Kuala Lumpur

The Commission has decided to conduct the Public Inquiry into allegations of violations of human rights, including the use of excessive force by the authorities prior to and during the public assembly on 9 July 2011. The Panel of Inquiry will be chaired by the Commission's Vice-Chairman Professor Datuk Dr Khaw Lake Tee and assisted by Commissioners Professor Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen.

- END -

"HUMAN RIGHTS FOR ALL"

HASHIMAH NIK JAAFAR

Secretary

The Human Rights Commission of Malaysia (SUHAKAM)

6 October 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

DEATH PENALTY IS A GRAVE VIOLATION OF HUMAN RIGHTS

The Human Rights Commission of Malaysia the Commission views with great concern the continued presence of the death penalty as a form of punishment in our statute books. The Commission maintains that the death penalty, although regulated and carried out only after compliance with the legal process, and the exhaustion of all the rights to appeal and the right to pardon, is a grave violation of human rights, in particular, the right of a person to life and the right not to be subject to torture, or to cruel, inhuman or degrading treatment or punishment that are emphasised under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

The Commission welcomes the Honourable Prime Minister Dato' Sri Najib Tun Abdul Razak's recognition and respect of basic human rights and individual rights and the balance between these rights and the rules of law within the nation's Parliamentary democratic system. Whilst the Commission welcomes the Government's commitment made through the Universal Periodic Review report on Malaysia to abolish the death penalty in relation to children, it also wishes to call upon the Government to review the relevance and effectiveness of the capital punishment and to join the other 140 UN member states to completely abolish death penalty. In the interim, it urges the Government to consider a moratorium on the death sentence or to commute the sentences to life imprisonment especially for those who have been on death row for more than five years. In addition, the Commission also calls upon the Government to consider adopting the International Standard Minimum Rules for treatment of Prisoners, to ensure the well being of the prisoners on death row as well as all the other prisoners.

- END -

"HUMAN RIGHTS FOR ALL"

PROFESSOR DATUK DR KHAW LAKE TEE

Vice Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

13 October 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

PUBLIC INQUIRY CONDUCTED TO INQUIRE INTO COMPLAINTS ON ALLEGED HUMAN RIGHTS VIOLATIONS

The Human Rights Commission of Malaysia (the Commission) today, resumes its Public Inquiry into the allegation of, among others, excessive use of force during the assembly on 9 July 2011. Eight witnesses are scheduled to appear before the three-member Panel of Inquiry chaired by Prof Datuk Dr Khaw Lake Tee and assisted by Commissioners Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid and Mr Detta Samen on 15 - 16 November 2011. At today's hearing, three of the eight witnesses, out of whom, one was a police officer, gave their testimonies.

The Public Inquiry is conducted pursuant to the complaints and memoranda received by the Commission on the alleged use of excessive force by the enforcement officers during the 9 July public assembly aimed at calling for reforms in the election process. The Commission had also sent down its monitoring team during the public assembly. This is the eighth public inquiry conducted by the Commission since its inception, of which half of the total number conducted were consequent upon complaints and memoranda on abuses and excessive use of force in dispersing the crowds during public assemblies.

In furtherance of the protection and promotion of human rights, the Commission has the power to inquire into complaints regarding infringements of human rights and should the complaint warrant an inquiry, the Commission, under the Human Rights Commission of Malaysia Act 1999 (Act 597), has the power to procure and receive all such evidence and to summon any person(s) to give evidence. In this regard, the Commission wishes to emphasise that its power to conduct this public inquiry into allegations of human rights violations is derived from Section 12 of the Human Rights Commission of Malaysia Act 1999. In conducting this inquiry, it is discharging its statutory duty and responsibilities to protect and promote human rights in the country as mandated by Act 597.

The next hearing is scheduled to be held on 16 November 2011 at 1.30 – 5.00 pm.

- END -

"HUMAN RIGHTS FOR ALL"

PROFESSOR DATUK DR KHAW LAKE TEE

Vice Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

15 November 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

PREVENTIVE DETENTION LAWS CONTRADICT THE PRINCIPLES OF HUMAN RIGHTS

The Human Rights Commission of Malaysia (the Commission) expresses its disappointment and dismay over the recent arrest of 13 individuals under the Internal Security Act 1960 (ISA), over their alleged association with a militant movement in Sabah. This action on the part of the authorities is indeed surprising, and clearly contradicts the bold and historic decision of the Prime Minister to abolish the ISA and his recognition of, and respect for, basic human rights and the balance between these rights and the rule of law within the nation's Parliamentary democratic system – which was long awaited and wholeheartedly welcomed by the people.

Consistent with its previous calls for the repeal of all preventive detention laws, the Commission urges the authorities to release all those detained under these laws and accord them their rights to an open trial with legal representations. The Commission also calls upon the Government to stop legislating laws which allows detention without trial and to deal with issues relating to terrorism issues under other existing laws; and that pending the repeal of the ISA, no more arrests will be made under this Act.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

18 November 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

PEACEFUL ASSEMBLY BILL MUST NOT IMPOSE RESTRICTIONS ON THE RIGHTS OF EVERYONE TO ASSEMBLE PEACEFULLY

The Human Rights Commission of Malaysia (the Commission) welcomes the Peaceful Assembly Bill in line with the freedom of assembly as guaranteed by Article 10(1)(b) of the Federal Constitution and Article 20 of the Universal Declaration of Human Rights. The Commission had provided some views on the freedom of assembly and related matters, but not on the draft Bill, in a meeting with the Attorney General last month. Having perused the provisions of the Bill, the Commission is of the considered opinion that amendments to some of the provisions of the Bill must be made to ensure that the right of the people to express themselves through peaceful public assemblies is protected and can be expressed in a manner that meaningfully reflects the essence of that right.

Some of the provisions under the Bill impose too many restrictions and give too much discretionary powers to the police, thus undermining the right of the public to organise or participate in peaceful assemblies. The Commission proposes, among others, that:

1. A clearer distinction be made between the definition of an "assembly" which includes procession and that of "street protest";
2. The extension of the right to assemble peacefully without arms to non-citizens as they too have the right to express themselves and to be heard;
3. A review of the prohibition against any assembly within 50 meters of any prohibited places as such prohibition is impractical and unrealistic in most cities and towns;
4. To reconsider the provisions on the participation of children lowering the permissible age of 15 to a more appropriate age in the light of our treaty obligations under the Convention of the Rights of the Child (CRC);
5. To review the notification period of 30 days or to provide for exceptions in cases where it is not feasible or not practicable to meet the requirement of 30 days;
6. To review Clause 13 to put in place a co-operative model which would allow the police and the organiser of public assemblies to discuss and arrive at a consensus on matters relating to the assembly for the purpose of facilitating the assembly in line with the objectives of the Bill;

7. To allow the appeal on restrictions and conditions imposed by the police to be made to the court instead of to the Minister;
8. To review Clause 19 which deems as organisers persons who promote, sponsor, hold or supervise the assembly, or invite or recruit participants or who are speakers for the assembly. These persons are merely exercising their basic democratic rights and should not be held fully responsible in the event of any non-compliance;
9. To incorporate the provisions of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials under Part V of the Bill which deals with enforcement;
10. To ensure full, and not just reasonable, access of the media in public assemblies under Clause 24; and
11. To include a provision to allow external parties, such as this Commission, the Bar Council and other relevant statutory bodies to monitor public assemblies.

In principle, the Commission supports the objectives of the Bill. Nevertheless, it stresses that in the implementation of the the Bill, a proper balance must be struck between organising and participating in public assemblies, and the protection of the rights and freedom of other persons who are indirectly affected by the assemblies.

The announcement to repeal Sections 27, 27A, 27B and 27C of the Police Act 1967 is much welcomed as it recognises the spirit of and the respect for human rights. However, the Bill replacing it imposes too many restrictions and conditions for the public instead of facilitating freedom of assembly. Whilst acknowledging that peace and stability are paramount and that public order needs to be maintained at all times, the Commission is of the view that peaceful public assemblies provide an avenue for the public to express themselves on issues that are of concern.

The Commission therefore calls upon the Government to consider recommendations made by various parties and open up avenue for discussion and public discourse on freedom of assembly before enacting the Peaceful Assembly Bill into law to ensure that the provisions provided are in line with human rights principles.

- END-

"HUMAN RIGHTS FOR ALL"



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

25 November 2011



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

AMENDMENT TO THE UNIVERSITIES AND UNIVERSITY COLLEGES ACT 1971 WELCOMED

The Human Rights Commission of Malaysia (the Commission) welcomes the move to amend Section 15 of the Universities and University Colleges Act 1971 (UUCA) that would allow university students aged 21 and above space for the exercise of their constitutional rights to freedom of expression and to form associations. These rights are guaranteed under Article 10(1) of the Federal Constitution and are enshrined in Articles 19 – 21 of the Universal Declarations of Human Rights.

The civil and political rights awareness amongst the younger generations should be viewed positively and supported fully as university students are the future leaders of the country. The formal education and training that they receive in the university should be supplemented and complemented by experiences and lessons that are available off-campus in order that they would become better leaders of society. There should not be unreasonable curtailment of their fundamental rights to express themselves.

The Commission is pleased with the commitment of the Prime Minister to transform the country into a modern and progressive nation. The move should be seen as a step forward in bringing the nation to another level, economically and politically. The Commission also notes and welcomes the recent Court of Appeal's decision which declared section 15(5)(a) of the UUCA unconstitutional, on the ground that it violated the freedom of expression. In line with the Prime Minister's aspirations for the nation, the Commission urges the Government to reconsider its intention to appeal against the decision of the Court of Appeal and to continue the efforts to further uphold and protect the rights of the people.

- END -

"HUMAN RIGHTS FOR ALL"

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

25 November 2011

ACTIVITIES OF THE COMMISSION IN 2011

PR	- Public Affairs Division	Sabah	- Sabah Office
EWG	- Education and Promotion Working Group	Sarawak	- Sarawak Office
IICC	- International Issues and Cooperation Committee	NI Committee	- National Inquiry Committee
CIWG	- Complaints and Inquiries Working Group	IPRC	- Indigenous Peoples' Rights Committee
LRITWG	- Law Reform and International Treaties Working Group	SUHAKAM	- Human Rights Commission of Malaysia
ECOSOCWG	- Economic, Social and Cultural Rights Working Group		

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
1.	1 Jan	Monitoring public assembly organised by <i>Gabungan Mahasiswa Islam SeMalaysia</i> and <i>Himpunan Mahasiswa untuk Malaysia</i>	Petaling Jaya, Selangor	CIWG & EWG
2.	11 Jan	Meeting with the Lands and Surveys Department, on Communal Titles	Kota Kinabalu, Sabah	Sabah
3.	13 Jan	6 th Meeting of SUHAKAM-UN Country Team (UNCT) on UDHR Publication Project	SUHAKAM, Kuala Lumpur	IICC
4.	14 Jan	Introductory Session for the Chief Secretary to the Government and the Attorney-General, on the National Inquiry (NI) into the Land Rights of Indigenous Peoples in Malaysia	Putrajaya	NI Committee
5.	20 - 21 Jan	Forum and Training for Youth on Indigenous Legal System (FTILS), Zone 1	Kota Marudu, Sabah	Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
6.	21 - 22 Jan	Programme on Human Rights Awareness Promotion and monitoring of the by-election process	Tenang, Johor	CIWG, PR & EWG
7.	25 Jan	Guidance visit to SMK Datuk Mansur on Human Rights Best Practices in Schools Programme	Bahau, Negeri Sembilan	EWG
8.	27 Jan	Guidance visit to SMK Taman Tun Dr Ismail on Human Rights Best Practices in Schools Programme	Kuala Lumpur	EWG
9.	27 - 28 Jan	Talk on Human Rights for officers/staff of Prison Department	Miri & Sibul, Sarawak	CIWG & Sarawak
10.	28 Jan	Seminar on Indigenous Peoples and the Right to Participate in Decision Making	SUHAKAM, Kuala Lumpur	IPRC
11.	28 Jan	Monitoring submission of Memorandum by <i>Solidariti Mahasiswa Malaysia</i> to Ministry of Higher Education	Putrajaya	CIWG
12.	29 - 30 Jan	Programme on Human Rights Awareness Promotion and monitoring of the by-election process	Tenang, Johor	CIWG, PR & EWG
13.	2 Feb	Monitoring submission of Memorandum to Wisma Putra by <i>Solidariti Mahasiswa Malaysia</i> , on the issue of Malaysian students in Egypt	Putrajaya	CIWG
14.	6 - 8 Feb	Workshop on Human Rights for officers-in-charge of police stations	Kuantan, Pahang	EWG
15.	7 - 10 Feb	Internal Strategic Session on the NI	Kuala Lumpur	NI Committee
16.	11 Feb	Introductory Session on the NI for Civil Society and the Media	Kuala Lumpur	NI Committee

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
17.	14 Feb	Meeting with the <i>Shiah</i> group	SUHAKAM, Kuala Lumpur	EWG
18.	16 Feb	Introductory Session on the NI for Civil Society and the Media	Kota Kinabalu, Sabah	NI Committee & Sabah
19.	18 Feb	Meeting with the Special Rapporteur, on the Situation of Human Rights in Myanmar	SUHAKAM, Kuala Lumpur	IICC
20.	20 - 22 Feb	Workshop on Human Rights for officers-in-charge of police stations	Port Dickson, Negeri Sembilan	EWG
21.	22 Feb	Guidance visit to SMK Sultan Abdul Aziz on Human Rights Best Practices in Schools Programme	Teluk Intan, Perak	EWG
22.	23 Feb	Introductory Session on the NI for the Media	Kuching, Sarawak	NI Committee
23.	23 Feb	Guidance visit to SMK Munsyi Abdullah on Human Rights Best Practices in Schools Programme	Melaka	EWG
24.	24 Feb	Guidance visit to SMK Seksyen 9 on Human Rights Best Practices in Schools Programme	Shah Alam, Selangor	EWG
25.	24 Feb	Introductory Session on the NI for Civil Society	Kuching, Sarawak	NI Committee & Sarawak
26.	25 Feb	In-house training: Land Rights of Indigenous Peoples and NI	SUHAKAM, Kuala Lumpur	EWG
27.	26 Feb	Monitoring Merlimau and Kerdau By-elections	Melaka & Pahang	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
28.	28 Feb	Meeting with Inspector-General of Police at Bukit Aman	Kuala Lumpur	PR, CIWG, EWG & LRITWG
29.	28 Feb	Talk on Human Rights for RELA members	Bukit Selambau, Kedah	EWG
30.	1 March	Meeting with the Bar Council on SUHAKAM's role in court	Kuala Lumpur	LRITWG
31.	1 March	Courtesy visit to <i>Utusan Malaysia</i>	Kuala Lumpur	PR
32.	1 - 2 March	Workshop on Non-Discrimination	Kuala Lumpur	EWG
33.	2 March	Meeting with Parliamentary Caucus Committee	Kuala Lumpur	PR, EWG, ECOSOC, IICC & CIWG
34.	2 March	Introductory Session on the NI for the Selangor Government	Shah Alam, Selangor	NI Committee
35.	2 March	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
36.	3 March	Meeting with the Malaysian National Security Council	SUHAKAM, Kuala Lumpur	LRITWG
37.	3 March	Introductory Session on the NI for Members of Parliament, State Legislators and Senators	Kota Kinabalu, Sabah	NI Committee & Sabah
38.	4 March	7 th Meeting of SUHAKAM-UNCT on the UDHR Publication Project	SUHAKAM, Kuala Lumpur	IICC
39.	9 March	Introductory Session on the NI for the Media	Kuala Lumpur	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
40.	12 March	Joint participation in Medical Care Programme conducted by Mercy Malaysia at the Temporary Holding Centre	Papar, Sabah	Sabah
41.	12 March	Workshop on Human Rights for Village Development and Security Committee Leaders	Seberang Perai Tengah, Penang	EWG
42.	14 March	Dialogue on Human Rights at Kampung Tangkarason	Paitan, Sabah	Sabah
43.	14 March	Meeting on National Human Rights Action Plan, with the Legal Affairs Division of the Prime Minister's Department and UN Representatives	Putrajaya	IICC & LRITWG
44.	15 March	Monitoring eviction of urban pioneers at Ladang Bukit Jalil	Bukit Jalil, Selangor	CIWG
45.	15 March	Talk on Human Rights at Police Training Centre (PULAPOL)	Kuching, Sarawak	Sarawak
46.	16 March	Roundtable Discussion (RTD) on Human Rights and Business	SUHAKAM, Kuala Lumpur	ECOSOCWG
47.	20 March	Participation in Exhibition and Mobile Counter in conjunction with the <i>Info Komuniti 1Malaysia Bandar</i> Programme, held in Bandar Baru Sentul	Kuala Lumpur	PR
48.	23 March	Workshop on Indigenous Legal System	Kuala Lumpur	IPRC
49.	23 - 25 March	Workshop on Human Rights Education for Teacher Training Institute	Kepala Batas, Penang	EWG
50.	25 March	In-House Training: Reconstituting Earth v 2.0	SUHAKAM, Kuala Lumpur	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
51.	27 March	Participation in 'School to Community' Outreach programme organised by SMK Sultan Abdul Aziz	Teluk Intan, Perak	EWG
52.	27 - 30 March	Workshop on Human Rights for officers of Prison Department	Pulau Langkawi, Kedah	EWG
53.	28 - 31 March	Meeting with Murum Hydroelectric Dam project consultant and Penan leaders	Belaga, Sarawak	ECOSOCWG & Sarawak
54.	30 March	Visit by Thai media delegation	SUHAKAM, Kuala Lumpur	PR
55.	30 March	Monitoring submission of Memorandum to Parliament on Lynas project	Kuala Lumpur	CIWG
56.	30 March	Participation in Integrated Mobile Counter	Kudat, Sabah	Sabah
57.	31 March	Introductory Session on the NI for the Department of Forestry	Sandakan, Sabah	NI Committee & Sabah
58.	4 April	1 st Meeting with the external consultant to the UDHR Publication Project	SUHAKAM, Kuala Lumpur	IICC
59.	4 April	Meeting with artistes on Human Rights and the Arts	SUHAKAM, Kuala Lumpur	EWG
60.	4 April	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG
61.	6 April	Exhibition on Human Rights Education at Universiti Pendidikan Sultan Idris	Tanjung Malim, Perak	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
62.	7 April	Visit to shelter for human trafficking victims	Melaka	CIWG & ECOSOCWG
63.	8 April	In-house Training: Sexual Harassment at the Workplace	SUHAKAM, Kuala Lumpur	EWG
64.	11 April	Introductory Session on the NI for the Kelantan Government	Kota Bharu, Kelantan	NI Committee
65.	11 April	Meet-the-People session	Kota Bharu, Kelantan	PR
66.	12 April	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
67.	12 April	Monitoring submission of Memorandum to the Ministry of Defence	Kuala Lumpur	CIWG
68.	13 April	Visit to the Machang Prison	Machang, Kelantan	CIWG & PR
69.	14 April	Visit to the Tanah Merah Prison	Tanah Merah, Kelantan	CIWG & PR
70.	15 April	Workshop on Human Rights at the Department of International Studies, Universiti Malaya	Kuala Lumpur	EWG
71.	17 April	Participation in Integrated Mobile Counter	Kota Kinabalu, Sabah	Sabah
72.	19 April	Meeting with the Immigration Department	Putrajaya	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
73.	19 - 21 April	Workshop on Human Rights Best Practices in Schools Programme, Northern Zone	Taiping, Perak	EWG
74.	20 April	Briefing on the Universal Periodic Review (UPR) Follow-up for the Government and civil society organisations	SUHAKAM, Kuala Lumpur	IICC
75.	20 April	Introductory Session on the NI for the Department of Wildlife and National Parks	Kuala Lumpur	NI Committee
76.	21 - 22 April	Training Workshop on the UPR	SUHAKAM, Kuala Lumpur	IICC
77.	22 April	Meeting with Mr Punit Aurora of the Associates for International Management Services, Consultant to the UN Development Group	SUHAKAM, Kuala Lumpur	IICC
78.	23 April	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
79.	27 - 29 April	FTILS Zone 2	Keningau, Sabah	Sabah
80.	28 April	Introductory Session on the NI for the Department of Orang Asli Development	Kuala Lumpur	NI Committee
81.	29 April	Discussion with the Lands and Surveys Department	Keningau, Sabah	Sabah
82.	1 May	Monitoring public assembly organised by 1 May Committee	Kuala Lumpur	CIWG
83.	4 May	Monitoring Press Conference to launch campaign on <i>Mahasiswa Selamatkan Rakyat</i>	Kuala Lumpur	CIWG
84.	4 May	Talk on Human Rights for officers of Prison Department	Limbang, Sarawak	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
85.	6 May	Meeting with the Selangor Islamic Affairs Department on <i>Shiah</i> issues	Shah Alam, Selangor	EWG
86.	6 May	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
87.	9 May	Visit to SK Agama Al Furqan on in relation to the death of a student, Saiful Syazani	Jejawi Dalam, Perlis	EWG & CIWG
88.	10 May	Press Conference on the launch of the NI	SUHAKAM, Kuala Lumpur	PR
89.	13 May	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
90.	14 May	Exhibition and Human Rights Education in conjunction with World's AIDS Day, organised by Pink Triangle Foundation	Kuala Lumpur	PR
91.	14 May	Meet-the-People session, organised by the State Public Complaints Bureau	Sibu, Sarawak	Sarawak
92.	17 May	Meeting with United Nations High Commissioner for Refugees (UNHCR)	Kuala Lumpur	LRITWG
93.	20 May	Monitoring protest against the Lynas project, at Australian Embassy	Kuala Lumpur	CIWG
94.	22 - 24 May	Workshop on Human Rights for officers-in-charge of police stations	Melaka	EWG
95.	23 May	Courtesy visit to <i>ASTRO Awani</i>	Kuala Lumpur	PR
96.	25 May	Monitoring protest against proposed Refugee Swap Agreement, at Australian Embassy	Kuala Lumpur	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
97.	25 May	Meeting with Myanmar community at wholesale market	Selayang, Selangor	CIWG
98.	26 May	Introductory Session on the NI for the State Secretary	Johor Bharu, Johor	NI Committee
99.	26 May	Visit to Drug Rehabilitation Centre	Dengkil, Selangor	CIWG
100.	26 May	RTD on Needs of Persons with Disabilities	Kuala Lumpur	EWG & LRITWG
101.	27 May	In-house Training: Rights of LGBT	SUHAKAM, Kuala Lumpur	EWG
102.	27 May	Courtesy visit to RTM	Kuala Lumpur	PR
103.	30 May	Visit to Serdang Hospital	Serdang, Selangor	CIWG
104.	31 May	Monitoring demolition of urban pioneers' dwellings at PJS 1	Petaling Jaya, Selangor	CIWG
105.	30 - 31 May	Road show on NI in conjunction with Kaamatan festival	Penampang, Sabah	Sabah
106.	30 May - 2 June	Participating in Awareness Programme on Human Rights and Education organised by Kelantan State Library	Gua Musang, Kelantan	EWG
107.	31 May - 2 June	Workshop on Human Rights for officers of Prison Department	Pulau Langkawi, Kedah	EWG
108.	1 June	Visit to Western Digital (M) Sdn Bhd	Petaling Jaya, Selangor	CIWG
109.	2 June	Monitoring action of Admiralty against the <i>MV Bhanga Biraj</i> , a ship from Port Chittagong, Bangladesh	Port Klang, Selangor	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
110.	3 June	Guidance visit to SMK Sultan Ahmad on Human Rights Best Practices in Schools Programme	Cameron Highlands, Pahang	EWG
111.	3 June	Courtesy visit to TV3	Petaling Jaya, Selangor	PR
112.	6 June	Courtesy visit to UNHCR	Kuala Lumpur	PR & EWG
113.	12 June	Workshop on Human Rights for local authorities	Selayang, Selangor	EWG
114.	13 June	Follow-up meeting with government agencies on the Report of the UN Working Group on Arbitrary Detention	SUHAKAM, Kuala Lumpur	IICC & LRITWG
115.	13 - 15 June	Workshop on Human Rights Education for Teacher Training Institute	Kuching, Sarawak	EWG
116.	15 June	Introductory Session on the NI for the Lands and Surveys Department	Kota Kinabalu, Sabah	NI Committee
117.	15 June	Meeting with Sabah Office of SUHAKAM	Kota Kinabalu, Sabah	CIWG
118.	15 June	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
119.	17 June	Visit to Henry Gurney School	Keningau, Sabah	CIWG
120.	17 June - 5 July	NI Public Consultations	Keningau, Tenom, Penampang, Kota Marudu, Tawau & Sandakan, Sabah	NI Committee & Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
121.	20 June	Talk on Human Rights for RELA members	Kuching, Sarawak	Sarawak
122.	20 - 22 June	Workshop on Human Rights Best Practices in Schools Programme, Southern Zone	Temerloh, Pahang	EWG
123.	21 June	Meeting with the Department of Islamic Development, on <i>Shiah</i> issues	Putrajaya	EWG
124.	23 June	Workshop on Human Rights for officers of Prison Department	Alor Setar, Kedah	EWG
125.	23 June	Introductory session on the NI for the State Secretary	Ipoh, Perak	NI Committee
126.	24 June	Briefing on the proposed Refugee Swap Agreement between Malaysia and Australia	SUHAKAM, Kuala Lumpur	LRITWG
127.	26 June	Participation in Integrated Mobile Counter	Kota Marudu, Sabah	Sabah
128.	30 June	Visit to Detention Centre	Tawau, Sabah	CIWG
129.	30 June	Visit to Police Contingent Headquarters in Penang and District Police Headquarters in Seberang Perai to meet detained members of Parti Sosialis Malaysia (PSM)	Penang	CIWG
130.	30 June	Talk on Human Rights at the Police Training Centre (PULAPOL)	Kuching, Sarawak	Sarawak
131.	1 July	Visit by UN DUTCH students	SUHAKAM, Kuala Lumpur	PR
132.	4 July	Visit to Detention Centre	Sandakan, Sabah	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
133.	5 - 7 July	Visit to <i>Pusat Tahfiz</i> in Kedah; Meeting with Perlis Islamic Affairs Department	Kuala Kedah, Kedah; Kangar, Perlis	EWG
134.	9 July	Monitoring Bersih 2.0 public rally	Kuala Lumpur	CIWG
135.	9 July	Joint participation in Medical Care Programme conducted by Mercy Malaysia at the Temporary Holding Centre	Papar, Sabah	Sabah
136.	10 July	Talk on Human Rights for RELA members	Melaka	EWG
137.	11 July	Talk on Human Rights at the State Treasury Department	Kuching, Sarawak	Sarawak
138.	11 July	2 nd Meeting with the external consultant to the UDHR Publication Project	SUHAKAM, Kuala Lumpur	IICC
139.	15 - 16 July	Participation in exhibition at INTI Kolej	Seremban, Negeri Sembilan	PR
140.	15 - 29 July	NI Public Consultations	Perak, Kelantan, Pahang, Johor & Selangor	NI Committee
141.	18 July	RTD on the Millennium Development Goals from a Human Rights Perspective	SUHAKAM, Kuala Lumpur	ECOSOCWG
142.	18 July	Visit to detained PSM members at Bukit Aman	Kuala Lumpur	CIWG
143.	20 July	Workshop on Human Rights for local authorities	Banting, Selangor	EWG
144.	26 July	Talk on Human Rights at UMW-Toyota	Kuching, Sarawak	Sarawak

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
145.	28 July	Introductory Session on the NI for the State Secretary	Kuantan, Pahang	NI Committee
146.	29 July	Participation in Exhibition, in Anti-Trafficking Programme organised by Kota Kinabalu City Hall and NGOs	Kota Kinabalu, Sabah	Sabah
147.	1 Aug	Visit from Frontline HR Defenders	SUHAKAM, Sarawak	Sarawak
148.	6 - 9 Aug	Participation in Forum and Exhibition on Indigenous Economic Development in conjunction with World Indigenous Peoples' Day, organised by the Indigenous Peoples Network of Malaysia	Penampang, Sabah	Sabah, IPRC & PR
149.	9 Aug	Follow-up Meeting on the SEANF Paper on Migrant Workers	SUHAKAM, Kuala Lumpur	IICC
150.	10 - 11 Aug	Workshop on Human Rights for officers of Prison Department	Pulau Langkawi, Kedah	EWG
151.	13 Aug	World Indigenous Peoples' Day Celebration	Kuala Lumpur	IPRC
152.	13 Aug	Workshop on Convention on the Rights of the Child, for religious schools	Kangar, Perlis	EWG
153.	14 Aug	Guidance visit to SJKT Thiruvalluvar on Human Rights Best Practices in Schools Programme	Alor Setar, Kedah	EWG
154.	15 - 17 Aug	Follow-up visit on education issues affecting indigenous peoples	Bidor & Gerik, Perak	EWG
155.	18 Aug	Guidance visit to SMK Muhibbah on Human Rights Best Practices in Schools Programme	Sungai Siput, Perak	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
156.	19 Aug	Guidance visit to SK Kg Kenang Utara on Human Rights Practices in Schools Programme	Sungai Siput, Perak	EWG
157.	22 Aug	Workshop on Human Rights for local authorities	Butterworth, Penang	EWG
158.	23 Aug	3 rd Meeting with external consultant to the UDHR Publication Project	SUHAKAM, Kuala Lumpur	IICC
159.	24 Aug	Media interview with <i>The Star</i>	Kuching, Sarawak	PR
160.	25 Aug	Introductory Session on the NI for the State Secretary	Kuching, Sarawak	NI Committee
161.	6 Sept	Interview on 'Hello on Two', TV2	Kuala Lumpur	PR
162.	6 Sept	Visit to Drug Rehabilitation Centre to investigate allegations that detainees had been beaten	Machang, Kelantan	CIWG
163.	6 Sept	Guidance visit to SJKT Sepang on Human Rights Best Practices in Schools Programme	Sepang, Selangor	EWG
164.	7 Sept	Guidance visit to SJKC Chio Chiao on Human Rights Best Practices in Schools Programme	Sepang, Selangor	EWG
165.	8 Sept	Interview on 'Malaysia Hari Ini', TV3	Kuala Lumpur	PR
166.	8 Sept	Follow-up visit on education issues affecting indigenous peoples	Kuala Kubu Bharu, Selangor	EWG
167.	9 Sept	Guidance visit to SMK Seksyen 9 on Human Rights Best Practices in Schools Programme	Shah Alam, Selangor	EWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
168.	12 Sept	Guidance visit to SK Penderas on Human Rights Best Practices in Schools Programme	Kuala Krau, Pahang	EWG
169.	12 - 13 Sept	Workshop on Human Rights for local authorities, Part 1	George Town, Penang	EWG
170.	12 - 14 Sept	FTILS, Zone 3	Beaufort, Sabah	Sabah
171.	13 Sept	Guidance visit to SMK Kuala Krau on Human Rights Best Practices in Schools Programme	Kuala Krau, Pahang	EWG
172.	14 Sept	Guidance visit to SK Betau on Human Rights Best Practices in Schools Programme	Kuala Lipis, Pahang	EWG
173.	14 Sept	Workshop on Human Rights for National Anti-Drug Agency	Sungai Petani, Kedah	EWG
174.	15 Sept	Follow-up visit on education issues affecting indigenous peoples	Raub, Pahang	EWG
175.	15 Sept	Talk on Human Rights for RELA members	Kuala Berang, Terengganu	EWG
176.	17 - 30 Sept	NI Public Consultations	Kuching, Serian, Betong, Miri, Kapit, Bintulu, Betong & Limang, Sarawak	NI Committee & Sarawak
177.	19 Sept	Media interview with Sarawak FM	Kuching, Sarawak	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
178.	19 - 20 Sept	Meeting on development of a Human Rights Curriculum for the Prison Department	Pulau Langkawi, Kedah	EWG
179.	21 Sept	RTD on Needs of Persons with Disabilities: Dialogue with Local Authorities	Ipoh, Perak	EWG
180.	26 Sept	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
181.	3 Oct	Media interview at <i>ASTRO</i>	Kuala Lumpur	PR
182.	3 Oct	Monitoring assembly organised by MTUC at Parliament, against amendments to the Labour Act	Kuala Lumpur	CIWG
183.	3 - 4 Oct	Workshop on Human Rights for local authorities, Part 2	George Town, Penang	EWG
184.	6 Oct	Meeting with UNCT	SUHAKAM, Kuala Lumpur	IICC
185.	6 - 7 Oct	National Seminar on Non-discrimination	Kuala Lumpur	EWG
186.	7 - 8 Oct	Workshop on Human Rights for student leaders of Polytechnic Institutes, Part 1	Melaka	EWG
187.	9 Oct	Monitoring <i>Hijau 109</i> assembly in conjunction with Earth Charter Initiative at Taman Gelora	Kuantan, Pahang	CIWG
188.	10 Oct	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
189.	11 Oct	Commencement of Public Inquiry into Allegations of Violations of Human Rights during Bersih 2.0 rally	SUHAKAM, Kuala Lumpur	CIWG

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
190.	13 Oct	Seminar on Abolition of the Death Penalty, jointly organised with the EU Delegation to Malaysia and the Bar Council	Kuala Lumpur	LRTWG
191.	14 Oct	Workshop on Human Rights for officers-in-charge of police stations	Kangar, Perlis	EWG
192.	15 Oct	Workshop on Convention on the Rights of the Child, for religious schools	Kangar, Perlis	EWG
193.	17 Oct	Visit to Kg Pinang Pusing	Ipoh, Perak	CIWG
194.	19 - 21 Oct	In-house training: Introduction to Negotiation Mediation Skills	SUHAKAM, Kuala Lumpur	SUHAKAM
195.	21 - 22 Oct	Workshop on Human Rights for student leaders of Polytechnic Institutes, Part 2	Kepala Batas, Penang	EWG
196.	22 Oct	Monitoring <i>Himpunan Sejuta Umat</i>	Shah Alam, Selangor	CIWG
197.	24 Oct	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
198.	26 Oct	Talk on Human Rights for RELA members	Melaka	EWG
199.	26 - 28 Oct	FTILS, Zone 4	Telupid, Sabah	Sabah
200.	28 - 29 Oct	Workshop on Human Rights for student leaders of Polytechnic, Institutes, Part 3	Kuala Terengganu, Terengganu	EWG
201.	30 Oct	Participation in Integrated Mobile Counter	Putatan, Sabah	Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
202.	31 Oct	Roundtable Discussion (RTD) on Gender Equality: Unaddressed Women's Rights Issues	Kuala Lumpur	ECOSOCWG
203.	9 Nov	Workshop on Human Rights for local authorities	Jugra, Selangor	EWG
204.	9 Nov	Forum on Indigenous Education	Kuala Lumpur	IPRC & EWG
205.	10 - 11 Nov	Workshop on Human Rights for local authorities	George Town, Penang	EWG
206.	12 Nov	Joint participation in Medical Care Programme conducted by Mercy Malaysia at the Temporary Holding Centre	Papar, Sabah	Sabah
207.	13 Nov	Exhibition in conjunction with the Plan of Action 4 Malaysia Festival at the Kuala Lumpur and Selangor Chinese Assembly Hall	Kuala Lumpur	PR
208.	14 Nov	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah
209.	14 Nov	RTD on Climate Change	Kuala Lumpur	ECOSOCWG
210.	15 Nov	Workshop on Human Rights for officers of Prison Department	Tawau, Sabah	EWG
211.	15 -16 Nov	Public Inquiry into Allegations of Violations of Human Rights during Bersih 2.0 rally	SUHAKAM, Kuala Lumpur	CIWG
212.	17 Nov	RTD on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Kuala Lumpur	LRITWG
213.	18 Nov	Courtesy visit by delegation from Afghanistan	SUHAKAM, Kuala Lumpur	PR

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
214.	19 Nov	Participation in exhibition at the Law Career Fair at Universiti Malaya	Kuala Lumpur	PR
215.	21 - 23 Nov	Workshop on Child Rights for officers of Prison Department	Taiping, Perak	EWG
216.	22 - 23 Nov	Public Inquiry into Allegations of Violations of Human Rights during Bersih 2.0 rally	SUHAKAM, Kuala Lumpur	CIWG
217.	22 - 24 Nov	FTILS, Zone 5	Semporna, Sabah	Sabah
218.	24 Nov	Courtesy call on the Honourary Speaker of the State Assembly	Kuching, Sarawak	Sarawak
219.	24 Nov	Visit from students of Universiti Utara Malaysia	SUHAKAM, Kuala Lumpur	PR
220.	24 - 25 Nov	Library Programme with Universiti Malaya	Kuala Lumpur	EWG
221.	29 Nov	Monitoring of assembly against Peaceful Assembly Bill 2011	Kuala Lumpur	CIWG
222.	29 - 30 Nov	Book Showcase and Movie Screening Programme at Universiti Malaya	Kuala Lumpur	EWG
223.	1 Dec	Courtesy call on the Chief Justice	Putrajaya	LRITWG
224.	5 Dec	Seminar on Rights of Persons with Disabilities	Kuala Lumpur	ECOSOCWG
225.	9 Dec	Signing of Memorandum of Understanding with Universiti Kebangsaan Malaysia	SUHAKAM, Kuala Lumpur	EWG
226.	9 Dec	Talk on Human Rights for RELA members	Tuaran, Sabah	EWG & Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP / DIVISION/ BRANCH
227.	10 Dec	Ceremony to present inaugural SUHAKAM Human Rights Awards 2011	Kuala Lumpur	PR & EWG
228.	12 - 14 Dec	Workshop on Child Rights for officers of Prison Department	Pulau Langkawi, Kedah	EWG
229.	16 Dec	Courtesy call on the Director of RTM	Kuching, Sarawak	Sarawak & PR
230.	16 Dec	Dinner for the media	Kuching, Sarawak	Sarawak & PR
231.	19 - 20 Dec	Public Inquiry into Allegations of Violations of Human Rights during Bersih 2.0 rally	SUHAKAM, Kuala Lumpur	CIWG
232.	21 Dec	RTD on Needs of Persons with Disabilities: Dialogue with the Local Authorities	George Town, Penang	EWG

APPENDIX III

TALKS, MEETINGS, WORKSHOPS AND CONFERENCES –
NATIONAL 2011

MOC - Member of Commission

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	25 Jan	Meeting of the Protection and Recovery Committee of Trafficking Victims	Kuala Lumpur	Mr James Nayagam (MOC) Rafidah Yahya, Officer
2.	25 - 26 Jan	International conference on the Law on Customary Lands, Territories and Resource Rights: Bridging the Implementation Gap	Kuala Lumpur	Ms Jannie Lasimbang (MOC)
3.	16 March	Technical Meeting with Malaysian Anti-Corruption Commission (MACC)	Johor Bahru, Johor	Ameer Izyanif Hamzah, Officer
4.	21 March	Meeting between High Commission of India and SUHAKAM	Kuala Lumpur	Mr Muhammad Sha'ani Abdullah (MOC) Ameer Izyanif Hamzah, Officer Shahizad Sulaiman, Officer Helmy Fendy Mohamad Idris, Officer Norashikin Hamzah, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
5.	24 March	Luncheon talk on Corruption in Malaysia	Kuala Lumpur	Rafidah Yahya, Officer Paremeswari Subramaniam, Officer
6.	25 - 26 April	Course on Outcome-based Budgeting	Putrajaya	Ameer Izyanif Hamzah, Officer Shahizad Sulaiman, Officer Helmy Fendy Mohamad Idris, Officer Norashikin Hamzah, Officer
7.	25 - 27 April	Workshop on Strategic Programming Outcome-based Budgeting	Putrajaya	Mohamad Azizi, Officer
8.	26 April	Meeting on Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council, Malaysia	Putrajaya	Ameer Izyanif Hamzah, Officer
9.	27 April	<i>Seminar Aqidah (Shiah)</i> by Selangor Islamic Affairs Department	Shah Alam, Selangor	Shahizad Sulaiman, Officer
10.	28 April	Launch of Malaysia's <i>The Millennium Development Goals at 2010 Report</i>	Putrajaya	Paremeswari Subramaniam, Officer
11.	31 May	Technical Meeting with MACC	Johor	Ameer Izyanif Hamzah, Officer
12.	15 June	Symposium on Land Rights and Indigenous Peoples by Universiti Malaysia Sabah	Kota Kinabalu, Sabah	Ms Jannie Lasimbang (MOC)
13.	16 June	Talk on Human Rights for law students at INTI College	Negeri Sembilan	Intan Farida Adnan, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
14.	20 - 21 June	UNFPA-APF Regional Consultation on Integrating Reproductive Rights into the Work of National Human Rights Institutions (NHRIs)	Kuala Lumpur	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Eda Mazuin Abdul Rahman, Officer Mohd Hairul Fahmi Mohd Harris, Officer, Intan Farida Adnan, Officer Siti Zaihan Zulkarnain, Officer Ameer Izyanif Hamzah, Officer Norashikin Hamzah, Officer
15.	5 July	Meeting of Technical Committee on the International Convention on the Elimination of All Forms of Racial Discrimination	Putrajaya	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Akhdia Nur Zahhir Alwi, Officer
16.	28 July	Meeting with State Secretary	Kuantan, Pahang	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Mr Muhammad Sha'ani Abdullah (MOC) Rafidah Yahya, Officer
17.	16 Aug	Meeting with the Coordinating Council for the Protection of Children, at the Ministry of Women, Family and Community Development	Putrajaya	Akhdia Nur Zahhir Alwi, Officer
18.	17 Aug	Dialogue with Orang Asli in conjunction with World Indigenous Peoples' Day, organised by the Indigenous Peoples Network of Malaysia	Kuantan, Pahang	Ms Jannie Lasimbang (MOC)

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
19.	17 Aug	Visit to Orang Asli settlement in conjunction with World Indigenous Peoples' Day	Kg Jameri, Pahang	Ms Jannie Lasimbang (MOC)
20.	22 Aug	Briefing on national policies on families and the elderly	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer
21.	15 Sept	UNFPA-APF Regional Consultation on Integrating Reproductive Rights into the Work of NHRIs	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer Mohamad Azizi, Officer
22.	20 Sept	Technical Meeting with MACC	Melaka	Shahizad Sulaiman, Officer
23.	22 Sept	Seminar on Land and Native Courts by UPKO	Kota Kinabalu	Jasmih Slamet, Officer
24.	26 - 27 Sept	Seminar on the Efficacy of the Sedition Act 1948	Putrajaya	Lee Pei Hsi, Officer Siti Zaihan Zulkarnain, Officer Akhdia Nur Zahhir, Officer
25.	9 - 10 Oct	Talk on Human Rights at Universiti Malaysia Sarawak	Sarawak	Mr Detta Samen (MOC)
26.	11 Oct	Land Conference by the Indigenous Peoples Network of Malaysia	Kuala Lumpur	Ms Jannie Lasimbang (MOC)
27.	12 - 14 Oct	World Indigenous Peoples' Day programme by Bar Council	Kuala Lumpur	Wan Norhafizah, Officer Hasmah Abdul Manaf, Officer
28.	20 Oct	Seminar on <i>Keluarga Komuter</i>	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer
29.	24 Oct	Talk on Human Rights at INTAN Campus	Samarahan, Sarawak	Mr Detta Samen (MOC) Sophian Osman, Officer
30.	29 Oct	Freedom Film Festival 2011 by Pusat KOMAS and PANGGAU	Kuching, Sarawak	Mr Detta Samen (MOC) Sophian Osman, Officer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
31.	31 Oct	Seminar on Promoting Peace through Mainstreaming Leaders in Peacekeeping Operations	Kuala Lumpur	Ameer Izyanif Hamzah, Officer Shahizad Sulaiman, Officer Helmy Fendy Mohamad Idris, Officer Norashikin Hamzah, Officer
32.	31 Oct	Training on Draft Outcome Statement	Port Dickson, Negeri Sembilan	Mohamad Azizi, Officer
33.	8 Nov	Seminar on Land Reform by SAPP	Kota Kinabalu	Jasmih Slamet, Officer
34.	9 Nov	High-level Seminar on Migration and Social Security – the Example of Europe	Putrajaya	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Wan Kasim Wan Kadir, Officer
35.	10 Nov	Convention on National Integrity	Putrajaya	Paremeswari Subramaniam, Officer
36.	11 Nov	Symposium on Policy for the Successful Treatment and Care of Drug-users and Prevention of HIV	Kuala Lumpur	Siti Zaihan Zulkarnain, Officer
37.	14 Nov	Talk on the Rights of Persons with Disabilities at Rumah Amal Sabah	Kota Kinabalu, Sabah	Ms Jannie Lasimbang (MOC)
38.	15 Nov	International conference on Sabah Heart of Borneo Green Economy and Development: Engaging Business for Environment	Kota Kinabalu, Sabah	Ms Jannie Lasimbang (MOC)
39.	25 Nov	Public Consultation by Parliamentary Select Committee on Electoral Reform	Kota Kinabalu, Sabah	Ms Jannie Lasimbang (MOC)

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
40.	29 Nov	Meeting of Technical Committee on Social Responsibility	Kuala Lumpur	Mr Detta Samen (MOC) Rafidah Yahya, Officer
41.	30 Nov	Talk on Internal Security Act at Universiti Kebangsaan Malaysia	Bangi, Selangor	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman)
42.	3 Dec	Appreciation Dinner by Mercy Malaysia	Kota Kinabalu, Sabah	Ms Jannie Lasimbang (MOC)
43.	8 Dec	World Human Rights Day programme by United Nations Resident Office	Kuala Lumpur	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Mr Detta Samen (MOC)
44.	15 Dec	Public Lecture on Rights to Education among Indigenous Peoples	Kuala Lumpur	Hasmah Abdul Manaf, Officer
45.	16 Dec	Dissemination seminar on Abortion Studies	Subang, Selangor	Paremeswari Subramaniam, Officer
46.	17 Dec	Roundtable Discussion on Amendment to Section 15 of the Universities and University Colleges Act 1971	Kuala Lumpur	Mr Muhammad Sha'ani Abdullah (MOC) Akhdia Nur Zahhir Alwi, Officer
47.	19 - 23 Dec	Training on Outcome-based Budgeting	Shah Alam, Selangor	Mohamad Azizi Azmi, Officer

APPENDIX IV

VISITS, MEETINGS AND CONFERENCES –
INTERNATIONAL 2011

MOC - Member of Commission

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	31 Jan - 2 Feb	Kick-off Meeting: Raoul Wallenberg Institute Regional Asia Programme	Bangkok, Thailand	Tan Sri Hasmy Agam (Chairman) Mrs Hashimah Nik Jaafar, Secretary Nurul Hasanah Ahamed, Officer
2.	9 - 10 Feb	Commonwealth Seminar on Universal Periodic Review (UPR) Follow-up and Implementation in Asia and Europe	Dhaka, Bangladesh	Mr Muhammad Sha'ani Abdullah (MOC) Mohd Hairul Fahmi Mohd Harris, Officer
3.	22 - 23 Feb	Discussion on Human Rights Implications of the ASEAN Community Blueprint	Luang Prabang, Lao PDR	Wan Kasim Wan Kadir, Officer
4.	24 - 25 Feb	9 th Technical Working Group Meeting of the Southeast Asia National Human Rights Institutions Forum (SEANIF)	Quezon City, The Philippines	Lee Pei Hsi, Officer Rafidah Yahya, Officer Jesrina Grewal, Officer Mohd Hairul Fahmi Mohd Harris, Officer
5.	25 - 28 Feb	Follow-up meeting on Southeast Asia Graduated Human Rights Education Curricula for Law Enforcers	Manila, The Philippines	Ameer Izyanif Hamzah, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
6.	16 - 18 March	Human Rights Conference, 2 nd Asia Pacific OutGames	Wellington, New Zealand	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Akhdia Nur Zahhir Alwi, Officer
7.	27 - 29 March	Workshop on Access to Reminders for Corporate-related Human Rights Impact in Southeast Asia	Singapore	Mr James Nayagam (MOC) Paremeswari Subramaniam, Officer
8.	13 - 14 May	Meeting of the Commonwealth Forum of National Human Rights Institutions (NHRIs)	Bracknell, United Kingdom	Tan Sri Hasmy Agam (Chairman) Mr Detta Samen (MOC) Wan Kasim Wan Kadir, Officer
9.	16 May	Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) Bureau	Geneva, Switzerland	Tan Sri Hasmy Agam (Chairman) Mr Detta Samen (MOC) Wan Kasim Wan Kadir, Officer
10.	17 - 19 May	24 th ICC General Meeting	Geneva, Switzerland	Tan Sri Hasmy Agam (Chairman) Mr Detta Samen (MOC) Wan Kasim Wan Kadir, Officer
11.	20 May	Workshop on Role of Prevention in the Promotion and Protection of Human Rights	Geneva, Switzerland	Tan Sri Hasmy Agam (Chairman) Mr Detta Samen (MOC) Wan Kasim Wan Kadir, Officer
12.	8 - 12 June	SEANF Strategic Planning Workshop	Jakarta, Indonesia	Tan Sri Hasmy Agam (Chairman) Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Ms Jannie Lasimbang (MOC) Mrs Hashimah Nik Jaafar, Secretary Lee Pei Hsi, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
13.	26 June - 2 July	Blended Learning Course on Equal Status and Human Rights of Women	Bangkok, Thailand	Mohamad Azizi, Officer
14.	27 July	Seminar on Discrimination Against Women in the Context of Regional and Culture	Jakarta, Indonesia	Mr Detta Samen (MOC)
15.	27 - 28 July	UPR Recommendations Consultation between Ministries and Civil Society of Cambodia	Phnom Penh, Cambodia	Lee Pei Hsi, Officer
16.	6 - 8 Sept	16 th Asian Pacific Forum of NHRIs Annual Meeting and Biennial Conference	Bangkok, Thailand	Tan Sri Hasmy Agam (Chairman) Mr James Nayagam (MOC) Mrs Hashimah Nik Jaafar, Secretary Mohd Hairul Fahmi Mohd Harris, Officer
17.	13 - 20 Sept	18 th Human Rights Council Session	Geneva, Switzerland	Prof Datuk Dr Khaw Lake Tee (Vice- Chairman) Lee Pei Hsi, Officer
18.	15 Sept	Meeting with National Institutions and Regional Mechanisms Section of Office of High Commissioner for Human Rights	Geneva, Switzerland	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Lee Pei Hsi, Officer
19.	16 Sept	Meeting with Secretary of the UN Committee on the Rights of Persons with Disabilities	Geneva, Switzerland	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Lee Pei Hsi, Officer
20.	16 Sept	Expert Meeting on Child Rights and the Business Sector: Exploring the Content of the General Comment by the Committee on the Rights of the Child	Geneva, Switzerland	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Lee Pei Hsi, Officer

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
21.	20 Sept	Meeting with Malaysia's Permanent Representative to Geneva	Geneva, Switzerland	Prof Datuk Dr Khaw Lake Tee (Vice-Chairman) Lee Pei Hsi, Officer
22.	3 - 4 Oct	NHRI Capacity Building	Manila, The Philippines	Mr Detta Samen (MOC)
21.	10 Oct	Meeting of the ICC Bureau	Seoul, Korea	Tan Sri Hasmy Agam (Chairman) Mr James Nayagam (MOC) Wan Kasim Wan Kadir, Officer
22.	11 - 13 Oct	Asia-Pacific Regional Conference on Business and Human Rights	Seoul, Korea	Tan Sri Hasmy Agam (Chairman) Mr James Nayagam (MOC) Wan Kasim Wan Kadir, Officer
23.	14 Oct	Meeting of ICC Working Group on Business and Human Rights	Seoul, Korea	Mr James Nayagam (MOC) Wan Kasim Wan Kadir, Officer
24.	18 - 19 Oct	8 th Annual Meeting of SEANF	Quezon City, The Philippines	Tan Sri Hasmy Agam (Chairman) Ms Jannie Lasimbang (MOC) Lee Pei Hsi, Officer
25.	17 - 21 Oct	Capacity-building Programme on Human Rights Advocacy and Migrant Workers in the Asia-Pacific Region	Bangkok, Thailand	Wan Kasim Wan Kadir, Officer
26.	14 - 15 Nov	Human Rights Seminar for Government Officials of the Union of Myanmar	Yangon, Myanmar	Tan Sri Hasmy Agam (Chairman)
27.	27 Nov	SEANF Meeting with UN High Commissioner for Human Rights	Bali, Indonesia	Tan Sri Hasmy Agam (Chairman)

NO.	DATE	VISITS, MEETINGS AND CONFERENCES	VENUE	REPRESENTATIVE
28.	27 Nov	4 th Regional Consultation on ASEAN and Human Rights	Bali, Indonesia	Tan Sri Hasmy Agam (Chairman)
29.	28 Nov - 1 Dec	Workshop on Human Rights and Business: Plural Legal Approaches to Conflict Resolution, Institutional Strengthening and Legal Reform	Bali, Indonesia	Mr James Nayagam (MOC) Ms Jannie Lasimbang (MOC)

THE COMMISSION'S PUBLICATIONS 2011

NO.	CATEGORY	TITLE
1.	Report	SUHAKAM Annual Report 2010 (Bahasa Malaysia & English)
2.	Report	Human Rights and Equitable Healthcare
3.	Report (Reprint)	<i>Pelan Pengajaran Hak Asasi Manusia untuk Sekolah-Sekolah Asia Tenggara</i>
4.	Report (Reprint)	<i>Status Hak Pendididkan Kanak-Kanak Orang Asli</i>
5.	Journal	Human Rights Journal
6.	Bulletin (March 2011)	SUHAKAM Bulletin
7.	Bulletin (June 2011)	SUHAKAM Bulletin
8.	Bulletin (Sept 2011)	SUHAKAM Bulletin
9.	Brochure (Reprint)	I am A Human Being, I am Not A Slave, I am Not For Sale (Bahasa Malaysia & English)
10.	Brochure (Reprint)	SUHAKAM and You (Bahasa Malaysia & English)
11.	Brochure	<i>Hak Asasi dan Pilihanraya</i>
12.	Brochure	<i>Hak Pengundian Sejagat</i>
13.	Brochure	<i>Inkuiri Nasional Hak Tanah Orang Asal/Asli</i>
14.	Poster	<i>Inkuiri Nasional Hak Tanah Orang Asal/Asli</i>
15.	Poster	Convention on the Rights of the Child (CRC)
16.	Bunting	<i>Inkuiri Nasional Hak Tanah Orang Asal/Asli</i>
17.	Pamphlet (Reprint)	SUHAKAM Charter
18.	Pamphlet	Corruption and Human Rights (Bahasa Malaysia & English)
19.	Booklet	Universal Periodic Review (UPR)
20.	Booklet (Reprint)	Convention on the Rights of the Child
21.	Booklet (Reprint)	United Nations Declaration on the Rights Of Indigenous Peoples (UNDRIP)
22.	Booklet (Reprint)	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
23.	Booklet (Reprint)	<i>Konvensyen Hak Asasi Kanak-Kanak (Versi bergambar)</i>

APPENDIX VI

MONTHLY MEETINGS –
ATTENDANCE OF MEMBERS OF THE COMMISSION 2011

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
1.	9-2011 Meeting	17 Jan	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato’ Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha’ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
2.	10-2011 Meeting	8 Feb	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato’ Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha’ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam 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
3.	11-2011 Meeting	22 Feb	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
4.	12-2011 Meeting	21 March	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
5.	13-2011 Meeting	12 April	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam 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
6.	14-2011 Meeting	26 April	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
7.	15-2011 Meeting	10 May	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
8.	16-2011 Meeting	24 May	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam 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
9.	17-2011 Meeting	7 June	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
10.	18-2011 Meeting	8 July	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
11.	19-2011 Meeting	16 Aug	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam 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
12.	20-2011 Meeting	4 Oct	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			
13.	21-2011 Meeting	8 Nov	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar	Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid	✓	
14.	22-2011 Meeting	6 Dec	Tan Sri Hasmy Agam Prof Datuk Dr Khaw Lake Tee Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid Mr Muhammad Sha'ani Abdullah Ms Jannie Lasimbang Mr Detta Samen Mr James Deva Nayagam Mrs Hashimah Nik Jaafar			



APPENDIX VII

CERTIFICATE OF THE AUDITOR GENERAL ON THE FINANCIAL
STATEMENTS OF HUMAN RIGHTS COMMISSION OF MALAYSIA
FOR THE YEAR ENDED 31 DECEMBER 2011



**SIJIL KETUA AUDIT NEGARA
MENGENAI PENYATA KEWANGAN
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
BAGI TAHUN BERAKHIR 31 DISEMBER 2011**

Penyata Kewangan Suruhanjaya Hak Asasi Manusia Malaysia bagi tahun berakhir 31 Disember 2011 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 2011 serta hasil operasi dan aliran tunai untuk tahun tersebut adalah selaras dengan piawaian perakaunan yang diluluskan.

(SAADATUL NAFISAH BINTI BASHIR AHMAD)
b.p. KETUA AUDIT NEGARA
MALAYSIA

PUTRAJAYA
28 FEBRUARI 2012



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 2011, 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 2011 dan hasil kendaliannya serta aliran tunainya bagi tahun berakhir pada tarikh tersebut.

Bagi pihak Suruhanjaya,



TAN SRI HASMY BIN AGAM

Pengerusi

Kuala Lumpur

Tarikh:

22 FEB 2012

Bagi pihak Suruhanjaya,



DATUK DR. KHAW LAKE TEE

Naib Pengerusi

Kuala Lumpur

Tarikh:

22 FEB 2012

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 imbalan pada 31 Disember 2011, 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 Aduan Berkanun, 1960.

Sebenarnya dan sesungguhnya diakui

Oleh penama di atas,

Hashimah Binti Nik Jaafar

Di Kuala Lumpur pada 22 FEB 2012



Di hadapan saya,



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 2011**

	Nota	2011 RM	2010 RM
ASET BUKAN SEMASA			
Loji dan peralatan	3	1,484,244	2,341,969
ASET SEMASA			
Pelbagai Penghutang, deposit dan prabayar	4	792,043	1,070,820
Simpanan Tetap	5	2,176,948	3,026,972
Tunai dan baki di bank	6	1,429,052	1,385,669
		4,398,043	5,483,461
LIABILITI SEMASA			
Pelbagai pemiutang dan akruan	7	58,828	1,489,268
		58,828	1,489,268
ASET SEMASA BERSIH		4,339,215	3,994,193
		<u>5,823,459</u>	<u>6,336,162</u>
Dibiayai Oleh:			
Dana Terkumpul	8, 13	5,823,459	6,336,162
		<u>5,823,459</u>	<u>6,336,162</u>

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PENDAPATAN
BAGI TAHUN BERAKHIR 31 DISEMBER 2011

	Nota	2011 RM	2010 RM
PENDAPATAN			
Geran Kerajaan	13	9,767,000	10,615,000
PENDAPATAN LAIN			
Hibah		5,717	6,440
Faedah ke atas simpanan tetap		93,515	45,910
Keuntungan ke atas pelupusan		57,297	118,890
Lain-Lain		3,820	89
		<u>160,349</u>	<u>171,329</u>
Jumlah Pendapatan		9,927,349	10,786,329
PERBELANJAAN			
Emolumen	9	3,538,395	3,168,297
Perjalanan dan sara hidup		1,068,872	825,460
Pengangkutan		480	47,800
Perhubungan dan utiliti		283,787	228,799
Sewaan		2,577,018	1,506,002
Bekalan bahan mentah		85,749	77,587
Bekalan dan bahan-bahan lain		213,256	102,598
Penyelenggaraan dan pembaikan kecil		341,526	552,191
Perkhidmatan Ikhtisas dan hospitaliti	10	1,641,980	1,689,662
Susutnilai		594,305	632,640
Ganjaran		44,369	123,269
Kerugian daripada jualan/pelupusan harta		47,896	-
Hutang Ragu		-	364,770
Lain-Lain Perbelanjaan		2,419	-
		<u>10,440,052</u>	<u>9,319,075</u>
(Kurangan) / Lebihan pada tahun		<u>(512,703)</u>	<u>1,467,254</u>

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 2011

	Nota	Dana <u>terkumpul</u>
		RM
Pada 1 Januari 2010	13	4,868,908
Lebihan bagi tahun		1,467,254
Pada 31 Disember 2010/ 1 Januari 2011		6,336,162
Kurangan bagi tahun		(512,703)
Pada 31 Disember 2011		5,823,459

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA ALIRAN TUNAI
BAGI TAHUN BERAKHIR 31 DISEMBER 2011

	2011 RM	2010 RM
ALIRAN TUNAI DARI AKTIVITI OPERASI		
Penerimaan	9,767,000	10,615,000
Pembayaran untuk perbelanjaan	<u>(10,094,258)</u>	<u>(8,870,336)</u>
Tunai bersih (digunakan untuk)/ dari aktiviti operasi	<u>(327,258)</u>	<u>1,744,664</u>
ALIRAN TUNAI DARI AKTIVITI PELABURAN		
Hibah	5,717	6,439
Keuntungan diterima dari simpanan tetap	36,829	26,672
Pendapatan dari jualan aset	368,100	122,400
Belian loji dan peralatan	<u>(890,029)</u>	<u>(220,759)</u>
Tunai bersih digunakan untuk aktiviti pelaburan	<u>(479,383)</u>	<u>(65,248)</u>
 (Penurunan)/Peningkatan bersih dalam tunai dan kesetaraan tunai	 (806,641)	 1,679,416
Tunai dan kesetaraan tunai pada awal tahun	<u>4,412,641</u>	<u>2,733,225</u>
Tunai dan kesetaraan tunai pada akhir tahun	<u>3,606,000</u>	<u>4,412,641</u>
ANALISA TUNAI DAN KESETARAAN TUNAI		
Simpanan tetap	2,176,948	3,026,972
Tunai dan baki di bank	<u>1,429,052</u>	<u>1,385,669</u>
	<u>3,606,000</u>	<u>4,412,641</u>

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

NOTA-NOTA KEPADA PENYATA KEWANGAN 31 DISEMBER 2011

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

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 Kesetaraan Tunai

Tunai merangkumi wang tunai di tangan dan di bank dan simpanan. Kesetaraan tunai merangkumi pelaburan mudah tunai yang boleh ditukarkan kepada amaun tunai yang diketahui yang tertakluk kepada risiko pertukaran nilai yang tidak 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 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

3 LOJI DAN PERALATAN

2011	Buku peralatan dan					
	Kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Kerja Dalam Kemajuan	Jumlah
	RM	RM	RM	RM	RM	RM
Kos						
Pada 1 Januari	865,711	622,859	2,498,113	776,613	786,400	5,549,696
Tambahan	113,855	26,424	-	786,400	-	926,679
Pelupusan/ Pelarasan	(277,135)	(73,016)	(1,023,752)	-	(786,400)	(2,160,303)
Pada 31 Disember	702,431	576,267	1,474,361	1,563,013	-	4,316,072
Susutnilai Berkumpul						
Pada 1 Januari	778,012	349,909	1,425,734	654,072	-	3,207,727
Caj untuk tahun	39,409	81,026	295,978	177,892	-	594,305
Pelupusan	(260,938)	(25,591)	(683,675)	-	-	(970,204)
Pada 31 Disember	556,483	405,344	1,038,037	831,964	0	2,831,828
Nilai Buku Bersih						
Pada 31 Disember	145,948	170,923	436,324	731,049	-	1,484,244
2010	Buku peralatan dan					
	Kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Kerja Dalam Kemajuan	Jumlah
	RM	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 Berkumpul						
Pada 1 Januari	798,211	307,053	1,523,820	575,699	-	3,204,783
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	0	3,207,727
Nilai Buku Bersih						
Pada 31 Disember	87,698	272,950	1,072,379	122,541	786,400	2,341,969

(Samb.)

4

PELBAGAI PENGHUTANG, DEPOSIT, DAN PRABAYAR

	<u>2011</u>	<u>2010</u>
	RM	RM
Pelbagai penghutang	863	4,780
Deposit	778,876	1,062,308
Prabayar	5,594	3,732
Faedah Tera kru	6,710	-
	<u>792,043</u>	<u>1,070,820</u>

5

SIMPANAN TETAP

Simpanan tetap dengan bank berlesen tidak dicagarkan untuk sebarang tujuan. Kadar faedah efektif bagi simpanan tetap dengan bank berlesen ialah antara 3.00%-3.17% setahun. Tempoh matang ialah antara 30 hari hingga 90 hari

6

TUNAI DAN BAKI DI BANK

	<u>2011</u>	<u>2010</u>
	RM	RM
Tunai di tangan	5,000	1,527
Tunai di bank	<u>1,424,052</u>	<u>1,384,142</u>
	<u>1,429,052</u>	<u>1,385,669</u>

7

PELBAGAI PEMIUTANG DAN AKRUAN

	<u>2011</u>	<u>2010</u>
	RM	RM
Pelbagai pemiutang	51,843	1,113,684
Akruan	<u>6,985</u>	<u>375,584</u>
	<u>58,828</u>	<u>1,489,268</u>

(Samb.)

8	DANA TERKUMPUL		
		2011	2010
		RM	RM
	<u>Dana Terkumpul</u>		
	Baki pada 1 Januari	6,336,162	4,868,908
	(Kurangan) /Lebihan Bagi Tahun	(512,703)	1,467,254
	Baki pada 31 Disember	<u>5,823,459</u>	<u>6,336,162</u>

9	EMOLUMEN		
	Pembayaran emolumen bagi 83 (2010 : 81) jawatan Pegawai dan Kakitangan tetap adalah seperti berikut:		
		2011	2010
		RM	RM
	Gaji	2,025,699	1,842,122
	Imbuhan Khidmat Awam	118,349	116,591
	Elaun Perumahan	265,423	245,144
	Elaun Keraian	119,303	108,171
	Lain-Lain elaun	568,079	379,435
	Sumbangan Badan Berkanun	359,323	321,090
	Faedah Kewangan Lain	82,219	155,744
	Jumlah	<u>3,538,395</u>	<u>3,168,297</u>

10	PERKHIDMATAN IKHTISAS DAN HOSPITALITI
	Termasuk di dalam perbelanjaan ini adalah pembayaran emolumen kepada Pesuruhjaya adalah sebanyak RM 690,000

11 MAKLUMAT KAKITANGAN

Jumlah kakitangan SUHAKAM pada akhir tahun adalah 83(2010 : 81)

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 kesetaraan tunai yang mencukupi bagi memenuhi keperluan modal kerja.

(b) Nilai Saksama

Nilai dibawa tunai dan kesetaraan 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.

	Pernyataan Sebelumnya <u>2010</u> RM	Pelarasan <u>2010</u> RM	Pernyataan Semula <u>2010</u> RM
Lembaran Imbangan			
Dana Terkumpul	1,197,763	5,138,399	6,336,162
Geran Kerajaan	5,138,399	(5,138,399)	-
Penyata Pendapatan			
Geran Kerajaan	9,319,075	1,295,925	10,615,000
Jumlah Pendapatan	9,490,404	1,295,925	10,786,329
Lebihan	171,329	1,295,925	1,467,254
Penyata perubahan Dalam Dana terkumpul			
Dana 1 Januari	1,026,434	3,842,474	4,868,908
Geran Kerajaan 1 Januari	3,842,474	(3,842,474)	-

LIST OF ABBREVIATIONS

ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Inter-Governmental Commission for Human Rights
AKDC	Asap Koyan Development Community
APF	Asia Pacific Forum of National Human Rights Institutions
APF-16	16th Annual Meeting and Biennial Conference of the Asia Pacific Forum of National Human Rights Institutions
ATIP	Anti-Trafficking in Persons
AWAM	All Women's Action Society, Malaysia
Bersih	Coalition for Clean and Fair Elections
BHEUU	Legal Affairs Division of the Prime Minister's Department
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CCTV	Closed-circuit Television Camera
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CFNHRI	Commonwealth Forum of NHRIs
CHOGM	Commonwealth Heads of Government Meeting
CIWG	Complaints and Inquiries Working Group
CKSB	Chemsain Konsultant Sdn Bhd
CMAG	Commonwealth Ministerial Action Group
CMD	Chief Minister's Department
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organisations
CSR	Corporate Social Responsibility

CSW	Commission on the Status of Women
CTs	Communal Titles
DO	District Officer
ECOSOCWG	Economic, Social and Cultural Rights Working Group
EMPOWER	<i>Persatuan Kesedaran Komuniti Selangor</i>
EO	Emergency (Public Order and Prevention of Crime) Ordinance 1969
EPG	Eminent Persons Group
EU	European Union
EWG	Education and Promotion Working Group
FORUM-ASIA	Asian Forum for Human Rights and Development
FTILS	Forum and Training on Indigenous Legal System
GHG	Greenhouse Gas
HRBPS	Human Rights Best Practices in Schools
HRC	Human Rights Council
HRC18	18th Regular Session of the HRC
ICC	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
IICC	International Issues and Cooperation Committee
IOM	International Organisation for Migration
IPO	Interim Protection Order
IPRC	Indigenous Peoples' Rights Committee
IPs	Indigenous Peoples
ISA	Internal Security Act 1960
JAIS	Selangor Islamic Affairs Department
JAKIM	Islamic Development Department of Malaysia
JAKOA	Department of Orang Asli Development

JOAS	Indigenous Peoples Network of Malaysia
KAP	<i>Kurikulum Asli Penan</i>
KITA	Institute of Ethnic Studies
LGBT	Lesbians, Gays, Bi-Sexual and Transgender
LINUS	Literacy and Numeracy Screening Programme
LRITWG	Law Reform and International Treaties Working Group
LSD	Land and Survey Department
MACC	Malaysian Anti-Corruption Commission
MDGs	Millennium Development Goals
MNHRC	Myanmar National Human Rights Commission
MoE	Ministry of Education
MoH	Ministry of Health
MoU	Memorandum of Understanding
Murum HEP	Murum Hydroelectric Dam Project
MRRD	Ministry of Rural and Regional Development
MTCS	Malaysian Timber Certification Scheme
MTUC	Malaysian Trades Union Congress
MWFCD	Ministry of Women, Family and Community Development
NCR	Native Customary Rights
NGOs	Non-governmental Organisations
NHRAP	National Human Rights Action Plan
NHRIs	National Human Rights Institutions
NI	National Inquiry
NIRMS	National Institutions and Regional Mechanisms Section
NLC	National Land Council
NRD	National Registration Department
OCC	Occupational Classification Categories

OCS	Officers-in-Charge of Police Station
OHCHR	Office of the High Commissioner for Human Rights
OP-CRC	Optional Protocol to the Convention on the Rights of the Child
PCB	Public Complaints Bureau
PEMANDU	Performance Management and Delivery Unit
PROHAM	Association for the Promotion of Human Rights
PSM	<i>Parti Sosialis Malaysia</i>
PULAPOL	Police Training Centre
PWDs	Persons with Disabilities
RELA	People's Volunteer Cops
RISDA	Rubber Industry Smallholders Development Authority
RMP	Royal Malaysian Police
ROC	Registrar of Companies
RSPO	Roundtable on Sustainable Palm Oil
RTDs	Roundtable Discussions
SEANF	Southeast Asia National Human Rights Institutions Forum
SEB	Sarawak Electricity Bhd
SEDIA	Sabah Economic Development and Investment Authority
SDC	Sabah Development Corridor
SMA	Student Management Assistant
SOP	Standard Operating Procedure
SPU	State Planning Unit
SRIB	Sabah Rubber Industry Board
SUARAM	<i>Suara Rakyat Malaysia</i>
TCSR	Technical Committee on Social Responsibility
TIP	Trafficking in Persons
UDHR	Universal Declaration of Human Rights

UKM	Universiti Kebangsaan Malaysia
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFPA	United Nations Population Fund
UNGA	UN General Assembly
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
UPSI	Universiti Pendidikan Sultan Idris
UUCA	Universities and University Colleges Act 1971

SUHAKAM

11th Floor, Menara TH Perdana,
1001, Jalan Sultan Ismail, 50250 Kuala Lumpur.
URL: [http:// www.suhakam.org.my](http://www.suhakam.org.my)