



ANNUAL REPORT

2015

HUMAN RIGHTS COMMISSION
OF MALAYSIA

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HUMAN RIGHTS COMMISSION OF MALAYSIA ANNUAL REPORT 2015

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CHAIRMAN'S MESSAGE



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia

Pursuant to Section 21 of the Human Rights Commission of Malaysia Act 1999 (Act 597), the Commission is required to submit its Annual Report to Parliament each year before the first term of the Parliament session. This is the 15th Annual Report which presents a record of the Commission's activities and programmes, issues and recommendations, as well as financial management over the past 12 months.

The Commission continued to work on a wide range of human rights issues including business and human rights; National Human Rights Action Plan (NHRAP); right to health and HIV/AIDS; Parliamentary Select Committee on Human Rights; as well as rights of vulnerable groups such as Indigenous Peoples, women, children, persons with disabilities, and older persons, detainees, refugees and asylum seekers, migrant workers and transgender people. The Commission also continued to monitor the Country's implementation of its treaty obligations under the Convention on the Rights of the Child (CRC), the Convention on the Elimination on All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD). Efforts were also made by the Commission to advocate for Malaysia's accession to the remaining international core human rights treaties.

Throughout 2015, the Commission received a total of 676 complaints, of which 333 cases fell within its jurisdiction. Of the 333 cases of alleged human rights violations, the Commission has completed investigations into 197 cases, while the rest are still being followed up. These complaints were mainly related to persistent human rights issues such as nationality; native customary land rights; arbitrary arrest and detention; cruel, inhuman or degrading treatment or punishment; employment and migrant workers, the right to seek asylum and refugee status; the right to adequate standard of living; and environmental rights, among others.

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The Commission further enhanced the effectiveness of its complaints-handling mechanism by introducing an e-complaint system in April to provide members of the public a more accessible method to lodge their complaints on human rights violations.

The Commission continued to monitor the exercise of the citizens' right to peaceful assembly in the country. During the year, the Commission monitored six public assemblies including the two-day BERSIH 4.0 protest held on 29–30 August in Kuala Lumpur, Kuching and Kota Kinabalu. The Commission observed some positive changes following the introduction of the Peaceful Assembly Act 2012 (PAA), particularly in the conduct of the authorities, especially the police, which we welcome, as well as the organisers and members of public during the assemblies. The Commission, nevertheless, reiterates the importance for all relevant parties to ensure that protests and public assemblies are held in a peaceful manner as the right to peaceful assembly should not be used as an excuse to perpetrate violence which will only undermine the concept of peaceful assembly as defined under international human rights law.

The Commission remains concerned with the conditions of both detainees and personnel in-charge in places of detention. It had conducted 35 periodic and inquiry visits to various places of detention throughout the country including prisons, immigration detention centres, police lock-ups, as well as rehabilitation and correctional centres. In October, the Commission and the Enforcement Agencies Integrity Commission (EAIC) jointly conducted an unannounced visit to the Machap Umboo Immigration Detention Centre in Malacca. This was the first unannounced visit successfully conducted by the Commission following its meeting held with the Minister of Home Affairs on 24 April 2014.

The Commission attaches great importance to its monitoring duties and opines that it should be allowed to access places of detention without notice while carrying out its investigations or to observe the living conditions in these places - which is a departure from the current practice, but is quite common in other countries. This point was underscored by the Commission to the Home Affairs Minister during its meeting with him, which he duly noted, and he expressed his Ministry's readiness to support the Commission's monitoring work. In this regard also the Commission had submitted to the Government ten proposed amendments to its founding legislation that seeks to strengthen the Commission's mandate and powers as an independent National Human Rights Institution (NHRI). One key proposed amendment was to accord the Commission the power to conduct unscheduled visits to detention sites without first seeking authorisation in order for it to observe the actual situation in there. Unfortunately, almost all of the proposed amendments were not found favourable by the Government; nevertheless, the Commission will continue with these efforts so as to bring itself on par with other NHRIs in the Asia-Pacific region and the world.

Despite the limitations in its founding Act, the Commission continued to discharge its functions beyond the explicit provisions within its Act. One such initiative was to hold watching briefs in civil court proceedings involving human rights issues. From 2010 to date,

the Commission has held watching briefs in 17 cases. It has also pursued with the Syariah Judiciary Department of Malaysia the proposal for the Commission to hold watching briefs in Syariah Courts in cases involving human rights and Islam. With the Department's positive response, the Commission looks forward to formalising the arrangement and necessary procedures in the near future.

The crime of human trafficking is a grave violation of human rights. The Commission was deeply disturbed by the shocking discovery of 28 abandoned human trafficking camps and 139 graves in Wang Kelian, Perlis, near the Malaysia-Thai border. The magnitude of human rights violations arising from these incidents reflects how human trafficking and the smuggling of migrants remain serious concerns locally and internationally. Given Malaysia's upgrade from Tier 3 to Tier 2 on the Watch List by the U.S. Department of State in its 2015 Trafficking in Persons (TIP) Report, the Commission saw the pressing need for the Government to investigate the matter in a transparent manner and to step up its efforts to combat human trafficking and the smuggling of migrants in this country.

The Commission continued its efforts in educating and promoting human rights through various activities and joint projects involving schools, universities, enforcement agencies, civil society organisations and grassroots communities. The Commission was pleased to note that the Human Rights Best Practices in Schools (HRBPS) Programme - better known by its Malay language acronym "ATHAM" - which was jointly introduced by the Commission and the Ministry of Education (MOE) in 2008 had been expanded to 152 schools in Peninsular Malaysia and will reach out to another 24 schools in Sabah and 31 schools in Sarawak by 2016. The Commission, however, observed gaps in the implementation of the ATHAM programme, which it believes could be resolved with the setting up of a committee in each State and District Education Department by the MOE. The Commission continues to strongly believe that one of the most effective ways of promoting human rights among people is through the inculcation of human rights values at an early age beginning at the primary school level - as is done in an increasing number of countries - and in this regard it will continue with its efforts to persuade the Ministry of Education to take the necessary steps in this direction.

The Commission also continued to highlight the plight of Sekolah Agama Rakyat - SAR (Peoples' Religious Schools) and was also disappointed that many of the issues pertaining to the teaching and learning facilities reported in its previous Annual Reports (2012 to 2014) remained unresolved although some of these issues could actually be dealt with administratively by the relevant Government agencies without policy changes. The gaps between SAR and mainstream schools in receiving equal access to education was another challenge that requires serious attention from the Government. The Commission deems it important for the Government to address these pertinent issues in its continuous effort to ensure access and equity to quality education for all children in the country.

Chairman's Message

The Commission was saddened by the tragedy of seven young Orang Asli (Indigenous) children who were missing whilst under the care of their school's hostel in SK Tohoi, Gua Musang in August. Only two of them were found alive 50 days later. The Commission has previously recommended that the Government discontinue its practice of placing young children in hostels as these children have the fundamental right to live with, and be placed under the care of their parents, as enshrined in Article 9 of the Convention on the Rights of the Child to which Malaysia is a State Party. The Commission has also recommended that the Government set up Level 1 (Standard 1 to Standard 3) schools in smaller cluster settlements as was done in the 90s with assistance from the Department of Orang Asli Development (JAKOA).

The land rights of Indigenous Peoples remained high on the Commission's agenda. The Commission continued to advocate for the early and speedy implementation of the recommendations in its Report of the National Inquiry into the Land Rights of Indigenous Peoples in Malaysia (National Inquiry Report) through various platforms including a briefing session on the outcome of the Special Task Force's study on the recommendations of the Commission's National Inquiry Report in April; as well as discussions with YB Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister's Department.

The Commission welcomed the announcement made by YB Senator Datuk Paul Low on 3 June regarding the formation of a Cabinet Committee on Native Land Rights headed by the then Deputy Prime Minister YAB Tan Sri Muhyiddin Yassin, and tasked to address, monitor and implement the findings of the Special Task Force's Report. It noted that one of the key roles of the Cabinet Committee is to act as an "independent" National Commission, the establishment of which was one of the 18 recommendations contained in the Commission's National Inquiry Report, although not in the form as decided by the Government. Nevertheless, the Commission has not seen any significant development on the Committee's implementation of the findings of the Special Task Force's Report. Pending further action from the Cabinet Committee, the Commission will continue to raise the issues arising from its National Inquiry, along with other Indigenous People's complaints, in its future programmes and activities, including during discussions with the relevant State Governments and Parliamentarians.

During the year, the Commission intensified its work to mainstream the agenda on business and human rights through various efforts. One key milestone was the formulation of a Framework on a National Action Plan (NAP) on Business and Human Rights for Malaysia. It is the Commission's hope that the framework will serve as a useful guideline for the creation of a holistic National Action Plan on Business and Human Rights for Malaysia by the Government towards promoting better respect for human rights among State and non-State actors in the country. As its pioneering work in this area is well noted and commended internationally among NHRIs, the Commission hopes to take the necessary follow-up actions vis-a-vis the Government with a view to bringing about the early realisation of such an Action Plan.

At the time of writing, the Commission was finalising its reports on two thematic studies namely "The Right to Health in Prison" and "Deaths in Police Custody" that it had embarked on in 2014, to examine the health conditions in Malaysia's prisons as well as the key issues concerning deaths in police custody, from a human rights perspective. The Commission hopes that the findings and recommendations contained in these reports would be given due consideration by the relevant stakeholders towards bringing Malaysia's human rights standards on par with international human rights norms.

The Commission continued to promote the elimination and prevention of torture and ill-treatment through trainings for law enforcement personnel on international human rights standards, and through round-table discussions with relevant stakeholders. The Commission also stepped up its efforts by working with other civil society organisations, to launch the #ACT4CAT #HENTISEKSA campaign, with the aim of advocating for Malaysia's accession to the Convention Against Torture, and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), a comprehensive international human rights treaty adopted by the United Nations (UN) to deal with torture and its prevention.

Treaties must be upheld in good faith. The Commission expresses its concern over the Government's delay in submitting its long overdue State Reports to the CEDAW, CRC and CRPD Committees. The Commission deems it important for the Government to ensure the timely submission of its State Report to these expert bodies as this highly reflects on Malaysia's seriousness in fulfilling its treaty obligations as a UN Member State.

During the year, the Commission observed greater challenges to the exercise of civil liberty in the country with the enactment of two repressive laws namely the Prevention of Terrorism Act 2015 (POTA) and National Security Council Act 2015 (NSCA), as well as the continued invocation of the Sedition Act 1948 by the authorities against various individuals for their critical remarks of the Government and public policies.

While the Commission recognises and strongly supports the Government's efforts in maintaining peace and harmony and national security, it also shares the concerns of various stakeholders about the far-reaching impact of these laws on the citizens' realisation of their fundamental rights and freedoms as enshrined in the Federal Constitution and other international human rights instruments particularly the Universal Declaration of Human Rights 1948 (UDHR).

Given the two important international positions assumed by Malaysia, namely the membership on the UN Security Council (UNSC) and the chairmanship of ASEAN, the Commission deems it necessary for the country to respect the principles of human rights at all times, in accordance with the Charter of the UN, the Charter of ASEAN and the ASEAN Declaration on Human Rights, as well as other core human rights instruments, for the common good of all people. Hence, in the context of preserving peace and security, it is significant for the

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country to ensure that the measures it adopts to address any possible threats to peace and security do not undermine the human rights of the people.

As an NHRI, the Commission continued its active engagement with international and regional human rights mechanisms and bodies as a continuous effort to enhance the promotion and protection of human rights domestically. In its capacity as an 'A' status NHRI, the Commission continued to contribute its views on thematic human rights issues to the Regular Sessions of the UN Human Rights Council (HRC). It also assumed two key positions namely the Chair of the Commonwealth Forum of NHRIs (CFNHRIs) and the Chair of the Southeast Asia NHRIs Forum (SEANF), which ended in November and September, respectively, and which had not only enhanced the international standing of the Commission but also accorded it considerable benefits through its contacts and interactions with other NHRIs.

On 17 November, the Commission was reviewed by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Sub-Committee on Accreditation (ICC-SCA) under a re-accreditation exercise that aimed at assessing NHRIs' compliance with the Paris Principles 1993, a set of minimum standards adopted by the UN General Assembly to promote independence and effectiveness of NHRIs in promoting and protecting human rights.

On 25 November, the Commission received a positive response from the ICC-SCA regarding its recommendation for the Commission's 'A' status to be retained. While this came as a pleasant piece of news to the Commission, it also took note of several key concerns that were raised by the ICC-SCA with regard to the selection, appointment and tenure of the Commissioners; cooperation with other human rights bodies; tabling and debate of the Commission's Annual Reports and Special Reports by Parliament; as well as the Commission's funding.

It should be noted that the re-accreditation exercise arrived at a challenging time when the Commission's annual budget for 2016 was reduced by almost 50 per cent by the Government. The drastic budget reduction will seriously affect the functioning of the Commission as a whole in view of the fact that demands on its resources have continued to grow in recent years. Hence, unless it is provided with sufficient finances, it might not be able to discharge its core functions effectively as required by its parent Act, which will certainly be detrimental to its image and reputation as an NHRI, as well as to Malaysia as an active Member State of the United Nations.

Pursuant to the Paris Principles, one of the key factors that determine the efficacy of an NHRI is the provision of sufficient funds from the Government. Section 19(1) of Act 597 also requires the Government to provide adequate funds to the Commission on an annual basis to allow it to discharge its functions. The Commission therefore calls upon the Government to reconsider its decision on the Commission's 2016 budget towards guaranteeing the Commission's ability to assume its responsibilities as an NHRI effectively.

Despite the setbacks, the Commission continued to express its views and positions on contentious human rights issues in accordance with Section 4(2) of its Act. Over the last 12 months, the Commission issued 48 media statements on a range of human rights issues pertaining to the rights of vulnerable groups, including women, children, older persons and Indigenous Peoples; freedom of expression and freedom of peaceful assembly; human trafficking; refugees; right to health; right to life; counter-terrorism; as well as law reform, among others. The Commission also continued to sensitise the public to human rights issues through its social media sites namely Facebook and Twitter, and was pleased with the growing reach of its social media sites among various stakeholders in Malaysia.

As the Commission celebrated its 15th anniversary on 9 September, it reflected on both the challenges it has faced as well as the milestones it has achieved in the last 15 years. Undeniably, it has had its fair share of criticisms from different stakeholders in the country due to their differing perceptions and expectations of the Commission, with some still holding the view that it has not lived up to their expectations while others, especially in the Government, continue to see the Commission as being 'pro-NGO' on account of its many statements which were critical of the authorities. In this regard the Commission wishes to reiterate its stand that as an NHRI it has consistently adopted an independent and non-partisan position on issues and while its statements are sometimes critical of certain Government policies and actions whenever they are inconsistent with international human rights principles and norms, they are constructive in character and are impelled by the need to encourage the country to move forward towards becoming a nation with exemplary human rights standards and performance. Notwithstanding the challenges, the Commission has grown in strength in fulfilling its mandate to promote and protect human rights through various activities and programmes. They include: complaints handling; the conduct of national and public inquiries; monitoring of human rights situations, undertaking research and studies and conducting public forums on thematic human rights issues, involving stakeholders, including Government agencies; as well as reviewing of laws and policies that have human rights impacts on the people.

As we arrived at this important milestone, I must acknowledge the fact that much of the important work of the Commission has been the result of great and consistent efforts by its former and present Members and staff over the last 15 years.

It has been one of the greatest privileges of my life to have served on the Commission for two consecutive terms. It has also been an honour for me to meet and work with all the good people who remain committed to the promotion and protection of human rights, domestically and internationally.

My heartfelt appreciation goes to all of my fellow Commissioners, particularly Vice-Chairman Datuk Dr Khaw Lake Tee, for her strong support and assistance, and the Secretary and staff of SUHAKAM who have worked diligently and professionally in assisting the Commission

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to perform its duties as an NHRI. All of these works could not have been successfully carried out if not for their continued commitment and dedication of which I am so proud.

I am also profoundly grateful to Vice-Chairman Datuk Dr Khaw Lake Tee and Commissioner Prof Dato' Dr Aishah Bidin, for their joint efforts in steering the Commission's Annual Report Committee and in ensuring the timely completion of this comprehensive Report.

With the completion of my second and final term as the Chairman of the Commission shortly, I would like to take this opportunity to express my sincere hope and high expectation that the Commission will continue its good work in upholding the human rights of all people in the country, in spite of the challenges that it has and will continue to face in carrying out its broad and demanding mandate as an NHRI. It is also my fervent hope that our country will move progressively forward to the point where respect for human rights becomes an integral part of our national agenda and psyche.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia

EXECUTIVE SUMMARY

The Commission embarked on a restructuring exercise to reorganise its operations and structures of the organisation which resulted in the addition of 3 new positions, changing work assignments and modifying communication and reporting relationships. The restructuring was to enhance efficiency in carrying out the Commission's mandate under its Act.

The Commission's primary function to promote and protect human rights as the central basis of its new structure lead to the creation of 3 Groups namely Corporate Services; Policy, Law and Complaints; and Communications. The roles and functions of each Group and respective Divisions are detailed in Chapter 5 that is under the Corporate Services Chapter.

For the year 2015, the Commission in carrying out its Work Plan in meeting its vision and mission, had conducted a wide range of community education, training and engagement programmes and activities to a diverse group of people in the country. This is in addition to research, advocacy and recommendations on legislations, policies and procedures provided to the Government and related stakeholders in the promotion and protection of human rights.

REPORT OF THE POLICY, LAW AND COMPLAINTS GROUP

The **Policy Division** finalised its thematic studies relating to the "Rights To Education of Children with Learning Disabilities" and "Care Services for Older Persons and Support for Caregivers" and the reports were released simultaneously during a separate round table discussions (RTDs) held in November 2015. The RTDs allowed relevant stakeholders to exchange views on the findings and recommendations of the reports with the Commission.

As part of the Division's continuing focus on Business and Human Rights, the Commission in partnership with the United Nations Country Team in Malaysia completed a project and the deliverable outcome was the Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia (Strategic Framework). The Strategic Framework provided the rationale, outline and policy direction in the development of a National Action Plan on business and human rights for the country. The project which involved several activities was completed within a framework of 7 months and was made possible through a grant from the Foreign and Commonwealth Office of the United Kingdom (FCO). The Minister of the Prime Minister's Department, YB Senator Datuk Paul Low officiated the launch of the Strategic Framework in March 2015. Thereafter, a series of programmes were conducted by the Commission in moving this agenda forward.

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The Commission also held a RTD on “The Trans-Pacific Partnership Agreement (TPPA) and Its Impact on Human Rights in Malaysia” subsequent to a memorandum received from several Parliamentarians. Of the 30 chapters of the TPPA, the RTD concentrated on intellectual property rights, labour and dispute settlement which areas would likely to have an impact on human rights. This in addition to the advocacy works continued by the Division relating to National Human Rights Action Plan, the Parliamentary Select Committee on human rights; follow-up actions on the report of the National Inquiry into the land rights of Indigenous Peoples in Malaysia and research on transgender issues.

The **Law Reform and Treaties Division** monitored the country's implementation of International Treaties under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD)

The Commission reiterated its calls to the Government to expedite the submission of the State Reports to the relevant Treaty bodies and the withdrawal of the remaining reservations to the 3 treaties rectified. Whilst, the Commission has been consistent in its call to the Government to accede to the remaining 6 international human rights instruments, there have been no further new developments. . To intensify its efforts, several RTDs on ICESCR and CAT were organised by the Commission for the year.

Although the responses by the Government with regard to the proposed amendments to the Human Rights Commission of Malaysia Act (HRCMA) were not favourable, the Commission will still continue to pursue the matter as the proposed amendments would further secure the Commission's independence and direct accountability in compliance with the Paris Principles.

In addition to the above, the Commission conducted 17 watching briefs representation to the courts relating to the Government's obligations under CEDAW, CRC and CRPD for which Malaysia is a party. The Commission hopes to conduct watching briefs in Syariah courts by next year and currently is in discussions with professional bodies and the relevant judicial authorities.

While the HRCMA grants the Commission the statutory powers to advise and assist the Government in formulating legislations, the Commission was not consulted in the review of preventive laws such as the Prevention of Terrorism Act 2015 (POTA), the National Security Council Act 2015 (NSC) and the proposed amendments to the Child Acts 2001 where issues relating to public safety and the protection of human rights were of concern. Whilst the Commission is mindful that freedom of expression may be prescribed by law, it maintains its call on the Government to repeal the Sedition Act as any restriction must be balanced, proportion and fair and should comply with international norms relating to the right to freedom of expression.

The **Complaints and Monitoring Division** in discharging its responsibilities to inquire into complaints and issues involving violations of human rights, visit places of detention and monitor public assemblies, had also continued with its thematic studies on the right to health in prison and deaths in police custody. The studies which commenced in 2014, concentrated on data analysis from surveys and on-site visits conducted in prisons and police lock-ups. The thematic reports are expected to be launched in 2016 would detail the findings and recommendations of the research study.

For the year, a total of 676 complaints including 20 memoranda were lodged with the Commission including its offices in Sabah and Sarawak. A total of 343 complaints were not within the Commission's mandate as the complaints were either on matters pending in court, administrative issues or matters under the jurisdiction of professional bodies. Of the remaining 333 complaints, 20 were on refugees where the complaints focus were issues relating to health, education, employment, vulnerability to arrest and detention and delays in registration and resettlement issues. The Commission have also completed investigation on 197 cases while 136 were still pending due to incomplete or lack of information provided by the complainants, delay in the responses by the authorities concern and the need for constant monitoring in reviewing the complaint.

The Commission in inquiring into complaints received, had also organised RTDs to obtain feedbacks and inputs from the various parties involved such as the allegation of the right of workers to unionise, disciplinary action taken against teachers due to political affiliation, vote rigging in campus elections and restrictions on student activism among others. It had also conducted meetings to discuss with the relevant authorities to obtain their feedbacks and comments as a follow up to the complaints received.

In 2015, the Commission monitored six public assemblies. Since the Peaceful Assembly Act came into force, the Commission noted that the authorities had demonstrated improvement in crowd management and control.

During the year, the Division conducted 34 periodic and inquiry visits to places of detention to monitor the condition and treatment of detainees as well as the workplace, health and safety condition of enforcement personnel. The Commission conducted its inaugural unannounced visit to Machap Umboo Immigration Detention Centre jointly with the Enforcement Agencies Integrity Commission. Other authorities have been reluctant to allow the Commission to visit without prior notice on the basis of security concern.

The Commission together with several government agencies and NGOs had formed a working group to study the implementation of Alternatives to Detention for children in Immigration Detention (ATD). A proposal paper prepared by the Commission on the ATD was agreed in principle by the government agencies. The Attorney General's Chambers' views has been sought but has yet to revert with its legal input.

REPORT FROM THE COMMUNICATIONS GROUP

The **International Coordination Division** is tasked to manage and facilitate the Commission's participation in relevant forums and establishing relations at the regional and international levels in advancing the promotion and protection of human rights in the country. During the year, the Commission assumed the chairmanships of the Commonwealth Forum of NHRIs (CFNHRIs) and Southeast Asia NHRIs Forum (SEANF). The Commission as an active member of the Asia Pacific Forum of National Human Rights Institutions (APF) had participated in several capacity building programmes organised by APF this year. It has also strengthened its engagement with AICHR through the Malaysian representative by agreeable to co-host two programmes – Symposium on the Judiciary, Rule of Law and Human Rights and Workshop on the Role of Youth in Promoting Human Rights. Due to the haze situation, the former was postponed indefinitely while the latter was co-organised together with several other partners and attended by 80 youths from ASEAN countries.

The Commission's accreditation as an 'A' status NHRI has been recommended by the ICC-SCA to be retained which the ICC Bureau will need to endorse at its meeting scheduled in March 2016. In its recommendation, the ICC-SCA had raised concerns regarding the selection, appointment and guarantee of tenure of Commissioners, adequate funding, cooperation with human rights bodies, tabling and debating of the Commission's Annual report and Special reports in Parliament.

As an 'A' status NHRI, the Commission is accorded the right to speak in the Human Rights Council (HRC) which it did through 3 video statements - the Abolition of the Death Penalty and Reports of the Visit to Malaysia by the Special Rapporteur on the Rights to Health and Trafficking in Persons especially on Women and Children respectively. The visits by UN Special Procedures Mandate Holders to the country should be welcome by the Government to allow human rights issues to be assessed objectively to improve the human rights situation in the country from the findings and recommendations by the experts.

At the 70th Session of the United Nations General Assembly (UNGA), the UN reaffirmed the importance of NHRIs' role in the promotion and protection of human rights. A total of 90 countries co-sponsored the resolution. Whilst Malaysia was not a co-sponsor, nevertheless it supported the resolution by joining the consensus in adopting the resolution.

As part of the Commission's effort to follow-up on Malaysia second UPR, the Commission had organised a consultation in Kuala Lumpur involving Government agencies and CSOs to identify strategies that would allow stakeholders to work together to implement the 150 recommendations accepted by Malaysia during its second UPR. Similar sessions would also be organised in other parts of the country early next year.

The **Promotion and Public Relations Division** responsible in raising public awareness on human rights and enhancing the Commission's relationship with various stakeholders organised

several key events notably the 15th Anniversary of the Commission and the Human Rights Awards 2015 which was held on 9 September this year. To commemorate the 15th year of the Commission's establishment, a panel discussion was held on the topic on "SUHAKAM at 15: Still a toothless Tiger...?" followed by the Human Rights Awards presentation to 6 recipients.

The Commission had distributed its maiden human rights comic entitled "ATHAM" to 150 schools in Malaysia subsequent to its launched by the Deputy Minister of Education and Higher Learning II, YB P. Kamalanathan. The Commission plans to translate the comic into several other languages that are widely spoken locally to reach a wider target group on the principles of children's rights as illustrated in the comic.

During the year, the Commission embarked with several campaign partners to advocate for Malaysia's accession to the Convention against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment (CAT). In addition, the Commission had also entered a Memorandum of Understanding (MOU) with Monash University Malaysia to enhance cooperation in the use of ICT to develop promotional tools, awareness-raising activities, internship and exchange programmes and joint research on human rights.

Throughout the year, the Commission continued to hold dialogue session with relevant Ministries and Government agencies on the Government's Responses to the Commission's 2014 Annual Report, organised outreach programmes such as "*SUHAKAM Bersama Masyarakat*" in several states and had engaged with Islamic religious organisations on a project relating to accessibility for the disabled in mosques. The Commission had also received several visits by local and foreign delegations and had called on several dignitaries and institutions to discuss on a wide range of issues to advance the cause of human rights in the country.

The **Media Division** which serves as the Commission's central point for all media communications had issued 48 media statements on human rights issues relating to economic, social and culture rights and civil and political rights. During the year, in an effort to raise awareness and to sensitise all stakeholders, the Division had organised and held media conferences and facilitated face-to face interviews on behalf of the Commission. The Commission was also actively using Facebook and Twitter as pathways in promoting the human rights agenda in Malaysia to social media news consumers.

The **Training Division** in fulfilling the Commission's mandate to provide human rights education expanded its Human Rights Best Practices in Schools (HRBPS) programme to 152 schools by year end. The Commission in partnership with the Ministry of Education (MOE) proposed to implement the HRBPS programme in 24 schools in Sabah and 31 schools Sarawak by 2016. To prepare for the implementation of the HRBPS programme, two seminars for school principals have been conducted with a further 2 more planned for school coordinators in Sabah and Sarawak soon. Workshops on Human Rights Education were also conducted to religious teachers from *Sekolah Agama Rakyat*.

Executive Summary

From the 35 schools visits conducted, it was found that many of the schools have implemented the programme albeit some had misunderstood the nature of the programme while a few had assigned untrained teachers to conduct the programme in their schools. The Commission had taken note that lack of reading materials was among some of the constraints faced by the schools in conducting the programme. To mitigate this, the Commission had produced 2 child friendly booklets on the CRC which have been distributed to schools.

Of the complaints received by the Commission during its visits to Orang Asli schools, the timely disbursement of monies from the *Kumpulan Amanah Pelajar Miskin* (KWAPM) to the school children has yet to be resolved despite being outstanding for almost a decade due to the lack of coordination among the departments involved. Other complaints received included the late distribution and oversized school uniforms given to the school children, the need for basic amenities and better facilities for schools and continuity of schooling for K9 students.

The Commission recommended that community schools be established in settlements where there are no schools. In acquiring literacy and numeracy skills, the student could also be taught OA arts and culture to preserve their heritage. The Commission also recommended that the Integrated Curriculum for Orang Asli and Penan Schools (KAP) be continued for schoolchildren to learn on their own pace. The Division had also conducted training programmes for the Law Enforcement Agencies including the Royal Malaysia Police, People's Volunteer Corps (RELA), Prison Department and Malaysian Anti-Corruption Commission (MACC) as well as the local councils in Selangor.

REPORT OF THE SABAH OFFICE

The Sabah Office received 304 complaints of which 177 were on the issuance of identification documents related to birth certificates followed by land issues. In relation to land issues, complaints received related to state land, forest reserve, and native customary land and village reserves. The Sabah Office had also conducted several "*SUHAKAM Bersama Masyarakat*" programmes with the participation of the Federal and State Public Complaints Bureau.

It has also monitored public assemblies and provided logistical support for the Commission's programmes such as the HRBPS programme and RTDs on CAT, ICESCR and Business and Human Rights. Other activities participated included the Disability programme organised by UNICEF Malaysia apart from conducting a series of training to RELA recruits over the year.

REPORT OF THE SARAWAK OFFICE

For the year, the Sarawak Office conducted programmes on human rights awareness and education and visits to places of detention, schools, children institutions and community-based rehabilitation centres, in addition to conducting on site visits from complaints received.

A total of 42 complaints were received which 10 fell under the category on the rights to nationality relating identification documents and citizenship. Apart from receiving complaints, the Commission's office in Sarawak had also organised 4 "Square Table Meeting" programmes with grass roots community and had met with several government agencies for feedback and comment with respect to the 2014 Commission's Annual Report. The Sarawak Office facilitated the courtesy call by the Commission to the Chief Minister of Sarawak and the Serian Resident respectively.

REPORT OF THE CORPORATE SERVICES GROUP

The Corporate Services Group serves as the Commission's main service provider in supporting the Commission's programmes and activities through the functions listed below:

- Managing and supervising the general administration which includes facilities, amenities, logistics, assets and security
- Managing of finance and budget
- Managing human resources including staff welfare, recruitment, training and development, performance appraisal and capacity building
- Providing library services for learning and research purposes
- Providing Information technology services and support system including networking infrastructure, ICT software and devices as well as internal applications systems
- Facilitate the printing process for the publication of reports, promotional materials and articles for the Commission

The Group which comprises 6 Units - Administration, Finance, Human Resources, Information Management, Library and Publications Units is led by a Deputy Secretary. Each Unit has a specific function and responsibilities associated with its respective area of management.

Executive Summary

During the year, the Group acted as the secretariat in the development of the Commission's Annual Plan for 2016 which outlined the activities and budgets to be implemented in 2016. The programmes and activities contained in the Work Plan were identified based on the outcome of SUHAKAM's Work Plan Retreat held on 17-19 October 2015 that involved the Commissioners, Secretary and senior officers. In coming with the proposed activities for 2016, the Commission was guided by its Five-Year Strategic Plan 2012-2016 with the Vision ***"A society in human rights are fully respected and protected and enjoyed by all"***

The IT Unit had worked closely with the Complaints and Monitoring Division in developing and customising the e-complaint system which the Commission launched on 1 April this year. The e-complaint system serves as an additional channel for the public to lodge a complaint to the Commission on human rights violations aside from telephone calls, walk-in, electronic or conventional mails was made available to the public through the Commission's website.

KEY ISSUES

1. FREEDOM OF ASSEMBLY

This year, the Commission monitored six major public assemblies in various parts of Malaysia. There were other smaller-scaled public rallies during the year, which the Commission was not requested to monitor. Those major public assemblies were held to raise various human rights and non-human rights issues, such as free and fair elections, press freedom, transparency and accountability in government, and protection against rape, as well as to oppose the recently imposed goods and services tax (GST), to protest the ridesharing services Grabcar and Uber, and to object to the construction of the proposed KIDEX and DASH highways.

Based on the Commission's observation, there appears to be greater acceptance and respect by the public and the authorities towards the right to freedom of assembly. The Commission particularly commends the police for their professional restraint and conduct in facilitating the various public assemblies whilst ensuring the safety of both assembly participants and other members of the public not part of those assemblies. In addition, organisers of the majority of those assemblies appeared to be much more coordinated and demonstrated greater control over the conduct of their participants so as not to disrupt and disturb other users of locations where the assemblies took place. Moreover, the Commission was very much encouraged by the attitudes of both the organisers and the police representatives who displayed receptiveness and interacted with each other in order to manage the progression and conclusion of the public assemblies.

In spite of this positive development of the right to freedom of assembly in Malaysia, the Commission is disturbed by certain individuals and quarters who had attempted to disrupt the peacefulness of some of those assemblies by inciting lawless and disorderly behaviour and uttering slogans that promoted racial or religious hatred. Some participants of one of the assemblies even pushed past police restriction lines in an attempt to reach certain parts of Kuala Lumpur that the organisers and police had already agreed were to be prohibited. Hence, the Commission regrets the disorderly conduct of these participants at a time when positive improvements were being demonstrated by the authorities. The Commission is troubled by the actions of some quarters that had attempted to perpetrate violence through public assemblies, and wishes to remind organisers and participants that international human rights law protects assemblies that are peaceful, and that such protection may be forfeited should an assembly become unruly.

Notwithstanding the commendable conduct of police officers during public assemblies, the Commission is concerned with the mass arrests of participants following a peaceful

assembly. Such arrests and the extended detention periods of participants contradict with the principle of permissibility of limitations to fundamental human rights as provided by international human rights law. The Commission stresses that no one should be criminalised or subjected to threats, intimidation, and harassment for exercising their constitutional rights, in this case, their right to peaceful assembly.

In addition, since peaceful assembly is a right guaranteed by the Federal Constitution, it is unconstitutional for the authorities to brand the exercise of this right as illegal. Therefore, care must be taken in the interpretation of Section 9 of the Peaceful Assembly Act 2012 (Act 736). In particular, Section 9(5) imposes a fine on those who fail to meet the ten days' notice requirement, but it should not render the assembly illegal. Therefore, while it is acknowledged that the police have a vast range of statutory powers and duties in relation to the policing of public assemblies, such powers must not seek to prevent, hinder or restrict a peaceful assembly except to the extent allowed by Act 736.

2. HUMAN RIGHTS EDUCATION

This year, the Commission intensified its efforts to introduce human rights education in schools. The Commission, in its 2015 work plan, had set the theme of "Human Rights Education (Taught and Practised) in All Schools by 2020" as an interdivisional focus area, in support of its overarching vision of "a society in which human rights are fully respected and protected and enjoyed by all".

The Commission's Human Rights Best Practices in Schools (HRBPS) Programme, which seeks to integrate human rights values and principles into every aspect of school life, has been expanded to 152 schools in Peninsular Malaysia, while another 55 schools in Sabah and Sarawak have been approached to take on the Programme. The receptiveness of the Ministry of Education and the schools is positively overwhelming in view of the fact that the Programme was initiated in 2008 with only five pilot schools.

The Commission has observed very good outcomes from this Programme. For instance, some schools have enhanced family and community participation in school activities, simultaneously heightening their understanding on the child's right to education. Many students have been seen to be more active in showcasing their knowledge on human rights, for instance by being involved in producing human rights comics and booklets, which the Commission plans to distribute to other schools involved in the HRBPS Programme.

On the other hand, the Commission notes that a number of these schools have encountered ongoing challenges in ensuring the effective implementation of this Programme. For instance, schools involved in the Programme have insufficient human rights-related reading materials and resources. While the Commission has supplied some human rights materials, schools should be continuously encouraged to include, in their procurement, materials that could

enhance human rights knowledge among their teachers and students. Accordingly, the Government should ensure the financial budget allotted to schools in Malaysia is adequate in order for them to procure such materials.

Apart from insufficient materials, another problem that the Commission has observed is that some school administrators have yet to fully understand the long-term objective of this Programme, which is to eventually embed human rights principles in all existing subjects and have a formal human rights subject in the current school syllabus.

The Commission hopes that its continued cooperation with the Ministry of Education and the various schools will bolster efforts towards having human rights education as a formal subject taught and practised in schools.

3. REFUGEES AND ASYLUM SEEKERS

During the year, the Commission observed several positive steps taken by the Government of Malaysia to address the refugee and asylum seeker population in the country. This year, the Government announced its proposal to Parliament to allow Rohingya refugees to seek employment through a pilot project, which will focus on certain market sectors. Further, in May 2015, the Government announced that Malaysia, together with Indonesia, would allow the entry of 7,000 boat people adrift at sea, among whom were asylum seekers. In addition, in December 2015 the Government had also announced that Malaysia had begun accepting 3,000 Syrian refugees.

However, the issues affecting refugees and asylum seekers in Malaysia are far from resolved. Earlier in the year, Malaysia was put under the international spotlight with the gruesome discovery of the 'death camps' in Wang Kelian, Perlis, which demonstrated the vulnerability of refugees that led to the loss of many lives. More worrisome was the alleged involvement of some enforcement officers with the traffickers.

Despite the above, coupled with the fact that a total of 153,850 refugees and asylum seekers had registered with the Office of the United Nations High Commissioner for Refugees (UNHCR) in Malaysia by September 2015, Malaysia has not shown any apparent advancement towards acceding to the 1951 UN Convention Relating to the Status of Refugees. Since Malaysia has not yet acceded to the Convention, the assistance afforded thus far has been primarily on humanitarian grounds. As such, beyond those persons allowed by the Government, other refugees and asylum seekers in Malaysia remain in legal limbo, which in turn, has increased their vulnerability and risk of being exploited. Many of them are unable to find jobs, access healthcare services, or send their children to school.

On the other hand, while not being a State Party to the 1951 UN Refugee Convention, Malaysia does have responsibilities towards certain members of the refugee population in Malaysia, arising from the Convention on the Rights of the Child (CRC), the Convention on

the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD), which apply regardless of nationality or immigration status. Furthermore, it is internationally accepted that the CRC demands that refugee children be seen and protected first as children, and imposes an obligation on State Parties to ensure that the best interests of the child is a primary consideration in all actions. It is therefore unfortunate that many refugee children, including unaccompanied minors, are being held in immigration detention centres, instead of placed in appropriate shelters.

While noting the roles of the Malaysian authorities domestically, the Commission realises that concerted efforts are required from the origin, transit, and destination countries in order to resolve the matter effectively. During the year, Malaysia was the Chair of ASEAN, and therefore, was well placed to advocate for a regional approach to dealing with the refugee issue involving ASEAN Member States. Despite the gravity of the problem in the region, the refugee crisis was not even featured on the agenda of the ASEAN summit during the year, which the international community pegged as a result of “limited official commitment to human rights in the region” coupled with a “traditional ASEAN policy of non-interference in Member States’ domestic policies”.¹

As a respected member of the United Nations Human Rights Council (UNHRC), the Commission urges the Government of Malaysia to seriously consider acceding to the 1951 UN Refugee Convention. This would place the Government on firmer footing with UNHCR in order to address refugee issues systematically, rather than continuing the existing ad-hoc approach. Towards this end, the Commission hopes that individuals in need of genuine protection, such as refugees, are screened and accorded the necessary protection.

4. DEATHS IN POLICE CUSTODY

At the outset, the Commission notes and commends the cooperation afforded by PDRM during the course of the Commission’s thematic study on “Deaths in Police Custody”, which began in 2014. The Commission is currently at its final stage of completing this project, which will conclude with the publication of the thematic study report.

Through this study, the Commission was able to identify areas of concern which require not only serious consideration from the police, but more importantly, the addressing of the root

¹ James Bowen, ‘Refugee Crisis Tests Limits of Southeast Asian Cooperation’ (IPI Global Observatory, 15 May 2015) <<https://theglobalobservatory.org/2015/05/asean-rohingya-refugees-myanmar/>>; See also John Arendshorst, ‘The Dilemma of Non-Interference: Myanmar, Human Rights, and the ASEAN Charter’ [2009], 8 Nw. J. Int’l Hum. Rts. 102; The Editor, ‘Dear world: Don’t expect so much from ASEAN on the refugee crisis’, *The Phnom Penh Post* (21 May 2015) <<http://www.phnompenhpost.com/analysis-and-op-ed/dear-world-dont-expect-so-much-asean-refugee-crisis>>; Brian McCartan, ‘ASEAN rights and wrongs’, *Asia Times Online* (Southeast Asia, 28 February 2009) <http://www.atimes.com/atimes/Southeast_Asia/KB28Ae03.html>; Mathew Davis, ‘The Rohingya and regional failure’, (New Mandala, 16 May 2015) <<http://asiapacific.anu.edu.au/newmandala/2015/05/16/the-rohingya-and-regional-failure/>>

causes by the Ministry of Home Affairs (MOHA) and other related ministries, particularly the Ministry of Health (MOH).

The Commission is immensely concerned to discover that between the year 2000 and February 2014, a total of 242 deaths of persons while under police custody were recorded. 85.12 per cent of those deaths were attributed to health reasons, while suicide was identified as the second highest cause at 12.39 per cent for those fatalities. In line with the Lock-Up Rules 1953, the Commission underscores the importance of health screening, both physical and mental, for individuals before they are held in lock-up. MOHA and the MOH must assist the police by ensuring that there are sufficient numbers of medical officers afforded for this purpose. This is important to allow the police to identify any special measures required not only to ensure the safety of arrested persons, but also so that police personnel can ready themselves against the spread of infectious diseases, as well as possible attacks by aggressive arrested persons especially those with mental health problems.

At this juncture, the Commission could not yet dismiss the potential link of those deaths to the deplorable physical conditions of certain lock-ups, which conditions are exacerbated by overcrowding, coupled with the lack of health screening. The hygiene conditions of certain lock-ups inspected by the Commission clearly fall short of the international minimum standard rules, which could lead to health problems. Overcrowding, as a result of an insufficient number of lock-ups, in addition to the sharing of police lock-ups with other enforcement bodies and religious authorities for the temporary placement of detained persons under their jurisdictions, is another longstanding issue faced by the police. Matters are made worse due to insufficient manpower.

MOHA is urged to review these issues and to consider building more lock-ups in order to minimise overcrowding, as well as to increase the number of personnel deployed to handle detainees, which in turn could lower the risk of infections and fights between detainees.

5. RIGHT TO HEALTH IN PRISONS

The Commission's study on "Right to Health in Prisons" has progressed to the assessment of data gathered from its 2014 visits to detention facilities as well as surveys and interviews with inmates and/or prison authorities.

While there appears to be improvement in the timeliness of health screenings upon admission to prisons, there is no standard policy for regular health inspections subsequent to admission. The Commission emphasises that diseases may be contracted at any point during incarceration. Therefore, regular health checks should be ensured to avoid outbreaks and the spread of serious diseases. Health screenings must also be ensured before an inmate is transferred from one prison to another.

Key Issues

Apart from regular health inspections, hygiene is an important factor in keeping diseases in abeyance. During its visits, the Commission found a high prevalence of scabies amongst prisoners, indicative of infestation due to poor levels of cleanliness of prison cells. In addition, the special health and hygiene needs of women must also be met. A quarter of the female inmates surveyed by the Commission reported that they were not provided with sanitary napkins during menstruation and that they had to find a way to purchase these themselves. Due to budget constraints, the personnel at the female prisons could not ensure that the item is readily stocked.

There is also the need for the authorities to address mental and psychological disorders not only in respect of inmates but also prison personnel. Mental health screening as well as psychiatric and psychological services must be regularly provided to them. The Commission was told by a number of the prisons' staff that they experienced stress while working in the prisons, which they claimed was manifested through insomnia, anxiety, and loss of appetite.

The initial findings above point to the need for careful planning of annual budgets and human resources, and to the need for collaborative resolution efforts by MOHA, the Prisons Department, and the MOH in order to effectively address persisting health issues in prisons. The Commission stresses that apart from deprivation of liberty as a result of judicial sentencing, and restrictions imposed by prison authorities that may be necessary to maintain order and security, other fundamental rights of prisoners should remain intact, including their right to health.

6. REFLECTION ON THE NATIONAL INQUIRY

It has been over two years since the Commission launched the report of its National Inquiry into the Land Rights of Indigenous Peoples in Malaysia (NI). Since the launch, the Government has established a National Task Force to study the findings and recommendations of the Commission's NI report. Following this, on 3 June this year, YB Senator Datuk Paul Low Seng Kuan announced the formation of the Cabinet Committee on Native Land Rights which would be responsible for addressing, monitoring, and implementing the findings of the Government's National Task Force report.

While the Commission has welcomed the formation of the Task Force and Committee, the Commission is concerned that the Task Force's findings and report have not been made public. Attempts by the Commission to urge the Government to disclose them have remained unsuccessful. The Commission reiterates the public's right to information and to participate in their government, including in the development of policies and decisions, especially those that have direct impact on them. In this context, the inclusion of the Orang Asli and Orang Asal communities in the process should be ensured; or at the very least, information on the Task Force's discussions and decisions should be made known to them so as to allow them to

provide feedback. Thus far, many Orang Asli and Orang Asal representatives have expressed to the Commission their concern and disappointment over the lack of transparency in way the Task Force has functioned.

With respect to the Cabinet Committee on Native Land Rights that is currently being led by the Deputy Prime Minister, other than its formation, there is no other information available about the Cabinet Committee, or at least none that has been made public. The Commission has inquired since August 2015 on the Cabinet Committee's membership, terms of reference, and action plan, but have yet to receive any reply.

It is the Commission's earnest hope that deliberations of the NI findings and recommendations are done openly and transparently, and followed up by way of the expeditious and effective implementation of those recommendations to preserve the rights and interests of Indigenous Peoples in Malaysia.

7. NATIONAL HUMAN RIGHTS ACTION PLAN (NHRAP)

Since the Cabinet announced in 2012 that it would develop Malaysia's maiden NHRAP, the Commission has been active in urging for this process to be expedited, in addition to making several submissions to propose the parameters and substance of the upcoming NHRAP. However, noting the progress to date, the Commission opines that the process of coming up with the NHRAP is moving rather sluggishly.

Originally, the development of the NHRAP was expected to begin in 2013 and conclude in 2016, followed by the NHRAP's implementation in the year after. However, it was only in November 2015, during the biennial meeting of the NHRAP Steering Committee, that it was announced that an external consultant had been commissioned by the BHEUU to develop the NHRAP, with the complete draft to be presented to the BHEUU in April 2017, which would therefore require a deferment of the NHRAP's implementation date.

Having said that, the Commission notes that the NHRAP is an important document that must be thought out and crafted carefully, especially given that the five listed NHRAP thrusts are immensely broad. The Commission reiterates the essentiality for the Plan to be ambitious yet realistic, with specific timeframes for the purpose of gauging the Plan's successes and/or failures. The Commission therefore recommends that the substance of the Plan focus on addressing recommendations that Malaysia had received during the Universal Periodic Review (UPR), in view that many of the recommendations adopt the S.M.A.R.T (specific, measurable, achievable, relevant and time bound) criteria.

The Commission also recommends that the Plan prioritise the accession to the remaining core international human rights treaties, which could provide the foundation necessary

in order to uphold and protect human rights through the NHRAP. Moreover, the nine core treaties essentially address most, if not all, of the thrusts.

In addition to the foundational sources cited above, CSOs should be consulted to gain their valuable insight concerning human rights issues currently affecting Malaysia. This is essential in order for the Steering Committee/Consultant to effectively reflect on all possible human rights issues and identify those to be prioritised in Malaysia's first NHRAP. This inclusive and participatory approach is important at all stages of the NHRAP, including the planning, development, implementation, and monitoring stages.

8. CHILDREN'S ISSUES

In 2015, media reporting in relation to children's issues appeared to be more pronounced. The unilateral conversion of minors, the prevalence of statutory rape, custody issues, and deaths of Orang Asli schoolchildren were among the news highlights of the year. Aside from the role played by the media, the Commission too pulled its weight in championing children's issues. The Commission undertook several activities to deal with issues affecting children's rights in Malaysia, including, among others, the right to education for children with learning disabilities, and alternatives to detention for children in immigration detention. The Commission opines that while Malaysia has been a State Party to the Convention on the Rights of the Child (CRC) since 1995, much still needs to be done to ensure the protection of children's rights in this country.

Malaysia still maintains its reservations to Article 2 (on non-discrimination); Article 7 (on citizenship); Article 14 (on freedom of thought, conscience, and religion); Article 28(1)(a) (on the right to free primary school education), and Article 37 (on detention and punishment) of the CRC. The Commission is of the view that as a State Party, Malaysia's reservations that are incompatible with the object and purpose of the CRC should be reviewed to ensure that the best interest of the child is hailed as the primary consideration in decisions made with regard to the child, irrespective of his or her political, economic, and social background.

Education is a basic right of all children without distinction. Yet, in Malaysia, not all children are able to access education. Many children with learning disabilities, especially those living in rural areas, do not have adequate access to special education and facilities since these are mostly available in urban and suburban areas.

In addition to the above, there are still many Orang Asli children who are unable to obtain/have access to formal education due to the location of the schools relative to their villages. While steps have been taken by the Government to provide boarding schools for Orang Asli children, complaints have been brought to the Commission's attention that these schools did not take into account the Orang Asli's specific cultural context and needs.

Some Orang Asli children had even claimed that they were bullied and treated harshly by their teachers. Consequently, the Commission has come across cases where young Orang Asli children had left their boarding schools without permission to return to their families as they could not adapt to the new environment. More recently, in October 2015, seven young Orang Asli students ran away from SK Tohoi boarding school. When they were found 45 days later, only two had survived while the others had died from drowning, injury, or starvation. It was later discovered that they had fled from the school as they were afraid of being punished harshly for swimming in a river without their teacher's knowledge.

Refugee and undocumented migrant children form another doubly vulnerable group that is not only excluded from accessing formal education, but also faces various forms of discrimination. The Commission is particularly concerned with the detention of refugee and irregular migrant children, especially unaccompanied minors, in immigration centres. It has been reported to the Commission that as of 8 November 2013, a total of 782 migrant children were placed in immigration detention centres throughout Malaysia. The Commission stresses that placing children in detention centres can prove detrimental to their physical and psychological well-being as they are exposed to numerous possible health and safety risks. The Commission urges the authorities to introduce an alternative to detention policy in order to release those children into the community with the necessary support to education, health, and other relevant services to ensure their safety and development.

Children are more vulnerable than adults, and therefore, need special safeguards and care including appropriate legal protection as, very often, failings in such safeguards are the result of losing sight of the needs of the child, or placing the interests of adults ahead of the needs of the child.

In line with the CRC, the Commission emphasises that the principle of the best interests of the child must be consistently applied and integrated into all policies, programmes, legislation, as well as judicial decisions affecting the child.

9. BUSINESS AND HUMAN RIGHTS

International human rights standards have traditionally been the responsibility of governments, aimed at regulating relations between the State and individuals and groups. However, the increased role of corporate actors has given rise to the issue of business impact on the enjoyment of human rights. Similarly, in Malaysia, there is increasing public expectation for private actors, including business enterprises, to ensure that their conducts respect the rights of individuals and society.

However, there appears to be little progress on the part of business actors in Malaysia to realise this expectation. One of the key factors that may have contributed to this slow development is the fact that there is currently no particular law in Malaysia that specifically

requires business enterprises to avoid violating human rights. Granted that the actions of business enterprises are regulated through other existing laws, such as those related to companies, land, labour, human trafficking, and environment, which laws essentially protect human rights, the enforcement of some of those laws, however, remains weak.

In addition to the above, the awareness level among business actors of their responsibilities towards human rights remains low. This is evidenced during the Commission's discussions with business actors, where there is a tendency for them to equate corporate social responsibility (CSR) with their contribution to human rights. While the Commission welcomes CSR initiatives, it must be underscored that unlike CSR, which is usually a top-down approach where a company can decide to pick and choose the issues they care to address, human rights places the respect towards the inherent dignity of persons at the centre of business operations, which includes ensuring that they do not infringe the rights provided by the Universal Declaration of Human Rights (UDHR), in the course of their profit making activity.

In order to strengthen the roles and responsibilities of business enterprises towards human rights, this year, the Commission published a report entitled "Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia" as a key deliverable outcome to the Commission's earlier project initiated in 2014 entitled "Promoting Business and Human Rights in Malaysia for Business Success and Inclusive Growth". The report was launched by the Minister in charge of human rights from the Prime Minister's Department. Through these initiatives, the Commission hopes to intensify public discourse on the responsibilities of private enterprises toward human rights and, by way of the Strategic Framework, provide a policy direction in order to have Malaysia's very own national action plan that places the protection of, and respect towards, human rights at the heart of business operations. Through this Project, the Commission introduces a soft approach so as to obtain the participation and support of business actors from the beginning of the process.

Indeed the Commission believes that the above soft approach must be supported with the effective enforcement of existing laws that regulate the actions of business enterprises. As such, the Commission reiterates that while the Government cannot be held responsible per se for any human rights abuses perpetrated by business enterprises, the Government may still be in breach of their human rights obligations if the abuses were the result of the Government's failure to take appropriate steps to prevent, investigate, punish and redress private actors' abuse.

Besides ensuring the effective regulation of local businesses, there is also an expectation that the Government take cognizance of possible human rights implications before allowing any foreign investment into Malaysia as well as before agreeing to any international trade agreements. Principle 9 of the UN Guiding Principles on Business and Human Rights clarifies that while the Government should provide investor protection, this must be balanced with adequate policy and regulatory ability to safeguard human rights when negotiating investment

treaties, free trade agreements or contracts for investment. The Trans-Pacific Partnership Agreement (TPPA) is an example where the Government of Malaysia appeared to have side-lined not only the need to conduct a human rights impact assessment, but also meaningful consultation with the public to participate in the process. The Government's decision to go ahead with the TPPA had met with much protest that appeared to go unheeded.

The Commission underscores the responsibility of everyone in society to respect human rights. It is important that this be nurtured as a way of life, alongside laws that aim to effectively redress violations.

10. LAW REVIEW

In 2015, human rights in Malaysia suffered some setbacks following the introduction of new, and revision of existing, legislations that effectively stifle the rights to a free and fair trial, and freedom of expression.

At the outset, the Commission expresses its disappointment over the hasty manner in which some of these laws were enacted. Further, the lack of public consultations in the course of developing and/or amending those laws effectively denies the public's right to participate in their government and in the conduct of public affairs.

(a) Prevention of Terrorism Act 2015

The Prevention of Terrorism Act 2015 (POTA) that was enacted to replace the repealed Internal Security Act 1960 (ISA) has reinvigorated detention without trial. Persons detained under this law are neither guaranteed legal representation nor provided assurance that they will be informed of the grounds of their arrest. Investigations under the law also depart from the normal rules of evidence and criminal procedure given that Inquiry Officers (IO) may obtain evidence by any means. Further, POTA abandons powers of independent judicial review to examine detention and restriction orders, which clearly contradicts the right to equality and equal protection before the law as guaranteed by the Federal Constitution of Malaysia. Instead, POTA introduces the Prevention of Terrorism Board (POTB) whose impartiality has been questioned by the public in view of the fact that members are appointed by the Yang di-Pertuan Agong based upon the advice of the Government, and can be dismissed at any time. In addition, the objectivity of the POTB is also a concern since it can impose renewable detention and restriction orders on persons who are not represented by legal counsel, based solely on the IO's investigation report. Moreover, POTA contains no provision to allow the POTB to inquire into the investigation report or to compel further investigation.

Granted that POTA deals with the dangerous issue of terrorism, the Commission stresses that this should not be used as a basis to violate basic human rights. As such, the Commission

calls on the Government to ensure that all persons are guaranteed the appropriate due process, by way of reviewing POTA.

(b) Sedition Act 1948

The Sedition Act 1948 was earmarked for repeal as declared by the Prime Minister in 2012. However, two years after, he retracted this and, instead, announced that this piece of legislation would be ‘strengthened’ in order to preserve domestic harmony. Amendments to the Sedition Act were passed by Parliament in April 2015.

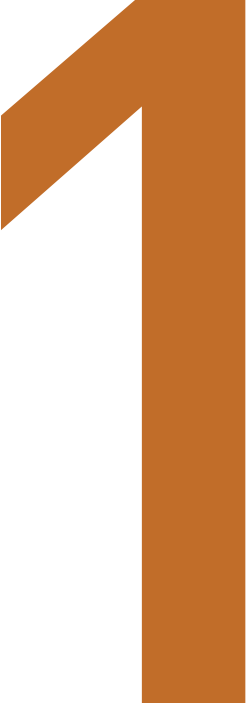
The Commission notes that the amendments to the Sedition Act have introduced both positive and further negative aspects as detailed out in Chapter 1(II) of this Annual Report. In spite of these, the Commission unreservedly reiterates its existing stance that the Sedition Act should be repealed to give true meaning to the right to freedom of expression as guaranteed by Article 10 of the Federal Constitution. The Commission further urges the Government to accede to the International Covenant on Civil and Political Rights (ICCPR) which protects the right to freedom of expression, and to take heed of General Comment No 34 on Article 19 of the ICCPR that clearly specifies that while limitations to the right to freedom of expression may be imposed, such limitations must meet three conditions, namely, limitations must be clearly and precisely provided by law, have legitimate aim, and must be truly necessary.

(c) Human Rights Commission of Malaysia Act 1999

Given the ongoing and emerging challenges towards human rights in Malaysia, the Commission opines that it is essential for its position to be strengthened, by way of amendments to the Human Rights Commission of Malaysia Act 1999 (Act 597), in order to provide effective check and balance to the work of, in particular, the Executive and Legislative branches of the Government.

One of the proposed amendments was for Act 597 to provide and clearly specify the Commission’s mandate to be consulted by the Government on the formulation and amendment of laws. Unfortunately, this proposal was rejected by the Government together with the other proposed changes suggested by the Commission, including for it to be explicitly empowered to, among others, visit places of detention without prior notice, intervene in human rights-related court cases or at the very least appear as *amicus curiae*, and to effect mediation. In addition, the Commission sought to strengthen some of the existing provisions; in particular, by pushing for the Commission’s annual reports to be debated in Parliament, and for there to be adequate funds in order for the Commission to operate effectively.

The Commission will continue to pursue these amendments, which it opines are necessary in order to accentuate the accountability of the Government towards achieving a truly transparent and democratic Malaysian society.



CHAPTER

REPORT OF THE POLICY, LAW AND COMPLAINTS GROUP

- Policy Division
- Law Reform and Trites Division
- Complaints and Monitoring Division



Sitting from left : Ms Siti Zaihan Zulkarnain, Mr Mohamad Asrul Mohamad, Mr Shahizad Sulaiman (KPSU CMD), Mr Amer Izyanif Hamzah (KPSU LRTD), Ms Nurul Hasanah Ahamed Hassain Malim (TSU), Mr Mohamad Azizi Azmi (KPSU PD), Mr Ariff Saffwan Rushdan, Mr Joshua Erricson, Ms Norashikin Hamzah

Standing from left: Ms Nur Adlin Abd Ghaffar, Ms Lau Sor Pian, Ms Yustina Ishak, Ms Nurulhidayati Masdim, Mr Helmi Fendy Mohammad Idris, Mr Muhammad Faiz Abd Rahman, Mr Ahmad Zaidi Baharuddin, Ms Nur Hariza Abd Aziz, Ms Nursyamimi Amran, Ms Mariani Che Hussin, Ms Sarah Adibah Hamzah

Not in the picture: Ms Paremeswari A/P Subramaniam

I. POLICY DIVISION

*The world has enough for everyone's need, but
not enough for everyone's greed.*

Mahatma Gandhi

*Pre-eminent Indian nationalist leader and proponent
of nonviolent civil disobedience*

Under its restructuring exercise, the Commission divided the former Research and Policy Development Division into two new divisions – the Policy Division and the Law Reform and Treaties Division. During the year, the Policy Division focused its work and advocacy on issues related to business and human rights; the National Human Rights Action Plan (NHRAP); the Parliamentary Select Committee on human rights; follow-up action on the report of the National Inquiry into Land Rights of Indigenous Peoples in Malaysia (NI); and research on transgender issues, particularly in respect of the rights to employment, healthcare, education, housing and dignity. The Policy Division also conducted follow-up activities to the Commission's previous thematic studies on "The Right to Education for Children with Learning Disabilities" and "Care Services for Older Persons and Support for Caregivers".

1. FOLLOW-UP TO 2013 THEMATIC AREAS

In finalising the reports of the Commission's research on its 2013 thematic areas, namely, **"The Right to Education of Children with Learning Disabilities"** and **"Care Services for Older Persons and Support for Caregivers"**, the Commission had met with the Ministry of Education (MOE) and the Social Welfare Department (JKM) to obtain input and comments as well as updated data and statistics that were later incorporated in the Commission's reports. These two reports were released on 16 November during a round-table discussion (RTD), which was held to exchange views on the findings and recommendations of those reports.

The RTD was divided into two sessions. The morning session focused on the issues pertaining to the right to education for children with learning disabilities (CWLD) while the afternoon session focused on the issues relating to care services for older persons and support for caregivers. The RTD was attended by representatives from Government agencies, civil

society organisations (CSOs), academicians, and other stakeholders, such as operators of old folks' homes.

(a) RTD on the Outcome of the Commission's Report on the Right to Education of Children with Learning Disabilities – Focusing on Primary Education

This RTD was held with the following objectives:

- (i) To provide an overview of, and to discuss, the observations and recommendations made by the Commission in respect of the right to education of CWLD;
- (ii) To obtain information on the progress of primary education for CWLD, in particular to chart the progress of inclusive education;
- (iii) To obtain feedback on the challenges faced by Government ministries/ agencies in addressing the issues raised in the report and implementing the solutions to problems; and
- (iv) To promote the uptake and implementation of the Commission's recommendations.

The following are issues raised and recommendations made by the participants:

- (i) Lack of Understanding, Stigma, and Early Intervention
Concern was raised on the lack of understanding about, and stigma against, CWLD. It was also highlighted that there is a need for early intervention to detect children with special needs. Based on the current practice, children from a tender age will go through several stages of screening at Government clinics. The Literacy and Numeracy Screening (LINUS) tests run at schools is also one of the means to identify children with special needs.
- (ii) Consolidation of Data
JKM informed the participants that data in Sistem Pengurusan Maklumat OKU (SMOKU) is handled solely by JKM, and is not integrated with data systems in other ministries. It was further explained that previously the registration was done manually, and consequently the real number of persons with disabilities (PWD) may not have been reflected since some of them may have passed away. SMOKU is a new registration system that now holds JKM's data on PWD. It was recommended that the separate sets of data on PWD kept by JKM, the MOH, and the MOE should be consolidated.
- (iii) Challenges of the MOE and Moving Forward into Inclusive Education
Among the challenges faced by the MOE are the need for better infrastructure, disabled-friendly environment, and equipment, as well as trained teachers. It was further explained that a series of initiatives has been executed and will be implemented in three stages

as stated in the Malaysia Education Blueprint (first wave in 2013-2015, second wave in 2016-2020 and third wave in 2021-2025), with the overall objective of achieving 75 per cent inclusive education for students with special education needs by 2025.

- (iv) Accessibility: Screening and Assessment of Eligibility for Special Education Programmes/ Special Education Integration Programmes

It was explained to the participants that any child diagnosed as a special needs child will be placed under a three-month probationary period for the purpose of determining suitable schooling options. Once the child has been confirmed as a special needs child, the child will be placed either in a mainstream school or a special education school, or be given medical intervention, which is under the purview of the MOH.

- (v) Low Number of CWLD in Primary Special Education Programmes

It was pointed out that the number of CWLD in primary school is approximately one per cent. Sometimes, although screenings conducted by the MOH produce results that confirm a child as a special needs child, the results never reach the child's school. Therefore, it is important that the parents themselves play a role and cooperate for the benefit of their children's education.

- (vi) Shortage of Intervention Centres and the Need for Child Psychologists

Intervention processes for special needs children should start at an early age, ideally when they begin going to day care or pre-school. In order to address the shortage of intervention centres, the Government is offering a monetary grant to all centres that receive special needs children, and the grant is open for application. However, the participants expressed concern that teachers lack the skills to assess special needs children and it was further suggested that schools employ psychologists who have the relevant expertise and experience.

- (vii) Community Rehabilitation Centre (CBR)

In the current system, CBR staff are employed on a contract basis with an allowance of RM800. In view of the importance of their role in doing intervention work with special needs children, their status should be reconsidered.

Based on the RTD conducted, it was found that the issue of early intervention for CWLD needs to be given due attention to ensure that CWLD could be identified at an early age so that the necessary intervention as well as other forms of support could be provided to them. The Commission will continue its advocacy work on this matter, and plans to hold focus group discussions with relevant stakeholders including the MOE and the MOH.

(b) RTD on Care Services for Older Persons and Support for Caregivers

During the RTD, the participants highlighted the following points concerning the rights of older persons:

- (i) It was noted that in the future, the Government will be shifting its role from that of 'service provider' to 'regulator', and as such there are no more plans to increase the number of Government care centres. Therefore, it was proposed that the Government ensure the compliance of service providers to the standards and requirements set by the Government.
- (ii) It was suggested that the word "Private" should not be in the name of the new Private Aged Health Care Facilities and Services Bill, as there are also centres managed by the Government. Therefore, the Bill should only introduce one standard that will be complied with by both Government and private centres.
- (iii) It was suggested that there should be proper cooperation and coordination among the ministries, as older persons' issues involve several ministries such as the Ministry of Women, Family and Community Development (MWFCDD), the MOH, etc.
- (iv) Concerns were also raised regarding care services for older persons at home by their family members or maids, as most of these caregivers are not properly trained. Such care work could put the caregivers at risk of depression, and may even result in cases of abuse of the older persons under their care.
- (v) Since Malaysia is adopting a mixed system in relation to care services for older persons, it was suggested that an extensive study on the best practices of other countries should be conducted in order to ensure that the Government adopt the best system for the country based on accessibility, affordability, and sustainability of the services.
- (vi) Proper laws and regulations are needed to ensure that older persons are not vulnerable to abuse but instead are legally protected.
- (vii) There is a proposal at international human rights fora to develop a new convention to protect the rights of older persons. It was hoped that the Government will support the idea of this new instrument.

Older persons' issues should be given serious consideration as the number of older people is increasing every year. All parties, including the Government, NGOs, care centre operators, universities, and the general public, as well as communities, have their respective responsibilities and should assist older persons so that they may live with dignity. Apart from welfare-related issues, older person's issues should be seen from the human rights perspective, such as the right to health, the right to an adequate standard of living, the right to be included in the community, and the right to be free from any form of torture and abuse.

2. BUSINESS AND HUMAN RIGHTS

(a) Foreign and Commonwealth Office Project

In 2014, the Commission, in partnership with the United Nations Country Team (UNCT) in Malaysia, succeeded in a bid for a grant from the Foreign and Commonwealth Office of the United Kingdom (FCO) to undertake a project focusing on business and human rights, namely, “Promoting Business and Human Rights in Malaysia for Business Success and Inclusive Growth”. The main objective of the project was to formulate and propose a framework for a national plan of action towards the adoption and implementation of the UN Guiding Principles (UNGPs) on Business and Human Rights by both State and non-State actors in Malaysia. The project, which commenced in July 2014, was successfully completed in March 2015 with the launching of the Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia (the Strategic Framework) by YB Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister’s Department.

As a continuation of its work in 2015, the Commission carried out several activities before the launch of the final document - the Strategic Framework - including the following:

- (i) Meeting with the Companies Commission of Malaysia (SSM)
Mindful that SSM is an important and the lead agency in regulating business incorporation and has the authority to improve corporate governance and human rights, the Commission decided to approach SSM to support the Commission’s work on business and human rights. On 15 January, a strategic meeting with SSM was held to brief SSM on the UNGPs and its relevance to the business sector in Malaysia. The Commission is glad to note that SSM recognised the relevance of business and human rights to their current agenda on corporate responsibilities. Since then, SSM has been a major supporter of the Commission’s work on business and human rights.
- (ii) Questionnaires for Regulatory Bodies and Business Entities
The Commission developed questionnaires in order to obtain input on and gain understanding of the relevant issues, for example, the concept of business and human rights, in particular whether there is any policy being implemented with regard to human rights, and if there are obstacles in the integration of human rights in business operations. The questionnaires were distributed to three regulatory bodies in Malaysia and four corporations including Government-linked companies (GLCs). The interviews were carried out in February. However, out of the seven respondents, the Commission only received feedback from SSM, Bursa Malaysia Berhad and UEM Berhad.
- (iii) Jurisdiction Trip to London
The jurisdiction trip to London was held from 1-7 March, with the objectives of further

exploring and understanding the UK Government's experience in developing their National Action Plan (NAP) on Business and Human Rights, identifying the challenges and gaps in the development the NAP, and understanding the process and mechanism of the development of the NAP by the related agencies. The UK Government was the first country to produce a NAP on Business and Human Rights to implement the UNGP.

With the assistance of the FCO, the Commission had the opportunity to meet and hold discussions with representatives of the Equality and Human Rights Commission (EHRC); Amnesty UK; the Business Resource Centre; UN Global Compact; the Business, Innovation and Skills Department (BIS); the Law Commission for England and Wales; the Institute of Business and Human Rights; the ASEAN Department, FCO; and the Human Rights and Democracy Department, FCO. The jurisdiction trip enabled the Commission to obtain information and appreciate their relevance in the context of the current situation in Malaysia as well as to identify the good practices of and the challenges faced by the UK Government in developing a NAP.

- (iv) Workshop on the Draft Framework on a NAP on Business and Human Rights for Malaysia
The Workshop was organized on 16 March to review, and to obtain feedback from the relevant Government agencies, business entities, CSOs, and academicians on, the draft Strategic Framework that had been developed by the Commission with the assistance of a resource person. The input and feedback from the participants of the workshop were considered and incorporated where applicable in the final Strategic Framework.
- (v) Consultative Dialogue and Launch of the Strategic Framework on a NAP on Business and Human Rights for Malaysia
The Commission, in collaboration with UNCT, organised the Consultative Dialogue on 24 March involving relevant Government agencies, business entities, GLCs, regulatory authorities, and non-Governmental organisations (NGOs). The main objective of the Consultative Dialogue was to provide an interactive platform to discuss the Strategic Framework and the role of the Government as well as stakeholders towards creating and implementing a NAP on Business and Human Rights for Malaysia. The Strategic Framework was then launched by YB Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister's Department, who also delivered the keynote speech at the Consultative Dialogue. In his speech, the Minister offered his commitment in ensuring that a NAP on business and human rights be developed and implemented in Malaysia.

(b) The Strategic Framework on a National Action Plan on Business and Human Rights For Malaysia

The Strategic Framework explains the rationale and provides an outline for the development of a NAP to ensure business conduct that respects human rights. The Strategic Framework

also provides policy direction for the formulation of a NAP on business and human rights for Malaysia, with a view towards promoting greater respect for human rights by State and non-State actors including businesses, civil society, and individuals and groups affected by the adverse impacts of business activities on human rights. The objective of the NAP is to address the challenge of properly managing such adverse impacts, in order to ensure that Malaysia's transformation into a fully developed country is undertaken in a sustainable manner.

The Strategic Framework and its recommendations are based on the following understandings:

- (i) That the State and the business sector have complementary but differentiated roles with regard to human rights. Corporate respect for human rights requires the independent action of businesses themselves. At the same time, the State should provide an appropriate regulatory and policy environment to foster corporate respect for human rights.
- (ii) That a root cause of the prevalence of business-related human rights abuses around the world has been the practice by governments of isolating their processes for regulating human rights compliance away from, or at the periphery of, their processes for regulating business and economic activities. The integration of both these types of processes is needed.
- (iii) That while it is the governments that have the legitimacy, capacities, and resources to make the difficult balancing decisions required to reconcile competing societal needs, the occurrence of business-related human rights abuses signals that more needs to be done to get the balance right.
- (iv) That it is essential for a process to develop a NAP on business and human rights to be Government-owned and led, and for the NAP be formulated based on adequate, informed, and inclusive stakeholder consultations.

In addition, with regard to practical ways in which the Strategic Framework may be used by Government and non-Government actors, the Commission recommends:

- (i) For Government Actors
 - That the Strategic Framework be used to identify and engage relevant ministries and agencies to participate in a cross-Governmental effort to develop the NAP; and
 - Recognising that an initial NAP may not be able to address all the policy objectives identified, that the Strategic Framework nevertheless be presented for stakeholder consultations and given full consideration before selecting the policy areas to address in the initial NAP.

(ii) For Non-Government Actors

- That non-Government actors use the Strategic Framework and the UNGP as reference points for action, including identifying the policy objectives that are relevant to their interests and experience, providing input that will add to and improve the policy recommendations made, and raising additional policy objectives that are relevant to Malaysia; and
- That non-Government actors support efforts to develop a NAP for business and human rights.

Subsequent to the launching of the Strategic Framework, the Commission held several follow-up discussions with relevant stakeholders such as GLCs, CSOs, regulatory authorities, and the Office of YB Senator Datuk Paul Low Seng Kuan. The Commission also submitted a proposed roadmap towards developing a NAP on business and human rights for Malaysia to YB Senator Datuk Paul Low Seng Kuan. The roadmap outlined, among others, a proposed timeline and a proposal for the establishment of a steering committee which would comprise representatives from relevant ministries such as the Ministry of Domestic, Trade, Cooperatives and Consumerism; the Ministry of International Trade and Industry (MITI); the Ministry of Human Resources (MOHR), and the Ministry of Agriculture and Agro-based Industry. The Commission will continue working closely with the Office of YB Senator Datuk Paul Low Seng Kuan and all the relevant stakeholders in developing a NAP on business and human rights for Malaysia.

(c) RTD on the Development of a NAP on Business and Human Rights for Malaysia

On 16 June, a RTD on “Development of a NAP on Business and Human Rights for Malaysia” was organized with the relevant Government agencies, with the following objectives:

- (i) To introduce the UNGP on Business and Human Rights to Government agencies;
- (ii) To provide an overview of a NAP on business and human rights;
- (iii) To share the European experience in the development of NAPs on business and human rights as well as lessons learned on the implementation of NAPs; and
- (iv) To discuss future possible collaboration with Government agencies in promoting the agenda on business and human rights as well as the implementation of a NAP on business and human rights in Malaysia.

Dr. Claire O’ Brien, Strategic Adviser of the Danish Institute of Human Rights, provided information and shared the European experience in the development of a NAP.

The following were among issues that were discussed:

(i) Soft Law vs. Hard Law Approaches

Concerns were raised in relation to the effectiveness of soft law approaches in addressing corporate human rights violations. Many suggested that soft laws are merely guidelines that are not legally binding and therefore may not easily gain adherence from businesses. However, it was emphasised that the soft law approach is something that needs to be explored further, as the hard law approach has its own limitations and involves many technicalities, for example the onus of proof, access to documents, and the holding of subsidiaries issues. Hard law should be the last option, if the soft law mechanism is unable to address businesses' human rights violations.

The soft law approach could also help to influence businesses' understanding of how their behaviour and activities may have adverse impacts on the rights of the people/ community, which in turn would make the businesses more responsible and accountable in handling human rights issues or conflicts. The UNGP as well as the OECD guidelines are examples of soft laws and they are good mechanisms to be used especially by the Government in dealing with conflicts between businesses and victims. In some circumstances the conflict can be resolved through mediation or consultation, and sometimes an apology is sufficient remedy for the victims.

(ii) Ownership of the NAP

The ownership of the NAP on business and human rights should be with the Government as Government agencies are responsible for monitoring the activities of businesses and ensuring that they do not infringe human rights. It was proposed that the Prime Minister's Department lead the process of developing the NAP, and that the Department coordinate the setting up of an inter-agency committee for this matter.

(iii) Investment and Trade Agreements

It is important for the Government to strike a balance between the need to attract foreign investors and its duty to protect human rights as encapsulated in the first pillar of the UNGP. The Government should retain adequate policy and legislation in order to protect human rights.

(d) RTD on Promoting Business and Human Rights in Sabah and Sarawak

In furtherance of its effort to mainstream the agenda on business and human rights, the Commission organised two RTDs on "Promoting Business and Human Rights in Malaysia" in Sabah and Sarawak on 2 and 3 September respectively with the following objectives:

- (i) To introduce the UNGP to the relevant stakeholders related to business activities in Malaysia;
- (ii) To enhance understanding on how the UNGP can be implemented in practical terms;
- (iii) To identify, exchange, and promote good/best practises and lessons learned on the implementation of the UNGP;
- (iv) To provide an opportunity for various groups including the Government, GLCs, NGOs, and other CSOs to express their concerns and perspectives on issues related to business and human rights; and
- (v) To discuss possible collaborations with various stakeholders in promoting the agenda on business and human rights in Malaysia.

The following issues and recommendations were highlighted by the participants of the RTDs:

- (i) Lack of Enforcement Powers
While there are ample laws to protect human rights, they are ineffective due to the lack of enforcement powers.
- (ii) Gaps Between Legislation and Implementation of Court Decisions
There are gaps between policies, laws, and enforcement, resulting in tremendous impacts at the local level especially among indigenous communities. There have been several cases involving Native Customary Rights that have been decided in favour of the indigenous communities. However, the relevant agencies appear to have disregarded the decisions and failed to make the necessary adjustments to current practices so as to reflect the court decisions.
- (iii) Access to Information and Consultation
It is important for businesses to get proper and adequate consent from the local people upon the commencement of new development projects that might affect them. It is the responsibility of the businesses to ensure that the affected communities are included and involved in the consultation process and provided with access to relevant information.
- (iv) Licensing Procedures
It is important to determine the status of a piece of land prior to the issuance of a licence so as to avoid the issuance of licences on NCR land. In cases where licences have been issued on NCR land, the ongoing projects should be suspended and proper consultations carried out to prove that the land is not NCR land.
- (v) Accessibility
It is the duty of the State as well as its agencies to provide its people with access to

remedy. A mechanism should be developed to ensure people have adequate access to information on available remedial mechanisms or processes.

The Commission further recognises the need to create more awareness among the public on issues relating to business and human rights, particularly in Sabah and Sarawak. With regard to this, the Commission, in its Work Plan for 2016, has devised activities to promote awareness of business and human rights issues to a wider spectrum of the business community, including in other states in the Peninsula and in specific industries such as the plantation sector in Sabah.

(e) RTD on the UNGP Reporting Framework (UNGPRF) and the Role of Keys Actors in Incentivising Improved Corporate Performance

On 2 October, the Commission, in collaboration with Shift, Mazars, ASEAN CSR Network, the Federation of Malaysian Manufacturers (FMM), and UNCT, organised a RTD on “The UNGP Reporting Framework (UNGPRF) and the Role of Keys Actors in Incentivising Improved Corporate Performance” with the relevant Government agencies, companies, trade unions, and CSOs. Shift and Mazars, over the last two years, had developed the UNGPRF, which was launched in London in February. The objectives of the RTD were to discuss Malaysia’s approach to its duty to protect under the UNGP, to introduce the UNGPRF, to discuss how the document could complement and support current company sustainability reporting requirements in Malaysia, and to identify appropriate steps towards the implementation of the UNGPRF.

The UNGPRF is the first comprehensive guidance for companies to report on human rights issues in line with their responsibility to respect human rights as set out in the UNGP. The UNGPRF provides a concise set of questions to which any company should strive to have answers in order to know and show that it is meeting its responsibility to respect human rights in practice. It offers companies clear and straightforward guidance on how to answer these questions with relevant and meaningful information about their human rights policies, processes, and performance.

(f) Trans-Pacific Partnership Agreement (TPPA)

The Commission, since 2012, has been monitoring the negotiations on the TPPA to ensure that the Government puts in place safeguards as envisaged under Principle 9 of the UNGP, which declares that:

“States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.”

Upon conclusion of the negotiations on 5 November, the full text of the TPPA was made available to the public and can be downloaded from the MITI's website. The MITI also welcomed any input and feedback from the public with regard to the TPPA. There are 30 Chapters of the TPPA covering many issues including investment, Government procurement, intellectual property, labour, and dispute settlement.

On 1 December, the Commission received a memorandum on the impact of the TPPA on human rights in Malaysia from several Members of Parliament and a former senator. Subsequently, the Commission agreed in its monthly meeting on 8 December to organise a RTD on "The TPPA and Its Impact on Human Rights in Malaysia" in January 2016, focusing on selected chapters, namely, intellectual property rights, labour, and dispute settlement, which may have an impact on human rights in Malaysia.

3. FOLLOW-UP TO THE NATIONAL INQUIRY INTO THE LAND RIGHTS OF INDIGENOUS PEOPLES (NI)

On 30 April, the Commission, through the Policy Division and the Promotion and Public Relations Division organised a briefing session on the outcome of the Special Task Force on the report of the NI.

The objectives of the briefing session were as follows:

- (i) To obtain information on the latest developments regarding the outcome of the Special Task Force; and
- (ii) To identify follow-up measures to be taken in line with the findings of the report and the role of stakeholders in ensuring the effective implementation of the recommendations of the report.

The briefing was delivered by Mr. Daniel Lo, Special Officer (Human Rights) to YB Senator Datuk Paul Low Seng Kuan, and attended by 37 participants including representatives of various organisations of indigenous peoples as well as academicians.

The following issues were raised during the briefing session:

- (i) The indigenous community expressed its disappointment with the slow progress of the Government in making available the Special Task Force report to the public and the indigenous community. Concerns were also raised that the delay in implementing the Special Task Force's recommendations would allow the old policies, which were infringing the rights of indigenous peoples, to continue.
- (ii) It was alleged that the delay by the Government in implementing the recommendations of the Special Task Force has allowed the continuing of encroachment on indigenous community's ancestral land.

- (iii) In view of the difference between the concepts of communal titles of indigenous peoples in the Peninsula and of the natives of Sabah and Sarawak, there is a need to use different terminology for indigenous peoples in the Peninsula and natives of Sabah and Sarawak. It was further suggested that the issue of communal grants be detailed in the report of the Special Task Force to avoid any confusion.

On 3 June, YB Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister's Department, announced the formation of a Cabinet Committee on Native Land Rights to address, monitor, and implement the findings of the Special Task Force's report which will be headed by then Deputy Prime Minister YAB Tan Sri Dato' Hj Muhyiddin Hj Mohd Yassin. The Cabinet Committee would also play the role of an independent National Commission, in line with one of the 18 recommendations made by the Commission in the NI report. However, due to the Cabinet reshuffle on 28 July, the Commission was informed that the convening of this Cabinet Committee had been delayed.

The Commission, in pursuing this agenda, urges the Government to expedite the implementation of its recommendations in the NI report. Nevertheless, in view of the lack of information on the establishment and progress of the Cabinet Committee on native land rights, the Commission agrees that in the interim, NI issues will be raised together with other indigenous people's complaints during discussions with the relevant State Governments. The Commission, in its Work Plan for 2016, will proceed with its follow-up activities to monitor the implementation of the recommendations by the relevant Government agencies.

4. NATIONAL HUMAN RIGHTS ACTION PLAN

Since the Government's announcement of the development of the nation's first ever National Human Rights Action Plan (NHRAP) in 2010, the Commission has been consistent in supporting and pushing for the expedition of its completion. In 2015, the Commission, as one of the members of the Steering Committee, submitted a proposal paper mapping out the core thrusts of the NHRAP with the accepted Second UPR recommendations to YB Puan Hajah Nancy Shukri, the Minister in the Prime Minister's Department in charge of the NHRAP and YB Senator Datuk Paul Low Seng Kuan, the Minister in the Prime Minister's Department in charge of human rights.

The Commission has always recommended that the Government prioritise the implementation of UPR recommendations and accession to human rights treaties, and incorporate them into the NHRAP. Hence, the proposal paper was prepared with the purpose of outlining the recommendations adopted by the Government during the Second UPR process and mapping them with the core thrusts of the proposed NHRAP, which had been agreed upon by the Steering Committee.

The Commission believes that if the Government were to respond to and prioritise the 113 UPR recommendations accepted in full at the Second UPR, it would essentially reflect the five core thrusts of the NHRAP, namely, Civil and Political Rights; Economic, Social, Religion and Cultural Rights; Rights of Vulnerable Groups; Rights of Indigenous Peoples; and International Obligations, as well as a newly-incorporated special chapter on Sabah and Sarawak in the proposed NHRAP. Similar to the NHRAP, the UPR recommendations would involve Governmental efforts in the enactment, abolition, strengthening, and/or review of laws, in order to ensure greater promotion and protection of human rights.

In November, the Legal Affairs Division of the Prime Minister's Department (BHEUU) appointed Hazizah & Co. as the Consultant in the development of the NHRAP. The Commission would like to reiterate its recommendation that the proposed NHRAP to be developed by the Consultant should be practical, achievable, and action-oriented. Bearing in mind that at the first Steering Committee Meeting of the NHRAP in December 2013, it was agreed that the development of the NHRAP would be completed in 2016 and the implementation phase of the NHRAP would begin from 2017 to 2021, the Commission therefore urges the Government to ensure that the development of the NHRAP by the Consultant strictly adheres to the timeline given, which is within 18 months (November 2015 to April 2017), so as to avoid further delay.

5. PARLIAMENTARY SELECT COMMITTEE

Following the Government's announcement in October 2012 of its intention to establish a Parliamentary Select Committee (PSC) on human rights, the Commission has been actively engaging and holding discussions with the relevant stakeholders, including BHEUU, to push this agenda forward. The Commission has also submitted a proposal paper on the establishment of a PSC, which includes its proposed terms of reference, its membership, and the period of its establishment, to YB Senator Datuk Paul Low Seng Kuan and YB Puan Hajah Nancy Shukri. The establishment of a PSC would serve as an interim measure towards the ultimate goal of full Parliamentary debate on the Commission's Annual Report and all human rights issues, something that would surely strengthen the democratic process.

6. RESEARCH ON THE TRANSGENDER COMMUNITY

This year, the Commission has agreed to undertake a baseline study to obtain information on discrimination faced by the transgender community in the country. However, due to financial constraints, as the decision to conduct the study was made later in the year, the Commission decided that the study would commence in early 2016. The purpose of this study is to analyse the issues of the transgender community, with the following objectives:

- (i) To monitor and compile data/information on discrimination against transgender people, in particular in the areas of employment, healthcare, education, housing, and the right to dignity;
- (ii) To influence/recommend changes in laws and policies for equal protection of the transgender community; and
- (iii) To create awareness regarding the situation and experiences of transgender people.

The study is currently in its formative stages and the Policy Division is working closely with transgender advocates and other relevant stakeholders to map out the problems faced by the community.

7. LOOKING FORWARD

The Policy Division will continue to monitor the Government's actions with regard to the Commission's recommendations, and identify areas for further advocacy. In 2016, in view of the Government's commitment to implement the Sustainable Development Goals (SDGs) as adopted unanimously by the leaders of the 193 UN Member States at the opening of the UN Special Summit in New York on 25 September, the Division is looking forward to working closely with the Government and to offering its views and recommendations particularly on issues related to human rights.

The Commission, during its Work Plan 2016 retreat which was held from 17-19 October, decided that the SDGs would serve as the overarching theme of the Commission's programmes and activities during the SDG implementation period, given the role that is expected of NHRIs in the SDGs.

II. LAW REFORM AND TREATIES DIVISION

If the law should impose upon the process of “growing up” fixed limits where nature knows only a continuous process, the price would be artificiality and a lack of realism in an area where the law must be sensitive to human development and social change

Lord Scarman

House of Lords

*Gillick v West Norfolk and Wisbech Area Health Authority
and Anor [1986] 1 AC 112*

1. MONITORING OF STATE IMPLEMENTATION OF INTERNATIONAL TREATIES

(a) **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

The Commission will give an update on the issues concerning women’s rights in its upcoming Parallel Report. The Commission reiterates its concern regarding the overdue State Report and urges the Government to expedite its submission.

As the State Report is long overdue, the Commission hopes that the Government would submit the State Reports without further delay.

(b) **Convention on the Rights of the Child (CRC)**

The Commission was invited to “Sesi Pemurnian Laporan Negara: Konvensyen Mengenai Hak Kanak-kanak (CRC)” on 18 June and 27 August 2015 by the Ministry of Women, Family and Community Development (MWFCD). The session’s objective was to gather input and statistics on issues concerning children’s rights, which are to be included in the State Report to the CRC Committee. The Commission was made to understand that the final drafts of the 2nd, 3rd and 4th State Reports would be forwarded to the Commission for comments. As the State Report is long overdue, the Commission hopes that the Government will submit the State Report without further delay. The Commission fervently hopes that the Government

will submit its State Report as soon as possible as the last State Report was submitted on 20 December 2006 and the latest State Report is long overdue.

(c) Convention on the Rights of Persons with Disabilities (CRPD)

The Commission was made to understand that at the time of writing, the MWFC is in the midst of updating the draft State Report. On 4 November 2015, the Commission was invited to “Sesi Konsultasi Laporan Negara: Konvensyen Mengenai Hak Orang Kurang Upaya (CRPD)” with the objective of finalizing the said report. The Commission was made to understand that the Government would submit the final draft of the State Report to the AG’s Chambers by the end of 2015.

2. REMOVAL OF THE REMAINING RESERVATIONS TO CEDAW, THE CRC AND THE CRPD

Over the years, the Commission has consistently urged the Government to withdraw its reservations in respect of CEDAW, the CRC and the CRPD. In 2014, the Commission had organised three separate Round-Table Discussions (RTDs) in order to discuss the reservations to certain Articles in CEDAW (17 April 2014), the CRC (18 June 2014) and the CRPD (25 June 2014). Pursuant to those RTDs, the Commission decided to hold a Round-Table Discussion with Civil Society Organisations (CSOs) for a specific consultation on the definition of ‘torture’ as enshrined in Article 15 of the CRPD and Article 37 of the CRC, and the meaning of the right to acquire nationality as stated in Article 18 of the CRPD, Article 7 of the CRC and Article 9 of CEDAW.

The RTD was held on 12 February 2015 with the following objectives:

- (i) To provide all the participants with an open platform to express and elaborate their views with regard to the definition of torture and the right to acquire nationality within the Malaysian context; and
- (ii) To formulate recommendations that shall be forwarded to the Government for consideration.

As an alternative to the complete abolishment of corporal punishment, Malaysia could retain corporal punishment but accompanied by appropriate safeguards in implementing the punishment.

The RTD was well attended by various CSOs, including the Malaysian Bar Council, the Protect and Save the Children Association of Selangor and Kuala Lumpur, United Nations Children’s Fund (UNICEF) Malaysia, the Malaysian Child Resource Institute (MCRI), academicians

from the International Islamic University Malaysia (IIUM) and Universiti Teknologi MARA (UiTM), Jabatan Pembangunan Orang Kurang Upaya (Majlis Kebangsaan Bagi OKU), the National Security Council, the Malaysian Medical Association, the All Women's Action Society (AWAM), a representative from PERMATA PINTAR, Prime Minister's Department, as well as a former member of the CEDAW Committee. Representatives from MWFCDC attended as well to observe the proceedings and to share the current development of its works concerning the reservations expressed by Malaysia.

Points raised during the RTD pertaining to the definition of 'torture' include the following:

- (i) As an alternative to the complete abolishment of corporal punishment, Malaysia could retain its use of corporal punishment, but subject it to certain appropriate safeguards. Proper procedures and guidelines on the implementation are necessary since a large part of Malaysian society still clings to the practice of corporal punishment as one of the traditional methods of disciplining children. Thus, all stakeholders should consider the best practices that could be implemented in order to ensure that the methods used to discipline children are properly adapted and do not amount to cruel treatment;
- (ii) Rehabilitation would be the best method of child discipline that should be implemented by the Government, as the carrying out of corporal punishment may impact the children negatively. The participants agreed that the concept of rehabilitation, whether through diversion, restorative justice, or other forms of rehabilitation, would teach the children to take responsibility for the wrongs committed;
- (iii) Rewarding the children for their good behaviour would assist and encourage them to change their behaviour;
- (iv) In order to develop a good support system for the administration of juvenile justice, and to ensure the effectiveness of the system, the Government would need to allocate adequate funds in its Annual Budget for that purpose and provide sufficient resources and support personnel such as child psychologists and counsellors;
- (v) The participants highlighted the importance of early childhood education as well as parenting education and suggested that parents should explore alternative approaches in disciplining children;
- (vi) The participants were concerned about the current Malaysian laws and regulations that allow whipping and caning. It was recommended that any amendment of laws should reflect the spirit of the CRC and the

The scope of section 17(2) of the Child Act 2001 should be expanded to include any form of physical, emotional and sexual abuse of children

relevant agencies should review the current laws and legislation, for example in terms of the age of criminal responsibility and the punishment of whipping;

- (vii) The scope of Section 17(2) of the Child Act 2001 should be expanded to include any form of physical, emotional and sexual abuse of children. The participants reiterated that a specific provision should be included that expressly gives the Child Act primacy over other laws where children are concerned; and
- (viii) There was a suggestion for the relevant agencies such as the Ministry of Education and the Social Welfare Department to review their Standard Operating Procedures (SOPs), guidelines, policies and teachers' training modules in order to introduce alternative methods of disciplining children.

Various pertinent points regarding the right to acquire nationality were raised by the participants. They include the following:

- (i) It was noted that the ultimate obstacle for the removal of this reservation was the complexity surrounding the issue of citizenship, in particular whether registration is interpreted as automatic conferment of Malaysian citizenship;
- (ii) The MWFCDD invited the participants to consider the definition of 'to acquire nationality' and further suggested that it meant that all individuals have the opportunity to apply for citizenship as opposed to automatic conferment. Thus, it could be used as a justification for the removal of the said reservation;
- (iii) There was a suggestion to establish a list to differentiate various types of situations. The proposed list of categories submitted by the participants included:
 - Children born of Malaysian parents;
 - Children with one Malaysian parent;
 - Children who were born in Malaysia but have no personal documents;
 - Religious categorization, i.e. Muslim and Non-Muslim children;
 - Children born of foreigners; and
 - Adopted children.
- (iv) The discretionary power of the Minister as enshrined under Article 15A of the Federal Constitution should be exercised instead of rejecting all the applications out of hand;

Discretionary power of the Minister as enshrined under Article 15A of the Federal Constitution should be fairly and equally exercised instead of rejecting all the applications

- (v) With regard to the issue of adoption, it was clarified at the meeting that citizenship was not automatically conferred on non-citizen children upon adoption by citizens of Malaysia. It was a privilege conferred by the Government on the individual;
- (vi) All participants agreed that citizenship was not an automatic conferment and this should be the foundation in interpreting obligations arising from the treaties.

All input has been submitted to MWFCF to assist them in their study concerning these issues.

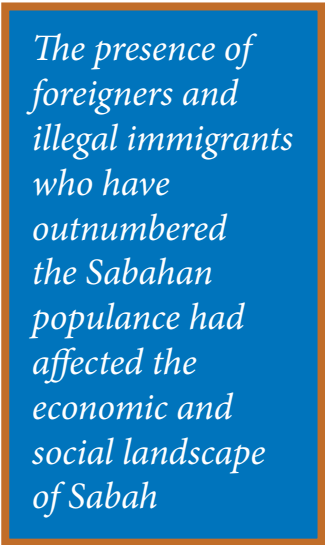
3. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

Since its inception, the Commission has been consistent in its call to the Government to accede to the remaining international human rights instruments, including the ICESCR. To intensify this effort, the Commission had organised two separate Round-Table Discussions (RTDs) on the ICESCR with NGOs and Government agencies on 27 March and 22 August 2013 in Kuala Lumpur respectively.

In an effort to further understand ICESCR issues from the lenses of the communities in Sabah and Sarawak, the Commission conducted similar RTDs involving relevant stakeholders, Government agencies and academicians at Kota Kinabalu and Kuching.

The RTD in Kota Kinabalu, Sabah, was held on 13 May 2015 and various pertinent issues were highlighted during the discussion, summarized as follows:

- (i) The Government should convey to the Commission the official reason for its decision not to ratify/accede to the ICESCR;
- (ii) There are several local by-laws which are inconsistent with the Articles enshrined in the ICESCR. Unfriendly facilities, for instance, in Kota Kinabalu have disrupted the comfort and convenience of persons with disabilities. Therefore, it was suggested that all relevant stakeholders introduce specific by-laws and fully enforce them;
- (iii) The unemployment rates have gradually increased and the lack of job opportunities for youngsters in Sabah have indirectly contributed to poverty;
- (iv) With regard to poverty, the participants also stressed that poverty was impeding Sabahans’/



The presence of foreigners and illegal immigrants who have outnumbered the Sabahan populace had affected the economic and social landscape of Sabah

natives' access to medical as well as educational facilities. However, in response, it was clarified at the meeting that several programmes had been developed and introduced by the Government to reduce poverty. Unfortunately, there were parents who refused to allow their children to take part in those programmes;

- (v) Irregular resettlements were disrupting the development of Sabah. The presence of foreigners and irregular immigrants who have outnumbered the Sabahan populace was affecting the economic and social landscape of Sabah;
- (vi) It was pointed out that the current policy on education of children of irregular immigrants should be addressed and reviewed as their future would be jeopardized without education. In response, Majlis Keselamatan Dalam Negeri Sabah indicated that the Council has established 12 schools for undocumented, stateless, and refugee children;
- (vii) The definition of 'culture' itself in the ICESCR should be broadened; and
- (viii) It was recommended that the relevant stakeholders should undertake a thorough study and adopt the best practices of other countries in order to improve the weaknesses in the Malaysian system. Hong Kong and Australia were cited as examples that Malaysia could emulate.

Meanwhile, the RTD in Kuching, Sarawak was held on 12 August 2015. Throughout the discussion, the Commission took note of the concerns raised by the participants, summarised as follows:

- (i) It was pointed out that the term Orang Asal/Asli used by the Commission in referring to indigenous peoples of Sabah and Sarawak was inaccurate. It was proposed that the Commission use the term 'Bumiputera' in its future papers/works;
- (ii) It was recommended that the Government include indigenous languages as a medium in the Malaysian formal education system;
- (iii) There were concerns among Sarawakians about their local and ethnic languages as they believe those languages are part of their cultural identity;

- (iv) The emergence of advanced electronic devices has proven to be an effective tool for assisting employees in performing their duties at the office. However, reliance on those devices also leads to negative outcomes such as neglect of family responsibilities;
- (v) Some of the regulations regarding the management of companies as well as policies and laws concerning the right to work have been reasonably developed. However, despite having such instruments, the implementation of those instruments is still lacking;
- (vi) Misconceptions among the public regarding the application of Sections 5² and 6³ of the Land Code of Sarawak have affected the rights of NCR land owners; and
- (vii) Insufficient numbers of medical personnel deployed in public hospitals/clinics and logistic problems faced by rural communities are some of the barriers in respect of access to quality healthcare.

The Commission will continue to urge the Government to ratify/accede to the remaining core human rights treaties as well as continue its engagement with the relevant agencies particularly by providing them with input and proposals for their consideration and future action.

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

Malaysia has yet to accede to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)⁴, and in the recent Universal Periodic Review (UPR), although there were recommendations for our accession to the CAT, the Government reiterated that they were not in a position to immediately sign and ratify the CAT. The Government however acknowledged the training given by the Commission to law enforcement personnel to ensure that their actions are in conformity with international human rights standards.

The Government acknowledged the trainings conducted by the Commission for law enforcement personnel to ensure that their actions are in conformity with international human rights standards

2 Section 5 of the Land Code of Sarawak explains Native Customary Rights.

3 Section 6 of the Land Code of Sarawak deals with Native Communal Reserves.

4 Report of the Working Group on the Universal Periodic Review. Malaysia. A/HRC/25/10/Add.1

Malaysia as a State Party of the ASEAN Intergovernmental Commission on Human Rights (AICHR) was involved significantly in the drafting of the ASEAN Human Rights Declaration and was a signatory to the Declaration. Article 14 provides that no person should be subject to torture or to cruel, inhuman, or degrading treatment.

The Commission was of the opinion that a series of RTDs should be held to discuss further the possibility of accession to the Convention and to look at laws and policies which may support accession to the said Convention. Pursuant to this, three RTDs with relevant stakeholders were held in Sabah, Kuala Lumpur, and Sarawak. The objectives of the RTDs were as follows:

- (i) To engage with the Islamic religious bodies in order to discuss issues regarding torture and other cruel, inhuman, and degrading treatment or punishment in the country from the Islamic perspective, and also to review the compatibility between the punishment under Syariah laws and provisions of the CAT;
- (ii) To consider, as substitutes to corporal punishment, alternative sentencing that can be more effective in achieving crime prevention; and
- (iii) To formulate views and recommendations that can be forwarded to the Government as recommendations.

Recommendations and conclusions from the RTDs can be summarised as follows:

- (i) International customary law dictates that a country has to take measures to prevent and prohibit torture, even without accession to the CAT. Hence, the Government should uphold the principle of the prohibition against torture by taking necessary measures in eliminating torture;
- (ii) The imposition of the death penalty in the country per se does not amount to torture under the CAT, thus it should not be seen as a hindrance in acceding to the Convention;
- (iii) To demonstrate disapproval against torture, the Government must remove reservations to articles under other international instruments that prohibit torture, such as Article 37 of the Convention on the Rights of the Child (CRC) and also Article 15 of the Convention on the Rights of Persons with Disabilities (CRPD);
- (iv) The Government must look into alternative forms of punishment that do not amount to torture as defined under the CAT. For example, whipping sentences for adult offenders should be replaced with community services;
- (v) The initiative by the Prison Department to find alternatives to imprisonment by invoking the Compulsory Attendance Act 1954 must be commended as a positive step to reduce overcrowding in prisons and promote positive rehabilitation of the offenders;

- (vi) The Government should review the effectiveness of corporal punishment, coerced interrogations, and other measures that amount to torture under the CAT in deterring crimes as well in getting information;
- (vii) Malaysia should not consider itself ready to accede to the Convention only when laws and policies are in total compliance with the CAT, because accession should be the basis for gradual changes and improvements;
- (viii) With regard to the compatibility between Syariah law and the CAT, it was pointed out that corporal punishment under Syariah law is not primarily meant to inflict pain but to shame the offender. The intention of the punishment to humiliate the offender is inconsistent with the objectives of the CAT which include prevention of degrading treatment or punishment;
- (ix) With regard to lower-level offending, diversion has been proposed as an alternative way of dealing with child offenders as sending them to reform schools has not proven to be effective. This method should also be applicable to adult offenders;
- (x) With regard to the death penalty, the imposition of the death penalty by countries does not of itself violate provisions of the CAT. The main concern of the CAT regarding the death penalty is the treatment and punishment of the convicted offender pending execution, such as prolonged incarcerations which amount to cruel and degrading treatment; and
- (xi) The mandatory death penalty, especially in drug trafficking cases, may not have achieved its desired result as there is no clear proof to show that there has been a reduction of such offences due to the imposition of the penalty. The Government must review the law and policy on this matter to achieve more concrete results in the war against drug trafficking.

5. PROPOSED AMENDMENTS TO THE HUMAN RIGHTS COMMISSION OF MALAYSIA ACT 1999

In 2012 and 2013, the Commission made several recommendations to address public perception regarding its independence and also limitations that have impeded the effectiveness of the Commission in carrying out its duties and functions.⁵

The Commission was invited by the Legal Affairs Division of the Prime Minister's Department (BHEUU) to present its proposed amendments to the Human Rights Commission of Malaysia Act 1999 (Act 597) to representatives of Government agencies which included

5 SUHAKAM Annual Report 2012, p 88, SUHAKAM Annual Report 2013, p 94

The responses to the proposed amendments were not favourable – nearly all of the proposed amendments were rejected by the stakeholders

Dato' Azailiza Mohd Ahad, Solicitor General, Attorney General's Chambers; Dato' Sri Noor Rashid Ibrahim, Deputy Inspector General of Police; and Dato' Nursiah Arshad, Director General of BHEUU, on 3 August 2015 at the BHEUU's office in Putrajaya. The meeting was co-chaired by YB Puan Hajah Nancy Shukri and YB Senator Dato' Paul Low, Ministers in the Prime Minister's Department.

The Commission reiterated its previous proposed amendments on matters which included the Commission's mandate to visit places of detention without prior notice; the selection and terms of appointment of Commissioners; whether to appoint full-time or part-time Commissioners; the Commission's

power to intervene in court cases and to undertake mediation; the debate of the Commission's report in Parliament; and consultation with the Commission on the formulation and amendment of laws.

In addition to the recommendations made previously, the Commission further recommended that adequate funds should be approved by Parliament after reviewing the Commission's annual budget proposal; that a new section enumerating the Commission's right to appear as *Amicus Curiae* should be introduced; and that the power to remove the Chairman from office under section 10(c)⁶ should only be exercised by the "Chief Secretary to the Government as the Chair of the Select Committee".

The responses given by the Ministers and Government agencies with regard to the proposed amendments were not favourable – nearly all the proposed amendments were rejected by the stakeholders. However, it was indicated that the proposal to amend section 10(c) to replace "Minister" with the "Chief Secretary to Government as the Chair of the Select Committee" would be considered.

As a consolation, it was agreed during the meeting for the relevant agencies to hold separate discussions with the Commission to discuss alternative or administrative arrangements to enable the Commission to carry out its mandate more effectively.

The Commission is not disheartened by this setback and will continue to pursue this matter, as the Commission is of the opinion that these amendments are pivotal to increasing the

6 Section 10. A member of the Commission may be removed from office by the Yang di-Pertuan Agong if -(c) the member absent himself from three consecutive meetings of the Commission without obtaining leave of the Commission or, in the case of the Chairman, without leave of the Minister.

Commission's effectiveness, clarifying ambiguous provisions, and bringing the Act fully in line with the Paris Principles and Belgrade Principles.

6. THE COMMISSION'S ROLE IN COURT

(a) Civil Court

Since 2010, the Commission has held watching briefs in 17 cases. For 2015, the Commission held watching briefs in the Sessions Court, High Court, Court of Appeal and Federal Court in the following cases:

- (i) *Navin A/L Moorty v Director General of National Registration Department, Ministry of Home Affairs and Government of Malaysia*; the case concerned the nationality of a child;
- (ii) *Deputy Public Prosecutor v Azmi Sharom*; the case concerned the Sedition Act 1948;
- (iii) *Deputy Public Prosecutor v Abdullah Zaik*; the case concerned the Sedition Act 1948;
- (iv) *Viran A/L Nagapan v Deepa A/P Subramanian*; the case concerned the custody of a child after the unilateral conversion of one parent to Islam;
- (v) *The State of Negeri Sembilan & 4 Others v Mohammed Juzaili bin Mohd. Khamis & 2 Others*; the case concerned freedom of expression;
- (vi) *Dharshini A/P Ganeson v Doraisingam A/L Thambirajah*; the case concerned custody of a child with learning disabilities;
- (vii) *Lena Rasathi A. Hendry v PP*; the case concerned freedom of expression;
- (viii) *Director of Forest Sarawak & Anor v TR Sandah A/K Tabau & Others*; the case concerned Native Customary Rights; and
- (ix) *Michael Jayakumar Devaraj v Minister of Health Malaysia & 2 others*; the case concerned an application for a judicial review of the medical fee order (for foreigners).

The Commission was represented by several legal counsels from the Malaysian Bar Council, namely Mr Andrew Khoo, Mr Roger Chan Weng Keng, Ms Siti Zabedah Kasim, and Ms Sharifah Norafisah Syaid Abas Al-Juffrie, whose pro bono services the Commission gratefully acknowledges.

(b) Syariah Court

In January, the Commission initiated a meeting with Jabatan Kehakiman Syariah Selangor (JAKESS) to suggest the possibility of holding watching briefs in the Syariah Courts on matters

Islamic teachings preached for the protection of individuals from unfair sanctions especially towards women and children

relating to human rights and Islam. This initiative stemmed from several complaints relating to matters heard in the Syariah Courts, with the aim of further advocating human rights principles as espoused in Islamic teachings that call for the protection of individuals, especially women and children, from unfair sanctions.

Subsequent to the meeting with JAKES, the Commission held several meetings with Jabatan Kehakiman Syariah Malaysia (JKSM) throughout 2015 to formalise the arrangement and to fine-tune the necessary procedures in matters such as the appointment of legal representation on behalf of the Commission.

A further meeting with Persatuan Peguam Syarie Malaysia (PGSM) was held on 18 September 2015 to discuss the appointment of lawyers from PGSM to represent the Commission at the watching briefs. The participants also deliberated on the standard operating procedures (SOP) that would be used as guidelines at the Syariah Courts.

With the support of JKSM and JAKES, the Commission hopes that by 2016, the Commission would be able to conduct watching briefs in Syariah cases to assist the court and dispense advice on human rights principles to Syariah Court judges.

7. ANTI-DEATH PENALTY

In 2015, the Commission organised two meetings with representatives of religious associations and academicians in order to obtain views and input on the issue of the death penalty from the perspective of religion. The meetings were held on 9 April and 5 August.

Various points were highlighted during the discussion, summarised as follows:

- (i) A representative from Persatuan Buddhist Kuala Lumpur & Selangor (PBKLS), highlighted its support for the abolishment of the death penalty as, according to Buddhism, a second chance and the opportunity to change should be offered to an offender. In principle, Buddhism does not support the imposition of the death penalty as it is in conflict with the teachings of Buddhism to respect life and that no one is allowed to take another's life;
- (ii) A representative from the Christian Federation of Malaysia (CFM) indicated that the principle of the death penalty in the main Christian tradition is based on the 'life-for-a-life' principle. However, over the past 40 years, many of the Christian movements

have come to believe that the death penalty may cause more harm to the convicted person as well as to his family;

- (iii) According to the Hindu scriptures, the sentence of death is allowed in certain instances but there are also several religious texts that forbid the imposition of the death penalty. The Dharma Sastra, for instance, which describes the different types of crime and punishment, includes the death penalty in several instances, for example, for offences such as murder and treachery. However, another scripture, the Mahabharata, opposes the use of the death penalty;
- (iv) In Taoism, life is sacred and only God has the power to take the life of a being. Therefore, the concept of the death penalty does not exist in Taoism;
- (v) Meanwhile, in Islam, there are offences under Hudud law which are punishable by death namely fornication, gang robbery, treason/waging war against the Government, and apostasy. In the context of Qisas, it is not compulsory for a convicted murderer to be sentenced to death as the victim's next of kin may instead choose to forgive and to request for compensation (Diyat) to redeem the wrongdoing;
- (vi) With regard to Takzir (punishments created by the Government), there are debates among scholars concerning the highest degree of punishment allowable under Takzir. For instance, some scholars argue that the negative effects of drugs on society make the offence of drug trafficking equivalent to offences punishable under Hudud laws. Thus, the death penalty could be imposed on offenders in drug-related cases;
- (vii) In Islam, it is important and compulsory to avoid doubt in all cases. The evidence produced before the Court must be accurate and conclusive and there should be no doubt raised at any stage of the proceedings;
- (viii) All participants emphasised the need for a fair trial in cases involving the death penalty; and
- (ix) All participants also indicated that should imprisonment be considered as the alternative punishment in capital offences, the implication on all parties involved needs to be studied further and must be scrutinised.

The Commission noted that there are various common universal values in respect of the sacredness of life among all major religions, and therefore they should be considered and incorporated in Malaysia's laws and regulations.

Further to this issue, the Commission also agreed to be one of the partners of the first Asian Regional Congress on the Death Penalty initiated by the Ensemble Contre La Peine De Mort (ECPM), a French-Based NGO that has been working to promote the abolishment of the

death penalty around the world. The event was held in Renaissance Hotel, Kuala Lumpur, from 11-12 June 2015.

8. REVIEW OF LAWS

(a) Prevention of Terrorism Act 2015 (POTA)

Preventive detention or detention without trial goes against the core principles of human rights. Although the global situation concerning terrorism warrants the need for the Government to enact new legislation to maintain public tranquillity and eliminate any imminent hostility that may jeopardise the nation, the legislation itself must not be repressive, nor should it deny the basic rights enshrined under the Federal Constitution.

Legislation itself must not be repressive nor should it deny the basic rights enshrined under the Federal Constitution

While the Commission welcomes the progressive approach taken by the Government in repealing the Internal Security Act 1960⁷ (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance 1969⁸ (EPOPOC), the Restricted Residence Act 1933⁹ (RRA), and the Banishment Act 1959¹⁰ (BA), as well as in enacting the Security Offences (Special Measures) Act 2012¹¹ (SOSMA), nevertheless, the recent enactment of the Prevention of Terrorism Act 2015 (POTA) together with the existing two preventive laws¹² negate and deny the rights of any persons detained under those laws to a free and fair trial. The Commission on various occasions has urged the Government to repeal and/or amend those laws to ensure that the rights of detainees under the Federal Constitution are protected.

The Commission notes that POTA was enacted pursuant to Article 149 of the Federal Constitution,¹³ under which Parliament is allowed to enact legislation against subversion and actions that are prejudicial to the security of Malaysia.¹⁴ However, with its emphasis

7 Repealed in 2012

8 Repealed in 2011

9 Repealed in 2011

10 Repealed in 2011

11 Act 747

12 Prevention of Crime Act 1959 (PCA 1959) and Dangerous Drugs (Special Preventive Measures Act) 1985 (DDASPMMA)

13 Article 149 of the Federal Constitution: Legislation against subversion, action prejudicial to public order, etc.

14 Preamble of POTA 2015.

on preventive detention of persons engaged in the commission or support of terrorist acts of listed terrorist organisations in a foreign country or any part of a foreign country, POTA violates the basic principles of human rights. The overall concerns and observations of the Commission are as follows:

- (i) A Total Period of 59 Days of Remand and the Lack of Judicial Discretion to Decide on the Necessity of the Remand

The Commission notes that a person who is suspected of a link with terrorist activities could be placed under continuous remand for a period of 59 days under Sections 4(1)(a)¹⁵ and 4(2)(a)¹⁶ upon the production of written statements by the Police and Public Prosecutor that he is believed to be engaged in the commission or in support of a terrorist act. Although it was argued that this remand period is to be ordered by a Magistrate, the Commission is seriously concerned over the wording of these two subsections which appear to indicate that the Magistrate cannot exercise his or her judicial discretion in respect of the application for the remand if the prerequisites of Sections 4(1)(a) and 4(2)(a) are fulfilled. These subsections further limit the power of the Court to question the necessity of, and examine the evidence relevant to, the remand of the person in question.

The Commission notes that the 59-day remand period may increase the likelihood of abuse, as alleged by former detainees of preventive laws who claimed that the police had used the detention period to extract evidence or information.¹⁷ In comparison, the Australian national security and anti-terrorism law provides that the police can only detain a person under preventive orders where there is a threat of an imminent terrorist attack and the order might help prevent it, or immediately after a terrorist act if it is likely that vital evidence will be lost (see Division 105.1 of the Australian Criminal Code Act 1995).¹⁸ Also, a person can be detained for a maximum of 48 hours under Commonwealth law, 14 days under state and territory

15 Procedure before a Magistrate
Section 4(1)(a): Wherever any person is taken before a magistrate under subsection 3(3), the Magistrate shall -
On production of a statement in writing signed by a police officer not below the rank of Inspector stating that there are grounds for believing that the name of the person who is engaged in the commission or support of terrorist acts involving listed terrorist organisations in a foreign country should be entered in the Register, remand the person in police custody for a period of twenty one days;

16 Section 4(2): Any person remanded under paragraph (1)(a) shall, unless sooner released, on or before the expiry of the period for which he is remanded, be taken before a Magistrate, who shall -
(a) On production of -
(i) a statement in writing signed by the Public Prosecutor stating that in his opinion sufficient evidence exists to justify the holding of an Inquiry under section 10; and
(ii) a statement in writing signed by a police officer not below the rank of Assistant Superintendent stating that it is intended to hold inquiry into the case of that person under section 10, order the person to be remanded in custody for a period of thirty eight days.

17 SUHAKAM Annual Report 2008, p 38

18 Preventive Detention Orders:
<http://www.ag.gov.au/NationalSecurity/Counterterrorismlaw/Pages/Preventivedetentionorders.aspx>

laws, and 14 days under a combination of Commonwealth and state laws. This preventive detention order can be found under Division 105 of the Criminal Code Act 1995.¹⁹ It further provides the bases for preventive detention orders (see Division 105.4 of the Criminal Code Act 1995).²⁰ Here, the notion of detention is merely to suppress any possibility of imminent danger and loss of vital evidence, but at the same time the detained person is allowed to contact his family members, to obtain legal representation, to be treated humanely and not subjected to torture, and to receive a copy of the preventive detention order with a summary of the reasons for the order.²¹

(ii) Powers of the Prevention of Terrorism Board

The creation of the Prevention of Terrorism Board (the Board) under Section 8(1) of POTA is similar to the Board created under the Prevention of Crime Act 1959 (PCA). Under POTA, except for the qualification of the Board's Chairman, the Act is silent with respect to the qualifications of the other members. In addition, the selection process of the Board is not clearly defined. The Commission opines that this process should be made transparent.

That aside, the more important issue is the role of the Board. Although it has been argued that the Board is the central element of POTA that will provide safeguards against any abuse of the law, the Commission is not convinced that the Board would be able to effectively carry out its intended role. The Board is incapacitated by the limited powers enshrined under Section 13, which is only to agree to the recommendations made by the Inquiry Officer (IO).²² POTA

19 Criminal Code Act 1995 : <http://www.comlaw.gov.au/Details/C2015C00097>

20 Criminal Code Act 1995

Division 105.4: Basis for applying for, and making, preventative detention orders

(1) An AFP member may apply for a preventative detention order in relation to a person only if the AFP member meets the requirements of subsection (4) or (6).

(4) A person meets the requirements of this subsection if:

- (a) in the case of an AFP member—the member suspects, on reasonable grounds, that the subject:
 - (i) will engage in a terrorist act; or
 - (ii) possesses a thing that is connected with the preparation for, or the engagement of a person in, a terrorist act; or
 - (iii) has done an act in preparation for, or planning, a terrorist act; and
- (b) in the case of an issuing authority—the issuing authority is satisfied there are reasonable grounds to suspect that the subject:
 - (i) will engage in a terrorist act; or
 - (ii) possesses a thing that is connected with the preparation for, or the engagement of a person in, a terrorist act; or
 - (iii) has done an act in preparation for, or planning, a terrorist act; and
- (c) the person is satisfied that making the order would substantially assist in preventing a terrorist act occurring; and
- (d) the person is satisfied that detaining the subject for the period for which the person is to be detained under the order is reasonably necessary for the purpose referred to in paragraph (c).

Criminal Code Act 1995 retrieved at: <http://www.comlaw.gov.au/Details/C2015C00097>

21 Rights under Preventive Detention Order:

<http://www.ag.gov.au/NationalSecurity/CounterterrorismLaw/Pages/Preventivedetentionorders.aspx>

22 Power to order detention and restriction

seems to indicate that the existence of the Board is merely to authenticate the detention of a person rather than to question the trail of investigations, the evidence obtained, and the necessity to detain a person. The Inquiry Officer on the other hand, as elucidated below, is vested with the power to decide on various matters with regard to the arrest and detention of a person. The Commission strongly emphasises that in such a situation, the Board may not necessarily provide the check and balance necessary nor reduce any abuse of power. In the absence of trial in an open court, the possibility of a miscarriage of justice is clearly present.

POTA missed an opportunity to exhibit the strength and advantage of the Board as an independent and impartial body that is able to act as a safeguard to ensure that rights of detainees are protected. POTA should, at the very least, attempt to ensure that the Board mirrors as closely as possible the judicial process in determining the necessity of the detention, creating a semblance of a court process.

(iii) Powers Vested in the Inquiry Officer (IO)

The appointment of the IO under Section 9 is vague and does not specifically prescribe²³ the qualifications or criteria for the appointment of an IO. Although Section 9(2) prohibits the appointment of any police officer as an IO, in the absence of clear guidelines on qualifications of an IO, the appointment process is a matter of the Minister's discretion.

In addition, the Commission is perturbed by the vast powers vested in the IO who is in charge of conducting the investigation and inquiry, assessing and examining evidence, and making recommendations that bind the Board.²⁴

It is submitted that, if POTA were to be abused, it would be highly probable for it to be done during the process of inquiry, particularly since POTA does not set out clear guidelines meant to ensure the credibility and independence of the Inquiry Officer.

(iv) Denial of Legal Representation

The Commission views the lack of legal representation of an accused person during the

Section 13(1) Whenever the Board, after considering-

(a) the complete report of the investigation submitted under subsection 3(4); and
(b) the report of the Inquiry Officer submitted under section 12, is satisfied with respect to any person that such person has been engaged in the commission or support of terrorist acts involving listed terrorist organisations in a foreign country or any part of a foreign country, the Board may, if it is satisfied that it is necessary in the interest of the security of Malaysia or any part of Malaysia that such person be detained, by order ("detention order") direct that such person be detained for a period not exceeding two years.

23 Appointment of Inquiry Officer
Section 9(1) The Minister may in writing appoint any person by name or office, and either generally or for any particular case, to an Inquiry Officer for the purpose of the Act.

24 Section 9(2) of the PCA.

inquiry (Section 10(6)) as well as the provision for indefinite detention without trial as matters of serious concern and in breach of the right to a fair trial according to Article 5 of the Federal Constitution as well as Article 10 of the Universal Declaration of Human Rights (UDHR). The Commission asserts that the right to a fair trial is absolute and cannot be limited. Furthermore, arbitrary detention is a serious threat to liberty and to the enjoyment of all other fundamental rights.

(v) Ousted Right to Judicial Review

The Commission regrets the absence of a right to judicial review, save for the review of procedural matters, as provided under Sections 19(1) and (2), which is an affront to the right to a fair hearing and the right to have the legitimacy of one's detention determined by an independent and competent court of law. This is a clear denial of the rights of the detained person and also violates fundamental liberties enshrined in the Federal Constitution.

In contrast, Australian law states that a person may be subjected to a control order under Division 12 of the Australia Criminal Code Act 1995 if it helps to prevent a terrorist attack. This order can only be issued by a court of law, and the application made by the Australian Federal Police (AFP) must have the consent of the Attorney General. This control order cannot be for a period of more than 12 months. At the same time, a person may apply to the court to vary the order, revoke it, or declare it to be void, and the court will then consider the circumstances (including financial and personal circumstances) of the person.²⁵

POTA seems to deny every route to question the validity of detentions under and operations of POTA, by virtue of its Section 19.

(vi) Revival of Repealed Laws

The Commission notes with serious concern that POTA is bringing back the elements of previously repealed laws including the ISA and the RRA. Section 13(3) of POTA provides for the restriction of movement of any person for a period not exceeding five years. This section is similar to a provision of the RRA. The RRA gives the Minister power to detain a person, and under POTA, power is now given to the Board to determine whether a person should be confined in a particular state or district.

In consideration of the above, the Commission urges for a revision of POTA, with full and meaningful consultations with all stakeholders, including the Commission. Such consultations will allow for the exchange and consideration of views with the primary aim of aligning the

25 <http://www.ag.gov.au/NationalSecurity/CounterterrorismLaw/Pages/AustraliascounterterrorismLaws.aspx>

provisions of POTA with a human rights oriented model of criminal law, to ensure fair and proportionate treatment to any person charged.

The Commission is of the opinion that public safety and the protection human rights must be complementary and any law must comply with Malaysia's international human rights obligations. The Commission recommends that, with regard to the detention, interrogation, and trial of suspected terrorists, the Government develop an effective and feasible framework that would allow the authorities to capitalise on their intelligence agencies to disable suspected terrorist activities.

(b) Sedition (Amendment) Act 2015 (Sedition Act 1948)

The Sedition Act 1948 was enacted by the then British colonial government with the intention of curbing statements made by individuals or organisations that may create imbalance to racial harmony, Communist propaganda, and criticism of colonial rule at that time. Challenges to the formation of the Federation of Malaya, and subsequently Malaysia, threats posed by the Communist insurgency, racial riots, and other hostilities have often been cited by the Government as bases for maintaining this Act in order to ensure continuous peace and harmony in Malaysia.

The use of the Sedition Act is unjustified as the authorities may seek recourse through the usage of other laws or legal remedies

The Commission in various settings has expressed its views on the use of the Sedition Act. The use of the Sedition Act is unjustified as the authorities may seek recourse through other laws or legal remedies.²⁶

The Commission since its inception has continually urged and called upon the Government to repeal the Sedition Act and to give full meaning to citizens' right to freedom of expression and speech as enshrined under Article 10 of the Federal Constitution, as well as Article 19 of the Universal Declaration of Human Rights (UDHR). However, the Commission recognises that freedom of expression or speech is not absolute and there are some instances where limiting this right is permitted.

The Commission notes that one grave concern regarding the Sedition Act is the vagueness of the term "seditious tendency", which makes it susceptible to wide and often arbitrary interpretation as evidenced in its use by the authorities in recent times against individuals

26 SUHAKAM Press Statement: *Sedition Act A Curtailment of the Freedom of Speech and Expression*. 17 May 2014.

including politicians, academicians, and media representatives who had uttered remarks critical of the Government and its policies.

With regard to the Sedition (Amendment) Act 2015, (Amendment Act), the Commission makes the following observations:

(i) Deletion of the word “Government” in Section 3(a)(i)

The Commission is pleased to note that the Amendment Act has excluded from the definition of “seditious tendency” “hatred and contempt or exciting disaffection against the Government” (Section 3(a)(i)), thus decriminalising criticism of the Government. The Commission believes that this will encourage more transparency in the Government and will enable better public scrutiny and constructive discourse on the Government’s policies and practices.

(ii) Inclusion of “Religion”

The Commission notes that, in addition to existing provisions on racial incitement, the Amendment Act has also made it an offence to incite religious hatred. While it is of the view that hate crime provisions are necessary,²⁷ the Commission calls on the authorities to ensure that the scope of any such law is confined strictly to the punishment of hate crimes and not the expression of any opinions or views. Controversial ideas and opinions expressed in the context of academic debates, political engagements, or similar activity, and without any intention to incite hatred, contempt, violence, or discrimination, should be regarded as legitimate exercises of the right to freedom of expression.²⁸

(iii) Removal of Discretionary Powers of the Court in Sentencing

With reference to the amendment to Section 4 of the Act, the Commission regrets that the Amendment Act has removed the discretionary powers of the Court, as provided in the original Act, to impose a fine instead of a custodial sentence upon conviction.

As a general rule, a Judge has discretion in the sentencing process, taking into account the facts and other mitigating factors. The amendment has taken away the important discretionary

27 Article 4 of the International Convention on Elimination of All Forms of Discrimination (ICERD) requires State parties to penalise the following four categories of misconduct, including hate crimes –
a. Dissemination of ideas based on racial superiority or hatred;
b. Incitement to racial hatred;
c. Acts of violence against any race or group or persons of another colour or ethnic origin; and
d. Incitement to acts under (c) above.
Also, Article 20 of the International Covenant on Civil and Political Rights obliges States to criminalise the advocacy of “national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”

28 Para 25, General Recommendation No 35 – Combating racist hate speech by Committee on the Elimination of Racial Discrimination.

powers of the Court in determining an appropriate sentence in the event it does not think a custodial sentence is warranted. In essence, the amendment fetters the discretionary powers of the Court in sentencing, by mandating that the Court must impose the minimum sentence regardless of the circumstances of the case.

(iv) Restriction of Movements

Individuals charged under Section 4 of the said Act and released on bail are barred from leaving the country or obtaining travel documents under a new section 5B. This section in effect curtails the freedom of movement as enshrined in Article 12 of the Universal Declaration of Human Rights. It is to be noted that any form of restrictive measures must conform to the principle of proportionality; “they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected”.²⁹ The restriction placed may affect the social and economic rights of individuals charged under this Act as it may hinder the individuals from pursuing objectives that may produce positive results for them.

(v) Access to Information.

Access to information in the new digital era is virtually unfettered and governments have no control over the dissemination of such information. Online journalism, in the form of blogs, forums, etc., has enjoyed a surge of popularity and provides platforms for individuals to state their opinions and express themselves. With an estimated 67 per cent of Malaysia’s population having access to the Internet,³⁰ limitations placed under the Amendment Act may deny the rights of the majority of Malaysia’s population to express themselves and to receive information.

The prohibition under Section 10(1A)(ii) on the person making or circulating the prohibited material from accessing any electronic device is unreasonable considering that in this age, most of our daily lives revolve around electronic devices. This restriction may impede an individual from pursuing his vocation, enjoying his right to work and enjoying the benefits of scientific progress and its applications.³¹

The amended section 10 and the new section 10A will have the effect of preventing access to information if the conditions under the respective sections are satisfied. Section 10A may be used by the Government to compel news portals to remove comments which may be deemed seditious

29 Human Rights Committee, General Comment 27, Freedom of movement (Art 12), U.N. Doc CCPR/C/21/Rev.1/Add.9 (1999), <https://www1.umn.edu/humanrts/gencomm/hrcom27.htm>

30 <http://data.worldbank.org/indicator/IT.NET.USER.P2>

31 Article 15(b) International Covenant on Economic, Social and Cultural Rights

or critical of the Government. This goes against the spirit of Article 19(2) of the ICCPR. The Article indicates that not only does a person have a right to hold opinions,³² at the same time he has the right to freedom of expression as well as to seek, receive and impart information orally, in writing, or using any media of his choice.³³

While the Commission comprehends the delicate balance between freedom and security, and recognises that the exercise of freedom of expression may be subject to strict restrictions prescribed by law, such restrictions must be balanced, proportionate, unambiguous and just; and more importantly it should comply with international norms on the right to freedom of expression and speech. In any event, the Commission maintains and reiterates its call on the Government to repeal the Sedition Act.

(c) National Security Council Act 2015

The enactment of the National Security Council Act 2015 (NSCA) was done with the aim of establishing a National Security Council (Majlis Keselamatan Negara or MKN) with powers to control, coordinate, and issue directives to Government entities on matters concerning national security, with the objective of preserving the sovereignty of Malaysia and steering the nation away from complex threats of terrorism, violence, and cross border crimes that will see the fall of Malaysia's democracy, economy, and unity.

The Commission stresses its concern regarding the hasty tabling of the Bill in Dewan Rakyat on 3 December without proper consultations with the Parliamentary Joint and/or Select Committee in a non-partisan manner, or the Commission, before being passed.³⁴

The Commission is also extremely concerned that various provisions of the Act are couched in general terms with hardly any clear definitions or safeguards to guide the declaration of a security area or the implementation of the Bill, when enforced.

The Commission observes several salient features of the Act, which are as follows:

- (i) There are no provisions for a periodic review of the Act, nor a sunset clause mandating legislators or Parliament to debate on the need to modify or discontinue the Act;
- (ii) The term "security" is not defined and the declaration of a security area under Section 18

32 Article 19(1)
Everyone shall have the right to hold opinions without interference.

33 Article 19(2)
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

34 SUHAKAM Press Statement: *The Effects of the National Security Council Bill 2015 On Malaysia's Legal Landscape Will Be Radical*. 9 December 2015.

can be made solely based on the Council's assessment that an area is being "seriously disturbed or threatened". This gives the Prime Minister the unfettered power to declare any area as a security area. The power to declare a state of emergency lies within Article 150(1)³⁵ of the Federal Constitution. A Proclamation of Emergency may be made at the satisfaction of the Yang di-Pertuan Agong that there are threats on the security, economy, or public order of the Federation;

- (iii) The term "reasonable force" under Section 34 is not defined, and such force may be used if it is "reasonable and necessary in the circumstances to preserve national security". This may create a culture of indiscriminate use of unreasonable force, and the possibility of torture in the course of arrest and investigation;
- (iv) The power given under Section 35, to dispense with an inquest into the cause of death of a person who perished within the security area, is of concern. Such power creates the possibility of impunity and this further promotes the likelihood of torture and other cruel, inhuman, or degrading treatment or punishment. The Commission, in various settings, has repeatedly called on the Government to accede to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, so as to provide checks and balances on the actions of the State; and
- (v) Under Section 32, the amount of compensation for the Government's possession of land or utilisation of resources will be based on the assessment of the Director General.

9. CONSULTATIONS WITH THE COMMISSION

(a) Proposed Amendments to Child Act 2001

The Commission was invited to attend "Sesi Konsultasi Draf Akta Kanak-Kanak 2015 Bersama NGO Dan Stakeholders" on 9 April at the Ministry of Women, Family and Community Development. During the briefing session, the Commission was informed that the Ministry is in the midst of finalising the Bill and would be tabling it in Parliament by the end of 2015. Among the major amendments proposed by the Ministry were as follows:

- (i) New section on 'Deinstitutionalisation';
- (ii) New section on 'Community Service Order' for the child;
- (iii) Abolishment of corporal punishment (Section 91); and

35 Proclamation of emergency
150. (1) If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security, or the economic life, or public order in the Federation or any part thereof is threatened, he may issue a Proclamation of Emergency making therein a declaration to that effect.

- (iv) Increased penalties on parents or guardians for offences involving child abandonment (Sections 31, 32 and 33).

The Commission welcomes the initiatives taken by the Ministry to ensure children's rights are protected in Malaysia as well as to ensure that laws and policies are in line with international human rights standards as enshrined in the Convention on the Rights of the Child (CRC). However, the Commission is perturbed that the draft bill containing the proposed amendments to the Child Act 2001 was not shared, nor discussed in detail, with the Commission. The non-sharing of such an important document would render such consultation worthless and could be deemed as an exercise in futility as no proper and informed advice could be given due to inability of the Commission to scrutinise the draft.

10. LOOKING FORWARD

In view of the Bills and amendments to Acts passed throughout 2015 that affect the fundamental rights of individuals, such as the Child (Amendment) Bill 2015, the Prevention of Terrorism Act 2015, and the Sedition (Amendment) Act 2015, the Law Reform and Treaties Division will continue its monitoring work, and assist the Commission in making recommendations to the Government on the appropriate approach to the formulation of such laws, so as to ensure that human rights principles are respected and entrenched in those laws.

III. REPORT OF THE COMPLAINTS AND MONITORING DIVISION

Corruption affects human rights in a variety of ways. For example, the rights to food, water, education, health, and the ability to seek justice can be violated if a bribe is required to gain access to these basic rights. Corruption by high-level government officials can siphon millions of dollars of the country's wealth, which in turn handicaps the government from fulfilling its duty to protect, ensure, and respect the rights guaranteed to its people.

James Thuo Gathii

*Loyola University Chicago Professor of Law, in
"Defining the Relationship Between Corruption and Human Rights"*

In November 2014, under the Commission's internal restructuring exercise, the former Complaints and Inquiries Working Group was renamed as the Complaints and Monitoring Division. This Division is placed under the Policy, Law Reform and Complaints Group (PLCG). The restructuring exercise was carried out to rightly reflect the current functions and responsibilities of the Commission.

The main responsibilities of the Division remain the same, which are to inquire into complaints and issues involving the violation of human rights, visit places of detention, and monitor public assemblies.

1. RIGHT TO HEALTH IN PRISON

In 2015 the Commission continued its study on the right to health in prison by analysing data collected from the surveys and on-site prison visits conducted in 2014.

The Commission is appreciative of the fact that the prison authorities had been forthcoming with information and feedback. The Commission was granted the facilities necessary for

carrying out its study visits, and was accompanied by nominated prison officials during certain visits. While the Commission was not provided with full access to the prisons, it was allowed to visit certain blocks and cells, all kitchens, and all recreational areas, and was also allowed to speak in private to prisoners.

(a) General Observations

- (i) The Commission found that some prison doctors failed to meet basic ethical standards, such as aspects of doctor-patient confidentiality. The Commission emphasises that the relationship between physician and prisoner is governed by the same ethical principles as that between the physician and any other patient; therefore, they must adhere to the same national codes of professional practice and standards as doctors and medical professionals in the community.
- (ii) In general, health services offered for prevalent diseases such as tuberculosis, human immunodeficiency virus infection and acquired immune deficiency syndrome (HIV/AIDS), as well as services in the field of obstetrics and gynaecology, were found to be strictly limited. Although the health services offered often correspond to the types of health problems reported by prisoners, many health issues remain unaddressed, in particular asthma, drug and substance abuse, and gynaecological screening.
- (iii) Although in general, screening, testing, and treatment at the point of admission to prison have increased, there is no standard policy for routine physical exams at almost all facilities, particularly for female prisoners (e.g.: giving them pap smear examinations).
- (iv) As part of primary health care delivery, the services of a psychiatrist and a dentist should also be available in prison at all times.
- (v) The authorities must take immediate steps to ensure that the conditions in which prisoners are kept, whether on remand, under quarantine, or as punishment once sentenced, do not contribute to the development, worsening, or transmission of diseases and do not encourage the spread of diseases.
- (vi) The authorities must ensure that upon admission or transfer to a different prison, the prisoner's health status is reviewed within 24 hours of arrival by a qualified medical professional.
- (vii) It was observed that prisoners were involved in the prison's healthcare service, particularly in the distribution of medicines. Medication must be dispensed only by a nurse, or a trained pharmacist, or the doctor himself.
- (viii) Prisoners who are mentally ill are entitled to the same treatment and services that are available in public hospitals. However, there were no psychiatrists or psychologists

in any of the prisons visited. A counsellor from the Ministry of Health (MOH) would visit once a month but would attend only to serious cases.

- (ix) The Commission strongly recommends a review of the salaries of prison staff to attract qualified and high quality personnel to work in prisons and to ensure that prison staff take pride in their work.

(b) Survey Findings

- (i) The most commonly reported medical problem amongst inmates was scabies.
- (ii) Only a minority of prisoners reported that they had been quarantined for health reasons at some point during their time in the prison. The majority of prisoners reported that they had undergone a medical assessment in the prison at some point, mostly following an order.
- (iii) The majority of prisoners had not been offered dental examination in prisons.
- (iv) Not all women prisoners reported being provided with sanitary pads during their menstrual period; one-quarter of women reported that they purchased sanitary pads themselves.
- (v) Most pregnant prisoners reported having access to pre- and postnatal health services while in prison.
- (vi) Most prison staff reported their mental status as being either healthy or very healthy. However, prison staff complained of certain psychological symptoms, such as stress while working in the prisons, sleep disturbance, anxiety and loss of appetite.

(c) Conclusion

The Commission notes with concern that although the prison regulations state that all prisoners must receive a thorough medical examination upon entry to prisons together with proper documentation of their health status in their medical records, almost one-quarter of participating prisoners had no upon-entry thorough medical assessment. The healthcare delivery to female prisoners remains low.

The Commission is also concerned that despite the increased risk of exposure to several infectious diseases, routine health assessment programmes for prison officers were not implemented.

At the time of the study, the health system in prisons was managed by the Home Ministry, which depended largely on private companies to provide resources, including medical staff. Allocations for healthcare services remain limited and privately hired healthcare workers might not be properly equipped to manage medical and ethical issues raised in such facilities.

2. DEATHS IN POLICE CUSTODY - A STUDY

In 2014, the Commission embarked on a study on deaths in police custody. The initiative was taken due to the high number of deaths in police custody, which led to a public outcry and complaints lodged with the Commission. Furthermore, the right to life is a fundamental human right as enshrined in both the Federal Constitution and the Universal Declaration of Human Rights (UDHR).

According to the Royal Malaysia Police (PDRM), the number of deaths in police custody in 2014 is 17 and the total number of such deaths from 2000 to 2014 is 255.

In 2015, the Commission worked on analysing the data collected. Some of the core findings of the study are summarised below.

(a) Factors Contributing to Deaths in Custody

(i) Healthcare

PDRM statistics show that 85 per cent of the deaths were caused by health reasons.

Table 1: Causes of Death in Police Lock-Ups (2000 – Feb 2014)

CAUSES	TOTAL NUMBER	PERCENTAGE
Illness	206	85
Suicide	30	12
Accident (caused by a fall)	2	1
Fight between detainees	2	1
Foul play by police	2	1
Total	242	100

Source: PDRM

According to the Lock-Up Rules 1953, medical screening by a medical officer is compulsory when a suspect is detained in a police lock-up. However, this has never been implemented because there has never been a medical officer placed at the police lock-ups. Besides that, there are no police personnel who have been trained to handle issues related to healthcare, and no medical facilities available at the police lock-ups.

(ii) Conditions of the Lock-Ups

The Commission observed that the conditions of the lock-ups were very degrading and did not meet international standards. Most of the lock-ups visited during the study had very poor ventilation and lighting. This caused a bad smell in the lock-ups and might have been a contributing factor to the poor health of the detainees. Cleanliness was also observed to be poor and the toilets were in very deplorable conditions.

The floor surfaces of the lock-ups, which were of either wood or cement, were not properly maintained, limiting the living space of the detainees. The situation would worsen when the lock-ups were overcrowded, leaving detainees limited space for sleep.

(iii) Meals

Most of the detainees interviewed during the study complained about the meals provided at the lock-ups. Detainees were provided three meals a day - breakfast, lunch, and dinner - but according to the detainees the food and water that were provided to them were not enough. Packed water was provided during meals but more often than not it was not sufficient. The Commission found that the detainees were asked to drink tap water from the toilets if they requested for more water. The main contributing factor to this problem was the low budget allocated for the meals by the Government. The Commission also noted that the allocation varied from district to district, with some receiving an unbelievably low amount.

(iv) Overcrowding

The Commission observed that most of the lock-ups, especially the older ones, were constantly facing the problem of overcrowding. This was due to the size of the lock-ups, which limited the number of detainees that could be accommodated. The problem would worsen when there were operations and raids by authorities - not only PDRM, but also agencies such as the Immigration Department of Malaysia (IMM), the Royal Malaysian Customs Department (RMCD), the Malaysia Maritime Enforcement Agency (MMEA), and religious enforcement authorities. These agencies usually use police lock-ups as a transit facility or for temporary detention. Overcrowding could lead to problems like infighting among detainees, the risk of getting infectious diseases, lack of sleeping space and lack of proper monitoring by the authorities.

(v) Working Conditions of Police Personnel

Apart from the rights of detainees, the Commission also studied the working conditions of police personnel.

Healthcare of police personnel is a serious concern especially for those who process detainees because they are exposed to the risk of infectious diseases such as tuberculosis. They also face risks when handling drug users; for example, there had been incidents where drug users flung used needles at them during arrest. According to the police personnel interviewed, there was no periodic medical screening or immunisation for them.

Workload is another concern raised by the police personnel interviewed in the study, especially among the investigation officers (IO). The IOs claimed that too many files were assigned to them and this has led to a backlog of cases. The IOs were required to multitask, for example they were also assigned for duty during roadblocks, raids, and football matches, and were expected to escort dignitaries and take part in other programmes. Some of the IOs confessed that they have had to apply for remand orders for suspects simply because they had limited time to conduct investigations.

During the study, the Commission observed that about 20 per cent of the IOs are between the ages of 51 to 60 years. It was highlighted to the Commission that the age factor sometimes hampers investigation work.

Other common problems observed by the Commission are the poor facilities and operational logistics of the police stations. Almost all the district police headquarters (IPD) visited by the Commission, including the newly built ones, had been facing problems. Among the problems were short-circuited electricity supply, malfunction of air conditioners and lifts, and maintenance of police vehicles. In addition, some personnel have had to work in unconducive environments, for example, where a small office space had to be shared among three to four persons. They have also had to share facilities like computers, printers, and cartridges. Most of them had to fork out their own money to buy A4 paper and ink cartridges due to shortage of supply.

The issues raised above are potential contributors of unnecessary stress and pressure, which could lead to other problems such as corruption and the release of frustration on detainees as admitted by some of the personnel during the study.

(b) Recommendations

The Commission is in the midst of finalising the report on deaths in police custody, which contains details of issues as well as specific recommendations. The Commission's general recommendations in relation to the issues raised above are summarised below:

- (i) As stipulated in the Lock-Up Rules 1953, medical screening must be carried out before detaining anyone in a police lock-up. This will benefit both the detainees and the police personnel. PDRM and the MOH should explore ways of implementing this. PDRM may also consider appointing its own medical team, which is the practice of the Victoria Police in Melbourne, Australia.
- (ii) As stated in Articles 10 and 11 of the Standard Minimum Rules for the Treatment of Prisoners, modification of a lock-up's structure to enable proper ventilation and lighting should be done if necessary. Installing additional exhaust fans where appropriate and fans at the corridors would improve conditions. The structure of the lock-ups should allow natural light into the cells.
- (iii) In order to maintain cleanliness and hygiene, PDRM should consider measures such as appointing contractors to clean the interior of the lock-up cells without compromising security.
- (iv) The budget allocation for meals should be increased and standardised for all lock-ups in the country in order to provide sufficient food for the detainees. Detainees must have access to clean water at all times and be given a diet as recommended by the MOH.
- (v) It is recommended for the authorities to build more centralised lock-ups to avoid overcrowding in the smaller lock-ups. In addition, the other enforcement agencies such as the IMM, RMCD, MMEA, and the various religious enforcement authorities should have better coordination with PDRM to avoid overcrowding.
- (vi) Periodic medical screening for police personnel is also recommended, especially for those involved in the processing of detainees. Such personnel must also be provided with equipment such as masks, gloves, and sanitizers.
- (vii) The workload for IOs should be reviewed to avoid overburdening them. The IOs involved in active investigations should have minimal involvement in other programmes or

Standard Minimum Rules for the Treatment of Prisoners (SMRTP)
All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

tasks. An age limit for IOs should also be considered in order to facilitate smoother retirements without causing any delay in investigations.

- (viii) Police personnel must be provided with basic facilities like proper working areas/ rooms, equipment such as computers, printers, and cartridges, and sufficient reams of A4 paper and other stationery.

3. RESOLUTION OF COMPLAINTS

The Commission is committed to ensuring that, as far as possible, the complaint-lodging process is accessible to the public. As such, on 1 April, the Commission introduced the e-complaint system, which provides an easier channel for the public to lodge a complaint with the Commission regarding the violation of human rights. This is, of course, in addition to the existing ways of making complaints to the Commission, such as via telephone, by walking in to the Commission's office, and through email and conventional mail. The e-complaint system is accessible through the Commission's website.

In 2015, the Commission received a total of 676 complaints at its Kuala Lumpur, Sabah, and Sarawak offices, of which 20 were in the form of memoranda.

Table 2: *List of Memoranda Received in 2015*

NO.	SOURCE AND SUBJECT MATTER OF MEMORANDUM	DATE
1.	Memorandum by Persatuan Kebajikan OKU Penglihatan Bekerja Sendiri (PKB) on media reports concerning visually impaired people who sell packets of tissue paper to earn a living.	8 January
2.	Memorandum by Persatuan Gerakan Kebangkitan Pendidik Kebangsaan (PENDIDIK) on the disciplinary actions taken against teachers in Malaysia.	27 February
3.	Memorandum by #KitaLawan Secretariat on the alleged abuse of power by the police in arresting the protesters at Sogo Complex.	19 March
4.	Memorandum by SUARAM concerning the police's excessive use of force during the 'Bantah GST' rally at the Royal Customs Malaysia Department Office in Kelana Jaya.	31 March
5.	Memorandum by farmers from Kampar, Perak concerning the issue of forced eviction from their agricultural lands.	1 June

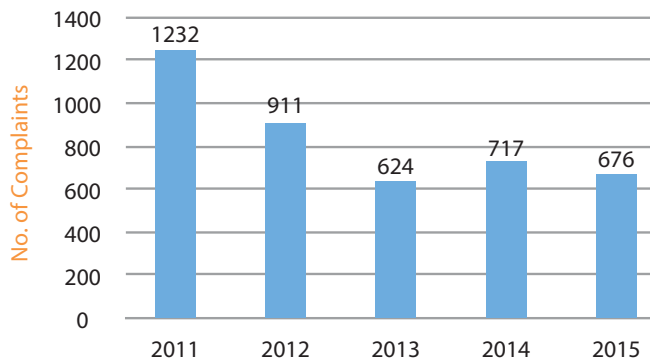
NO.	SOURCE AND SUBJECT MATTER OF MEMORANDUM	DATE
6.	Memorandum by the Committee of Settlers of Kampung Serampang Indah (Gatco) on alleged police inaction and bias in handling the issue of encroachment into Kg Gatco.	3 June
7.	Memorandum by HINDRAF on the death in custody of Mr. Sasikumar s/o Selvam at Kluang Prison, Johor.	10 June
8.	Memorandum by residents of Kampung Bangau-Bangau, Semporna on the lack of basic facilities at the temporary settlement for victims of the fire incident.	17 June
9.	Memorandum by Persatuan Kebangsaan Hak Asasi Manusia (HAKAM) and the Bar Council on the discovery of human trafficking camps and mass graves in Wang Kelian, Perlis.	17 June
10.	Memorandum by Kesatuan Mahasiswa Malaysia on the disciplinary actions taken against university students.	8 July
11.	Memorandum by Organisasi Penggerak Sosial & Minda NAMBIKKAI on the detention of an individual under the Dangerous Drugs Act (Special Preventive Measures).	30 July
12.	Memorandum by Jaringan Orang Asli Pahang/Kelantan on the land rights of indigenous peoples in Temerloh, Pahang.	24 August
13.	Memorandum by a Member of Parliament, Mr. Tan Kok Wai, on the issue of pollution caused by a cement manufacturer along Jalan Chan Sow Lin, Kuala Lumpur.	25 August
14.	Memorandum by indigenous people from Gua Musang concerning the seven Orang Asli students who went missing from SK Pos Tohoi, Kelantan.	15 September
15.	Memorandum by Otai Reformasi on the medical treatment of Dato' Seri Anwar Ibrahim in Sungai Buloh Prison.	2 October
16.	Memorandum by Socialist Party of Malaysia (PSM) on the alleged infringement of human rights in the detention of Mr. Khalid Ismath under the Sedition Act and the Communications and Multimedia Act.	5 November
17.	Memorandum by Suaram on the alleged inhuman and degrading treatment faced by SOSMA detainees.	20 November
18.	Memorandum by PENDIDIK on the termination of service of a teacher and a dispute on the custody of children.	30 November

NO.	SOURCE AND SUBJECT MATTER OF MEMORANDUM	DATE
19.	Memorandum by Members of Parliament regarding the impact of the Trans-Pacific Partnership Agreement (TPPA) on human rights.	1 December
20.	Memorandum by Ms. Norlizan binti Jaafar on the alleged violation of human rights in the detention of Mr. Kamal Hisham.	3 December

Upon deliberation, the Commission decided that 343 complaints fell outside its jurisdiction on the following grounds:

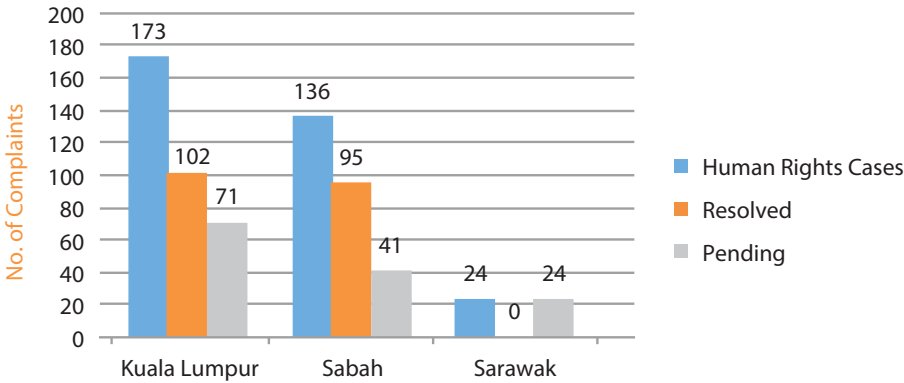
- The complaints were on matters pending before the courts or which have been disposed of by the courts;
- The complaints were on administrative issues which should rightly be addressed by the relevant agencies; and
- The complaints were on matters under the jurisdiction of professional bodies.

Figure 1: Human Rights Complaints Received, 2011 – 2015



Of the 333 complaints accepted, the Commission has completed investigations into 197 cases, while the rest are still being investigated.

Figure 2: No. Of Cases Resolved and Pending in 2015



Factors that contribute to complaints remaining unresolved include lack of information from the complainant, delay on the part of the agencies involved in providing responses to the Commission’s inquiries, the need to obtain further responses from respondents due to unsatisfactory initial responses given, and the nature of some complaints that require constant monitoring from the Commission. The Commission also faces constraints in obtaining expeditious responses from the agencies involved due to the lack of a clear provision in the SUHAKAM Act that would require agencies to submit their responses without delay when requested to do so by the Commission. The absence of a clear provision has often resulted in delays in responding and requires the Commission to constantly send reminders to the agencies to give their response.

Table 3: Breakdown of Human Rights Complaints, 2015

NO.	RIGHT ALLEGED TO HAVE BEEN INFRINGED/ALLEGED ABUSE OF RIGHT	KUALA LUMPUR	SABAH	SARAWAK
1.	Equality/discrimination (on the basis of race, religion, gender, disability, political affiliation etc.)	5		
2.	Right to life	7		
3.	Liberty and security of person	12		
4.	Human trafficking/smuggling	3		
5.	Cruel, inhuman, or degrading treatment or punishment	31		

NO.	RIGHT ALLEGED TO HAVE BEEN INFRINGED/ALLEGED ABUSE OF RIGHT	KUALA LUMPUR	SABAH	SARAWAK
6.	Arbitrary arrest, detention, or exile	18	10	
7.	Equality before the law/right to a fair and public hearing	1		
8.	Right to privacy	1	2	
9.	Freedom of movement	2		
10.	Right to seek asylum and refugee status	24		
11.	Right to nationality	8	79	10
12.	Right to own property	2	2	
13.	Freedom of thought, conscience and religion	5		
14.	Freedom of opinion and expression	1		
15.	Right to peaceful assembly	2		
16.	Freedom of association	1		
17.	Right to work/employment and migrant workers' rights	10	2	
18.	Right to rest and leisure	3		
19.	Right to adequate standard of living (food, clothing, housing, healthcare)	12	6	
20.	Right to education	1	2	
21.	Environmental rights	6	1	6
22.	Right to native customary land	9	31	7
23.	Children's rights	1		
24.	Others	8	1	1
TOTAL		173	136	24

4. INQUIRIES INTO COMPLAINTS

(a) Union 'Busting'

Pursuant to a memorandum sent to the Commission in 2014 pertaining to allegations of infringement of the right of workers to unionise, and guided by Article 23(4) of the UDHR which guarantees that everyone has the right to form and to join trade unions for the

protection of his interests - a right further entrenched under Sections 4,³⁶ 5³⁷ and 7³⁸ of the Industrial Relations Act 1967 (Act 177) - the Commission, on 23 February, organised a round-table discussion (RTD) on this matter. The RTD was attended by representatives from the Department of Labour (DL), Department of Trade Union Affairs (DTUA), Department of Industrial Relations (DIR), Malaysian Employers Federation (MEF), as well as the Malaysian Trades Union Congress (MTUC).

During the discussion, the representatives from the trade unions highlighted the following issues:

- (i) It has been common practice among employers in Malaysia to pressure unions by

36 Section 4 of the Industrial Relations Act 1967:

- (1) No person shall interfere with, restrain or coerce a workman or an employer in the exercise of his rights to form and assist in the formation of and join a trade union and to participate in its lawful activities.
- (2) No trade union of workmen and no trade union of employers shall interfere with each other in the establishment, functioning or administration of that trade union.
- (3) No employer or trade union of employers and no person acting on behalf of such employer or such trade union shall support any trade union of workmen by financial or other means, with the object of placing it under the control or influence of such employer or such trade union of employers.

37 Section 5 of the Industrial Relations Act 1967:

- (1) No employer or trade union of employers, and no person acting on behalf of an employer or such trade union shall—
 - (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to the contract to join a trade union, or to continue his membership in a trade union;
 - (b) refuse to employ any person on the ground that he is or is not a member or an officer of a trade union;
 - (c) discriminate against any person in regard to employment, promotion, any condition of employment or working Industrial Relations 13 conditions on the ground that he is or is not a member or officer of a trade union;
 - (d) dismiss or threaten to dismiss a workman, injure or threaten to injure him in his employment or alter or threaten to alter his position to his prejudice by reason that the workman—
 - (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or
 - (ii) participates in the promotion, formation or activities of a trade union; or
 - (e) induce a person to refrain from becoming or to cease to be a member or officer of a trade union by conferring or offering to confer any advantage on or by procuring or offering to procure any advantage for any person.
- (2) Subsection (1) shall not be deemed to preclude an employer from—
 - (a) refusing to employ a person for proper cause, or not promoting a workman for proper cause, or suspending, transferring, laying-off or discharging a workman for proper cause;
 - (b) requiring at any time that a person who is or has been appointed or promoted to a managerial, an executive or a security position shall cease to be or not become a member or officer of a trade union catering for workmen other than those in a managerial, an executive or a security position; or
 - (c) requiring that any workman employed in confidential capacity in matters relating to staff relations shall cease to be or not become a member or officer of a trade union.

38 Section 7 of the Industrial Relations Act 1967:

- No workman or trade union of workmen and no person acting on behalf of such trade union shall—
 - (a) except with the consent of the employer, persuade at the employer's place of business during working hours a workman of the employer to join or refrain from joining a trade union: Provided that this paragraph shall not be deemed to apply to any act by a workman employed in the same undertaking where the act does not interfere with his normal duties;
 - (b) intimidate any person to become or refrain from becoming or to continue to be or to cease to be a member or officer of a trade union; or
 - (c) induce any person to refrain from becoming or cease to be a member or officer of a trade union by conferring or offering to confer on any person or by procuring or offering to procure any advantage.

threatening to terminate the services of workers who are active members of workers' unions and involved in union activities.

- (ii) The employers do not give due recognition to trade unions although under Section 4 of Act 177, workers have the right to form a trade union to protect their rights and to represent workers in negotiations or during disputes with employers.
- (iii) There is constant delay in the handling of complaints by the DIR. There are cases that have taken almost a year without reaching a resolution.
- (iv) Court processes could be used as a way to deplete unions' funds. It was alleged that employers prefer to bring disputes to court as it would indirectly pressure unions from pursuing the case further due to financial constraints.

In the responses to the issues raised, the Commission was informed of the following:

- (i) The DIR has, as much as possible, fulfilled its mandate in accordance with the power provided to the department under Act 177. However, the delay in the handling of complaints could possibly be due to the lack of cooperation, or requests for deferment, from the parties involved.
- (ii) At present there is no provision under Act 177 that stipulates a time frame for the settlement of complaints and that empowers the DIR to stop employers from taking disciplinary action against employees over matters that are in the process of inquiry by the DIR.
- (iii) The DIR agreed for a study on best practices of other countries in handling complaints of union busting to be conducted with the purpose of reviewing and improving the current Act 177.
- (iv) The DIR admitted that it is difficult to take action against employers under Section 59 of Act 177³⁹ due to the high burden of proof required under the Act.

39 Section 59 Industrial Relations Act 1967:

(1) Subject to subsection 5(2), it shall be an offence to dismiss a workman or injure or threaten to injure him in his employment or alter or threaten to alter his position to his prejudice, by reason of the circumstances that the workman—

- (a) is, or proposes to become, an officer or member of a trade union or of an association that has applied to be registered as a trade union;
- (b) is entitled to the benefit of a collective agreement or an award;
- (c) has appeared or proposes to appear as a witness, or has given or proposes to give any evidence in any proceeding under this Act;
- (d) being a member of a trade union which is seeking to improve working conditions, is dissatisfied with such working conditions;
- (e) is a member of a trade union which has served an invitation under section 13 or which is a party to negotiations under this Act or to a trade dispute which has been reported to the Director General in accordance with Part V or Part VII;

In relation thereto, the Commission recommended the amendment of Act 177 so as to include a reasonable time frame for the DIR to handle complaints brought to their attention in order to avoid delay in the settlement of the complaints. This proposition was also supported by the President of MEF who attended the discussion. The Commission also recommended the inclusion of provisions in the Employment Act 1955 and in Act 177 to provide the DL and the DIR respectively with the authority to prevent employers from initiating any disciplinary action against employees in relation to disputes which are still pending resolution at those departments.

On 11 August, the Ministry of Human Resources (MOHR) organised a consultation with NGOs to review the Employment Act 1955, the Trade Unions Act 1959, and Act 177. The Commission was invited to the consultation and utilised the platform to reiterate the Commission's recommendations.

During the Dialogue Session with Government Agencies on SUHAKAM's 2014 Annual Report on 10 December, the DIR informed the Commission that every complaint regarding the of violation of unions' rights is dealt with seriously, and this fact is reflected in the number of cases that the DIR had handled in 2015 - 58 cases had been handled under Section 8 of Act 177⁴⁰ and one case under Section 59 of the same Act.

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- (f) has absented himself from work without leave for the purpose of carrying out his duties or exercising his rights as an officer of a trade union where he applied for leave in accordance with section 6 before he absented himself and leave was unreasonably deferred or withheld; or
 - (g) being a member of a panel appointed under section 21 has absented himself from work for the purpose of performing his functions and duties as a member of the Court and has notified the employer before he absented himself.

40 Section 8 of the Industrial Relations Act 1967:

- (1) Any complaint of any contravention of section 4, 5, or 7 may be lodged in writing to the Director General setting out all the facts and circumstances constituting the complaint.
- (2) The Director General upon receiving any complaint under subsection (1) may take such steps or make such enquiries as he considers necessary or expedient to resolve the complaint; where the complaint is not resolved the Director General shall notify the Minister.

(b) Transfer and Termination of Services of Teachers based on Political Affiliation



Representatives of PENDIDIK led by Normala Sudirman submitted a memorandum to the Commissioner Professor Emeritus Dato' Dr. Mahmood Zuhdi Abdul Majid.

In 2015, the Commission received two memoranda from Persatuan Gerakan Kebangkitan Pendidik Kebangsaan (PENDIDIK) regarding disciplinary actions taken against teachers, allegedly on the basis of their political affiliation. The issues highlighted in the memoranda were as follows:

- (i) Teachers have been transferred out of schools, as a form of punishment, for supporting rival political parties in the general election. Nonetheless, to cover up the ulterior motive, the letters of transfer stated that the transfers were made due to “service requirements”.
- (ii) Disciplinary actions have been taken against teachers for expressing support for political parties by wearing t-shirts with a political party's logo, assisting in a political party's election campaign, and waving the flag of a political party. Though these activities were carried out during their non-teaching hours and out of school compounds, the teachers were said to have breached the Public Officers (Conduct and Discipline) Regulations 1993⁴¹ and hence were punished with forfeiture of emoluments and reduction of salary.

41 Regulation 21 of the Public Officers (Conduct and Discipline) Regulations 1993:

- (1) Except as provided in sub-rule (3), an officer in the Senior Management and Professional Management Group is prohibited from taking an active role in political activities or wearing symbol of a political party, and in particular he shall not-
 - (a) make such a public statement either orally or in writing, giving a biased view on any matter between the political parties;
 - (b) publish or circulate books, articles or brochures stating his partisan views or the views of others, on any matter in relating to any political party;
 - (c) Engage in canvassing in votes for any candidate in a general election, by-election, or elections to any office in any political party;
 - (d) Act as an election agent or polling agent or in any capacity or on behalf of a candidate of an election for the Parliament or of any State Assembly;
 - (e) Compete for any post in any political party; or

PENDIDIK claimed that there is selectiveness in the enforcement of the said rules as only teachers who supported certain opposition parties were victimised.

- (iii) The termination of services of teachers on the basis of health without considering the previous record of services of the teachers.

As a follow-up to the memoranda, the Commission met with the Ministry of Education (MOE) on 2 June, to obtain feedback on the allegations. During the meeting chaired by the Deputy Director General of the MOE, Dato' Haji Ahmad Tajudin bin Jab, the Commission was briefed on the newly introduced EG-Tukar system, which is meant to ensure that the transfer of teachers is based on the needs of and vacancies in schools.

In relation to the issues brought up in the memoranda, the Commission was provided with the following explanations:

- (i) The transfer of teachers could be based on the teachers' requests or directives from the Ministry or Department of Education. The implementation of EG-Tukar, or also known as the 'traffic light system', is part of the Ministry's initiative to ensure transparency in the transfer of teachers. Nevertheless, any directive for transfer made by the Minister is considered valid.
- (ii) Under the Public Officers (Conduct and Discipline) Regulations 1993, teachers are not allowed to engage in any political activity unless they receive written permission from the Secretary General of the MOE as stipulated in Regulation 21(A) of the Regulations.
- (iii) Disciplinary actions are taken against teachers after their cases are brought before and decided by the Education Service Commission (ESC). They were given opportunity to submit written representation before their cases were decided by the ESC.

Further, the Commission met with the Minister of Education, Dato' Seri Idris Jusoh, on 13 July to highlight the complaints. As a result of the discussion, the Minister requested the Commission to forward the list of teachers who claimed to have been victimised due to their political affiliation, for the MOE to study their grievances and provide feedback or rectify the problem.

While the Commission was trying to obtain permission from the affected teachers to submit their details to the MOE, PENDIDIK informed the Commission that several of the affected teachers had been reinstated or transferred back to their previous schools and therefore decided not to pursue the matter further.

(f) Hold any office in any political party.

The Commission commends the implementation of the EG-Tukar system by the MOE to ensure that there is no discrimination in the transfer of teachers. The Commission recommends that the term “service requirement”, as generally used in letters of transfer as the reason for transfer, is given clear definition to avoid misuse of the term. The Commission acknowledges the importance of the Public Officers (Conduct and Discipline) Regulations 1993 to ensure smoothness in the delivery of Government services. However, the Commission notes that certain provisions in the Regulations may impede the enjoyment of certain human rights including the right to freedom of expression and opinion. As such, a study on these Regulations is necessary. In the meantime, the Commission urges the Government to ensure that the Regulations are not applied selectively on the basis of the political preferences of civil servants.

On 21 December, the Commission requested some information on the number of disciplinary actions meted out on teachers for violating Regulation 21(1) of the Regulations, and the number of applications made by teachers to be active in politics, for the purpose of the study. At the time of writing, the Commission has yet to receive a reply.

(c) Student Activism and Campus Elections

The Commission believes that universities are the best place to expose all students to the human rights principles in a practical way through student activities and campus elections. Following 12 complaints received from student movements from 2012 to 2014 regarding alleged vote rigging in campus elections and restrictions on student activism under the Universities and University Colleges Act 1971 (UUCA), the Commission organised a RTD on these matters on 25 February. The Commission invited representatives from the administration bodies of five public universities; Student Representative Councils (SRC); and student-based associations, with the aim of finding solutions to these issues. However, on the day, only two representatives from the universities were present while the remaining participants comprised representatives from SRCs and student associations. As a result of the RTD, the relevant authorities were urged to:

- (i) Introduce a dual-voting system where students can cast their votes digitally and then print out a hard copy of their e-voting slip, which they can post in ballot boxes as backup.⁴²
- (ii) Establish an independent body comprising the MOE, SRCs, and independent institutions to organise campus elections and to standardise campus electoral processes.
- (iii) Include the SRC in universities’ senate meetings to represent the voices of the students in decision-making on issues involving students’ affairs.

42 “Could e-voting be on its way in the UK?”, *BBC*, viewed at, <http://www.bbc.com/news/uk-politics-30234304>, on 1 November. Lord Malloch-Brown, a former UK government minister (2007–2009) and United Nations Deputy Secretary-General (2006), favoured the implementation of a dual system for the UK general election.

- (iv) Register the student groups, namely 'Pro-Mahasiswa' and 'Pro-Aspirasi', as legitimate contesting groups in campus elections to ease the responsibility of university administration bodies to monitor and regulate the groups.

Due to the lack of representation from university administration bodies in the above RTD, the Commission organised another RTD on 1 July, inviting the Deputy Vice Chancellors of Student Affairs (DVC) from all public universities, and representatives of the MOE, in order to provide an opportunity for the DVCs to give their responses on the issues and recommendations recorded during the RTD in February.

The attendance of the DVCs was overwhelming. From the start, the Commission was questioned on its procedure in receiving complaints from a non-registered entity, as most if not all of the student bodies that complained to the Commission were not registered. The Commission explained that the Commission's assessment of complaints is based on several criteria, the most important being the issue raised in the complaint. A complaint cannot be rejected only on the basis of the status of the complainant as the Commission also receives complaints from prisoners, refugees who are not recognised by the Government, and many others. Moreover, Section 12(1) of the SUHAKAM Act also does not stipulate the status of a complainant as a basis for the rejection of a complaint. The discussion that followed led to the salient points summarised below:

- (i) E-voting or manual voting is only a means to select student leaders. The e-voting system is used because manual voting is a time consuming process especially when it comes to the counting of ballot papers. Due to the many controversies surrounding the implementation of the current system, and the fact that it consumes a lot of time and resources, the university administration bodies suggested that other means to select student leaders be considered to replace the current system, for instance selecting student leaders based on certain academic and co-curricular performances.
- (ii) Terminologies, such as campus elections, nomination day, campaigning period, and polling day, were used by political parties and the media to create unwanted excitement and rivalry among the students.
- (iii) The SRC cannot be allowed to join senate meetings because matters discussed in the meetings include those related to students' examination and academic performances, which are confidential. However, the SRC can sit in other committee meetings, such as meetings of the committee on student welfare, which are already open to the SRC.



The Deputy Rector (Student Affairs) of IIUM, Professor Datuk Dr. Mizan Hitam accompanying the Commission's monitoring team during the IIUM Campus Election 2015.

On 17 September, the Commission monitored the electoral process of the International Islamic University of Malaysia (IIUM) for the second time, following a request from students. The monitoring could not be done without the approval of the IIUM Deputy Rector of Student Affairs and cooperation from the IIUM Election Commission. The Commission lauds the IIUM administration for being transparent and willing to cooperate with an independent body to ensure that the IIUM campus election was clean and fair. Following the monitoring, the Commission recommended the following improvements:

- (i) To make polling stations accessible to everyone including persons with disabilities.
- (ii) To update and finalise the electoral roll prior to the elections to ensure no students who are eligible to vote are left out.

The Commission received similar requests from students of Universiti Utara Malaysia (UUM) and Universiti Malaysia Perlis (UNIMAP) to monitor their campus elections; however, due to prior commitments, the Commission was unable to fulfil the requests.

The Commission further recommends university administration bodies to build trust among students by, inter alia, empowering students to make decisions on issues involving students' affairs and discarding the practice of stereotypically categorising student groups along 'Pro-Mahasiswa' and 'Pro-Aspirasi' lines. Although such categorisation are not recognised by the universities, they are widely used in media reports, and undeniably also used by the Government as a yardstick to measure the support of youth for the Government.⁴³

43 "Apa Guna Kita Bermusuh?", *Utusan Malaysia*, viewed at <http://www.utusan.com.my/rencana/apa-guna-kita-bermusuh-1.168381> on 30 December.

On 8 July, the Commission received another memorandum from Kesatuan Mahasiswa Malaysia regarding the then ongoing disciplinary actions against two students of IIUM and several students of the National University of Malaysia (UKM). The two students of IIUM were charged with organising a forum on the goods and services tax (GST) in the university which was attended by a Member of Parliament from an opposition party, while the UKM students were charged for holding a sit-in protest in front of the UKM Chancellor's office on the issue of shortage of water supply.

In this regard, the Commission recommends that Section 16 of the UUCA⁴⁴ be reviewed and amended to require all universities to take into consideration the fundamental rights of their students when enacting or enforcing rules within their campuses. More specifically, universities must ensure that the enforcement of their rules does not curtail the basic rights of students, including the right to information, to discuss national and international issues, as well as to express their opinions on any issue in the true spirit of democracy. The Commission also calls upon the students to give full cooperation to university administration bodies in their efforts to make campuses better centres for intellectual development.

(d) Complaints Pertaining to Asylum Seekers' and Refugees' Matters

Article 14 of the UDHR guarantees the right to seek and to enjoy in other countries asylum from persecution. Although Malaysia is not a signatory State to the Convention Relating to the Status of Refugees 1951 and its 1967 New York Protocol, Malaysia has had a good working relation with the Office of the UNHCR on humanitarian grounds since 1975. Malaysian law does not have any provisions that distinguish between refugees and undocumented migrants. As a result, asylum-seekers and refugees, in particular those who are not yet registered by UNHCR, remain vulnerable to arrest for immigration offences and may be subject to repeated arrests, detention, and charges on immigration offences which may carry sentences of imprisonment and/or whipping.

That said, the Commission takes cognisance of the administrative arrangement between the Government and UNHCR, where a directive has been issued to provide guidance to the

44 Section 16C of the Universities and University Colleges Act 1971:

- (1) The Board shall have the power to make such disciplinary rules as it deems necessary or expedient to provide for the discipline of the students of the University; the disciplinary rules made under this subsection shall be published in the Gazette.
- (2) The disciplinary rules made under this section may include provisions for the suspension of a student of the University during the pendency of disciplinary proceedings.
- (3) The disciplinary rules made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Board may deem appropriate, and the punishments so provided may extend to expulsion of the student from the University.
- (4) The disciplinary rules made under this section shall prescribe the procedures for disciplinary proceedings and disciplinary appeal proceedings.
- (5) The particularity of the matters referred to in subsections (2), (3) and (4) shall be without prejudice to the generality of the powers of the Board under subsection (1).

authorities on the handling of refugees in Malaysia. Based on the National Security Council's Directive No. 23: The Mechanism on Management of Illegal Migrants that Hold UNHCR Card, the enforcement agencies are required to verify the status of detainees who claimed to be refugees with UNHCR and upon confirmation from UNHCR, they will be released to UNHCR. However, the Commission has not seen the details of the directive.

In 2015, the Commission received a total of 24 complaints involving refugees' matters. The complaints received were related mainly to issues such as health, education, employment, vulnerability to arrests and detention, and delays in registration and resettlement. In relation to health, the complaints were about their inability to pay medical bills, especially those who had been admitted to hospital for chronic illnesses or child delivery. The Commission had to forward all the complaints to UNHCR for assistance.

After several follow-ups on complaints pertaining to the detention of refugees, the Commission learned that non-Rohingya refugees, refugees with criminal records, and those who had work prior to their arrest were being kept in detention indefinitely. During the Commission's visit to Machap Umboo Immigration Detention Centre on 3 July, the authorities of the centre admitted to not releasing the three categories of refugees as they reasoned that the purpose of their action is to protect the country from criminals and prevent refugees from seizing employment opportunities from Malaysians.

On 10 August, the Commission recorded statements from four refugees. They had just been released from Immigration detention after their refugee status had been confirmed by UNHCR. Three of them were Palestinians and the other one was a Syrian. They alleged that during their detention from June 2014 to July 2015 at various Immigration detention centres, namely Langkap, KLIA, and Bukit Jalil, they had experienced torture and witnessed the inhumane treatment of detainees, smuggling of drugs and tobacco, corrupt practices, and deaths of detainees due to failure to provide necessary medical treatment. They, however, refused to lodge police reports on the incidents and wanted their identities to be kept anonymous, as they were concerned about their safety. In August, the Commission requested a meeting with the Director General of Immigration to discuss several issues, including the serious allegations of the refugees. However, at the time of writing this report, the Commission is still waiting for the meeting to be held. Nonetheless, during the Commission's visit to the Juru Immigration Detention Centre on 2 September, the Commission informed the representative from the Immigration Department's head office, who was attending to the Commission during the visit, of the allegations. He responded that the Immigration Department was already aware of the allegations against several of its officials. As a result, the Commandant of Langkap Immigration Detention Centre had been transferred out and several other implicated officials were being closely monitored.

The Commission here recommends that the enforcement agencies, including the Immigration Department, provide a more intensive and mandatory human rights course to its officials,

particularly those who work at the places of detention and in the enforcement division. The course should be made available not only to the new recruits but also to the officials who are already on active duty. It is important for the Immigration officials to understand the difference between refugees and undocumented migrants from the humanitarian perspective. The officials must also be reminded from time to time to observe the applicable laws and rules in handling the detainees.

In July, the Commission was approached by a Rohingya refugee family who pleaded that they would soon be homeless as they had not been able to pay the rent on their house for several months, due to the fact that the family's sole breadwinner had lost his job and was unable to get a new one because of his refugee status. The landlord had requested for them to vacate the house if the rent could not be settled immediately. They had appealed for financial assistance from UNHCR and were waiting for a response. In addition to highlighting their predicament to UNHCR, the Commission suggested for them to approach the Federal Islamic Religious Council and apply for financial assistance from the Council's tithe collection as they were Muslims. Later the Commission was informed that the Council could not consider their application, as one of the conditions of eligibility for receipt of tithe money is that the applicant must be a citizen. On 30 November, the Commission wrote to the Mufti of the Federal Territory of Kuala Lumpur highlighting the issue with the hope that the requirement could be reviewed from the perspective of humanity and Islamic brotherhood, as there were many Muslim refugees in Malaysia facing hardships in life due to the non-recognition of their status.

Although the Government's stance on the issue of refugees is that their presence in Malaysia is temporary while waiting for resettlement or voluntary return to their country of origin, in reality the rate of resettlement is low compared to the total number of refugees in Malaysia.⁴⁵ The Commission believes the absence of a holistic policy on refugees and the lack of recognition of their status will not only aggravate the dire situation of refugees but in the long run will also result in a burden to the country. Without access to formal education and proper employment, the refugees have to survive by begging or through criminal activities, and are exposed to various forms of exploitation. All of these situations will create problems for the country. The Commission is of the view that there should be a human rights approach to the plight of the refugees in this country. While welcoming the Government's decision following Prime Minister Datuk Seri Najib Razak's announcement at the United Nations General Assembly in New York on 2 October to accept 3,000 Syrian refugees and provide them with temporary shelter and jobs as well as access to education for their children while

45 According to UNHCR, in 2015 the total number of refugees resettled to third country are 11,890. As of November 2015, there are 155,730 Person of Concern in Malaysia, out of which 94,443 are recognized refugees. There are reportedly several thousand asylum seekers currently in Malaysia.

in Malaysia,⁴⁶ the Commission recommends that such rights be extended to all refugees who are already present in Malaysia.

(e) Detention under Preventive Laws

In 2015, the Commission continued to observe the use of preventive laws, namely the Prevention of Crime Act 1959 (POCA), the Dangerous Drugs Act (Special Preventive Measures) 1985 (DDASPM), the Security Offences (Special Measures) Act 2012 (SOSMA) and the newly enacted Prevention of Terrorism Act 2015 (POTA). While the Commission supports the Government's efforts to tackle serious crime and curb terrorism, the Commission stresses that all laws should be in line with human rights principles. The Commission had expressed its concerns that these laws infringed fundamental rights by allowing preventive detention, thereby violating a person's right to be presumed innocent until proven guilty and to be given a free and fair trial before a competent court.

In 2015, the Commission received eight complaints involving detention under POCA, five under the DDASPM, and one under SOSMA. In most of these cases, the Commission had written to the Ministry of Home Affairs (MOHA) forwarding the appeals of the complainants and highlighting the Commission's stance on the laws as well as emphasising the rights of the detainees to be tried in an open court of law as guaranteed under the Constitution and the UDHR. The Ministry responded to several of the Commission's letters by informing the Commission that the appeals of the complainants had been forwarded to the Board of Crime Prevention and the Advisory Board for consideration.

On 11 November, the Commission received a memorandum from Suara Rakyat Malaysia (SUARAM) on the misuse of SOSMA to detain and torture suspects of terrorism. The family of one of the suspects detained under SOSMA, Mr. Nor Azmi bin Jalani, claimed that he had been tortured mentally and physically during his 28-day detention under SOSMA at the Police Remand Centre (PRC) in April. As part of the inquiry into the complaint, the Commission recorded Mr. Azmi's statement at Sungai Buloh Prison on 25 November. During the recording, the Commission discovered that there were three other detainees who allegedly went through similar torture while being detained together under SOSMA. They are Mr. Hadrami bin Hashim, Mr. Mohd Yusri bin Mohamed Yusof and Mr. Ali Saifuddin. The Commission recorded the statements of the three at Sungai Buloh Prison on 22 December. Among the allegations made by the four detainees are that:

46 "Malaysia accepting 3,000 Syrian refugees on humanitarian grounds, says Zahid", *New Straits Times*, viewed at http://www.nst.com.my/news/2015/10/malaysia-accepting-3000-syrian-refugees-humanitarian-grounds-says-zahid?utm_source=nst&utm_medium=nst&utm_campaign=nstrelated on 2 October; "Malaysia to offer shelter, jobs, education to Syrian refugees", *Astro Awani*, viewed at <http://english.astroawani.com/malaysia-news/malaysia-offer-shelter-jobs-education-syrian-refugees-64005> on 2 October.

- (i) The police interrogators beat the detainees whenever they were not satisfied with the statements given;
- (ii) A police interrogator threatened to “do something bad” to the wife of a detainee if he did not comply with the wishes of the interrogator;
- (iii) The police interrogators forced the detainees to be naked during the interrogation, and the detainees were forced to kiss each other and to act like dogs; and
- (iv) A detainee was forced to watch pornographic videos and pictures on a mobile phone owned by one of the policemen and then masturbate in front of the police interrogators.

The Commission was informed that the detainees had lodged police reports on the incidents. The Commission urges PDRM to expedite the investigation into the alleged incidents as such serious allegations paint a bad image of the police force and of the law. The Commission has written to the police to obtain updates on the status of their investigation.

On 27 November, the Commission sought statistics and details from the PDRM on the arrest, detention and prosecution made under the POCA, DDASPM, SOSMA, POTA and Chapter VIA (Offences Relating to Terrorism) of Penal Code in 2015. However, at the time of writing, the Commission has yet to be provided with the requested inputs.

The Commission will continue to urge the Government to amend its preventive laws so that the laws are consistent with human rights principles. Meanwhile, the Government is obliged to ensure that no human rights violations occur against any persons placed under preventive laws, and this obligation includes directing all relevant authorities to respect the basic rights of detainees.

(f) Extra-Territorial Complaint on the Construction of Don Sahong Dam in Laos

On 20 October 2014, the Commission received a memorandum from Earth Rights International and representatives of the Mekong River Communities from Cambodia pertaining to the development of the Don Sahong Hydropower Dam (DSHP) project in the Lao People's Democratic Republic (Laos). The Complainants alleged that the developer of the dam, Mega First Corporation Berhad (MFCB), a Malaysian registered company, had violated the human rights of the communities living along Mekong River in Vietnam, Cambodia and Thailand.

Among the issues flagged by Earth Rights International and Mekong River Communities in their memorandum were:

- (i) That the construction of the Don Sahong Dam would endanger the migratory fish of the Mekong and cause negative impacts to the communities along the river, in particular to their health, life, and livelihood.

- (ii) That the communities' right to information regarding the DSHP project and its likely consequences was not respected.

As a National Human Rights Institution (NHRI), the Commission's power and mandate are limited within the boundaries of Malaysia. Therefore, the Commission is restricted from conducting an on-site visit to verify the allegations. However, the Commission met with MFCB on 5 February to obtain further information with regard to the said project and verify the allegations made against it. During the meeting, the Commission was told the following:

- (i) MFCB was appointed as the owner and the project manager of the concession for 25 years. Upon expiry of the term, MFCB will hand over the dam to the Government of Laos at no cost. As part of the agreement package, MFCB will build access roads, bridges to the mainland, schools, supermarkets and other facilities for the communities to improve their living conditions. In addition, MFCB had also made a pledge to contribute USD1 million annually (throughout the period of the concession) in the form of a trust fund as part of their CSR initiative to enhance the livelihood (in terms of education, economic development, and welfare) of the affected communities.
- (ii) Before the project started, MFCB had conducted briefing and consultation sessions at the district and provisional levels involving heads of villages and communities. MFCB claimed that most villagers were in favour of the project, which is expected to improve their livelihood and increase their income. Based on the consultation carried out by MFCB, DSHP will affect 15 families whose relocation will be done by MFCB. In addition, MFCB will compensate those families and payment will be made through the Laotian Government. The relocation and compensation packages had been mutually agreed upon and properly documented.
- (iii) On consultation with the neighbouring affected countries, MFCB informed the Commission that the Laotian Government had officially notified the Mekong River Commission Secretariat (MRC) regarding the proposed building of DSHP on 30 September 2013. The proposal was further deliberated by members of the MRC, including ministerial representatives from Cambodia, Laos, Thailand and Vietnam, in January 2014. Following the ministerial meeting, the Laotian Government submitted, on 30 June 2014, an official notice to the MRC to initiate regional consultations with the communities living along Mekong River. The six-month period of consultations, beginning 25 July 2014, involved a series of national consultations in Vietnam and Cambodia and concluded with a regional consultation on 12 December 2014 in Laos to which all stakeholders were invited.

- (iv) MFCB informed the Commission that up until then, they had invested USD15 million for a nine-year study to research the environmental and ecological impacts of the project. The Commission was briefed on several issues, including the displacement of people from their homes and livelihood, trapped sediment, compromised water quality, and alteration of river flow patterns.

A report of the meeting was extended to Earth Rights International on 23 February, and in a response dated 24 March 2015, Earth Rights International raised, among others, concerns regarding several issues that were not addressed during the meeting with MFCB. In particular, there were concerns regarding the lack of baseline information and transboundary impact assessment studies including on regional fisheries, data showing the adequacy of proposed mitigation measures, and information and consultation with affected communities by the project developer. Subsequent to that, a second meeting with MFCB was held on 4 August to put forward a proposition for MFCB to meet with the complainants. During the meeting, MFCB indicated its disagreement to the proposition on the basis that there had been many consultations and public fora including at regional and state levels organised by the MRC, the Government of Laos, and CSOs in the preceding years, where, according to MFCB, the complainants could have had the opportunity to raise their concerns or bring up issues pertaining to the project.

Based on the above development and given that there is no National Human Rights Institution in Laos, the Commission finds it difficult to proceed further with the inquiry into the complaint. Therefore, guided by its mandate to provide recommendations on issues involving human rights, the Commission wrote to MFCB on 8 December, and recommended MFCB to ensure that its business operations and activities are conducted in a manner which respects the human rights of the people living in the affected areas, besides generating profit out of the project. In the letter, the Commission also emphasised that the obligation is on MFCB to embrace human rights principles in the conduct of its business, and urged MFCB to hold firmly to the principles enunciated in the United Nations Guiding Principles on Business and Human Rights (UNGPR), particularly Principles 11-29.

In addition, the Commission will continue to raise this matter with the Government of Malaysia through its Business and Human Rights Agenda, with emphasis on the recommendation that the Government formulate policies or guidelines to monitor Malaysian companies operating outside of Malaysia in order to ensure compliance with applicable human rights principles and standards as provided under Principle 3 of the UNGPR, and that the Government adhere to the Economic Co-operation and Development Guidelines for Multinational Enterprises (OECD) and establish a National Contact Point to address complaints regarding corporate misconduct including acts/omissions outside the home country.

(g) Objection Against the Development of Ulu Telom Dam

On 18 August 2014, the Commission received a complaint from Jawatankuasa Bertindak Pembangunan Tanah dan Wilayah Adat Kg Orang Asli Pos Lanai, Kuala Lipis, Pahang, outlining their objection against the development of the Ulu Telom Hydropower Project (Ulu Telom PHE). Consequently, the Commission sent a letter to Tenaga Nasional Berhad (TNB) to enquire on the following issues:

- (i) Rationale of the development of the Ulu Telom PHE which, it is claimed, will generate only 132MW of power;
- (ii) Consultation with the Pos Lanai Orang Asli community;
- (iii) Compensation to the affected community (in respect of resettlement, land, and native activities);
- (iv) Research by representatives from Universiti Teknologi Mara (UiTM) and Universiti Kebangsaan Malaysia (UKM), which was allegedly biased; and
- (v) Dissatisfaction with the appointment of an officer from the Department of Orang Asli Development (JAKOA) as the community representative.

TNB suggested a meeting with the Commission to provide explanations on the project and the meeting, which was also attended by a representative from JAKOA, was held on 9 February. At the meeting, the Commission was informed of, among others, the following:

- (i) The project was undergoing the feasibility study phase and UiTM had been engaged to conduct the study;
- (ii) The project will be aborted if there is an objection from the affected community;
- (iii) TNB was not involved in resettling the Orang Asli to Pos Pantos as it was done prior to the approval of the project, and it was JAKOA's plan to relocate the Orang Asli to a concentrated area to ease the provision of facilities to the Orang Asli; and
- (iv) A number of the Orang Asli were still going into their abandoned village to reap fruits from trees that they had planted.

During the meeting, the Commission highlighted its stance on the rights of the Orang Asli as enunciated under Articles 10⁴⁷ and 11⁴⁸ of the United Nations Declaration on the Rights

47 Article 10 of UNDRIP: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

48 Article 11 of UNDRIP: (1) Indigenous peoples have the right to practise and revitalize their cultural traditions and

of Indigenous Peoples (UNDRIP), and requested TNB to invite the Commission to attend a consultation between TNB and the affected Orang Asli community, which would be scheduled after the completion of the study.

On 11 May, in response to its follow-up enquiry, the Commission was informed by TNB that the feasibility study had just been completed and that UiTM had presented the outcome of the study to the affected Orang Asli community on 9 April. TNB also informed the Commission that 11 Orang Asli had filed a civil suit against TNB on the project, and consequently TNB needed to get the approval of its top level management before the next presentation of the study report could be held. TNB promised to invite the Commission should the presentation session be held. At the time of writing, the Commission has not received any further information on the planned presentation of the study report.

On 20 August, the Commission visited the Pos Pantos settlement as well as the affected villages. The Commission was informed that TNB had conducted the feasibility study along the bank of the river in early 2014.

On 8 December 2015, the Commission received a written response from JAKOA in which JAKOA informed the Commission that it was in contact with the Attorney General's Chambers (AGC) in observing the progress of the case regarding this matter at the Temerloh High Court. JAKOA also assured the Commission that the interests of indigenous peoples will be protected in terms of the development of their education, infrastructure, and economy, and this will be done without disregarding the Orang Asli's culture and customs. The Commission will keep abreast of the progress of the case.

(h) Citizenship of Adopted Children

In previous years, the Commission had received several complaints pertaining to the citizenship of adopted children. The complainants were the Malaysian parents who had legally adopted abandoned children whose citizenship are either unidentified or not registered. The children were left in a quandary after the MOHA rejected their applications for citizenship. Although the National Registration Department (NRD) approved the registration of adoption, denying the adopted children citizenship of the country would create other problems in terms of access to education, freedom of movement and the future livelihood of the children.

In order to seek clarification on this issue, the Commission met with the NRD on 19 January. The meeting was attended by several high level officers of the NRD. The Commission was informed that citizenship is the highest form of recognition conferred by the Government,

customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

and thus it is not considered as a 'right' but a 'privilege' by the Government. The Commission was provided with the following information during the meeting:

- (i) The adoption of children needs to be registered with the NRD, but it does not guarantee that the children will be conferred citizenship of the country.
- (ii) The citizenship of any adopted child shall follow that of his/her biological parents and not the adoptive parents. If the biological parents are of Indonesian citizenship, then the adopted child's citizenship shall remain Indonesian.
- (iii) In the case of stateless children whose birth mothers' nationalities are known, the adoptive parents must refer to the embassy of the birth mothers' country of origin to ensure that the children are conferred the appropriate citizenship.
- (iv) In respect of children born out of wedlock, the NRD informed the Commission that a baby born out of wedlock shall follow the citizenship of his/her birth mother.

As the issue involves laws and policies of the Government, the Commission decided that a study is to be conducted on the Adoption Act 1952 and other relevant laws and policies, in order to identify whether the applicable laws and policies have contributed to any violation of human rights, and, if any violation of human rights has occurred, to make recommendations to ensure it will not reoccur.

(i) The Discovery of Mass Graves in Wang Kelian and Boat People Incidences

In May 2015, PDRM made a shocking discovery of 28 abandoned human trafficking camps and 139 graves in Wang Kelian, Perlis, near the Malaysia-Thailand border. It was reported that PDRM recovered 106 skeletal remains from the mass graves, and that the abandoned camps had been used by traffickers to keep refugees or asylum seekers who had been smuggled into Malaysia, before their release to family members already in Malaysia. The release would only occur after the payment of a sum of money.

A few days prior to that discovery, more than a thousand boat people from Myanmar and Bangladesh landed on Langkawi Island. The influx of refugees or asylum seekers from Myanmar, as well as economic migrants from Bangladesh, was said to have been triggered by Thailand's crackdown operation against human trafficking syndicates following the discovery of similar mass graves in Thailand. As the boat people were placed at the Belantik Immigration Detention Centre, the Commission made plans to visit the centre on 26 May. The notice of the visit was sent on 22 May as required under the SUHAKAM Act; however, the visit had to be cancelled as the Commission was not given access to the centre by the authority in charge of the centre, without any reason given for the refusal.

The Commission was only allowed to visit the Belantik Immigration Detention Centre on 3 September. During the visit, the Commission interviewed four Rohingyas to obtain information with regard to the arrangements of their travel to Malaysia. Two female Rohingyas informed the Commission that they came to Malaysia to reunite with their husbands who have been working here for several years. Their husbands had contacted an agent, a Rohingya in Myanmar, to assist them in coming to Malaysia. Their husbands had paid to the agent a sum of RM6,000 for an adult and RM1,000 for a child. According to two male Rohingyas, they came to Malaysia to find work and live with their brother who had been residing in Malaysia for several years. They also informed the Commission that all payments had been made by their brother and they did not realise that the agent had deceived them until they found out that the agent had left the boat.

As of 30 December, the Immigration Department had deported 604 Bangladeshis back to their country with the assistance of the Bangladesh Embassy.

Table 4: Number of Boat People Remaining at Belantik Immigration Detention Centre as of 30 December

NO.	COUNTRY OF ORIGIN	NUMBER				TOTAL
		ADULTS (MALE)	ADULTS (FEMALE)	CHILDREN (MALE)	CHILDREN (FEMALE)	
1.	Bangladesh	105	0	0	0	105
2.	Myanmar	177	108	48	35	368
TOTAL		282	108	48	35	473

Source: Malaysian Immigration Department

On 17 June, the Commission received two memoranda from the Malaysian Bar Council and the National Human Rights Society (HAKAM) on the two incidences. These two organisations called upon the Commission to conduct a public inquiry into the incidences, which were related to human trafficking and corruption.

On 7 July, the Commission deliberated on the feasibility of conducting either a public inquiry on the specific incident of the discovery of the mass graves or an investigative research on the broader issues of refugees in Malaysia. Following the discussion, the Commission was of the opinion that before a decision on conducting a public inquiry could be made, it is important to obtain information on whether witnesses to the incident are available to testify before an inquiry panel. In relation thereto, the Commission contacted CSOs to seek assistance in identifying witnesses to the incident who are willing to give statements to the Commission. Thus far, the Commission has not received any feedback from the CSOs.

The Commission had also consulted the Thailand Human Rights Commission on the actions they had taken with regard to the similar discovery of mass graves in their country. The Thai Commission had responded that they had not taken any action in respect of this matter. The Commission had also written to the MOHA on 30 November, requesting updates on actions taken with regard to the discovery of the mass graves and the boat people incident. To date, the Commission is still awaiting a response from the Ministry. On 18 December, the Commission met with the Malaysian Bar Council to give an update on the actions that the Commission had taken with regard to the issue and to discuss the way forward. As a result, the Commission and the Bar Council agreed to work together to conduct research into the incidences and to co-organise a consultation on refugee issues in 2016.

On 21 December, it was reported in the media that the Deputy Prime Minister announced that PDRM has identified six people who were responsible for the human trafficking activities and the bodies that were found buried along the Malaysia-Thailand border, and that they will be brought to Malaysia to face legal action.⁴⁹

As Malaysia has been upgraded from Tier 3 to Tier 2 in the United States' Trafficking in Persons Report 2015, the Commission recommends the Government to be transparent in investigating the incidences and in explaining the initiatives taken to prevent the same incidences from recurring.

(j) Orang Asli Children in Schools

The Commission inquired into two incidences involving Orang Asli students in primary school. On 30 June, the Commission was notified of a media report on an incident involving an Orang Asli student who was allegedly beaten by three male teachers in SK Kuala Betis.⁵⁰ As part of the inquiry into the allegation, the Commission visited the school on 6 July and met with the girl's family.

Based on the information gathered during the visit, the Commission was made to understand that the girl was accused of stealing money from one of the implicated teachers. She was caught during school hours under suspicious circumstances while trying to open the door of a car belonging to one of the teachers that was parked in the garage. Afterwards, she was taken to the school office for questioning. The teacher denied that they had tied or hit the student during the questioning.

49 "Zahid: 2,217 human trafficking victims to be eligible to work in the country", *The Sun*, viewed at <http://www.thesundaily.my/news/1643491> on 30 December 2015.

50 "Temiar girl was tied up and beaten by 3 teachers", *The Malay Mail*, viewed at <http://www.themalaymailonline.com/malaysia/article/teachers-rough-up-orang-asli-schoolgirl-on-stealing-suspicion-group-claims> on 30 June.

The Commission also interviewed the girl and her grandmother. The girl's grandmother claimed that there had been bruises and swelling on her grandchild's face, arm, and thigh after the incident, but all the injuries had already healed. According to the girl, she was tied up and beaten by one of the teachers while her thigh was kicked by the other teachers. She further explained that her aunt had brought her to the nearby Government clinic the next day and that her grandmother had lodged a police report at the Gua Musang District Police Station on 27 June. The Commission was also informed that the family refused to meet the teachers and wanted the police to investigate the case.

In respect of the case, the Commission had written to PDRM on 4 August to obtain updates on the investigation into the report lodged by the Orang Asli. At the time of writing, the response from PDRM on this matter is still pending.

In another incident, the Commission acted upon a media report on seven Orang Asli primary school children who had gone missing from their school hostel on 23 August.⁵¹ The Commission visited SK Pos Tohoi on 1-2 September to get a clear picture of the incident, as it was alleged that the incident was related to the punishment meted out by a teacher to some students who went swimming without permission in the nearby river. During the visit, the Commission met with the families of the missing children, the three students who had purportedly been beaten by a teacher for swimming in the nearby river, and the school's administrator. In the interviews, the Commission was told the following:

- (i) According to the parents, the fence around the hostel was broken and anybody can enter or exit the hostel without the knowledge of the administrators.⁵² Therefore it was common for the students to go swimming in the nearby river without the knowledge of the school's administrators.
- (ii) On 22 August, the hostel warden was informed by the school's security guard that 25 girls had been seen swimming in the river. It was alleged that the warden had punished three students by caning.
- (iii) On 23 August, the school was notified of 23 students who were not in the school. Subsequently, the school administrators managed to assemble 16 of the students. They then tried to find the seven remaining students with the help of the villagers but their attempt failed. The school reported the incident to the police at 12:30 PM on 25 August.

51 "Chided for swimming in river, seven Orang Asli children missing since Sunday", *Astro Awani*, viewed at <http://english.astroawani.com/malaysia-news/chided-swimming-river-seven-orang-asli-children-missing-sunday-71235> on 26 August.

52 During the visit on 2 September, the Commission found that the fence was already fixed and in good condition.



The families of the seven missing Orang Asli students submitting a memorandum to Commissioner James Nayagam.

On 15 September, six of the affected families came to the Commission's office and voiced their unhappiness that the authorities were too slow in searching for their children. The families expressed their frustration at the fact that the search and rescue mission (SAR) was only seriously initiated five days after the children had gone missing. The families also claimed that they had not been notified by the school regarding the absence of their children; instead, they received the information from their friends.

In relation to this, the Commission had written to PDRM and the MOE on 5 October to enquire on the allegations and actions taken with regard to the incident. Later in October, the country received the sad news of the discovery of the bodies of several of the children. Only two of the children had survived.⁵³ On 11 December, the Commission was invited by the MOE to attend a meeting with the Kelantan Education Department and the Gua Musang District Education Office in Putrajaya. The Commission was informed that the Ministry had investigated into the allegation that the warden had caned three Orang Asli students. In the interview with him, the teacher denied beating the students. On the contrary, the teacher claimed that he witnessed the three students beating other junior students for reporting their swimming activities to the teacher. The MOE also informed the Commission that it had set up a Smart Support Team to give support and motivation to all the affected families and students. The MOE also requested the Commission to assist the MOE in regaining the trust of the Orang Asli so that their children will be sent to school to continue their studies.

The Commission here recommends that the teachers at Orang Asli schools and education policymakers be enlightened on the rights of the Orang Asli as articulated by UNDRIP, and

53 "Two of Orang Asli students found alive after a month", *Astro Awani*, viewed at <http://english.astroawani.com/malaysia-news/two-orang-asli-students-found-alive-after-month-75844> on 9 October.

on the culture of the Orang Asli so that future engagements with Orang Asli students and the planning of education policies will be conducted by taking into account the special requirements of the Orang Asli. The Government must also ensure that an environment conducive for learning be created to cater for the needs of students in the interiors. This includes systematic monitoring of school buildings and ensuring proper maintenance of school facilities.

(k) Environmental Issues

Article 25 of the UDHR guarantees everyone the right to a standard of living adequate for the health and well-being of himself and of his family, and this would include the right to enjoy a healthy environment. A safe and healthy environment is fundamental as it is a prerequisite to the enjoyment of human rights. Therefore it is the obligation of the state to ensure that the level of environmental protection necessary to allow the full exercise of protected rights is in place. In 2015, the Commission inquired into several environmental issues.

During the Commission's Roadshow on 12 August in Kemaman, the Commission was notified of the serious environmental pollution in Kuantan due to the mining of bauxite. The transportation of bauxite to the port has polluted the air and dirtied the surrounding area with red dust. As part of its inquiry into the issue, the Commission queried the Pahang State Secretary, the Federal Land Development Authority (FELDA), the Department of Environment (DOE), and the Pahang Land and Mine Office on actions that they had taken with regard to the deteriorating environmental condition allegedly due to the mining of bauxite. On 29 September, the Commission received a reply from FELDA in which FELDA informed the Commission that as of 31 August, 65 settlers of FELDA Bukit Goh and eight settlers of FELDA Bukit Kuantan were involved in the bauxite mining activities. FELDA advised the Commission to query the Pahang Land and Mine Office on the issue of permission and enforcement. On 22 September, the Commission received a short reply from the Pahang Director of the DOE in which the DOE thanked the Commission for highlighting the environmental pollution issue to the DOE and advised the Commission to enquire with the Pahang Land and Mine Office regarding the permission and enforcement of the mining activities. At the time of writing, the Commission is still waiting for replies from the remaining agencies.

The Commission is perplexed by the lack of action on the part of the authorities in addressing the problem, despite the fact that there have been a lot of media coverage on the issue as well as the fact of the people's resentment of the Government's indifference to the issue. Although the mining of bauxite could contribute to the income of the state, the Commission calls upon the Government to prioritise the well-being and safety of its people over short economic benefits.

In another case, the Commission received a complaint from the residents of the NLFCS residential area on noise pollution due to the activities of the hydroelectric power plant in Port Dickson. The plant was constructed in 1994 and had been in operation since January 1995. According to the complainants, the residents around the area have been affected by the noise and vibration caused by the plant's activities. They further explained that the explosive sounds emanating from the power plant every time it starts its operations have resulted in some residents having hearing problems. They also raised concerns on the disturbance to their daily lives and the damage caused to their houses.

In relation to this complaint, the Commission had written to various authorities, namely the Negeri Sembilan State Government, the Energy Commission, the DOE, as well as the Port Dickson Land and District Office, and had received their replies. In summary, the Commission was informed that some residents, whose houses were close to the power plant, had received compensation and moved from that area. The plant had also engaged a consultant to monitor the noise and vibration caused by the power plant's operations and the consultant found that the noise was still within the allowable level and in compliance with the standards set by the DOE. When the Commission conveyed this information to the residents, they were disappointed with the replies given as their houses had cracked and their lives had been affected due to the vibration and noises. To prove the truth of their allegations, they were willing to offer their homes for any officer of the relevant authorities to live in for a week to monitor the level of noise and vibration. On this matter, they urged the Government to either force the owner of the plant to replace their homes with houses in other locations, or stop the operation of the plant. Prior to conducting any further inquiry, the Commission requested the residents to provide the Commission with photographs of the damage to their houses due to the vibration.

On 23 November, the media reported that Kemai River in Rompin had been polluted with black liquid.⁵⁴ It was reported that the pollution had been occurring for the past 5 months. The pollution had affected the daily lives of the Orang Asli around the area who depended on river resources for a living. Polluting the river is a wrongful act under the Environmental Quality Act 1974 (EQA)⁵⁵ and it affects the right to a healthy environment. As such, the Commission, on its own initiative, acted by highlighting the issue to the Pahang Department of Environment (JAS Pahang) and to JAKOA, and requesting for information on action that they had taken with regard to this matter. On 21 December, the Commission received a reply from JAKOA, which stated that JAKOA had observed the river on 16 December, and found that the river had fully recovered from the pollution. JAKOA had also alerted JAS Pahang's

54 "Kesal sungai bercampur cairan hitam", *Sinar Harian*, viewed at <http://www.sinarharian.com.my/mobile/edisi/pahang/kesal-sungai-bercampur-cairan-hitam-1.454608> on 23 November.

55 Section 25 of the Environmental Quality Act 1974:
(1) No person shall, unless licensed, emit, discharge or deposit any environmentally hazardous substances, pollutants or wastes into any inland waters in contravention of the acceptable conditions specified under section 21.

office in Rompin on this matter. On 22 December, the Commission received a reply from JAS Pahang, which stated that an investigation was being conducted and samples of the water had been taken on 24 November for analysis. JAS Pahang also promised the Commission that it would investigate this matter and take the necessary action if anyone is found to be responsible for the pollution.

(I) Death in Places of Detention

On 10 June, the Commission received a memorandum from Barisan Bertindak Hak-Hak Hindu (HINDRAF) regarding the death of a prisoner, Mr. Sasikumar s/o Selvam in Kluang Prison on 22 May. The complainant requested the Commission to urge the Government to conduct an inquest into the death and provide a copy of the post-mortem report of the deceased to the family.

The Commission visited Kluang Prison on 2 July to seek clarification and information in relation to the case. During the visit, the Commission was informed that:

- (i) Prior to the incident, the deceased had undergone a urine test, which came back positive for drugs. Prison officials had discovered drugs in his rectum during the investigation. Therefore, the prison officials had isolated the deceased from other inmates for interrogation;
- (ii) On 22 May at 9:59 PM, the warden on duty patrolled the block and observed that the deceased was in his cell. At 10:27 PM, upon patrolling, the warden found that the deceased was hanging by his pants which were wrapped around his neck and tied to the window grille of the cell;
- (iii) Soon after permission was obtained from the Prison Director, the warden unlocked the cell and cut the pants to bring down the body;
- (iv) The body was sent to Hospital Kluang at 1:45 AM on 23 May following the instructions of the Prison Director and the deceased was declared dead upon arrival; and
- (v) The prison authorities claimed that the deceased committed suicide due to the death threat that he received from a drug syndicate after he lost the drugs.

Subsequently, the Commission queried PDRM on the status of the investigation, and the AGC on whether an inquest would be held into the death. On 15 October, the Commission was informed by PDRM that the AGC had issued a directive for an inquest into the death to be conducted by a Coroner. When the Commission contacted the Johor Bahru Court, it was informed that the inquest had been scheduled to take place on 8-10 March 2016. In relation thereto, the Commission decided to conduct a watching brief in the inquest.

The Commission also received a complaint from a father who claimed that the death of his son in Sungai Udang Prison on 16 October was due to the negligence on the part of the prison authority in providing the necessary medical treatment to his son during his detention at the prison. According to the complainant, he had visited his son on 5 October and his son had confided to him that he was suffering from headache. His son claimed that he had informed the prison warder but no follow-up action was taken. The complainant had also alerted a prison officer of his son's illness after the visit. The complainant requested for an inquest to be held into the death so that similar incidents would not happen to other prisoners. The Commission had written to the Prison Department on 27 November to get feedback on the complaint. The Commission then received a reply from the Prison Department on 30 December providing the following information:

- (i) The deceased had received medical treatment 20 times since he was imprisoned. According to the treatment record, the deceased had been sent to the Malacca General Hospital on 30 September for treatment.
- (ii) He was brought to the prison's clinic on 7 October after complaining of headache and was prescribed medication.
- (iii) On 15 October at 9:30 PM, an inmate had informed the warder of the deceased's deteriorating health condition. The warder had taken immediate action by bringing the deceased to the clinic and calling the Assistant Medical Officer (AMO) to provide treatment. After being treated by the AMO, the deceased was placed in the clinic supposedly for further treatment on 16 October.
- (iv) From the post-mortem conducted, it was found that the cause of death was meningitis.

As part of Commission's monitoring of the human rights situation in places of detention, the Commission had requested from the respective authorities information on the number of deaths that had occurred in prisons, immigration detention centres, and police lock-ups in 2015, as well as the causes of the deaths, but until the time of writing, the response has yet to be provided.

(m) Protection from Discrimination

Article 7 of the UDHR provides that all are equal before the law and are entitled without any discrimination to equal protection of the law. The Commission believes that every complaint or allegation of violation of rights should be investigated fairly irrespective of the nationality, status or gender of the complainant.

On 18 September, the Commission was notified by the Asia Pacific Forum of National Human Rights Institutions (APF) of a Facebook posting regarding an incident in which a transgender

woman had been attacked by two men. The Commission responded by contacting the victim to get further details regarding the case. The victim informed the Commission that on 10 September, at 7:45 AM, she was attacked by two men. One of them beat her with a long iron rod. In her communication with the Commission, she mentioned that she might have been targeted because of her transsexuality. She had lodged a police report⁵⁶ and wished the police to investigate her case fairly and thoroughly without any prejudice. The victim indicated that for the time being she was leaving it to PDRM to investigate the case.

The Commission also took the initiative to inquire into an allegation that a police officer had threatened to rape a female youth when she was interrogated over her involvement in the May Day rally.⁵⁷ The Commission queried PDRM on the status of the investigation into the police report lodged by the youth. Based on PDRM's response that the Commission received on 27 August, the case had been marked for "no further action" (NFA). The response from PDRM did not contain further details. On 18 September, the Commission received a complaint from the youth through her lawyer, in which she requested the Commission to conduct a public inquiry into the incident as she claimed that PDRM's investigation was biased. According to the complainant, she was not even called to attend an identification parade to identify the policeman who had allegedly threatened to rape her during the interrogation. The Commission decided to record the statement of the youth on 27 October before any further decision is made on whether a public inquiry is necessary. However, the complainant was unavailable on the said date, and until the writing of this report the Commission has yet to record her statement.

(n) Right to Housing of Kelantan Flood Victims

According to Article 25(1) of the UDHR, everyone has the right to a standard of living adequate for the health and well-being of himself and his family. After a year since the devastating floods that hit Kelantan in 2014, there are flood victims still living in temporary tents in Gua Musang, Kelantan.⁵⁸ Concerned that the rights of the flood victims to enjoy an adequate standard of living, particularly the rights to housing, have been neglected, the Commission visited Gua Musang on 16-17 December to find out the cause of the delay in providing replacement houses to the affected families. During the visit, the Commission found that 107 affected families were living in the Ethno Botany Park National Service Training Programme Camp (the Camp), whereas seven families were still staying at the temporary tents and refused

56 Police report no.: Ampang/024366/15

57 "Youth detained over May Day rally says cop threatened to rape her", *The Malaysian Insider*, viewed at <http://www.themalaysianinsider.com/malaysia/article/youth-detained-over-may-day-rally-says-cop-threatened-to-rape-her> on 10 May.

58 "Setahun bah pergi, tapi khemah masih berdiri", *Malaysiakini*, viewed at <https://www.malaysiakini.com/news/322528> on 8 December; "Setahun selepas setingan dihanyutkan bah", *Malaysiakini*, viewed at <https://www.malaysiakini.com/news/323203> on 13 December.

to move to the Camp. The Commission met with several families out of the 107 families that were staying at the Camp in Gua Musang, and with the officer in charge of the Camp. During the visit to the Camp, the Commission was informed of and observed the following:

- (i) There were 107 families staying in the Camp after the Government requested them to move into the Camp from the temporary tents erected by the National Security Council after their houses were demolished by the flood. The families at the Camp were provided with free meals three times a day by the Government. There were also school buses provided to ferry the children of the families to school and back.
- (ii) The delay in providing replacement houses to the victims was due to the fact that the affected families did not own lands on which to build the houses. However, the Government had allocated a piece of land for the families where low-cost terrace houses were being built. They are expected to move into the houses in March 2016.
- (iii) After the National Security Council conducted a census, 95 of the families were found to be eligible to receive replacement houses, whereas 12 families were not eligible on the basis that their houses were repairable, or that they were non-citizens. Those whose houses were repairable could apply for financial aid of RM5,000 from the Government to repair their houses.
- (iv) The 12 ineligible families had been requested to move out from the Camp and return to their respective homes by 31 December. However, they had submitted appeals to the State Government to reconsider their application to be given the new houses.

During the visit to the temporary tents, the Commission only met with one person who was staying at the tent. The Commission was informed that the seven families refused to move to the Camp because of health conditions. However, the seven families had to move into the Camp by 31 December because the land that they were occupying was privately owned and designated for development into a playground area.

The Commission urges the Government to ensure that the construction of the replacement houses is completed in time and that there will be no eligible families being denied replacement houses. The Commission is following up on the issue with the National Security Council and the Kelantan State Government.

(o) Memorandum from the Settlers of Kampung Serampang Indah (Gatco)

On 3 June, the Commission received a memorandum from the Committee of Settlers of Kampung Serampang Indah (Gatco) regarding the alleged encroachment by gangsters into the land of their cultivation and residence. They claimed that the issue of ownership of the land is currently the subject of a court proceeding. The settlers had lodged 332 police reports

on the encroachment from 2012 to 2015, but they claimed that there had been no action taken following the reports. Instead, the police had arrested several settlers for allegedly encroaching into the land.

The Commission queried PDRM on the allegation through a letter dated 1 July. Until November, there had still been no response from the police, and due to that the Commission decided to meet with the Investigation Officers at Jempol District Police Headquarters on 5 December to seek an explanation on the case. A notice was sent to PDRM on 30 November for that purpose. The Commission however received an unfavourable response from PDRM rejecting the Commission's request to meet with the IOs, as the police claimed that it was not within the Commission's power to do so. The Commission did not accept PDRM's position on the matter, and it responded by asserting the power of the Commission to inquire into complaints as articulated by Section 14 of the SUHAKAM Act 1999, which clearly allows for two types of inquiry, namely an investigative inquiry without a public hearing (closed investigation) and a public or open inquiry, depending on the necessity of the case. Moreover, any attempt to obstruct the Commission from discharging its function would amount to contempt of lawful authority, an offence punishable under the Penal Code.

The Commission received a reply dated 22 December from PDRM in which the police clarified that they did not dispute the power of the Commission to conduct inquiries, they had simply misunderstood the request to meet the IOs as a preliminary fact-finding mission. PDRM therefore suggested that the Commission indicate clearly in its letter the purpose of such request. PDRM also requested for the officers who were going to exercise the Commission's power to provide a letter of delegation of power by the Commission. The Commission took the Police's clarification positively with the hope that there would be no more hindrance to the Commission's exercise of its functions and powers in future.

Nonetheless, the Commission stresses here that the function and power of the Commission as stated under the law is, among others, to inquire into a complaint. Therefore, any action undertaken by the Commission following a complaint received, or on the Commission's own initiative in relation to issues involving allegations of violation of human rights, be it in the form of a visit, fact-finding mission, written request to seek a response on allegations or asking for documents, recording of a statement, etc., should be understood as an inquiry even though it is not expressly mentioned in the Commission's notice. Each Inquiry Officer of the Commission is already provided with the Commission's appointment cards, which explicitly state that the carrier of such a card is accorded with certain powers of the Commission. As such, the issue of a letter of delegation of power should not arise. However, the Commission will deliberate on the issues pointed out by PDRM in its Commission Meeting in 2016 before making any further decision.

With regard to the complaint, the Commission will continue to query the police on the allegations until a response is received.

5. MONITORING OF PEACEFUL PUBLIC ASSEMBLIES AND RALLIES

In 2015, the Commission monitored six public assemblies.



The two-day Bersih 4.0 assembly was held in the centre of Kuala Lumpur city.

Table 5: Assemblies and Rallies Monitored in 2015

NO.	ASSEMBLY	DATE
1.	'#KitaLawan'	7 Mac
2.	'Bantah GST'	1 May
3.	'Citizens Against Rape Walk'	7 June
4.	'#AtTheEdge'	8 August
5.	'BERSIH 4.0'	29-30 August
6.	'Himpunan Baju Merah'	16 September

The Commission notes that there has been a lot of improvement since the introduction of the Peaceful Assembly Act 2012 (PAA) in terms of control of the assemblies by the authorities, management of the assemblies by the organisers, and reactions of the public to the assemblies. In general, everyone seems to be accepting that the right to assemble peacefully is part and parcel of the country's democracy. The peaceful organisation of several assemblies, especially the 2-day 'BERSIH 4.0' sit-in protest in the centre of Kuala Lumpur, has shown that the country is matured enough to deal with peaceful means of voicing out different opinions.

Protest demonstrations and public assemblies must be peaceful in order to be protected by international human rights law, and should there be disorderly conduct at any stage during

a peaceful assembly, protection may be forfeited. For democracy to flourish, people must be guaranteed their fundamental rights, including the rights to freedom of expression and of assembly, as a means to influence, among others, public policies. However, the right to peaceful assembly is not an excuse to perpetrate violence, which will only make a mockery of the concept of peaceful assembly.

6. VISITS TO PLACES OF DETENTION

During the year, the Commission carried out a total of 34 visits to places of detention. The visits were of two types, namely periodic visits and inquiry visits. Befitting the Commission's "Human Rights for All" motto, the focus of periodic visits to places of detention is not only on the condition and treatment of the detainees but also on the workplace, health, and safety conditions of the personnel. Among the common problems besieging places of detention are overcrowding; spreading of diseases, which is a matter that affects both staff and detainees; shortage of staff, dilapidated facilities; and budget constraints.

The Commission's visits to places of detention cannot be denied, provided that the Commission notify the authority in charge prior to the visits. Any refusal of access to a detention centre is tantamount to obstructing the discharge of the Commission's function, an offence punishable under Section 186 of the Penal Code.⁵⁹ However, the Commission's intended visit to Belantik Immigration Detention Centre in Kedah on 26 May was refused. The Commission is disappointed with the detention centre authority's disregard of the Commission's legal power to visit places of detention, as evidenced by their refusal. The Commission hopes such an incident will not be repeated in future.

59 Section 186 of Penal Code: Obstructing public servant in discharge of his public functions. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand ringgit, or with both.



The Commission's delegation led by Commissioner James Nayagam visiting the Community Rehabilitation Centre at Mekanize Military Camp.

On 5 October, the Commission conducted an unannounced joint visit with the Enforcement Agencies Integrity Commission (EAIC) to the Machap Umboo Immigration Detention Centre. It was the first unannounced visit conducted by the Commission after the Minister of Home Affairs had agreed, during a meeting on 24 April 2014, to the Commission visiting Immigration Detention Centres without notice.

To ensure the effectiveness of the Commission's visits to places of detention, with the purpose of monitoring the human rights condition and situation at such places, the Commission believes that it should be allowed to visit places of detention without notice. However, the authorities in charge of the places of detention, with the exception of the Immigration Department, have been reluctant to allow the Commission to visit without notice on the basis of security concerns, despite the fact that such power had already been given to another, newer, agency, the EAIC.

Table 6: Periodic Visits to Places of Detention in 2015

NO.	DATES	PLACES OF DETENTION
1.	25 May	Batu Gajah Rehabilitation Centre (PPA), Perak
3.	26 May	Sik Police Station lock-ups, Kedah
4.	27 May	Seberang Perai Prison, Pulau Pinang
5.	15 June	Cure and Care Rehabilitation Centre (CCRC), Karak, Pahang
6.	16 June	Dungun Correctional Centre, Terengganu
7.	16 June	Ajil Immigration Detention Centre, Terengganu

NO.	DATES	PLACES OF DETENTION
8.	17 June	Community Rehabilitation Center (PPP), Mekanize Camp, Bt. 10 Kuantan, Pahang
9.	17 August	Jelebu Drug Rehabilitation Institute, Negeri Sembilan
10.	18 August	Jasin Police Station lock-ups, Melaka
11.	18 August	Jasin Correctional Centre, Melaka
12.	19 August	Henry Gurney School, Telok Mas, Melaka
13.	3 September	Belantik Immigration Detention Centre, Kedah
14.	5 October	Machap Umboo Immigration Detention Centre, Melaka
15.	27 October	Tanah Merah Immigration Detention Centre, Kelantan
16.	27 October	Tanah Merah Police Station lock-ups, Kelantan
17.	28 October	Machang Rehabilitation Centre (PPA), Kelantan
18.	23 November	Muar Rehabilitation Centre (PPA), Johor
19.	24 November	Pekan Nenas Immigration Detention Centre, Johor
20.	26 November	Simpang Renggam Prison, Johor

Table 7: Visit to Places of detention for inquiry into complaints in 2015

NO.	DATES	PLACES OF DETENTION
1.	8 April	Bentong Prison, Pahang
2.	2 July	Kluang Prison, Johor
3.	3 July	Machap Umboo Immigration Detention Centre, Melaka
4.	10 July	Semenyih Immigration Detention Centre, Selangor
5.	1 September	Taiping Prison, Perak
6.	2 September	Alor Setar Prison, Kedah
7.	2 September	Juru Immigration Detention Centre, Pulau Pinang
8.	20 October	Sungai Buloh Prison, Selangor
9.	26 October	Marang Prison, Terengganu
10.	28 October	Kota Bharu Police Station lock-ups, Kelantan
11.	17 November	Kajang Women's Prison, Selangor
12.	25 November	Air Molek Remand Prison, Johor
13.	25 November	Johor Bahru Selatan Police Station lock-ups, Johor
14.	25 November	Sungai Buloh Prison, Selangor
15.	22 December	Sungai Buloh Prison, Selangor

7. ALTERNATIVES TO DETENTION (ATD) FOR CHILDREN IN IMMIGRATION DETENTION

In 2014, the Commission became part of the working group formed to study the implementation of ATD for children in detention. In 2015, the first Technical Committee meeting was held on 9 January. Members include representatives from the AGC, the Immigration Department (JIM), the Ministry of Women, Family and Community Development (MWFCD), the Social Welfare Department (JKM), SUKA Society (SUKA), as well as the International Detention Coalition (IDC). At the meeting, concerns were raised regarding the following:

- (i) Legal mechanisms for the implementation of ATD;
- (ii) Case resolution for the stateless population; and
- (iii) The issue of guardianship – legal guardians versus caregivers.

Subsequent to the said meeting, the Immigration Department called for a separate legal meeting between the Commission and legal representatives from the various Government agencies on 17 April. The objective of this meeting was to look into the legal hurdles in implementing ATD. The Commission was asked to prepare a legal proposal paper on ATD implementation, which it duly prepared and forwarded to the respective Government agencies on 9 September. Subsequent to that, a meeting was held on 30 November. The Commission had proposed for the ATD to be implemented by way of powers conferred under sections 27(1)(ii)⁶⁰ and 55(1)⁶¹ of the Immigration Act 1959/63, which allow the Director of Immigration and the Minister respectively to exercise discretion in respect of issues relating to immigration matters including detention. These provisions are to be read together with the applicable provisions under the Child Act 2001. The meeting, in principle, agreed with the proposal. However, the matter needs to be referred to the Attorney General's Chambers (AGC) for further advice. At the time of writing, the AGC has yet to provide their legal input on the matter.

60 Section 27 Immigration Act 1959/63:

Power to send person to depot for further examination

(1) Where an immigration officer is in doubt as to the right of any person to enter Malaysia, it shall be lawful for the officer to direct the person to an immigration depot and, in such case, the person shall proceed forthwith to the depot and shall remain there until permitted to leave by the officer:

Provided that—

...

(ii) the Director General may, in his discretion, and pending the completion of inquiries regarding the said person, release the person from the immigration depot on such terms and conditions as the Director General may deem fit, and for that purpose the Director General may issue to the person a Pass in the prescribed form.

61 Section 55 Immigration Act 1959/63:

Power to exempt

(1) Notwithstanding anything contained in this Act, the Minister may by order exempt any person or class of persons, either absolutely or conditionally, from all or any of the provisions of this Act and may in any such order provide for any presumptions necessary in order to give effect thereto.

8. LOOKING FORWARD

During the year, the Commission was faced with several hurdles in carrying out its mandate of inquiring into allegations of the violation of human rights, and of monitoring the human rights situation in the country. Among the hurdles are the denial of access to a detention centre and the difficulty in obtaining information from Government agencies. In summary, these challenges arise from, among others, the misperception that the Commission is a non-Governmental organisation (NGO); the misunderstanding that the Commission is only looking after the rights of criminals; the lack of knowledge on the Commission's power and mandate; and the misconception of human rights as an alien idea or part of a 'Western agenda' in contrast with Islamic values. Therefore, the Commission has used and will continue to use all available opportunities while dealing with various parties from the public and private sectors as well as people at large to convey the right information regarding the Commission and correct misperceptions about human rights.

To further strengthen cooperation with Government agencies, the Commission has requested to meet with the high level management of PDRM, JIM and the Prison Department. However, only the meeting with PDRM has taken place, which was on 3 December.

Nonetheless, the Commission appreciates the cooperation that has been extended to the Commission by various agencies during the year. Without such cooperation and commitment from Government agencies, the protection and fulfilment of, and respect for, the rights of the people could not be achieved.

2

CHAPTER

REPORT OF THE COMMUNICATIONS GROUP

- International Coordination Division
- Promotion and Public Relation Division
- Media Division
- Training Division



Sitting from left: Ms Wan Norhafizah Junid, Mr Abdul Rahman Abdullah (KPSU TD), Ms Lee Pei Hsi (KPSU PPRD), Mr Simon Karunagaram (TSU), Ms Jesrina Kaur Grewal (KPSU MD), Mr Wan Kasim Wan Kadir (KPSU ICD), Ms Chua Yen Sin

Standing from left: Ms Hasmah Abdul Manaf, Mr Muhamamad Syafiq Ikhwan, Mr Mohd Tan'im Tajuddin, Ms Adlyss Aldelya Mohd Adnan, Mr Dayalan Sundara Rajoo, Mr Abdul Saat Hamid, Mr Syahrizal Bakar, Mr Nyak Baqi Kamaruddin, Ms Elza Nadiyah Shaik Sulaiman, Ms Syairin Adirah, Mr Ahmad Afiifi Ramli

Not in the picture: Ms Fatimah Abd Wahab, Ms Noor Maslina Mahdan, Ms Siti Rahayu Mohamed Noor

I. INTERNATIONAL COORDINATION DIVISION

NHRIs will also have an important role to play in implementing the 2030 agenda for sustainable development, which was recently adopted at the UN Summit in New York. The integration of human rights in the Sustainable Development Goals agenda has been a turning point, and NHRIs can help us fulfil the powerful guiding idea of the 2030 agenda of ‘leaving no one behind’.

Joachim Ruecker

President of the Human Rights Council

According to international standards, it is incumbent upon a national human rights institution (NHRI), like the Commission, to interact and cooperate with international and regional human rights mechanisms and bodies, including those within the United Nations system, as a means to advance the promotion and protection of human rights domestically.

Recognising the usefulness of such engagements, the Commission gives importance to its role at the international and regional levels by, inter alia, establishing and strengthening relations, be they bilateral or multilateral, with entities relating to the promotion or protection of human rights.

This aspect of the Commission’s work is managed and facilitated by the International Coordination Division, which is currently placed under the Commission’s Communications Group. Among the notable positions held by the Commission during the year include the Chair of the Commonwealth Forum of NHRIs (CFNHRIs) and the Chair of the Southeast Asia NHRIs Forum (SEANF).

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

The ICC is the main international body of NHRIs, currently comprising around 108 members from all over the world. The Commission became a member of the ICC in 2002. Among other things, the ICC promotes the strengthening of, and interaction among, NHRIs, and facilitates NHRI engagement with UN human rights mechanisms, especially those of the Human Rights Council. Every member of the ICC undergoes an accreditation process, overseen by the ICC Sub-Committee on Accreditation (ICC-SCA) every five years, which assesses the NHRI's compliance with the Paris Principles. The Paris Principles are a set of minimum standards adopted by the UN General Assembly in 1993 to promote independence and effectiveness of NHRIs in promoting and protecting human rights.

The Commission was first accredited by the ICC in 2002, with an 'A' status, which denotes full compliance with the Paris Principles. 'B' status means that an NHRI does not fully comply with the Paris Principles whereas 'C' status reflects that an NHRI does not comply with the Paris Principles. In 2010, after a lengthy re-accreditation exercise, which started in 2007, the Commission was re-accredited with an 'A' status. This year, the Commission was again subjected to the ICC accreditation process. It mainly involved the submission of a Statement of Compliance by the Commission and a review by the ICC-SCA that took place on 17 November. The ICC-SCA, in arriving at its findings and recommendations, considered various aspects of the Commission's work and enabling law, the Human Rights Commission of Malaysia Act 1999. Such aspects included the Commission's programmes and activities, the process relating to the appointment of Commissioners, the term of Commissioners, the Commission's mandate and functions, the Commission's engagement with other human rights bodies, as well as the Commission's finances.

On 25 November, the Commission was very pleased to note that the ICC-SCA had recommended that the Commission's 'A' status be retained. While the recommendation came as pleasant news to the Commission, several red flags were raised by the ICC-SCA pertaining to the following matters:

(a) Selection and Appointment of Commissioners

The ICC-SCA makes mention of the process for the appointment of Commissioners and referred to the Committee with which the Prime Minister is to consult before nominating candidates for assent by His Majesty the Yang Di-Pertuan Agong. The ICC-SCA expresses its concern regarding the discretion that lies with the Prime Minister in appointing the three representatives of civil society who make up part of the membership of the Committee.

The ICC-SCA is also concerned that while the Prime Minister shall consult the Committee, there is no legal requirement that he or she nominate candidates from the list of individuals shortlisted by the Committee.

In addition, the ICC-SCA is of the view that the appointment process, as provided by the existing Human Rights Commission of Malaysia Act, is not sufficiently broad and transparent. The ICC-SCA therefore calls for the formalisation of a clear, transparent and participatory selection and appointment process, which includes the following:

- (i) Requirement for advertisement of vacancies;
- (ii) Establishment of clear and uniform criteria upon which the Committee is to assess the merits of the applicants; and
- (iii) Broad consultation and/or participation in the application, screening, selection, and appointment process.

(d) Appointment of Full-Time Commissioners

Noting that the current Human Rights Commission of Malaysia Act does not specify whether the Commissioners serve on full-time or part-time bases, the ICC-SCA recommends that the Act be amended to provide for the appointment of full-time Commissioners, which will assist in ensuring:

- (i) The independence of the NHRI from actual or perceived conflicts of interest;
- (ii) Stable tenure for Commissioners;
- (iii) Regular and appropriate direction for staff; and
- (iv) Ongoing and effective fulfilment of the NHRI's functions.

(c) Adequate Funding

The ICC-SCA notes with concern the decision by the Government to reduce the Commission's annual budget for 2016 by almost 50 per cent, and stresses that the Government should provide adequate funds to the Commission on an annual basis to allow it to discharge its functions. The ICC-SCA further emphasises that the allocation of adequate funds to the Commission should, at a minimum, include the following:

- (i) Funds for premises that is accessible to the wider community including persons with disabilities;
- (ii) Staff salaries and benefits comparable to those of civil servants performing similar tasks;

- (iii) Remuneration for Commissioners;
- (iv) Well-functioning communication systems including telephone and internet connections; and
- (v) Sufficient funds for mandated activities.

(d) Cooperation with Other Human Rights Bodies

The ICC-SCA encourages the Commission to maintain and strengthen its working relationships and engagements with other domestic institutions established to promote and protect human rights including CSOs.

(e) Tabling and Debate of the Commission's Annual Report and Special Reports

The ICC-SCA notes that the current Act does not require that the Commission's Annual Report be debated in Parliament. The ICC-SCA stresses the importance of incorporating in the NHRI's enabling law a process that requires the NHRI's reports to be publicly circulated and tabled, discussed, and considered by Parliament.

(f) Guarantee of Tenure

The ICC-SCA is of the view that Section 10(d) of the Human Rights Commission of Malaysia Act, relating to disqualification of Commissioners, provides significant discretion to the Prime Minister in recommending the removal of Commissioners. The ICC-SCA also feels that the grounds for disqualification, as stated under section 10(d), are ill-defined and therefore may not provide sufficient protection against political interference.

The Commission's fate and the final outcome of the re-accreditation exercise will only be known once the ICC Bureau, which is the board of management of the ICC, considers and decides whether or not to endorse the ICC-SCA's recommendation to retain the Commission's 'A' status. This will tentatively take place in March 2016.

The Commission views the observations and concerns raised by the ICC-SCA very seriously and will take the necessary steps to address them. Since almost all of the concerns involve recommendations to amend the Commission's founding law, which is beyond the ambit of the Commission's mandate, the Commission calls upon the Government to heed the ICC-SCA's observations and recommendations with a view to implementing them.

In December 2013, the Commission submitted a proposal to the Government via the Honourable Senator YB Paul Low Seng Kuan, Minister in the Prime Minister's Department, to amend a number of provisions of the Human Rights Commission of Malaysia Act. The

proposal was part of the Commission's efforts to empower itself so that it could discharge its functions and fulfil its mandate more effectively. The proposal was also made in anticipation of the re-accreditation exercise, with the knowledge that some aspects of the Commission's founding law were not fully on par with the standards set forth by the ICC accreditation process. The Commission will continue to advocate for those amendments and strongly hopes that the Government will take concrete actions to ensure that the proposed amendments are enacted.

The re-accreditation exercise came at a difficult time for the Commission, in the face of the Government's decision to reduce the Commission's annual budget for 2016 by close to 50 per cent. The Commission hopes that the Government will review its decision and allocate adequate funds to the Commission so as to allow it to carry out its duties and functions accordingly.

During the year, the Commission participated in several ICC events including the 28th Annual General Meeting of the ICC (ICC28) as well as the ICC International Conference, which were held in Geneva, Switzerland in March and in Merida, Mexico in October, respectively. The theme of the ICC International Conference for this year was the Role of NHRIs in Promoting the Implementation of the Sustainable Development Goals (SDGs). The main outcome of the ICC International Conference was the adoption of the Merida Declaration on the Post-2015 Agenda for Sustainable Development that underscores a range of actions and roles of an NHRI in promoting and monitoring the effective implementation of the recently adopted SDGs, which has 17 goals and 169 targets.

As a member of the ICC Working Group on Business and Human Rights, the Commission also attended both of the Working Group's meetings, which were held in Geneva at the margins of ICC28 in March, and the UN Forum on Business and Human Rights in November, respectively. At the meeting in March, the Commission, which was represented by Commissioner Prof Dato' Dr Aishah Bidin, presented a paper on extra-territorial human rights obligations (ETOs), outlining and emphasizing the importance of the Maastricht Principles especially when addressing issues relating to business and human rights. She also had the privilege of speaking on the role of NHRIs vis-à-vis the third pillar of the UN Guiding Principles on Business and Human Rights on access to remedy at the second Working Group Meeting in November. Furthermore, she also participated in the Annual Forum on Business and Human Rights in November in Geneva and was one of the speakers in the opening high-level plenary session entitled "The Leadership Panel", which discussed the theme of addressing barriers and challenges to advancing the agenda of business and human rights.

2. HUMAN RIGHTS COUNCIL (HRC)

The Commission continued to take advantage of the privilege accorded to 'A' status NHRIs to participate in the Regular Sessions of the HRC. The Commission finds it useful to contribute to relevant sessions of the HRC as it provides an additional and sound avenue to express the Commission's views and positions on various human rights issues as well as to share its experience and good practices with the international community.

This year the Commission submitted three video statements to the HRC, as follows:

- (i) Video Statement on the Abolition of the Death Penalty – delivered at the 28th Session of the HRC;
- (ii) Video Statement on the Report of the Visit to Malaysia by the Special Rapporteur on the Right to Health – delivered at the 29th Session of the HRC; and
- (iii) Video Statement on the Report of the Visit to Malaysia by the Special Rapporteur on Trafficking in Persons, especially Women and Children – delivered at the 29th Session of the HRC.

Furthermore, on the occasion of the 8th Session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), the Commission presented a statement that underlined among other things the need to take into account principles and provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) when formulating policies affecting indigenous peoples.

At the invitation of the ICC, the Commission also prepared a draft ICC Statement on Indigenous Peoples that was submitted to the 30th Session of the Human Rights Council. In the statement, the ICC called upon UN Member States, in consultation with indigenous peoples, to implement the commitments contained in the Outcome Document of the World Conference on Indigenous Peoples, which was adopted in 2014. Among the suggestions put forth in the statement were:

- (i) That Member States develop a UN system-wide action plan to ensure coherence and consistency in achieving the ends of UNDRIP;
- (ii) That Member States determine suitable processes to allow for more meaningful and effective participation of indigenous peoples' representatives and institutions in relevant UN forums; and
- (iii) That Member States develop national action plans to meet the goals and objectives of UNDRIP.

Every year since 2012, the Government has extended an invitation to a UN Special Procedures Mandate Holder to carry out an official mission to Malaysia, the last one being the UN Special Rapporteur on Trafficking in Persons, especially Women and Children, who visited Malaysia in February 2015. The Commission welcomes the Government's progressive stance in this regard as it believes that such missions by the UN Special Procedures Mandate Holders will allow certain human rights issues to be assessed objectively by the experts, who will then offer their findings and recommendations with a view to improving the human rights situation in the country. The Commission therefore hopes that the Government will maintain such a commendable practice and will invite other UN Special Procedures Mandate Holders to formally visit the country, including the Special Rapporteur on the Rights of Indigenous Peoples, the Special Rapporteur on the Human Rights of Migrants and the Special Rapporteur on the Rights of Persons with Disabilities.

3. UNITED NATIONS GENERAL ASSEMBLY RESOLUTION ON NHRIs

At the 70th Session of the United Nations General Assembly (UNGA) in November, a resolution on national human rights institutions (NHRIs) was adopted by the UNGA's Third Committee. The UNGA resolution, which was proposed by Germany, builds on the previous UNGA resolution on NHRIs of 2013 and reaffirms the UN's recognition of the important role of NHRIs in the promotion and protection of human rights. The resolution came on the heels of the UN Secretary General's report on NHRIs, which recommended, *inter alia*, that the independent participation rights of NHRIs in the UNGA as well as its subsidiary bodies and working groups be considered. At the moment, there is no formal avenue for NHRIs to participate independently in the UNGA. Within the UN system, only the Human Rights Council, its mechanisms and a handful of other UN forums grant independent and formal participation rights to NHRIs that fully comply with the Paris Principles.

The UNGA resolution on NHRIs calls for, among other things, an enhanced participation space for Paris Principles-compliant NHRIs in all relevant UN mechanisms and processes, including the Commission on the Status of Women, the Conference of States Parties to the Convention on the Rights of Persons with Disabilities and the Open-ended Working Group on Ageing. This is seen as a progressive step towards achieving independent participation rights for 'A' status NHRIs in all mechanisms of the UN especially those that are based in New York such as the UNGA. Such achievement may be attributed in part to the intensive advocacy efforts carried out by various stakeholders, including the NHRIs themselves.

At the invitation of the Asia Pacific Forum of NHRIs (APF), the Commission's Chairman Tan Sri Hasmy Agam participated in an side-event entitled "The Role of NHRIs in the UN System" that was held on 12 October at the margins of the UNGA's session at the UN Headquarters in New York. The side-event, which was co-hosted by the Permanent Missions of Germany, Afghanistan, Australia, Chile, Ghana and Morocco in collaboration with the International

Center for Human Rights, an international NGO based in Geneva, was part of an advocacy campaign to garner support for the resolution from Member States of the UN. During the side-event, Tan Sri Hasmy acted as one of the panel members and delivered a presentation on the importance of NHRIs participating in, and contributing to, UN mechanisms and processes.

This year's UNGA resolution on NHRIs, which was adopted without a vote, received wider support from the UN membership compared to the 2013 resolution, with an increased number of 90 co-sponsoring countries from different regions of the world. While the Commission was very pleased with the encouraging support enjoyed by the UNGA resolution, it was disappointed that Malaysia had yet again decided not to co-sponsor the resolution despite the Commission's continuous call for the Government to do so. The Commission acknowledges that by joining the consensus in adopting the resolution, Malaysia had in a way supported the resolution. However, the Commission is of the view that co-sponsoring the resolution would have been a better position for Malaysia – a country in which an NHRI has been operating for well over a decade now. Co-sponsoring the resolution would have demonstrated the Government's firm recognition of the importance of NHRIs in upholding human rights. Malaysia's co-sponsorship would also have given greater weight to the resolution, which is instrumental in achieving independent participation rights for NHRIs in all relevant UN mechanisms. NHRIs are independent bodies that are uniquely placed to provide an impartial perspective and an evidence-based assessment of the human rights situation facing the people. NHRIs are therefore well positioned to provide valuable information to the UN, which is necessary to generate informed discussions and deliberations of human rights matters at UN forums. The Commission strongly hopes that the Malaysian Government will review its stance in this regard and co-sponsor similar UN resolutions in the future.

That notwithstanding, the Commission commends the Government for voting in favour of the UNGA resolutions on human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms. In essence, the resolution calls for greater protection of the rights and safety of human rights defenders and condemns any act of reprisals against them. The Commission calls upon the Government to support and vote in favour of future UN resolutions which seek to promote greater respect and fulfilment of human rights.

4. COMMONWEALTH FORUM ON NATIONAL HUMAN RIGHTS INSTITUTIONS (CFNHRI)

The CFNHRI is another international network of NHRIs that seeks to promote sharing of information, experience and promising practices among member institutions. The membership of CFNHRI is made up of NHRIs from Commonwealth nations. In May 2013, the Commission assumed the chairmanship of CFNHRI for a two-year term, which ended in November this year.

One of the main CFNHRI events for the year was the Workshop on Early and Forced Marriage and Sexual Violence in Conflict, which was jointly organised by the Commission, the National Commission for Human Rights of Rwanda and the Human Rights Unit (HRU) of the Commonwealth Secretariat in May in Kigali, Rwanda. The Workshop resulted in the adoption of the Kigali Declaration, a landmark document which recognises the gravity of the situation relating to early and forced marriage, especially in the Commonwealth, and underscores key action items that could be undertaken by member NHRIs towards addressing and eliminating early and forced marriage.



*CFNHRI Workshop on Early and Forced Marriage and Sexual Violence
in Conflict in Rwanda in May*

In addition, the Commission, in its capacity as the outgoing CFNHRI Chair, together with the HRU of the Commonwealth Secretariat and the Northern Ireland Human Rights Commission (NIHRC), co-organised the CFNHRI Biennial Meeting, which was held in November in Malta. The Biennial Meeting was held in conjunction with the Commonwealth Heads of Government Meeting (CHOGM) and focused on several thematic human rights subjects, namely the prevention and elimination of child, early and forced marriage; freedom of expression, association and assembly; and migration. The Biennial Meeting also witnessed the handing over of the CFNHRI chairmanship from the Commission to the NIHRC.

One of the highlights of the Biennial Meeting was the adoption of the Outcome Statement, in which CFNHRI called upon Commonwealth Heads of Government to give greater priority to the promotion and protection of human rights including those of vulnerable groups, as well as to support the establishment and strengthening of NHRIs in Commonwealth nations. The Outcome Statement also underlined the need to dedicate greater efforts towards addressing issues concerning migration and freedom of expression, association and assembly. Another main outcome of the Biennial Meeting was the adoption of the St. Julian's Declaration on Climate Justice by CFNHRI members. The Declaration was formulated partly in anticipation of the 21st Session of the Conference of Parties to the UN Framework Convention on Climate

Change held in December, which culminated in the adoption of the Paris Agreement on Climate Change.

The Commission was pleased to note that in the CHOGM 2015 Communique, Commonwealth Heads of Government reaffirmed their commitment to the promotion and protection of human rights and expressed support for NHRIs. They also underlined the importance of ensuring that the right to freedom of expression and peaceful assembly as well as the rights of migrants, regardless of their migration status, are fully respected, and agreed to continue efforts to eliminate all forms of gender-based violence, including in conflict and other emergency situations.

5. THE UNIVERSAL PERIODIC REVIEW (UPR)

The UPR is a mechanism of the UN Human Rights Council which periodically reviews the human rights situation of all UN Member States every four and a half years. All Member States are subjected to the UPR process, which is currently in its second cycle. Malaysia underwent its first UPR in 2009 and its second one in 2013.

The UPR continues to be one of the priorities of the Commission as it believes that the UPR could serve as an effective tool to effect progress in the promotion and protection of human rights in the country.

During its second UPR, Malaysia received a total of 232 recommendations from 104 Member States. Of these recommendations, Malaysia accepted 150 and rejected 82. Malaysia's acceptance of the recommendations denotes Malaysia's commitment to their implementation. The progress of the implementation will be examined at Malaysia's third UPR, which is scheduled to take place in early 2018. This means that Malaysia has approximately two years to fully implement the 150 recommendations it has accepted. It is crucial that all countries including Malaysia honour their UPR commitments in order to ensure that the UPR process does not become an exercise in futility.

As part of the Commission's efforts to follow up on Malaysia's second UPR and to prompt concrete actions by the Government to meaningfully fulfil its UPR commitments, the Commission organised a consultation (the Consultation) involving Government agencies and CSOs in December in Kuala Lumpur. One of the main objectives of the Consultation was to identify strategies that would allow stakeholders to work together so as to ensure that the implementation of the UPR recommendations are not carried out in isolation by the Government without any form of involvement or contribution by other stakeholders including CSOs. The Commission strongly believes that it is necessary for the Government to engage and consult with the NHRI and CSOs in the UPR process as their expertise and experience will add value to the efforts by the Government in implementing the UPR recommendations.



Consultation on Malaysia's Second UPR in Kuala Lumpur in December

The Commission was very pleased to note, from the presentation delivered by the Ministry of Foreign Affairs (MOFA) during the Consultation, that the Government has put in place a plan of action for the UPR follow-up. According to MOFA, the plan of action includes cluster-based discussions that will focus on the various categorisations of the UPR recommendations as well as consultations with CSOs. Such proposed actions are in line with the suggestions that emerged from the Commission's previous briefing sessions on the UPR held in 2014. The Commission views the plan of action as a step in the right direction towards a more inclusive and transparent UPR follow-up exercise, and hopes that the plan of action will be enforced accordingly. Among the main recommendations that emerged from the Consultation were as follows:

- (i) That the Government submit its UPR midterm report to the Human Rights Council;
- (ii) That the Government translate information relating to Malaysia's UPR into the national language to promote greater awareness about the UPR among the public;
- (iii) That the Government, when consulting stakeholders, involve a wide range of CSOs including religious organisations;
- (iv) That CSOs play a more proactive role in the UPR process by engaging with and submitting input to the relevant Government agencies; and
- (v) That CSOs invite relevant Government agencies to participate in their events and programmes.

The Consultation is the first of a series of similar sessions that will be organised by the Commission in early 2016 in other locations in the country namely Kota Kinabalu, Kuching, Melaka, Kuala Terengganu, and Pulau Pinang. During these sessions, the Commission will

continue to stress the crucial role of federal and state Government agencies as well as local authorities in fulfilling the Government's UPR commitments. The Commission will also encourage CSOs to actively participate in the UPR process, not only by acting as pressure groups, but by offering their expertise and input in assisting the Government to meet its UPR goals.

The Commission calls upon the Government to accord the UPR the priority it deserves to ensure that the progress achieved under the UPR mechanism is not merely satisfactory in the eyes of the Human Rights Council, but will in effect lead to improvements in the realm of human rights that will make a difference in the lives of the Malaysian population.

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

The Commission continued to play an active role as a member of the APF through various programmes organised by the APF. In September, the Commission attended the Annual Meeting and Conference of the APF, which took place in Ulaanbaatar, Mongolia. The theme of the APF Conference was the prevention of torture and other ill-treatment. The Commission's Chairman acted as moderator for the session on the role of NHRIs in preventing torture and other forms of ill-treatment. In conjunction with the APF Annual Meeting, a dialogue between APF and NGOs on human rights defenders was held. The UN Special Rapporteur on Human Rights Defenders, Mr Michel Forst, spoke and offered his expert insight on the subject during the dialogue.

The Commission, represented by its Secretary, also participated in the annual APF Senior Executive Officials Meeting, which was held in Kuala Lumpur in November 2015. Among the main issues discussed were NHRI governance and management and engaging economic, social and cultural rights with a focus on the right to water.

The Commission sees the APF as an extremely useful avenue for NHRIs within the Asia Pacific region to build their capacities especially through the sharing of experience among member NHRIs as well as through the various training programmes and human rights manuals produced by the APF. The Commission has benefited immensely from its membership to the APF. This year the Commission participated in several capacity building sessions organised by the APF including on business and human rights, sexual orientation and gender identity, immigration detention and prevention of torture. The APF also provided some advice to the Commission with regard to its ICC re-accreditation exercise. In relation to this, the Commission commends the Malaysian Government for agreeing to provide an annual financial contribution to the APF amounting to USD50,000 for three years as a token of support towards the work of the APF, in line with the proposal made by the Commission in 2013.

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

The SEANF is a body that comprises the six NHRIs of Southeast Asia, namely the NHRIs of Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Timor Leste. Its main objective is to promote greater respect and fulfilment of human rights in Southeast Asia through joint activities as well as sharing of experience and promising practices.

In November 2014, the Commission assumed the chairmanship of SEANF for a period of almost a year until September 2015. As the Chair of SEANF, the Commission hosted several SEANF programmes including two Technical Working Group (TWG) Meetings, which were held in Kuala Lumpur in January and June 2015 respectively. The two TWG Meetings provided a venue for SEANF Members to discuss the establishment of a SEANF Permanent Secretariat and other human rights issues of common concern such as the rights of older persons, the role of NHRIs in conflict situations, domestication of international human rights standards, early and forced marriages and the role of NHRIs in protecting human rights defenders.

The Commission also organised a SEANF Workshop on Business and Human Rights in June 2015 in Kuala Lumpur, which focused on the UN Guiding Principles on Business and Human Rights and the development of national action plans (NAPs) on business and human rights.



SEANF Seminar on the Role of NHRIs in Promoting and Protecting Human Rights in Putrajaya in September

In addition, the Commission also organised a SEANF Seminar on the Role of NHRIs in Promoting and Protecting Human Rights in Putrajaya, with the objective of promoting greater recognition of the role of NHRIs and SEANF among ASEAN Member States and its sectoral bodies. The Seminar is part of SEANF's efforts to address the lack of recognition among ASEAN Governments towards the role of SEANF in upholding human rights in the Southeast Asian region. While the Commission appreciates the fact that currently only five of the ten

ASEAN Member States have NHRIs, it believes that it is nonetheless important for ASEAN and its bodies to formally engage and consult with the existing NHRIs and with SEANF on a regular basis on matters pertaining to human rights. The Commission had hoped that Malaysia, as the Chair of ASEAN, could instil a greater sense of recognition among ASEAN Member States towards SEANF.

Following the Seminar, the Commission hosted the 12th Annual Meeting of SEANF at the Everly Hotel in Putrajaya, during which several pertinent issues were deliberated upon, including the following:

- (i) Human rights and climate change;
- (ii) Post-2015 Sustainable Development Goals;
- (iii) Abolition of the death penalty;
- (iv) Rights of refugees, asylum seekers and victims of trafficking; and
- (v) National human rights action plans.

At the conclusion of the Annual Meeting, SEANF issued a Communique ahead of the 27th ASEAN Summit, to put forth recommendations on human rights matters to ASEAN Heads of Governments. One of the many points raised by SEANF in the Communique was the severe haze situation in the region that has been recurring year in year out. SEANF expressed its disappointment with the lack of action taken by the relevant ASEAN Governments against the perpetrators, including corporations, which have contributed to the highly unfavourable and adverse environmental condition that has led to various human rights violations, especially of the right to health. SEANF also called upon ASEAN Governments to ensure that the appropriate laws and policies are in place and are enforced strictly to address this longstanding issue, as well as to combat corruption and eliminate the culture of impunity. At the same time, SEANF urged corporate entities to take into account and observe human rights principles and standards in the course of their operations.

After acting as the SEANF Chair for ten months, SUHAKAM handed over the SEANF chairmanship to the Myanmar National Human Rights Commission, which will chair the Forum until the next SEANF Annual Meeting.

In the wake of the arrival of thousands of victims of trafficking, smuggled migrants, refugees, and asylum seekers on the shores of Indonesia and Malaysia in May, as well as the discovery of numerous detention camps and grave sites along the Malaysia-Thailand border where victims of human trafficking were believed to have been detained, tortured and buried, the Commission drafted a letter which was jointly signed by SEANF Members and issued to the Heads of Government of Indonesia, Malaysia, Myanmar, the Philippines and Thailand

to express SEANF's deep concern regarding the situation and to urge the Governments to individually and collectively make more intensified and concerted efforts to address the matter by, among others, tackling the root causes and push factors. The Commission is also of the view that a comprehensive and regional approach, involving bilateral and multilateral arrangements between relevant Governments, is necessary to effectively combat trafficking in persons and smuggling of migrants as well as to respond positively to the plight of refugees and asylum seekers in the region.

The Commission, in its capacity as the Chair of SEANF had also during the year submitted a Position Paper on the Review of the Terms of Reference (TOR) of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) as well as a Position Paper on the Review of the TOR of the ASEAN Intergovernmental Commission on Human Rights (AICHR). One of the recommendations of both Position Papers was for the two ASEAN human rights bodies to be empowered with the mandate to receive and look into complaints of alleged human rights violations especially when they relate to cross-border issues and involve more than one Member State. The Commission has yet to hear of any development regarding the review of the two TORs and hopes that the Malaysian Representatives to ACWC and AICHR will push for the adoption of the recommendations contained in the SEANF Position Papers.

8. ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

2015 marks a very significant year for ASEAN as it ushers in the formalisation of the much anticipated ASEAN Community, which constitutes a regional bloc of economic integration, political cooperation and social solidarity.

In addition, ASEAN, under the chairmanship of Malaysia, formulated and adopted the ASEAN Community's Post-2015 Vision and its Attendant Documents, which will chart the way forward for ASEAN in the coming decade. In anticipation of this landmark document, the Commission submitted a Position Paper to the Malaysian Government in March, highlighting a range of recommendations on various human rights issues for the consideration of ASEAN in the formulation of the Post-2015 Vision and the Attendant Documents. While the Commission notes with appreciation the incorporation of several of its recommendations into the document, it regrets that no reference was made to the role of NHRIs.

During the year, the Commission strengthened its engagement with AICHR, especially through its Malaysian representative, who was then also the Chair of AICHR. In April, the Commission had a meeting with the Malaysian Representative to discuss possible areas of cooperation. As a result, both parties agreed on several joint activities including the organisation of two events, namely the AICHR Symposium on the Judiciary, Rule of Law and Human Rights and the AICHR Workshop on the Role of Youth in Promoting Human Rights.



AICHR Regional Workshop on the Role of Youth in Promoting Human Rights in Kuala Lumpur in October

The “AICHR Regional Workshop on the Role of Youth in Promoting Human Rights in ASEAN: Making Rights a Reality” was co-organised by the Ministry of Foreign Affairs, the Commission and the Asia-Europe Institute of the University of Malaya with several other partners including the Ministry of Youth and Sports, Global Movement of Moderates Foundation, Centre for ASEAN Regionalism of the University of Malaya, and Youth Academy Malaysia, and saw the participation of around 80 youth participants from ASEAN countries. Commission Members and officers served as speakers for several panel discussions and facilitated a break-out session that resulted in a submission by the participants to AICHR. The submission incorporated recommendations to AICHR on how to address various human rights issues within ASEAN such as business and human rights, trafficking in persons, and reproductive health and human rights. Unfortunately, due to the bad haze situation in Malaysia, the AICHR Symposium on the Judiciary, Rule of Law, and Human Rights had to be postponed indefinitely.

The Commission notes that AICHR had in August adopted its five-year work plan for the period 2016-2020, which includes initiating studies on thematic human rights issues such as migration, trafficking in persons, right to health, right to education, right to life and right to peace, all of which are, in the Commission’s opinion, very relevant in the context of the region. The Commission hopes that such studies will be carried out in close consultation with the existing NHRIs in ASEAN countries and CSOs and that the findings will be made available to the public. Furthermore, the Commission warmly welcomes the various workshops and conferences on human rights organised by AICHR, to which NHRIs and CSOs are normally invited, and calls upon AICHR to intensify such efforts in the years to come.

Engagement with stakeholders, including NHRIs, CSOs and the public, is paramount especially in the context of achieving a people-centred ASEAN Community – a long-established aspiration of ASEAN. ASEAN and all its bodies should dedicate a lot more effort to engage and consult with stakeholders so that issues that are close to the people will be given more attention.

This is essential to ensure that ASEAN becomes relevant to the peoples of Southeast Asia and is not rendered as an abstraction that is well received only by the Governments and senior officials of ASEAN countries.

In the pursuit of economic growth and prosperity, human rights are often side-lined. Therefore it is extremely crucial that ASEAN does not lose sight of the need to give prominence and priority to the promotion and protection of human rights, without which a person will not be able to live a life of dignity, respect, and self-worth. In this light, the Commission hopes that with the advent of the ASEAN Community, human rights will become one of the features that occupy the centre stage of ASEAN's mission and vision, and do not remain as a peripheral item in ASEAN's agenda. The Commission calls upon the Malaysian Government, as a respectable member of ASEAN, to play a definitive role towards this end.

9. LOOKING FORWARD

The Commission views the international dimension of its work as instrumental in advancing the promotion and protection of human rights in the country. It is therefore crucial that the Commission continues its engagement and activities at the international front. To this end, the International Coordination Division looks forward to strengthening its role in facilitating the Commission's participation and engagement in relevant forums at the regional and international levels.

II. PROMOTION AND PUBLIC RELATIONS DIVISION

The cause of freedom is not the cause of a race or a sect, a party or a class - it is the cause of humankind, the very birthright of humanity.

Anna Julia Cooper

Pre-eminent African-American scholar, educator, and champion of race and gender equality.

In November 2015, the Commission replaced the former Public Relations Division with the Promotion and Public Relations Division (PPRD) through an internal restructuring exercise. Under this new structure, PPRD is responsible for discharging one of the Commission's core functions, which is to raise public awareness on human rights as well as to enhance the Commission's relationships with various stakeholders.

1. THE 15th ANNIVERSARY OF THE COMMISSION

9 September 2015 marked the 15th Anniversary of the Commission's establishment in Malaysia as a National Human Rights Institution (NHRI). To commemorate this significant milestone, the Commission organised a Talk Show themed "SUHAKAM at 15: Still a Toothless Tiger...?" featuring an interesting discussion among its former Vice Chairman Tan Sri Simon Sipaut, its current Chairman Tan Sri Hasmy Agam, Mr Andrew Khoo (Co-Chair of the Bar Council's Human Rights Committee) and Dr Lin Mui Kiang (Member of PROHAM), and moderated by its former Commissioner and CEO of ASLI Tan Sri Dato' Dr Michael Yeoh Onn Kheng.

Among the pertinent issues and recommendations that arose from the discussion were:

- (i) Despite having to confront claims of it being a toothless tiger, the Commission has achieved some significant milestones, including conducting its first ever National Inquiry into Land Rights of Indigenous Peoples in Malaysia and a number of public inquiries into alleged human rights violations during public rallies, holding watching briefs in legal proceedings involving human rights issues, as well as making headway in the areas of human rights awareness, education and training;

- (ii) Although the Commission's annual reports have been tabled before the Dewan Rakyat over the years, none of them had ever been debated or discussed in Parliament. Hence, it is difficult to reconcile the Government's assertion that it listens to the Commission when it has consistently refused to allow Parliament to hear what the Commission has to say;
- (iii) The Government must enhance the role and responsibility of the Commission to enable it to monitor human rights compliance among Government agencies and business entities in their policy planning and implementation, practices and operations;
- (iv) The Government should support and consider favourably the Commission's proposed amendments to its founding Act (Act 597) that are aimed at strengthening the effectiveness of the Commission in the discharge of its functions as a Paris Principles-compliant National Human Rights Institution (NHRI). This is particularly important given the fact that the Commission would be undergoing its re-accreditation exercise by the International Coordinating Committee (ICC) in November and that the Commission was required to respond to the ICC on the status of the proposed amendments to its founding Act, failing which the Commission risks a potential downgrade of its international accreditation from "A" status to "B" status;
- (v) The concept of human rights is often interpreted or understood by some groups in the country as a 'western-driven' agenda, which is not at all true. This lack of understanding about the concept of human rights will continue to hinder the country from taking progressive steps towards achieving its goal to become a developed nation by 2020; and
- (vi) It was recommended that the Government work with all stakeholders including the Commission and civil society organisations in the drafting of the National Human Rights Plan (NHRAP) and the follow-up to the Universal Periodic Review recommendations, as well as in the implementation of the 17 Sustainable Development Goals, a new global agenda meant to guide national development plans and policies.

Although the Commission's annual reports have been tabled before the Dewan Rakyat over the years, none of them had ever been debated or discussed in Parliament. Hence, it is difficult to reconcile the Government's assertion that it listens to the Commission when it has consistently refused to allow Parliament to hear what the Commission has to say.

The Talk Show was followed by the 2015 Human Rights Awards Presentation Ceremony, in which six recipients were honoured for their contributions in the advancement of human rights in Malaysia.



Commission Chairman, Tan Sri Hasmy Agam, speaking at the Talk Show themed "SUHAKAM at 15: Still a Toothless Tiger...?"

2. HUMAN RIGHTS AWARDS 2015

(a) Nominations

- (i) The Commission received a total of 42 nominations for five categories:
- (ii) The Individual Award is presented to an individual who has demonstrated significant achievements in serving the cause of human rights in the community on a pro bono basis.
- (iii) The Organisation/Group Award is presented to a registered non-profit organisation or a non-registered advocacy group that has demonstrated significant achievements in serving the cause of human rights in the community on a pro bono basis.
- (iv) The Media Awards are presented to three individuals and/or agencies from the Malaysian print, online and broadcast media that have published or produced a significant human rights report/documentary/programme.
- (v) The Government Award is presented to a Malaysian Government agency or statutory body that has demonstrated human rights best practices in their implementation of policies and regulations, programmes and services.

- (vi) The Business Award is presented to a business entity that has demonstrated human rights best practices in its delivery of services and conduct of business activities.

(b) Recipients in 2015

(i) The Individual Award

Mr Jerald Joseph was honoured for his continued efforts to uphold the rights of marginalized groups and to eliminate racial discrimination in Malaysia.

(ii) The Organisation/Group Award

The Perak Society for the Promotion of Mental Health received the award for its contributions in providing rehabilitation to successfully treated female mental patients and in assisting them to gain the skills and confidence to re-assimilate into society.

(iii) The Media Awards

Two senior media personnel - Masjaliza Hamzah, Sub-Editor at Malaysiakini.com, and Aruldas Sinnappan of the Malay Mail - were honoured with the media award.

Masjaliza Hamzah was honoured for her tireless efforts in advocating for media freedom, women's rights to development, and various aspects of social justice through campaigns, research, training, and projects.

Aruldas Sinnappan was recognised for his continuous efforts to investigate, discover, and expose issues concerning human trafficking and the smuggling of migrants in Malaysia, including the infamous discovery of the 'death camps' erected across Malaysia-Thai borders, within which various shallow graves were found. This discovery was later confirmed by the Government of Malaysia.

(iv) The Government Award

The Fire and Rescue Department of Malaysia was honoured for its dedication in fulfilling the fundamental right of individuals and families to adequate housing through its "House Build" programme. This programme has been implemented since 2012 to assist disadvantaged families in rebuilding their houses that had been destroyed in fires, as well as to assist poverty stricken families.

(v) Special Award

This went to Nurul Eeman binti Haji Mansor for her continuous efforts in promoting human rights best practices as well as principles of the Convention on the Rights of the Child (CRC) among school communities.

Nurul Eeman binti Haji Mansor, the youngest award recipient, was recognised for her commendable initiatives in promoting children's rights since the tender age of 14 at various local and international platforms.



Members of the Commission with recipients of the 2015 Human Rights Awards.

3. HUMAN RIGHTS AND THE ARTS

On 26 May, the Commission's first ever human rights comic entitled "ATHAM" (Malay acronym for Human Rights Best Practices in Schools) was successfully launched by YB Mr P. Kamalanathan, the Deputy Minister of Education and Higher Learning II, at SK Taman Tun Dr Ismail 1.

The launching ceremony was attended by 270 participants comprising representatives from district, state and federal level Education Departments, UNICEF, the United Nations Country Team (UNCT), and Monash University Malaysia, as well as teachers and students from various primary and secondary schools in the Klang Valley.

Recognising the importance of sharing the children's rights principles embedded in the comic with a wider range of groups in the country, the Commission distributed, during the first phase of the project, the comics to some 150 schools in Malaysia. The Commission also plans to translate the comic into other local languages that are widely used in Peninsular Malaysia, Sabah and Sarawak.



YB Mr P. Kamalanathan with school children at the Launching Ceremony of SUHAKAM's ATHAM Comic.

4. JOINT CAMPAIGN FOR MALAYSIA'S ACCESSION TO THE UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT (CAT)

During the year, the Commission, in collaboration with Amnesty International Malaysia, SUARAM, Bar Council, and Lawyers for Liberty, embarked on a joint campaign to advocate for Malaysia's accession to the CAT. The main objective of this joint campaign was to promote greater awareness among various stakeholders on the importance of acceding to the CAT, with a view towards eliminating and preventing acts of torture or other cruel, inhuman, or degrading treatment or punishment.

The joint campaign was officially launched on 26 June in conjunction with the UN International Human Rights Day in Support of Victims of Torture. It was attended by 88 representatives from Government agencies, non-governmental organisations, foreign embassies in Malaysia, legal practitioners, students, and the media.

In order to promote greater public awareness and support for this campaign through the use of social media tools, the Commission and its campaign partners created a FaceBook Page entitled **"ACT4CATMalaysia"** and used the hashtags **#ACT4CAT** and **#HENTISEKSA**. In addition to this, the Commission also produced some promotional materials including pamphlets, posters, and T-shirts as additional tools to promote the campaign and to support the Commission's ongoing efforts to advocate for Malaysia's accession to the CAT.

The Commission and its campaign partners also jointly organised a series of awareness-raising activities including exhibitions, experience-sharing sessions, and film screenings on 11-12 December as part of the Human Rights Week celebration in conjunction with International Human Rights Day. Among the highlights of the programme were the experience-sharing sessions on the discovery of the human trafficking victims' death camps and mass graves in Wang Kelian, Perlis by Mr S. Aruldas from the Malay Mail, as well as experience-sharing by family members of a former Internal Security Act (ISA) detainee and victims of custodial deaths. There was also a replica of the Wang Kelian human cage, intended for visitors to experience the harsh situation of being locked up.



Participants experiencing being locked up in a human cage.

5. HUMAN RIGHTS AND TECHNOLOGIES

In 2015, the Commission established a partnership with the School of Information Technology (SIT), Monash University Malaysia to promote human rights through technologies. In order to formalise this partnership, the Commission and Monash University Malaysia signed a Memorandum of Understanding (MoU) for an initial period of two years on 20 October. The MoU outlines four substantive areas of cooperation, which may include, but are not limited to, the following:

- (i) Developing human rights promotional tools through Information and Communications Technology (ICT) such as mobile applications, computer animation, and human rights themed games;
- (ii) Undertaking human rights awareness-raising activities such as exhibitions, talks and lectures;
- (iii) Internships and exchange programmes; and
- (iv) Undertaking a joint research study on human rights issues.

In implementing the MoU, the Commission and the SIT of Monash University Malaysia initiated three joint projects, namely the development of a human rights mobile application (mobile app), a human rights animation as well as the use of a robot as a human rights activist. The development of these projects involved technical assistance from a team of five students selected from among the postgraduate and undergraduate students of the SIT of Monash University Malaysia, for a duration of 13 weeks and on a cost-sharing basis. The involvement of these students was also in line with one of the purposes of the MoU, which is to equip students with human rights knowledge as well as to enhance public understanding of human rights through technologies.

The Commission deems this partnership to be a significant way to raise greater awareness of human rights and looks forward to exploring the possible collaborations of expertise between the two parties in their mutual endeavour to promote better understanding and respect of human rights among all levels of society.



Signing ceremony of the MoU between the Commission and Monash University Malaysia.

6. JOINT CELEBRATION OF THE INTERNATIONAL HUMAN RIGHTS DAY

The Commission continued to take part in the celebration of the International Human Rights Day led by the United Nations Country Team (UNCT), in collaboration with several organisations, namely the Bar Council, PROHAM, Brickfields Asia College, the Global Movement of Moderates Foundation (GMMF), Scope Group, as well as YB Senator Datuk Paul Low Seng Kuan's Office.

On 7 December, the Commission and the above collaborators jointly organised a one-day event officiated by YB Senator Datuk Paul Low, Minister in the Prime Minister's Department in charge of Governance and Integrity. The event flagged off the Human Rights Week celebration in commemoration of the International Human Rights Day which falls on 10 December every year.

One key highlight of the event was a Panel Discussion on "Human Rights and Fundamental Freedoms as the Foundation for an Inclusive Future". The Panel Discussion was moderated by Mr Wan Saiful Wan Jan, Chief Executive of the Institute for Democracy and Economic Affairs (IDEAS), and featured six panellists representing voices of various vulnerable groups in Malaysia. They included: Mr Anderson Selvasegaram, Executive Director of SUKA Society; Mr Francis John, Commissioner of SUHAKAM; Ms Nisha Ayub, Project Manager of SEED Foundation; Ms Shanti Dairiam, former member of the UN's CEDAW Committee; Mr Yusri Ahon, President of the Indigenous Peoples Network of Malaysia (JOAS); as well as a youth advocate, Ms Nurul Eeman Mansor.

The Panel Discussion enabled the panellists to explore from their respective lenses the notion of inclusive development and a rights-based approach to development. Among the key points derived from the constructive dialogue were:

- (i) The need for a public platform to be built to ensure stateless children can gain access to education and personal development in view of the difficulties in setting up schools in rural areas where stateless people are located;
- (ii) The need for society to treat transgender people equally as fellow human beings. There are models of Islamic governance such as the Iranian and Palestinian models that could be referred to in dealing with the complex and sensitive issue involving the equal sharing of rights with the transgender community in a Muslim country;
- (iii) The need for society to focus on the credentials and abilities of persons with disabilities, instead of looking only at their disabilities, in order to ensure that they fully enjoy their rights;
- (iv) The need for the Government to assist Indigenous Peoples to overcome the hurdles they face in enjoying their rights to education and cultural preservation due to various issues. While Indigenous Peoples are supportive of development, this should not be done at the cost of losing their culture and identities; and
- (v) The need for the national education system to promote critical thinking and to nurture passion for change in today's generation.

There is a need for the national education system to promote critical thinking and to nurture passion for change in today's generation.

The Panel Discussion was then followed by a series of activities including exhibitions jointly hosted by the Commission and its campaign partners that were aimed at promoting zero torture and advocating for Malaysia's accession to the CAT, as well as UNICEF's exhibition on its child rights-related programmes.

There was also an interesting activity entitled 'Human Library' organised by Scope Group with the aim of creating dialogue and understanding among people. Through the Human Library, participants were given the opportunity to interact with individuals who volunteer as human 'books'. These volunteers were those who had experienced discrimination based on race, religion, sexual preference, class, gender identity, sex, age, lifestyle choices, disability, and other aspects of their lives.

7. DIALOGUE SESSIONS ON THE GOVERNMENT'S RESPONSES TO THE COMMISSION'S 2014 ANNUAL REPORT

As in the previous year, the Commission continued to dialogue with relevant Ministries and Government agencies on the Government's Response to the Commission's 2014 Annual Report, as consolidated by the Legal Affairs Division of the Prime Minister's Department (BHEUU). Two separate dialogue sessions were held on 10 December to discuss in depth the key issues and recommendations highlighted in the Commission's 2014 Annual Report.

The first session was attended by 30 representatives from 14 state and federal level Government agencies including BHEUU, the office of YB Senator Datuk Paul Low Seng Kuan, the Royal Malaysia Police (PDRM), the Ministry of Home Affairs, the Attorney-General's Chambers, the Ministry of Women, Family and Community Development, the Ministry of Health, the Ministry of Finance, the Ministry of Human Resources, the Ministry of Higher Education, the National Registration Department, Sabah National Registration Department, the Social Welfare Department, as well as the Federal Territory Islamic Affairs Department.

Among the key issues discussed in this session were those contained in Chapters 2 to 5 in the Commission's 2014 Annual Report pertaining to the actions taken by the Integrity and Standard Compliance Department (JIPS) against the misconduct of the police, the Universities and Universities Colleges Act (UUCA) 1971, workers' rights, the issues faced by refugees and asylum seekers, the Commission's monitoring of public rallies, rights of older persons and support for their caregivers, Malaysia's reservations to the Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD), the right to health and persons living with HIV/AIDS, the Commission's re-accreditation by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), the Human Rights Council's Resolution on NHRIs, the National Human Rights Action Plan (NHRAP), the ASEAN Intergovernmental Commission on Human Rights (AICHR), the Universal Periodic Review, stateless children in Malaysia, rights of persons with disabilities, and the Commission's visits to community-based rehabilitation centres (CBR) for children with disabilities as well as homes for the aged.

The second session was attended by 26 representatives from nine state and federal Government agencies, namely the Ministry of Education, the Ministry of Health, the Department of Islamic Development Malaysia (JAKIM), the Department of Orang Asli Development, the Ministry of Works, the Public Works Department, Sarawak Social Welfare Department and Sarawak Education Department.

This session discussed education-related issues contained in Chapters 1, 3(I) and 5 of the 2014 Annual Report including schools for Orang Asli children, Sekolah Agama Rakyat (religious schools) and education of children with learning disabilities (CWLD).

The dialogue session served as a useful platform for both the Commission and relevant Government agencies to exchange views and feedback on the key issues and recommendations in the Commission's 2014 Annual Report. More importantly, it enabled the Commission to obtain detailed information on the follow-up actions of the respective implementing agencies with regard to the matters raised in the Commission's 2014 Annual Report.

8. TALKS AND EXHIBITIONS

In 2015, the Commission continued to raise awareness among the grass roots community regarding its roles and functions through its outreach programmes, such as 'SUHAKAM Bersama Masyarakat' ('Meet-the-People' sessions). These were held in Segamat, Johor (14 February), Changlun, Kedah (28 April), Cameron Highlands, Pahang (11 Jun), Kemaman, Terengganu (12 August) and Ayer Keroh, Melaka (7 October).

Apart from the exhibitions organised in conjunction with its roadshows and CAT campaign activities, the Commission was also invited by Kuala Lumpur University to host exhibition booths on their campuses on 11 April. The Commission also hosted a booth at the exhibition organised by the Ministry of Women, Family and Community Development, as well as by IIUM, on 6 October and 16 November, respectively.

9. COURTESY CALLS

(a) Visits by Local and Foreign Delegations

In 2015, the Commission welcomed 19 local and foreign delegations from NGOs, United Nations agencies and universities. The key visits are summarized as follows:

DATE	DETAILS OF VISIT
24 February	The Commission was visited by Ms. Maria Grazia Giammarinaro, Special Rapporteur on Trafficking in Persons, Especially Women And Children. The visit was to discuss pertinent issues related to human trafficking in Malaysia and the work of the Commission in this field.
18 March	The Commission welcomed a visit by the International Labor Organisation (ILO) GMS TRIANGLE project design team. The main purpose of the visit was to obtain input from the Commission pertaining to migration.

DATE	DETAILS OF VISIT
23 April	The Commission received a delegation from the Human Rights Resource Centre (HRRC). The visit was to discuss the key findings of HRRC's study "Keeping the Faith: A Study of Freedom of Thought, Conscience and Religion in ASEAN", as well as to share the Commission's views on the situation of freedom of religion in Malaysia.
12 May	The Commission welcomed a visit by Mr. Bob Paquin, Deputy Director of the Human Rights Division of Canada's Department of Foreign Affairs, Trade and Development. The meeting was to discuss the current human rights situation in Malaysia.
22 May	A delegation from the China Society for Human Rights Studies (CSHRS) called on the Commission to obtain information about the roles and functions of the Commission, as well as to exchange views on human rights issues in general.
1 July	The Commission welcomed a visit by the Hon. Senator Juan Pablo Letelier (Chile), Member of the Inter-Parliamentary Union's Committee on the Human Rights of Parliamentarians that aimed to discuss contentious human rights in Malaysia.
8 July	A delegation of students from Leiden University, the Netherlands, visited the Commission. This visit was to understand the Commission's functions as a National Human Rights Institution as well as to discuss human rights issues in Malaysia.
24 July	The Commission welcomed a visit by interns from the Bar Council's Legal Aid Centre. This visit was to give the interns an introduction on the functions and work of the Commission as well as to exchange views on human rights issues in Malaysia.
12 August	The Commission received a delegation of students and teachers from SMK Kuala Temomong, Terengganu. This visit was to introduce the group to the Commission's roles and functions in promoting and protecting human rights in Malaysia.
11 September	The Commission welcomed a delegation from the Bangladeshi Human Rights Foundation. This visit was to discuss the functions and work of the Commission as well as to exchange views on key human rights issues in Malaysia.

DATE	DETAILS OF VISIT
10 October	The Commission received a delegation led by the President of the International Human Rights Committee, Dr Sir Iftikhar Ayaz. This visit was to discuss the issues faced by the Ahmadiyah community in Malaysia and possible actions that may be undertaken by the Commission in its capacity as a National Human Rights Institution.
4 December	The Commission welcomed a visit by Mr Minar Pimple, Senior Director of Global Operations, Amnesty International UK to discuss Amnesty International's proposed plan to set up a regional office in Bangkok.

(b) Courtesy Calls and Meetings

On 16 February, the Commission called on the Enforcement Agencies Integrity Commission (EAIC) to explore possible collaborative efforts for organising awareness-raising activities on human rights and the integrity of enforcement agencies under the purview of EAIC.

On 25 March, the Commission called on YB Major General Dato' Seri Jamil Khir Bin Baharom, Minister in the Prime Minister's Department (Islamic Affairs), to discuss issues pertaining to Islam and Human Rights, in addition to fostering and forging positive working relationships between both organisations.

On 3 April, the Commission was invited to an exchange session with the United Nations Children's Fund (UNICEF) Executive Board, to discuss UNICEF's new Country Programme, which will be supporting Malaysia's 11th Malaysia Plan, with the Economic Planning Unit (EPU).

On 26 May, the Commission met with YB Kamalanathan, Deputy Minister (II) of Education to discuss the official launch of the Commission's human rights comic.

On 14 September, the Commission's Chairman called on the President of the Senate, Tan Sri Abu Zahar Ujang to discuss the proposal on the establishment of a Parliamentary Select Committee on Human Rights (PSC) and the Commission's engagement with Parliamentarians in the context of the Belgrade Principles.

On 3 November, the Commission held a luncheon and dialogue session with members of the Barisan Nasional Backbenchers Club (BNBBC) to discuss the possible engagement between the Commission and Parliamentarians as well as the establishment of a Parliamentary Select Committee on Human Rights.

On 18 November, the Commission called on Dewan Rakyat Speaker Tan Sri Pandikar Amin. Apart from discussing the idea of setting up a PSC, the visit was also intended to discuss the Commission's role and mandate, the challenges and long-standing hope for Parliament to

debate or consider the Commission's Annual Report and the setting up of a PSC, and the relationship between Parliament and the Commission.

10. PARLIAMENT AFFAIRS

As reported by the Policy Division, the Commission has been making efforts for the establishment of a Parliamentary Select Committee as an interim measure towards full parliamentary debate on the Commission's annual reports and all human rights issues.

The Commission is pleased to observe that several Members of Parliament have raised issues related to the Commission during the sitting of the House of Representatives (Dewan Rakyat) this year. Among questions raised during the parliamentary debates were those in relation to the:

- (i) Government's consultation with the Commission when enacting new legislation;
- (ii) Government's effort in strengthening and empowering the Commission;
- (iii) Number of annual reports that have been tabled and debated in Parliament and the subsequent follow-up actions taken by the Government; and
- (iv) Budget reduction for the Commission.

The Commission hopes to see more Members of Parliament raising and debating issues related to human rights and the performance of the Commission. Although there are no dedicated sessions on human rights, Members of Parliament should make every effort to include human rights as one of the prominent topics in Parliamentary debates.

11. ENGAGEMENT WITH ISLAMIC RELIGIOUS ORGANISATIONS

In 2015, the Commission expanded its partnership with Islamic religious organisations in Malaysia, namely Islamic Da'wah Foundation Malaysia (YADIM), JAKIM, Federal Territory Islamic Religious Council (MAWIP), and the Institute of Islamic Understanding Malaysia (IKIM), to promote human rights through a joint project entitled 'Masjid Mesra OKU' ('Disabled-Friendly Mosques') which focuses on disabled-friendly facilities in mosques and the basic right of persons with disabilities (PWDs) to worship.

On 28 October, the Commission and its partners, as well as the National University of Malaysia (UKM) and University of Malaya (UM), jointly organised a Round-Table Discussion (RTD) on Disabled-Friendly Mosques. The main objectives of the RTD were to promote greater understanding among all stakeholders on the important concept of 'disabled-friendly mosques' in the Malaysian context, as well as to identify key challenges in implementing this concept.

The RTD was attended by approximately 100 participants consisting of representatives from relevant Government agencies and NGOs, academicians and Islamic bodies.

The RTD was moderated by Commissioner Prof Dato' Dr Mahmood Zuhdi Hj Ab Majid and joined by two speakers namely Prof Dr Raihanah Abdullah, Dean of Humanities Research Cluster of UM, and Datin Ar. Mariani Mohd Suhud, Senior Assistant Director of the Public Works Department (JKR) Malaysia. In her presentation, Prof Dr Raihanah Abdullah shared the findings of a study entitled "The Rights to Worship for Persons with Disability (PWD): A Study of Major Mosques in Malaysia" conducted by UM. Datin Ar. Mariani Mohd Suhud's presentation focused on the role of JKR in developing the concept of 'disabled-friendly mosques', as well as the challenges faced by the relevant agency in implementing the concept.

Among the key issues discussed during the RTD were the lack of accessible and disabled-friendly facilities in the mosques, the lack of maintenance of the existing facilities, the negative attitude among members of public towards PWDs, the lack of public awareness and support for PWDs and their families, as well as the lack of PWDs' involvement in the mosques' activities and administration.

The RTD also identified several proposed steps to resolve the issues. They included: the need to expand the programme to other states across the country so as to raise awareness of the current initiative undertaken by the Commission in partnership with Islamic religious bodies in order to promote the equal access of PWDs to physical facilities; the need to promote greater awareness among the public on the importance of respecting the rights of PWDs through constructive dialogues; as well as the need to conduct periodic access audits or inspections at the mosques in Malaysia so as to ensure that the facilities provided by the mosques are in compliance with the required standards and are disabled-friendly.

12. LOOKING FORWARD

While the Commission strives to continue its existing partnerships, joint projects, and advocacy work, it also seeks to explore potential partnerships with other stakeholders in advancing the cause of human rights in the country.

III. MEDIA DIVISION



*Free media are the source and root of
a living civil society*

Hans-Jürgen Beerfeltz

*State Secretary of Germany's Ministry for Economic
Cooperation and Development.*

Following an internal restructuring, the former Public Relations and Media Division has now been replaced by two new divisions, namely, the Promotion and Public Relations Division and the Media Division. This was done in view of the fact that different aspects of the work under the former Division involved different strategic objectives, contexts, and working methodologies.

The Media Division of the Commission now reports to the Chairman's Office. It creates, coordinates, and implements the Commission's media strategy and serves as a central point for all media communications of the Commission. Responsibilities include, among others, preparing and distributing press statements and other resources for the media, arranging media interviews, organising media conferences, and responding to media queries.

1. PRESS STATEMENTS AND RELEASES

In accordance with its statutory mandate under Section 4(2) of the Human Rights Commission of Malaysia Act 1999 (Act 597), the Commission issued 48 media statements in 2015. These are categorised below according to their human rights issue of concern:

(a) List of Press Statements: Total 48

Human Rights Issue	No. of Press Statements/ Press Releases	Date of Issue
Rights of the Child	6	20 January 8 May 12 June 28 July 11 October 20 November
Rights of Women	3	6 March 25 November 23 December
Counter-Terrorism and Human Rights	3	7 April 12 October 9 December
Rights of Older Persons	1	1 October
Freedom of Expression (Sedition Act)	1	3 April
Right to Freedom of Thought, Conscience, and Religion or Belief	1	9 February
Business and Human Rights	1	24 March
Right to Health	1	10 October
Right to Life	1	18 November
Democracy and Human Rights	5	19 March 29 April 27 July 9 August 20 August
Right to Peaceful Assembly	7	30 April 1 May 3 May 21 August 1 September 15 September 17 September

Human Rights Issue	No. of Press Statements/ Press Releases	Date of Issue
The Human Rights of Migrants, Refugees, and Asylum Seekers	4	14 May 20 June 19 November 18 December
The Human Rights of Indigenous Peoples	3	20 May 13 October 27 November
Human Rights and Human Trafficking	3	26 May 30 July 23 November
Human Rights and Law Reform	1	19 August
Others	7	25 February 15 April 26 June 9 September 2 October 23 October 16 November

2. MEDIA CONFERENCES AND INTERVIEWS

It has been highlighted on numerous occasions that human rights education and awareness-raising through the media are important tools to combat discrimination and other forms of human rights violations, particularly on diverse issues such as poverty, inequality, race and religion, gender, age, health, and disability, among others. As part of its mandate, the Commission aims to promote awareness of, and provide education relating to, human rights through various media channels, including television and radio.

In an effort to raise awareness and to sensitise all stakeholders, including the media, on human rights, the Commission, through the Media Division, organised and held six media conferences and 14 face-to-face interviews this year.

3. SOCIAL MEDIA

With the use of social media becoming increasingly mainstream, many organisations are now improving their online presence. The Commission too has embraced social media and is

active on Facebook and Twitter. Anyone can now register their complaints via these channels, in addition to the more traditional online channel which is the Commission's website.

While the Commission has its fair share of concerns in being active on social media, which include addressing unfair criticism and innuendo, staff working hours, and a lack of capacity, the Commission believes that there is a role for social media in promoting the human rights agenda in Malaysia. As such, the Commission welcomes feedback and suggestions through its social media channels.

As at 31 December 2015, the Commission's Facebook page has received 1,107 new page views, highlighting its growing reach among Malaysians. The Commission's Facebook page now has 4,462 followers, while its Twitter account has 10,419.

4. LOOKING FORWARD

To quote the words of Hans-Jürgen Beerfeltz, State Secretary of Germany's Ministry for Economic Cooperation and Development, "Free media are the source and root of a living civil society." The Commission strongly believes that responsible and good quality journalism, and a free and independent media, are the foundations of a democracy.

IV. TRAINING DIVISION

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

Former UN Secretary general

The effort to promote and raise awareness on human rights continues to be one of the priorities of the Commission. Throughout 2015, the Training Division has organised and carried out various programmes with Government agencies, schools, institutions of higher learning (IPT), and law enforcement agencies.

1. HUMAN RIGHTS EDUCATION

(a) Human Rights Best Practices in Schools (HRBPS) Programme

By 2015, the HRBPS programme had been expanded to 152 schools in Peninsular Malaysia. The Commission and the Ministry of Education (MOE) are in the process of expanding the programme to another 24 schools in Sabah and 31 schools in Sarawak by 2016.

During the year under review, the Commission successfully conducted two seminars for school principals based in Sarawak and Sabah. The seminars were well received by the participants. They expressed their appreciation for the HRBPS programme and their belief that it is workable and viable in their schools. The Commission and the MOE are planning to run two similar HRBPS workshops for school coordinators in Sarawak and Sabah in early 2016, and are hoping that the selected schools will be able to implement the HRBPS programme as early as March 2016.

The Commission visited 35 schools in 2015. Most of the visited schools have successfully implemented the programme in their activities. The Commission was very impressed by several schools, which have shown great effort to ensure the success of the HRBPS programme. Those schools are SMK Ledang, Johor; SMK Tungku Kuddin, Raub, Pahang; SMK Mentakab, Pahang; SK Sempoo, Kuala Pilah, Negeri Sembilan; SK Chenein, Sg Siput, Perak; SK Pos Poi, Sg Perak, Perak; and SK Bukit Bangkong, Selangor.

SMK Tok Labu, Pulau Pinang, has become a pupil-friendly school in dealing with disciplinary issues after the principal attended the HRBPS seminar in 2013. As a result, in 2015 the school was selected to receive “Bai’ah”. “Bai’ah” is an acknowledgement given to schools that have fulfilled certain standards set by the MOE. The Commission has been informed that the school is still able to maintain high levels of students’ attendance and discipline.

Most of the schools visited have well-managed environments and surroundings. The schools are clean, conducive and safe. Most of the schools have embraced the idea of working with the local communities, and hence have consistently invited students’ parents and the neighbouring community to take part in and contribute to school activities. This has resulted in the parents and local communities having a better understanding of the schools and the importance of education. To enhance the children’s confidence and self-esteem, the schools encourage the pupils to take part in various competitions organized by the District Education Office (DEO) and the State Education Department (SED). The Commission noted that the children at the schools visited were active and friendly. One of the aims of the HRBPS programme is to develop children’s social skills and potential.

The Commission admits that there is a lack of reading material and extra resources for use by the schools. In order to assist the schools, the Commission has produced two booklets on the CRC. The booklets contain illustrations so as to make them more child-friendly. The illustrations in one of the booklets were prepared by Ms Nurul Eeman Haji Mansor, who is a student from an HRBPS school, SMK TTDI, Kuala Lumpur, and who was also the recipient of the Special Award at the 2015 Human Rights Awards organised by the Commission. The other booklet is a comic on human rights. These two booklets will be distributed to all HRBPS schools. The Commission was informed that a few schools have set up their own websites as part of their information sharing and promotion strategy.

Throughout the visits in 2015, the Commission observed that there have been some teething problems in the implementation of the programme. There were cases where school administrators misunderstood the nature of the programme. There were also cases where the busy schedules of school coordinators led to delays in implementing the programme. As a result, they had to ask other teachers to be involved in the programme, despite the fact that these teachers were not trained in the implementation of this programme. The setting up of a committee in each SED and DEO by the MOE is expected to reduce these problems. The Commission acknowledges and appreciates the strong working relationship between the Daily School Management Department and the Commission in the implementation of the HRBPS programme in schools. The Daily School Management Department has taken it upon themselves to conduct meetings and run short workshops for their state and district officers involved with the HRBPS programme.

However, the Commission acknowledges the issue of inadequate resources and supporting materials needed by the schools.

(b) Schools for Orang Asli Children

The Commission was informed that the distribution of monies from Kumpulan Wang Amanah Pelajar Miskin (KWAPM) continued to be an issue, as it had been for the past nine years. There seemed to be a lack of coordination among the departments involved, namely the Orang Asli Development Department of Malaysia (JAKOA), the MOE, the schools concerned, and parents. This resulted in numerous complaints by the parents.

The Commission continued to receive complaints about the delay of the financial aid distributed to pupils in 2015. The Commission is still of the opinion that it is important to ensure the monies are distributed early in the year as it is then that the funds are most needed.

The Commission has observed, and also received complaints from parents and schools, that the school uniforms given by JAKOA have been of poor quality, and that the distribution has not been carried out in a timely manner. This has been an ongoing issue for many years. The school uniforms given to the children have been either oversized, or given so late that the parents have had to buy the uniforms themselves since the school year had already started. The Commission observes that oversized uniforms could be hazardous to the children as they hamper their movements besides being inconvenient and uncomfortable.

The Commission acknowledges the setting up of a special unit in JAKOA to oversee the issues of education with regard to OA children. However, the Commission is of the opinion that this unit should be more inclusive of other external interested parties so as to share best practices and information, and to overcome recurring issues.

The Commission is of the opinion that the MOE should give serious consideration to the teaching and learning of OA languages and Indigenous Knowledge as provided for under Articles 14 and 15 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Commission is of the opinion that the MOE can adopt the strategy used to teach the Pupil's Own Language (POL) programme in mainstream schools for this purpose.

The Commission also recommends that JAKOA and the MOE give serious consideration to the setting up of community schools in settlements where no schools are provided. With reference to JAKOA's report to the Commission in 2012, there were 20 settlements in need of schools. The community school can introduce literacy and numeracy besides teaching OA arts and culture including the language of that particular settlement.

One settlement in dire need of assistance is Kg Selangi in Mersing. It belongs to the Kanaq tribe, which is a community fast approaching extinction if immediate action is not taken by the relevant authorities. Currently, there are only 87 Orang Kanaq remaining. Most of them are illiterate while the young ones do not attend school regularly and some not at all. This is one settlement where a community school is strongly recommended as they are very reserved and shy.

The Commission acknowledges the efforts of some NGOs and interested bodies that have established community schools in places such as Kg Dala, Kg Ulu Geruntum, and Kg Rasau in Perak, Kg Tembaga in Kelantan, dan Kg Ulu Tual in Pahang. The teachers in these schools are all Orang Asli who also manage the schools' daily operations with the assistance of their local communities.

The Commission acknowledges the effort by the MOE in setting up hostels for those staying deep in the interior where transportation is a problem. But in providing the hostels, the MOE should also recognise their responsibility over the well-being and welfare of the young children, particularly those between the ages of seven and twelve years. Seven young children were lost whilst under the care of the MOE's hostel in SK Tohoi, Gua Musang. This is one of the reasons why the Commission, in its Annual Reports since 2012, has been advising the Government not to place young children in hostels but instead keep them under the care of their parents. The Commission has also been recommending that the MOE set up at least Level 1 schools (Year 1 to Year 3) in smaller cluster settlements, as it used to do in the 1990s. Such schools enable parents to send their children daily either personally or using transportation programmes organised in collaboration with JAKOA within the cluster settlements. Another paramount issue is for JAKOA to ensure safe and usable roads within the cluster settlements.

The Commission also observed that many schools and hostels visited are in dire need of basic amenities and better facilities. There are hostels without tap water and without a proper supply of electricity. Because of this, the children often leave the hostel due to fear during the dark night or due to their need for water. The Commission had written to the MOE in May 2015 about the condition of SK Dala, SK Kuala Betis, and SK Banun. Up until this report is written, the Commission has yet to receive any reply from the MOE.

The Commission commends the MOE's effort in setting up a special unit for the educational affairs of Orang Asli children in the Daily School Management Department as suggested by the UN Special Rapporteur on the Right to Education. Unfortunately the Commission has been unable to see the effectiveness of this unit in resolving recurring issues and complaints. As this unit was proposed by the UN, it is important that the MOE review the policies and functions of this unit. Besides the MOE, the Commission has also recommended that this unit work more closely with other interested parties in order to build stronger relationships and to share best practices.

The Commission has also received complaints from teachers and parents that the MOE has stopped the usage of the alternative curriculum, namely the Integrated Curriculum for Orang Asli dan Penan Schools (KAP), for selected schools facing problems relating to attendance and mastering the 3R skills. Many teachers interviewed felt that this curriculum should have been continued as it is modular in structure and pupils learn at their own pace. The Commission strongly suggests that the MOE review the decision to discontinue this

alternative curriculum. In fact, the MOE can apply this alternative curriculum to integrate the principles of Articles 12, 13, 14, and 15 of UNDRIP.

The Commission visited two K9 schools, which were introduced by the MOE in 2007. One of the aims was to reduce school dropout and absenteeism rates among OA children. The Commission observed that the facilities for teaching and learning are inadequate and some amenities are not functioning. SK RPS Banun does not have enough classrooms for K9 students. The school has to make full use of whatever basic facilities available for their agriculture subjects. The Commission was informed of the concerns of the K9 students as they were unsure of where to go to continue their schooling and of the kind of curriculum prepared for this cohort of students. Neither the school nor the parents know the way forward for these K9 students.

(c) Sekolah Agama Rakyat (SAR)

In 2015, the Commission carried out a workshop on Human Rights Education for 60 religious teachers in Kelantan. The Commission commends the Islamic Education Department and the Kelantan State Education Department, for their cooperation and support in running the workshop. The participants suggested that more of such workshop should be organised for SAR teachers as it is important for them to be aware of child and human rights issues and the best practices of human rights in schools.

The Commission observed that many of the issues reported in its Annual Reports of 2012-2014 have not been resolved. Some of the issues raised are administrative in nature, which leads the Commission to believe that they can be resolved without changing any policies. For example, the dilapidated state of facilities in hostels, as well as the inadequacy of facilities such as toilets and bathrooms, which has resulted in pupils having to wake up as early as 4:00 AM to use the facilities. Other facilities, such as school canteens, teaching aids, IT facilities, teachers' common rooms, and textbooks, especially in non-Sekolah Agama Bantuan Kerajaan (SABK) schools, are in dire need of upgrading. SAR teachers have also informed the Commission that they are often not given the opportunity to attend professional development programmes or training programmes organised by the MOE. This further widens the gap of knowledge and information between these teachers and those in mainstream schools.

The Commission reported in 2013 that children studying in other types of religious schools had to buy their own textbooks and pay the public examination fee even though the Government has policies in place for free textbooks and waived examination fees. The Commission is of the view that assistance given to Government schools should be extended to non-SABK schools regardless of their status.

The Commission reported in 2013 and 2014 that SAR students with very good public examination results had been rejected from enrolment in established boarding schools.

This lack of equal opportunity for SAR students is tantamount to discrimination and goes against the children's basic rights of equality and non-discrimination as enshrined in Article 2 of the CRC.

The Commission is also concerned about the new DINI curriculum introduced by the MOE in 2015. The Commission was informed that the children will be using two curricula, namely the mainstream curriculum and DINI. There are about 21 subjects being offered, and the children's school hours are from 7:30 AM to 4:00 PM daily. The Commission is of the opinion that the MOE needs to consider the provisions of Articles 3, 6, and 31 of the CRC.

The Commission also observed that teachers in SAR schools managed by the Pahang State Islamic Religious Council have not been given any pay increments since 1998. As their pay is given in the form of monthly allowances, they are not eligible for financial facilities enjoyed by other state and federal Government employees. The Commission is of the opinion that the relevant agencies should give serious consideration to converting these teachers' employment schemes to ensure a more secured livelihood.

(d) Tertiary Institutions

The Commission is in the process of signing a Memorandum of Understanding (MOU) with Universiti Pendidikan Sultan Idris (UPSI). This MOU will enable the Commission to work closely with UPSI in educating future teachers and making them more aware of and sensitive towards human rights, particularly with regard to the rights of children. The MOU signing ceremony is expected to be held in the first quarter of 2016.

2. TRAINING FOR LAW ENFORCEMENT AGENCIES

The Commission has been organising human rights programmes for law enforcement groups every year. However, the effectiveness of such programmes has been questioned because of the continuing occurrence of violations. One of the issues that have been raised is whether law enforcement personnel actually apply the principles of human rights in daily practice. The Commission's training programmes explain the main international human rights instruments – the UDHR, ICCPR, CAT, CRC, CEDAW and SMRTP – all of which are related to the work of law enforcement personnel. However, because the Government has yet to accede to most of these treaties, it is difficult for trainers to convince participants to apply the principles. Still, the Commission emphasises that they can and should apply the fundamental principles in practice.

(a) Royal Malaysia Police (PDRM)

As in previous years, the Commission accepted invitations from PDRM on a regular basis to give talks on human rights-related issues. In 2015, a total of six sessions were held at the

Malaysian Police Training Centre (PULAPOL) Kuala Lumpur and the Kuala Lumpur Royal Malaysia Police College.

(b) People's Volunteer Corps (RELA)

Training programmes for officers and volunteers of RELA were conducted at the RELA Training Centres in Kedah, Melaka, and Terengganu. In 2015, a total of 27 sessions were held at the RELA Training Centres. For each session, approximately 150 officers and volunteers were in attendance.

(c) Prison Department

The Commission had chosen 'The Right to Health in Prison' as one of its thematic focus areas in 2015. The Training Division is responsible for conducting human rights education programmes especially on the right to health in respect of prison officers, as well as for improving the training modules by considering the research findings from the study conducted by the Complaints and Monitoring Division. To date, the Training Division has conducted five human rights education programmes involving lower and middle category personnel.

A total of 150 participants representing every prison and prison personnel training centre in Peninsular Malaysia attended this course. The selection of participants was done through a discussion with the Prison Department. The chosen participants were prison record officers. They are responsible for the prisoners, whether on remand or serving a sentence. The objective of the programme is to give exposure to and promote human rights based on the Universal Declaration of Human Rights 1948 and the Federal Constitution, and to raise awareness on the right to health of both prisoners and Prison Department personnel.

(d) Malaysian Anti-Corruption Commission (MACC)

This year, the Malaysia Anti-Corruption Academy (MACA) invited the Commission to deliver a talk on corruption and human rights to the participants of the Certified Integrity Officer Programme. The participants were representatives of Government agencies, GLCs and statutory bodies. This talk was a good platform for the participants to learn more about the relationship between business and human rights.

(e) Local Authorities

The Commission continued to hold its human rights course for enforcement officers from all the local councils in Selangor. The aim is to sensitise enforcement officers to human rights principles in the performance their tasks.

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3

CHAPTER

REPORT OF THE SABAH OFFICE

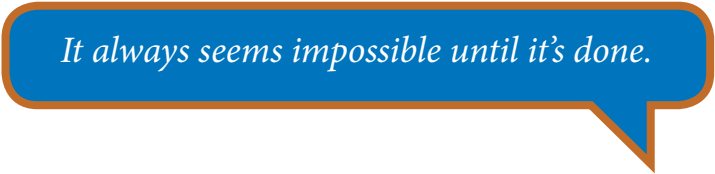


Sitting from left: Mr Heflin Ak Dino @ Aflin Zaim Dino Abdullah, Mr Nordin Kasim Madating (Commisioner), Mr Jasmih Selamat

Standing from left: Ms Jonima Ligon, Ms Daisy Masiram, Ms Levina Sigisimon, Ms Sofyan Md. Kussin

Not in the picture: Ms Nur Shahmimie Yusop

REPORT OF THE SABAH OFFICE



It always seems impossible until it's done.

Nelson Rolihlahla Mandela
First President of South Africa

The main challenge for the Commission's office in Sabah (the Sabah Office) is to satisfy the high expectations of the public, in particular groups and individuals who suffer economic or social disadvantages in pursuing their human rights.

Many complainants have shuttled back and forth between federal and state agencies, attempting to highlight land matters, citizenship issues and problems with the issuance of personal documents, among other pressing concerns. When their plights go unresolved, they come to the Commission to seek justice.

In handling such complaints, the standard procedure is to send a letter to the relevant Government departments to enquire into, for example, the status of the land in dispute. The Commission, however, has no legal authority to enforce its findings or decisions. It can only make recommendations to the relevant authorities.

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

1. RESOLUTION OF COMPLAINTS

The Commission has introduced the e-complaint system which provides the easiest channel for the public to lodge a complaint for the consideration and action of the Commission. The Sabah Office received 304 complaints over the year of which 136 were human rights cases. The top concern was the issuance of identification documents, a matter which appeared in 79 complaints (Table 1).

Table 1: *Human Rights Complaints Received by the Sabah Office, 2015*

NO.	SUBJECT OF COMPLAINT	NO. OF CASES
1.	Right to nationality	79
2.	Right to native customary land	31
3.	Arbitrary arrest, detention, or exile	10
4.	Right to adequate standard of living (food, clothing, housing, healthcare)	6
5.	Right to privacy	2
6.	Right to work/employment and migrant workers' right	2
7.	Right to own property	2
8.	Right to education	2
9.	Environmental rights	1
10.	Others	1
Total		136

(a) Personal Documentation

The Sabah Office received the highest number of complaints on issues related to birth certificates, especially from those living in the rural areas of Sabah. Every child should be registered at birth as the birth registration provides the first legal recognition of a child existence and is the prerequisite for a birth certificate, which is a document that provides permanent, official and visible evidence of the state's legal recognition of the child's existence as a member of society. Late registration of birth has a major bearing on educational opportunities when the child reaches schooling age. Under the Registration of Births and Deaths Ordinance (Sabah CAP 123, Sections 22 (3)), a late birth certificate must be endorsed by a First Class Magistrate in court before the birth certificate can be accepted by the Registration Department for the purpose of issuing an identification card to a child in Sabah.

(b) Land Matters

During the year, the Sabah Office conducted meetings and dialogue sessions in response to complaints received from villagers. Fact-finding visits were conducted from June until October to various districts in Sabah. The Commission was able to obtain information needed to facilitate follow-up action with the relevant authorities.

(i) Dialogue Sessions (Fact Finding)

- Kampung Mongowou Baru, Kota Marudu District, 11 June
- Kampung Sebayon, Kudat District, 11 July
- Kampung Boribi, Pitas District, 17 August
- Kampung Entilibon, Telupid District, 20 August
- Kampung Bongkol, Pitas District, 26 August
- Kampung Tegupi Ulu Sugut, Paitan District, 27 August
- Kampung Poring, Ranau District, 15 September
- Kampung Betong, Ranau District, 16 September
- Kampung Sungai Elo, Pitas District, 6 October
- Kampung Dam, Lahad Datu District, 29 October

As in previous years, land matters remained as one of the predominant concerns in complaints lodged with the Sabah Office. Complaints on such matters involved four categories of land.

(ii) State Land

Complainants, usually from rural areas, alleged that their applications for state land had not been considered, or had been ignored or rejected. They further alleged that the same plots were subsequently alienated to later applicants. More often than not, these successful applicants were those who occupied positions of influence and authority, or had close connections with decision makers.

(iii) Forest Reserves

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

(iv) Native Customary Land

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

(v) Village Reserves

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

2. TALKS AND EXHIBITIONS

In 2015, the Sabah Office organised four ‘meet-the-people’ sessions (*‘SUHAKAM Bersama Masyarakat’*), inviting the federal and state Public Complaints Bureau (PBC) as well as various district departments to participate. The sessions were held in the districts of Lahad Datu, Tungku, Kota Marudu and Tongod respectively on 21 January, 22 January, 9 March and 10 March respectively.

In Tungku, 500 people turned up at the community centre. The District Officer delivered the opening remarks and responded to issues, problems, and questions brought up by public. Most of the matters raised were in regard to the lack of response to land applications; the time taken to process such applications; unsatisfactory supply of electricity and water; and the poor condition of roads and the local school. In Lahad Datu, 450 people turned up at the community centre. Commission Chairman Tan Sri Hasmy Agam delivered the opening speech and the officers responded to issues, problems and questions raised by the public. Most of the matters raised were in regard to the security restrictions imposed by the authorities and unsatisfactory supply of electricity and water in Tanjung Labian and Tanjung Batu.

The Sabah Office continued to participate in the activities of the Federal and State Public Complaints Bureau (PCB) held at *tamu* (local markets) in the district of Kota Belud on 13 September 2015. Such joint activities represent a win-win situation and benefit the public, especially those unable to travel to Kota Kinabalu to lodge complaints. While the Sabah Office handled allegations of human rights violations, the federal and state PCB handled complaints against federal and state agencies respectively. At each location, the Member of Parliament or State Assemblyman and a representative of the District Office were invited. Participants usually comprised political leaders, community leaders, civil servants, NGO representatives, district chiefs, native chiefs, village heads, school principals, teachers, students and members of the public.



Commission Chairman, Tan Sri Hasmy Agam delivering the opening speech in a ‘Meet-the-People’ sessions.

3. MONITORING OF PEACEFUL ASSEMBLIES AND RALLIES

Table 3: Assemblies and Rallies Monitored in 2015

NO.	ASSEMBLY / RALLY	DATE
1.	Himpunan May Day	1 May
2.	BERSIH 4.0	29-30 August

This year, the Sabah Office monitored two public assemblies. The first was – ‘Himpunan May Day’, organised by BERSIH Sabah, which was held on May 1, at Padang Merdeka in Kota Kinabalu. More than 800 people participated in this rally which the Commission observed to be very peaceful. Subsequently ‘BERSIH 4.0’ was held on 29-30 August, during which more than 3,000 yellow-shirted, flag-waving Sabahans descended on Taman Awam Teluk Likas Dua beach for the Kota Kinabalu leg of the worldwide BERSIH rally. Speakers from Sabah opposition parties such as DAP, PKR and PAS splinter group Gagasan Harapan Baru (GHB) delivered heavy criticisms against Barisan Nasional. Among the opposition leaders who attended the rally were Members of Parliament Jimmy Wong (Kota Kinabalu), Steven Wong (Sandakan), Christina Liew (Api-Api), Darrel Leiking (Penampang), as well as Sabah PKR chief Datuk Lajim Ukin and Sabah GHB coordinator Hamzah Abdullah.

The Commission reiterates its position, as contained in its Press Statements of 28 June 2011, 3 May 2012 and 7 November 2014 that everyone has the right to freedom of peaceful assembly. This right provides a means for public expression, which is central to a democratic society, and is upheld by the Universal Declaration of Human Rights (Article 20), the ASEAN Declaration of Human Rights (Article 24) and the Federal Constitution (Article 10).

4. HUMAN RIGHTS EDUCATION

(a) Human Rights Best Practices in Schools (HRBPS) Programme

In line with the Commission’s Plan of Action as well as its core function of promoting awareness and providing education in relation to human rights, the Commission has conducted various educational programmes in collaboration with the Ministry of Education (MOE) to inculcate the awareness and practice of human rights among teachers and students.

The goals of this programme are:

- (i) To encourage students and school staff to be aware of and to take steps to adopt human and children’s rights;

- (ii) To cultivate an attitude of respect and responsibility regarding human and children's rights and to practise them in everyday life;
- (iii) To increase the understanding and practice of human and children's rights for the benefit of the children;
- (iv) To encourage students and teachers to be aware of human and children's rights aspects in the planning and implementation of activities in school;
- (v) To share experiences on human rights and children's rights as practised in the school and local community; and
- (vi) To strengthen communication and interaction among students regardless of race, religion, and gender.

In 2015, the Sabah Office successfully conducted the Human Rights Best Practices in School Seminar in Promenade Hotel, Kota Kinabalu from 24-25 August. Twenty-four school principals from 24 districts in Sabah attended the seminar. In order to monitor the implementation of the programme, the Commission conducted regular visits to the participating schools to observe their progress and, where necessary, to provide guidance and advice.

5. ROUNDTABLE DISCUSSIONS

In 2015, the Sabah Office conducted three RTDs:

- (i) RTD on the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment (CAT), held at the Promenade Hotel, Kota Kinabalu on 11 May.
More than 60 participants from federal and state Government agencies and NGOs attended the discussion. The objectives of the RTD in Sabah are to engage with local authorities and NGOs on issues regarding torture and other cruel, inhuman, and degrading treatment or punishment and to seek views and recommendations that can be forwarded to the Government with regard to compliance with the CAT.
- (ii) RTD on the International Covenant on Economic, Social and Cultural Rights (ICESCR), held at the Promenade Hotel, Kota Kinabalu on 13 May.
Commission Chairman Tan Sri Hasmy Agam delivered the welcoming remarks. More than 65 participants from federal and state Government agencies and NGOs attended the discussion. Among the issues raised during the RTD were the rights of workers, the right to health, and the right to education in the context of Sabah, as well as the challenges of implementing the ICESCR in Sabah.

- (iii) RTD on Business and Human Rights, held at the Promenade Hotel, Kota Kinabalu on 2 September.

More than 60 participants from federal and state Government agencies, plantation companies, and NGOs attended the discussion. The objectives of the RTD were to introduce the UN Guiding Principles on Business and Human Rights to the relevant stakeholders of business activities in Sabah, to enhance understanding on how the UN Guiding Principles can be implemented in practical terms, and to discuss possible collaboration with various stakeholders in promoting the agenda on business and human rights in Sabah. Panel members for the discussion included representatives from: Hijauan Bengkoka Plantations Sdn Bhd, giving the perspective of timber and logging companies; the Companies Commission of Malaysia; World Wildlife Fund of Malaysia; and the Sabah State Environmental Department.

6. OTHER ACTIVITIES

(a) Dialogue with NGOs

In 2015, the Sabah Office participated in the Disability Orientation programme organized by UNICEF Malaysia regarding issues affecting children with disabilities. This was held on 9 September at the Promenade Hotel, Kota Kinabalu. About 25 participants comprising representatives from NGOs working with children with disabilities, officers from relevant Government bodies, notably the Health and Education Ministries as well as the Social Welfare Department and special needs teachers, participated in the programme.

(b) Education on Human Rights

The Sabah Office provided human rights training to RELA recruits as part of their training curriculum. 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, the sessions provided an important avenue for education on human rights.

This year the programme saw 300 participants being trained on 23 February, 250 on 2 March, 200 on 9 March, 250 on 17 April, 300 on 16 October, 300 on 10 November, 250 on 3 November, 280 on 24 November and 300 on 1 December.

7. LOOKING FORWARD

The Sabah Office will continue to find ways to enhance cooperation between NGOs, the public sector and the private sector, and to look into matters highlighted in the complaints received. In relation to this, the Sabah Office will seek the cooperation and assistance of all members of society, including the media, to promote and protect human rights in the state.

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4

CHAPTER

REPORT OF THE SARAWAK OFFICE



From left: Ms Vivien Anak Marcus, Mr Alfonso Min, Mr Sophian Osman (KPSU), Mohamad Mail, Ms Linya Anak Subah

Not in the picture: Mr Francis John Anak Adam (Commissioner)

REPORT OF THE SARAWAK OFFICE

To deny people their human rights is to challenge their very humanity.

Nelson Rolihlala Mandela
First President of South Africa

In 2015, the work of Commission's Office in Sarawak (the Sarawak Office) was focused mainly on human rights awareness and education, and addressing human rights issues that had arisen in Sarawak. Many activities were conducted over the course of the year, such as talks and a road show, as well as investigations into alleged violations of human rights in the state. Nationality matters were the main area of concern in complaints.

1. RESOLUTION OF COMPLAINTS

In 2015, the Sarawak Office received 42 complaints (Table 1), of which 18 were not related to violations of human rights. All of the complaints are still pending appropriate action by the relevant parties. The breakdown of complaints is shown in Table 1.

Table 1: Human Rights Complaints Received by the Sarawak Office, 2015

NO.	SUBJECT OF COMPLAINT	NO. OF CASES
1.	Right to nationality	10
2.	Right to native customary land	7
3.	Environmental rights	6
4.	Others	1
Total		24

(a) Right to Nationality

During the year under review, most of the complaints received were related to right to nationality.

The most common complaints were on the following:

- (i) Locals without identification documents (stateless local);
- (ii) Children without birth certificate and Mykid;
- (iii) Adopted children facing problems with their application for citizenship.

2. TALKS ON HUMAN RIGHTS AWARENESS

In 2015, the Sarawak Office conducted the following talks on human rights focusing on human rights awareness:

Table 2: Talks on Human Rights by the Sarawak Office, 2015

DATE	LOCATION	TOPIC
28 January	Limbang	Human Rights Awareness and UDHR
25 March	Kuching	Human Rights Awareness and UDHR
2 April	Sibu	Human Rights Awareness and People with Disabilities
9 April	Miri	Human Rights Awareness and UDHR
20 May	Marudi	Human Rights Awareness and NCR
17 September	Bintulu	Human Rights Awareness and UDHR

The participants raised the following issues:

- (i) Misperceptions regarding the concept of human rights among Malaysians;
- (ii) NCR issues, in particular the intrusion into perceived native customary land by Government agencies as well as private enterprises;
- (iii) State laws regarding child custody; and
- (iv) The citizenship status of children, especially where one parent is an Indonesian.

3. ENGAGEMENTS WITH THE PUBLIC

In 2015, the Sarawak Office introduced the 'Square Table Meeting' (STM) programme as part of its outreach strategy to engage with the public at the grass roots level, especially in remote areas. In the course of the year, the Sarawak Office conducted four sessions under this programme.

The objectives of this programme are as follows:

- (i) To build a productive networking relationship with village heads as well as village committee members;
- (ii) To provide a space that enables village heads and committee members to express their opinions and respond to relevant issues; and
- (iii) To win the hearts and minds of the public as part of the Sarawak Office's public diplomacy strategy.

Table 3: 'Square Table Meeting' Sessions, 2015

NO.	DATE	VILLAGE	LOCATION
1.	24 March	Kampung Mongkos	Serian
2.	8 April	Kampung Haji Wahed	Kuching
3.	19 May	Kampung Sayun	Marudi
4.	24 Oct	Kampung Serikin	Bau

4. MEETING WITH GOVERNMENT AGENCIES

In 2015, the Sarawak Office conducted a meeting with several Government agencies to get their feedback and response regarding the Commission's 2014 Annual Report. The meeting, which was held at the Sarawak Office on 5 February, was attended by eight representatives from four Government agencies, namely the state Social Welfare Department, the Ministry of Resource Planning and Environment (KPSAS), the state Education Department, and the state Land and Survey Department.

Among the key issues discussed during the meeting were as follows:

- (i) Land matters especially with regard to NCR lands;
- (ii) The right to education for children with learning disabilities;
- (iii) Care and support services for the elderly and support for caregivers; and
- (iv) Monitoring facilities, especially for special education schools as well as for community-based rehabilitation centres.

5. MONITORING OF PEACEFUL ASSEMBLIES AND RALLIES

In 2015, the Sarawak Office was also involved in rally monitoring. The Sarawak Office observed the 'BERSIH 4.0' rally which was held on 29-30 August at Padang Ragbi Song Kheng

Hai, Kuching. The rally was in support of several public demands, among others for Prime Minister Datuk Seri Najib Razak to resign over his handling of 1Malaysia Development Bhd (1MDB),⁶² for free and fair elections,⁶³ for transparent governance,⁶⁴ as well as for the right to demonstrate.⁶⁵ From the Sarawak Office's observation, the rally was peacefully organized with no violent confrontations witnessed or recorded.

6. VISITS

(a) Visit to Long San, Baram

On 4-5 September, the Commission organised a visit to Long San, Baram. The visiting party included Ms. Nurul Hasanah Ahamed Hassain Malim, Mr. Mohd Azizi Azmi, Mr. Sophian Osman, Ms. Parameswari Subramaniam, Mr. Mohammad Asrul Mohamad and Mr. Muhammad Faiz Abd Rahman. The visit was held to observe and monitor the community affected by the proposed Baram Dam project, to identify emerging issues, and to obtain feedback as well as accurate information from the affected community. During the visit, the Commission also held a dialogue session with the affected community to get more information regarding their views on the proposed Baram Dam project. From the visit as well as the dialogue, the Commission noted that:

- (i) The majority of the residents were opposed to the Baram Dam project; and
- (ii) The villagers asserted that the Government should respect their land rights.

The Commission will follow up on the visit by:

- (i) Monitoring the issue of logging permits which are still being approved despite a directive from the Chief Minister to stop logging activities in the area; and
- (ii) Visiting the affected villages if the authorities proceed with the Baram Dam project.

(b) Visit to Loagan Bunut

On 10-13 June, the Sarawak Office organised a site visit to Loagan Bunut. The visiting party included Mr. Francis John Adam, Mr. Alfonso Min, Ms. Vivien Marcus, Ms. Linya Subah and Mr. Mohamad Mail. The site visit was held to closely observe and monitor the situation in

62 <http://www.themalaymailonline.com/malaysia/article/bersih-4.0-rally-set-next-month-to-demand-prms-resignation-over-1mdb-scandal> accessed on 1 October 2015

63 <http://www.thesundaily.my/news/1525407> accessed on 1 October 2015

64 <http://www.thesundaily.my/news/1525407> accessed on 1 October 2015

65 <http://www.thesundaily.my/news/1525407> accessed on 1 October 2015

that area due to complaints lodged with the Commission regarding intrusions into perceived native customary land by a private company, namely Boustead Pelita Tinjar Sdn Bhd.

During the visit, the villagers made the following allegations:

- (i) That the company had taken their lands without their permission;
- (ii) That enforcement authorities did not take their complaints seriously;
- (iii) That the company colluded with criminals as part of their strategy of threatening the villagers with violence; and
- (iv) That the company refused to pay the maximum value of 49 per cent of profits from farming activities as stated in the profit sharing agreement between the company and the villagers.

(c) Visits to Places of Detention

In 2015, the Commission conducted several visits to places of detention to monitor conditions and to ensure compliance with internationally recognized human rights standards such as the Standard Minimum Rules for the Treatment of Prisoners.

Table 4: Visits to Detention Centres, 2015

NO.	DATE	PLACE OF DETENTION
1.	6 May	Semuja Detention Depot

The Commission's main concerns are as follows:

- (i) The negative impact of detaining people in far-flung locations, under harsh physical conditions, such as at the Semuja Immigration Depot;
- (ii) Unsuitable infrastructure including prison-like security measures and unfit dormitory conditions as well as limited access to communication facilities at the Semuja Immigration Depot; and
- (iii) Limited opportunities for people to leave the detention area for outdoor activities; limited educational and recreational facilities as well as water disruption problems.

During the visit, the Sarawak Office recommended that all detainees should be given blankets and better spaces in which to sleep. They also stressed the need to bring up the water disruption problem to the State Public Works Department (JKR) to identify the cause of the problem and seek long-term solutions.

(d) Visits to Centres/ Schools for Children with Learning Disabilities

In 2015, the Sarawak Office made the following visit:

Table 5: Visits to Centres/ Schools for Children with Learning Disabilities, 2015

NO.	DATE	CENTRE/SCHOOL	LOCATION
1.	29 January	Sekolah Melayu	Limbang

The Commission's main concerns are as follows:

- (i) The shortage of special education (PPKI) teachers. The school does not have enough special education teachers to cater for the increased number of students;
- (ii) Poor infrastructure. The classrooms do not have proper equipment such as tables, whiteboards, etc;
- (iii) The classrooms, which are too small and unsuitable for students;
- (iv) Insufficient funds. During the visit, the school principal informed the Sarawak Office that they did not have sufficient funds; and
- (v) The lack of participation among parents as well as awareness of the importance of education for children with learning disabilities.

The Commission recommends:

- (i) That the number of special education teachers (PPKI) be increased to cater for the increased number of students;
- (ii) That the Government provide better infrastructure to PPKI schools. In the Government's response to the Commission's 2014 Annual Report the state Government stated that it had always taken note of the need to upgrade existing PPKI schools and of the need to build new ones. However, this was subject to the funding given by the Ministry of Education.
- (iii) That the relevant ministry review the funding given to these types of schools. In the Government's response to the Commission's 2014 Annual Report, the state Education Department stated that it had allocated more funds for PPKI schools.
- (iv) That relevant activities as well as campaigns be held to raise the level of participation among parents as well as awareness of the importance of education for children with learning disabilities.

(e) Persatuan Bagi Kanak-Kanak Prihatin & Ibu Bapa Kanak-Kanak Cacat (PERPIKAT) Bintulu

On 15 September, the Sarawak Office visited PERPIKAT Bintulu as part of the Commission's routine visits to children's institutions to observe their conditions and ensure their compliance with the Convention on the Rights of the Child.

Historically, the house was built on 24 September 1996 and formally registered with the Registry of Societies of Malaysia under Section 7 of the Association Act 1996. PERPIKAT Bintulu is a non-profit organisation and completely dependent on donations from other NGOs, the business community, and individuals, as well as on grants from the Social Welfare Department. According to PERPIKAT Bintulu, they are dedicated to the provision of quality services to develop mentally delayed children and assist their families without any discrimination based on race, creed, colour, sex or political affiliation.

The services provided by the centre are:

- (i) Self-care skills;
- (ii) Work skills;
- (iii) Functional academic skills;
- (iv) Living skills;
- (v) Home visits; and
- (vi) Recreational activities.

(f) Community-Based Rehabilitation Centres

In 2015, the Sarawak Office visited two community-based rehabilitation centres. The visits were carried out to assess services given by these centres in providing community-based rehabilitation (CBR) for children with disabilities.

The concept of CBR focuses on enhancing the quality of life for PWD and their families; meeting their basic needs; and enabling their inclusion and participation in society at large.

The services provided by these two centres are:

- (i) Home visits;
- (ii) External activities;
- (iii) Training to improve fine motor skills in children with disabilities; and

(iv) Information and communication technology training.

The Commission’s main concerns are as follows:

- (i) Insufficient funds. Most community-based rehabilitation centres are heavily dependent on individual and corporate donations due to insufficient funding from the Social Welfare Department;
- (ii) Poor infrastructure. Currently, both community-based rehabilitation centres are operating from rented houses or premises; and
- (iii) Insufficient number of trainers.

The Commission recommends:

- (i) That the Social Welfare Department review the budget given to these community-based rehabilitation centres as they are in dire need of funds;
- (ii) That community-based rehabilitation centres also be provided with good infrastructure; and
- (iii) That the number of trainers at community-based rehabilitation centres be increased to cater to the increasing number of children.

Table 6: Visits to Community-Based Rehabilitation Centres, 2015

NO.	DATE	CENTRE	LOCATION
1.	27 January	Pusat Pemulihan Dalam Komuniti	Limbang
2.	24 March	Pusat Pemulihan Dalam Komuniti	Serian

7. COURTESY CALLS

A review of the year would be incomplete without mentioning the courtesy visit by the Commission to the Chief Minister of Sarawak on 14 August at the Chief Minister’s Office located at Wisma Bapa Malaysia, Kuching. The visiting party included YBhg Tan Sri Hasmy Agam, Datuk Khaw Lake Tee, Mr. Nordin Madating, Mr. Francis Johen, Ms. Rodziah Abdul, and Mr. Sophian Osman. Apart from that, the Sarawak Office also visited the new Serian Resident, Mr. Dahim Nadot, on 10 November. The visiting party included Commissioner Mr. Francis Johen, Mr. Sophian Osman, Mr. Alfonso Min, Ms. Linya Subah and Mr. Mohamad Mail.

During the visits, the Commission explained the role and functions of the Commission, provided an update on its activities, and sought to improve cooperation on matters of mutual interest.

Table 7: Courtesy Visits by the Sarawak Office, 2015

NO.	DIGNITARY VISITED	DATE
1.	Chief Minister of Sarawak	14 August
2.	Serian Resident	10 November

The following issues were raised by the Commission's delegations:

- (i) Land issues, especially pertaining to NCR lands;
- (ii) The matter of compensation, including where compensation was not paid, or payment was delayed, or the quantum was inadequate, in instances where land was acquired by the state authorities;
- (iii) The need to establish a national level commission for native peoples' concerns as stated in the Commission's Report on the National Inquiry into the Land Rights of Indigenous Peoples in Malaysia;
- (iv) Legal constraints pertaining to the recognition of the indigenous peoples' native customary rights to land. This recognition is important in protecting and defending the land rights of indigenous peoples. Hence there is also a need to review the Sarawak Land Code 1958, especially with regard to indigenous peoples' traditional lands; and
- (v) The late registration of identification documents (ID) such as birth certificates or identification cards for residents of rural areas, as well as children whose mothers are foreigners (i.e. single mothers, or where marriages between foreign women and local men have not been registered with the National Registration Department.) Without the ID, these children face difficulties in getting education or medical treatment. This situation indirectly violates the rights of children as stated in the Convention on the Rights of the Child, to which Malaysia has acceded.

Learnings and opportunities from the courtesy calls:

The objective of the courtesy call to the Chief Minister was to enhance the relationship between the Commission and the Chief Minister as well as Government agencies throughout the state of Sarawak. Among the most significant achievements resulting from this courtesy

call was that the Chief Minister gave an assurance that he would give due attention to the issues that were raised during the visit. The Chief Minister also told the Commission that he had already ordered the related state authorities to stop issuing licences to farming and logging companies. The Chief Minister had also ordered the temporary suspension of the preliminary work for the construction of the Baram Dam. As for the courtesy call to the new Serian Resident, the objective of the courtesy call was to introduce the Commission to the new Resident as well as to enhance the relationship between both parties.

8. LOOKING FORWARD

During the year under review, the Sarawak Office continued to face two major ongoing challenges. The first ongoing challenge is the low level of awareness of the public at large regarding human rights. This makes the protection, promotion, reformation and strengthening of human rights within civil society a mammoth task. The second ongoing challenge is the lack of political will among the politicians to promote and protect human rights. To overcome these challenges, the Sarawak Office will take measures to strengthen its ties with the State Government, NGOs and the community at large as well as to raise the awareness of human rights through road shows, seminars, and round-table discussions.

5

CHAPTER

REPORT OF THE CORPORATE SERVICES GROUP



Sitting from left: Mr Mohd Ariff Saifullah Abd Rahman, Ms Aida Suraya Haron, Mr Syamsul Azhar Zamani (KPSU), Ms Rafidah Yahya (TSU), Mr Ahmad Firdaus Abd Shukor, Mr Muhamad Fikri Ramli, Mr Mohd Norismadi Ismail

Standing from left: Ms Myzatul Akmanizam A. Kadir, Ms Wan Nurul Ain Junid, Ms Nur Suhaida Norwi, Ms Maznah Munjaini, Ms Awatif Ahmad, Mr Razali Mohd Sharife, Mr Mohd Shafik Md. Sharif, Mr Roslan Mohd Ali, Mr Khairul Fadzli Rosli, Mr Mohd Nizam Jaafar, Mr Muhammad Razif Abdul Aziz, Ms Nor Hafizah Aziz, Ms Nurul Huda Rahim, Ms Fara Suhaida Shariff, Ms Noraini Kasah, Ms Noor Azlina Abdul Jalil, Ms Zainap Sani

Not in the picture: Mr Zharif Mohamad Zaabah, Mr Syazli Md. Nor

REPORT OF THE CORPORATE SERVICES GROUP

*A human being is not to be handled as a tool
but is to be respected and revered.*

Felix Adler

*German American professor of political and social ethics,
rationalist, influential lecturer on euthanasia, religious leader, and
social reformer who founded the Ethical Culture movement.*

The Corporate Services Group, formerly known as the Management and Finance Division, is responsible for planning and supporting the Commission in terms of administration so as to ensure that it can carry out its functions efficiently and effectively as stipulated in the Human Rights Commission of Malaysia Act 1999 (Act 597). The main tasks of the Corporate Services Group are as follows:

- (i) Administration and supervision, including of amenities, facilities, logistics, property, and safety;
- (ii) Budget planning and financial management of the Commission;
- (iii) Human resource management, including staff welfare, skills development, performance management, and human capital development;
- (iv) Provision of library services for learning and research purposes;
- (v) Provision of information technology services and support, including network infrastructure, ICT software and devices, and internal application systems; and
- (vi) Preparation of up-to-date articles and materials related to human rights for promotional purposes and as news items.

To carry out the above functions, the Group is divided into six units consisting of the Administration Unit, Finance Unit, Human Resources Unit, Information Technology Unit, Library Unit, and Publication Unit.

1. ORGANISATIONAL RESTRUCTURING

This year, the Commission carried out an organisational restructuring exercise to meet the requirements of its functions and of current human rights issues, the handling of which is becoming increasingly challenging and complex. In general, the Corporate Services Group and particularly the Human Resources Unit played the role of Secretariat in the process of restructuring the organisation.

Various sides and aspects, as well as several new elements, were taken into consideration in the process of making the Commission a strong and dynamic organisation. The Corporate Services Group was entrusted to establish working groups and to coordinate divisional functions within the groups. In addition, the Corporate Services Group also revised the list of duties of officers and staff to ensure that they were in line with divisional functions.

Accordingly, the process of organisational restructuring was implemented in stages, starting with the addition of three new positions of Deputy Secretary to head the three new Groups, namely the Policy, Law and Complaints Group, Communications Group, and Corporate Services Group.

The major Groups were further divided into Divisions responsible for implementing each specific mandate of the Commission given by the establishing Act. The main Groups mentioned above were designed to enable better coordination of work between the Divisions and the Groups.

(a) Policy, Law and Complaints Group

The Policy, Law, and Complaints Group consists of three Divisions, namely the Policy Division, Law Reform and Treaties Division, and Complaints and Monitoring Division. These Divisions are meant to help the Commission carry out its mandate and core functions by way of implementing activities/programmes, conducting research, providing recommendations, and also conducting investigations of human rights violations.

The Divisions are detailed as follows:

(i) Policy Division

The Policy Division supports the Commission's functions of advising and assisting the Government in formulating policies and administrative procedures, as well as recommending appropriate steps to ensure consistency with international human rights standards. In carrying out the above functions, the Division conducts comprehensive studies on specific and thematic human rights issues, which are used to formulate appropriate recommendations to be forwarded to the Government for consideration.

(ii) Law Reform and Treaties Division

The Law Reform and Treaties Division (LRTD) supports the Commission's functions of advising and assisting the Government in formulating legislation, policies, and administrative procedures, as well as recommending appropriate steps to ensure consistency with international human rights standards. The LRTD is also tasked with assisting the Commission in making recommendations to the Government with regard to subscription or accession to treaties and other international instruments in the field of human rights.

(iii) Complaints and Monitoring Division

The Complaints and Monitoring Division (CMD) supports the Commission's function of receiving and investigating complaints of alleged violations of human rights. The CMD is also tasked with conducting periodical visits to places of detention to ensure conditions therein comply with human rights standards. In addition to that, the CMD also monitors peaceful assemblies as and when instructed by the Commission.

(b) Communications Group

The Communications Group consists of the Training Division, Promotion and Public Relations Division, Media Division, and International Coordination Division. This Group has the responsibility of being the Commission's main centre or 'focal point' in the delivery and distribution of information, and of improving the Commission's corporate image, public relations, and media networking, besides providing human rights training for various groups of people. This Group is also responsible for improving the public perception of the Commission through effective strategic planning and creative use of media. This Group must also ensure that the Commission's linkages are improved and expanded at the national, regional, and international levels.

The Divisions are detailed as follows:

(i) Promotion and Public Relations Division

The Promotion and Public Relations Division (PPRD) is responsible for discharging one of the Commission's core functions, which is to raise public awareness on human rights. It is also tasked with helping to enhance the Commission's relationships with various stakeholders.

(ii) Media Division

The Media Division works to coordinate and implement the Commission's media strategy in addition to acting as a major hub for all media communication. Among its responsibilities are preparing and distributing press releases and other resources to the media, organising media interviews, organising press conferences, and responding to media questions.

(iii) Training Division

The Training Division is responsible for providing education, training, and information to all stakeholders, through various activities that are aimed at promoting greater understanding and practice of human rights values among all societal members. Its main objective is to promote respect of human rights through educational activities for all members of society, to assess needs and formulate strategies for the furtherance of human rights education, to foster learning environments that encourage participation and development of a caring personality that upholds the dignity of human beings and values friendship, understanding, tolerance, and equality, and to collaborate with Government agencies, non-Governmental organisations and civil society in the implementation of human rights education programmes.

(iv) International Coordination Division

The International Coordination Division (ICD) is responsible for supervising and assisting the work of the Commission at the regional and international levels, including the relationship and interaction of the Commission with other national human rights institutions (NHRIs) as well as other regional and international bodies related to the promotion and protection of human rights, including United Nations-related mechanisms. Also, the ICD is responsible for managing the participation and activities of the Commission in NHRI networks such as the Southeast Asia NHRIs Forum (SEANF), Asia Pacific Forum of NHRIs (APF), Commonwealth Forum of NHRIs (CFNHRI), and the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), in all of which the Commission plays an active role.

In addition, there are two operations offices stationed in Sabah and Sarawak, which are responsible for carrying out all the functions of the Commission in the East Malaysian states of Sabah and Sarawak.

(c) Sabah and Sarawak Offices

The Sabah and Sarawak offices run their own specifically-designed programmes and activities, and also support the programmes and activities organised by the Commission's Headquarters. Each office is headed by an Assistant Secretary who acts as Head of the Office. The Commission ensures the smooth running of all programmes and tasks planned by the two offices through their reporting, which are made directly to the Secretary as well as the respective Heads of Groups, besides monthly reporting to the Commission.

The current organisational structure of the Commission is included in the Appendix.

2. REPORTING STRUCTURE

To ensure regular reporting, the Corporate Services Group has developed a reporting structure that allows each Group's and Division's activities, categorised either by function or thematic issue or both, to be reported to each member of the Commission on a regular basis, according to the following structure:

Reporting Structure Based on Mandate/Function

NO.	MANDATE/FUNCTION	GROUP	COMMISSIONER
1.	Increasing public awareness of human rights	Communication	- Datuk Dr Mahmood Zuhdi * - Datuk Dr Khaw Lake Tee - Dato' Dr Aishah Bidin
2.	Advising on legal and international treaty aspects	Policy, Law & Complaints	- Datuk Dr Khaw Lake Tee* - Dato' Dr Aishah Bidin - Mr Francis John
3.	Complaints	Policy, Law & Complaints	- Mr James Nayagam* - Dato' Dr Aishah Bidin - Mr Francis John (Swk) - Mr Nordin Kasim (Sbh)
4.	International coordination	Communication	- Tan Sri Hasmy Agam* - All Commissioners
5.	Visits and monitoring (other than in respect of complaints)	Policy, Law & Complaints	- Mr James Nayagam* - Mr Francis John (Swk) - Mr Nordin Kasim (Sbh)
6.	Corporate services (Quotation Committee, policy on issues, investment, and other related matters)	Corporate Services	The Commissioner involved will be determined on the basis of specific projects and activities.
7.	Sabah Office	Sabah Office	Mr Nordin Kasim
8.	Sarawak Office	Sarawak Office	Mr Francis John

Reporting Structure based on Thematic Issues

NO.	PORTFOLIO/THEMATIC ISSUE	COMMISSIONER
1.	Children	- Mr James Nayagam - Encik Nordin Kasim
2.	Women	- Datuk Dr Khaw Lake Tee - Dato' Dr Aishah Bidin
3.	Persons with Disabilities	- Mr Francis Johen - Datuk Dr Khaw Lake Tee
4.	Indigenous Peoples	- Tan Sri Hasmy Agam - Datuk Dr Khaw Lake Tee - Mr Nordin Kasim
5.	Older Persons	- Tan Sri Hasmy Agam - Datuk Dr Khaw Lake Tee
6.	Business and Human Rights	- Dato' Dr Aishah Bidin - Mr James Nayagam
7.	Islam and Human Rights	- Datuk Dr Mahmood Zuhdi - Dato' Dr Aishah Bidin
8.	Anti-Trafficking in Persons	- Mr James Nayagam - Mr Francis Johen

If there is an overlap of thematic issue and function, members of the Commission in charge of the thematic issue and those in charge of the function would be assumed to be equally responsible for looking into the matter.

For instance, international treaties on children's rights will be analysed by the following Division and Commissioners:

DIVISION	COMMISSIONERS RESPONSIBLE FOR THE REVIEW OF INTERNATIONAL TREATIES (FUNCTIONAL STRUCTURE)	COMMISSIONERS RESPONSIBLE FOR THE ISSUE OF CHILDREN'S RIGHTS (THEMATIC STRUCTURE)
International Coordination Division	- Datuk Dr Khaw Lake Tee* - Dato' Dr Aishah Bidin - Encik Francis Johen	- Mr James Nayagam - Mr Nordin Kasim

3. 2016 WORK PLAN

This year, the Corporate Services Group acted as Secretariat in the development of the Commission's Annual Work Plan for 2016, which outlines the programmes and activities that will be implemented as well as budgetary needs in 2016.

The programmes and activities contained in the Work Plan had been identified based on a brainstorming session during the development of the Work Plan. The proposed activities of the Commission were guided by the Commission's 2012-2016 Five-Year Strategic Plan with the objective of making human rights respected, protected, and enjoyed by all.

During the 2016 Work Plan retreat session, which was conducted on 17-19 October 2015 and which enjoyed the participation and assistance of the Commissioners, the Secretary, and the Commission's senior officers, it was agreed that a comprehensive special resolution will be designed and implemented in its Strategic Work Plan, directly focusing on specific proposals to realise the Learning of Human Rights (through teaching and implementation) in all schools by 2020.

The process will go through three phases:

- (i) The process of research and building relationships with the Government and NGOs to convince stakeholders of the necessity and importance of human rights of children in particular and Malaysians in general;
- (ii) The process of developing the curriculum with the assistance and cooperation of the Government and the private sector before starting trial tasks towards obtaining approval for execution; and
- (iii) The realisation process of teaching through contact with instructors by providing appropriate training.

Apart from the special designation, the 2015 annual tasks which had been assigned to each Division continued to run as usual, such as those in respect of business and human rights, right to health in prisons, and investigations into deaths in police custody.

This Strategic Work Plan developed by the Commission is seen to add value to the Commission's role in developing awareness of human rights in Malaysia, besides providing an excellent opportunity to elevate the Commission's name at the international level.

4. WORKFORCE AND CAPACITY DEVELOPMENT

Ever-changing situations and high public expectations require the continual growth and improvement of the Commission's staff to enable them to respond more quickly to a dynamic global environment and to remain competitive, not only in respect of their work in

the field of human rights, but also in terms of a wider and more comprehensive work scope covering current national and international issues. In this regard, it is important for there to be opportunities for the Commission's employees to advance themselves and their careers by participating in training courses, whether provided internally or organised by external parties.

In line with this, the agenda of workforce and capacity development becomes the main thing that needs to be strengthened in order to produce employees that are competent, knowledgeable, skilled, and presentable, in order to give added value to each of the activities, processes, and work done by the Commission.

To achieve this objective, training and courses that are comprehensive, systematic, and thorough, targeting all levels of officers and staff, have been drafted using dynamic modules and methodologies sourced from both in and outside the country, in line with the current need for the Commission's staff to be better and more resilient, competitive, creative and innovative.

For training and courses conducted within the country, exposure has been given to a total of 30 fields of knowledge, either directly or through the sharing of knowledge by those involved. A total of 380 participants have taken part in the training courses, while 31 participants have taken part in 17 types of courses and training conducted outside the country.

Some of the courses and training conducted in 2015 for the purpose of the Commission's human resources development include those related to women's rights and gender equality, business and human rights, human rights and the environment, the rights of indigenous peoples, and geospatial human rights. Besides training based on thematic issues of human rights, training for skills development were also conducted, such as training on Microsoft Office 365, complaints systems, internal investigations and prosecution of employees, and group innovation and creativity.

It is hoped that workforce and capacity development through training and courses are seen as part of an ongoing effort to expand and enrich the thinking and understanding of individuals in a holistic and systematic way. Therefore, in accordance with the vision, mission, and objectives of the Corporate Services Group, the development of the workforce through training and courses have been designed to produce Commission employees who are knowledgeable, skilled, competent, responsible, and capable of contributing to the human rights civilisation, in line with the Commission's vision, mission, and objectives in promoting the awareness of human rights in Malaysia.

5. COMMISSION SUPPORT SYSTEM

This year, the Corporate Services Group via the Information Technology Unit, together with the Complaints and Monitoring Division, developed an e-complaint system for the

Commission, which was launched on 1 April 2015. The e-complaint system was developed to diversify channels of communication between the public and the Commission, and to create an additional channel for the public to lodge complaints about violations of human rights, other than through telephone calls, electronic mail, or other existing conventional channels.

Apart from providing a standardised Complaints Management System in the form of an easily accessible (via the internet), user-friendly, and environmentally friendly online system, it also can provide real time monitoring of public complaints, so that steps can be taken quickly when dealing with complaints. Furthermore, with the Commission's Complaints Management System, an integrated information database of complaints can be developed and constantly updated for the purposes of effective strategic planning.

All data with regard to complaints will be analysed and determined for the purpose of assessing the aim and cause of each complaint so that the next steps can be identified. By automating the complaints management, the Commission is able concentrate on the analysis, planning, and identification of opportunities for improvement of its service delivery. In addition, complaints management activities will be faster, simpler, and more efficient with the availability of online fact-checking. Overlapping of work will also be reduced, and complaints management tasks will be optimised.

6. PUBLICATION OF COMMISSION'S REPORTS AND REFERENCE MATERIALS

Among the tasks assigned to the Publications Unit is publishing the Commission's Annual Report, Bulletin, and the Journal of Human Rights regularly. In addition, the Publications Unit also acts as the intermediary between the Groups/Divisions in the issuance of titles and materials related to current issues and human rights matters for the purposes of promotion and distribution. Apart from being responsible for printing work, the Publication Unit also coordinates translation work and distribution to relevant agencies.

Among the materials/titles that were published or reprinted during the year 2015 are the following:

NO.	CATEGORY	TITLE
1.	Report	SUHAKAM Annual Report 2014 (English & Bahasa Malaysia)
		Right to Education for Children with Learning Disabilities – Focusing on Primary Education
		Report on Care Services for Older Persons and Support for Care Givers
		Mesyuarat Bersama Kerajaan mengenai Reservasi Artikel di dalam CEDAW

NO.	CATEGORY	TITLE
2.	Booklet	UN Guiding Principles on Business & Human Rights Commissioners' Handbook
3.	Module	Modul Latihan Konvensyen Kanak-kanak
4.	Bulletin	Buletin SUHAKAM
5.	Journal	Malaysian Journal on Human Rights 2014
6.	Brochure	SUHAKAM & Anda Rasuah & Hak Asasi Manusia Rights of Persons with Disabilities Perisytiharan Hak Asasi Manusia Kaheerah Dalam Islam Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
7.	Poster	Justice & Investigation Criminalising Torture Raising Awareness Reviewing Detention Practices Buli

7. INFORMATION MANAGEMENT SYSTEM

Guided by the aspiration of making the Commission the main referral center in Malaysia for matters related to human rights, the Commission retains a library located at the Kuala Lumpur Commission Office on the 13th Floor. This is a speciality library that focuses on materials on human rights in Malaysia and worldwide. The library collection consists of books, journals, thematic reports, annual reports, conference reports, audiovisual materials, theses, and so on. The collection totals almost 3,000 books. The library is open to the public but does not allow the borrowing of materials.

8. COMMISSION'S FINANCIAL MANAGEMENT AUDIT

From February to March 2015, the Commission's financial management was audited by the JPM Internal Audit Division. The intention was to determine whether there are effective management systems and structures in place, as well as internal control systems for the Finance Unit, in order to ensure that the Commission's financial management is in accordance with the applicable laws and regulations, guided by the Commission's Financial and Accounting Procedures and relevant Government circulars.

As a result of the audit session, the Commission has improved its financial management processes based on the recommendations and suggestions given by the JPM Internal Audit Division, especially in ensuring that the internal control of accounting matters related to payment processing, billing registration, and production reports are complete and in full compliance with the governing rules.

9. IMPLEMENTATION CHALLENGES

The main challenges faced by the Commission in carrying out its mandate and functions are in terms of creating understanding among the public about human rights, and implementing its duties on a very limited budget. However, such constraints do not mean that its duties are taken lightly. Nevertheless, if a sufficient budget is made available each year, in practical terms it may lead to improvements in the number, size, and race and gender compositions of the Commission's target groups.

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APPENDICES

APPENDIX I

THE COMMISSION’S PRESS STATEMENTS 2015

NO	DATE	TITLE
1.	20 Jan	School Policies and Academic Regulations Must Be Fair, Proportionate and Necessary in The Best interests of The Child
2.	13 Feb	The Human Rights Commission of Malaysia Calls On All Parties Concerned to Ensure That The Best interests of Child Are Taken As a Primary Consideration in All Actions Affecting Children
3.	25 Feb	The Human Rights Commission of Malaysia (SUHAKAM) is Seeking Nominations for Its 2015 Human Rights Awards.
4.	6 Mar	The Human Rights Commission of Malaysia Commemorates international Women’s Day 2015
5.	19 Mar	The Human Rights Commission of Malaysia Asserts That Parliamentary Immunity is a Democratic Right
6.	29 Apr	The Human Rights Commission of Malaysia Welcomes The Announcement to Reinstitute Aprocess of Pre-Legislative Scrutiny
7.	3 Apr	The Human Rights Commission of Malaysia Calls On The Authorities to Immediately End The Use of The Sedition Act 1948
8.	7 Apr	The Human Rights Commssion of Malaysia Regrets The Passing of The Prevention of Terrorism Act 2015
9.	30 Apr	Peaceful Assemblies Must Be Protected and Facilitated
10.	20 May	The Human Rights Commission of Malaysia Calls On The Government to Release to The Public The Report of The National Task force Without Further Delay
11.	26 May	The Human Rights Commission of Malaysia Calls for The Strengthening of Malaysia’s Response to Human Trafficking
12.	12 Jun	No to Child Labour. Yes to Quality Education
13.	29 Jun	World Refugee Day 2015: With Courage Let Us All Combine

NO	DATE	TITLE
14.	26 Jun	The Human Rights Commission of Malaysia, Amnesty international Malaysia, Bar Council Malaysia, Suara Rakyat Malaysia and Lawyers for Liberty together Launch The Campaign On Malaysia’s Accession to The Convention Against torture and Other Cruel, inhuman Or Degrading Treatment Or Punishment
15.	27 Jul	SUHAKAM Deplores The Curtailment of Fundamental Rights of Malaysians
16.	28 Jul	SUHAKAM Welcomes The Decision By The Perlis Religious Council in Putting The Best interest of The Child in The forefront
17.	30 Jul	SUHAKAM Notes Malaysia’s Upgrade in The 2015 Trafficking in Persons Report
18.	9 Aug	SUHAKAM Calls On The Authorities to Uphold The Aspirations of All Malaysians for a Country That Fully Respects The Values of Democracy, Rule of Law, integrity and Good Governance
19.	19 Aug	SUHAKAM Calls for a Reform to The Universities and University Colleges Act 1971
20.	20 Aug	SUHAKAM Opines That Fundamental Rights and Universal Freedoms Are An integral Part of islam
21.	21 Aug	SUHAKAM Calls for Full Adherence to The Human Rights Principles of The Right to Freedom of Peaceful Assembly
22.	1 Sept	SUHAKAM Notes That The Bersih 4.0 Public Assembly Concluded Peacefully
23.	15 Sept	in Supporting The Right to Freedom of Peaceful Assembly, SUHAKAM Trusts That All Parties Will Fully Respect Its Principles
24.	17 Sept	The Right to Peaceful Assembly is Not An Excuse to Perpetrate Violence
25.	1 Oct	SUHAKAM Commemorates international Day of Older Persons 2015
26.	2 Oct	SUHAKAM Commemorates The 2015 international Day of Non-Violence
27.	10 Oct	SUHAKAM Commemorates The 2015 World Mental Health Day

Appendix I – The Commission’s Press Statements 2015

NO	DATE	TITLE
28.	11 Oct	The Power of The Adolescent Girl: Vision for 2030
29.	12 Oct	Security and Terrorism Laws Must Not Be Used to Stifle Political Expression
30.	13 Oct	SUHAKAM Calls for The Full Protection of Orang Asli Children
31.	23 Oct	Fulfilling Human Rights Through The Sustainable Development Goals
32.	16 Nov	Budget 2016 May Render SUHAKAM Unable to Carry Out The Full Range of Its Core Functions
33.	18 Nov	Proposed Review of The Death Penalty for Drug Trafficking and Related offences Are Welccomed
34.	19 Nov	SUHAKAM Welcomes The Government’s Proposal to Allow Rohingya Refugees to Seek Employment
35.	20 Nov	SUHAKAM Celebrates The 2015 Universal Children’s Day
36.	23 Nov	SUHAKAM Welcomes The Adoption of The Asean Convention On Trafficking in Persons
37.	25 Nov	SUHAKAM Commemorates international Day for The Elimination of Violence Against Women 2015
38.	27 Nov	SUHAKAM Calls On The Authorities to Take Immediate Action to investigate into Reports of The Deaths of Orang Asli Children in Sungai Kejar, Perak
39.	9 Dec	The Effects of The National Security Council Bill 2015 On Malaysia’s Legal Landscape Will Be Radical
40.	18 Dec	Migrating to Malaysia: Challenges in Fulfilling Human Rights
41.	23 Dec	More Action Needed for The Protection of Women and Girls From Violence



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SCHOOL POLICIES AND ACADEMIC REGULATIONS MUST BE FAIR,
PROPORTIONATE AND NECESSARY IN THE BEST INTERESTS OF
THE CHILD**

The Human Rights Commission of Malaysia (SUHAKAM) maintains that all children have the right to an education free from discrimination in Malaysia’s pluralistic, multi-faith and secular society. As such, school policies must be in line with the guidelines set by the Ministry of Education, be fair and apply equally to all pupils. The Commission welcomes and fully supports the statement made by the Deputy Prime Minister and Minister of Education calling on school authorities “to refrain from making their own regulations, especially if they are not in accordance with Ministry guidelines.”

While it is for the governing body of a school to determine, draft and implement policies to ensure and promote good behaviour and discipline amongst pupils, the Commission hopes that schools develop non-discriminatory and reasonable policies which comply with the overall objective of the best interests of the child, as well as human rights norms. Although schools are in the best position to craft their own policies, these must aim to set an appropriate tone in which learning can flourish. Schools must also ensure that their policies and practices do not disadvantage any student.

The Commission recognises that in fulfilling its overall aim, a school may have to balance the rights of an individual student against the overall best interests of the school. As such, the Commission recommends that schools consult with pupils, teaching staff and parents so as to allow for the exchange of views and comments on any proposed policy. It is further recommended that the school governing body considers the impact that a proposed criterion or policy would have on its students and their parents, and to register the policy with the Ministry of Education.

The Commission is of the view that a policy which is perceived to be either preferential or unfair could have a negative impact on the good relations both within and outside the school. As such, the Commission reiterates the importance of a consultation process.

The Commission also hopes that schools will aim to respond to policy breaches proportionately so that its response is no more than is necessary and appropriate, and not excessive in the given circumstances; as well as to have in mind the best interests of the child at all times.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

20 January 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

CALL FOR NOMINATIONS: 2015 HUMAN RIGHTS AWARDS

The Human Rights Commission of Malaysia (SUHAKAM) is seeking nominations for its 2015 Human Rights Awards.

The Human Rights Awards was established by the Commission in 2011 to honour individuals, groups, organisations and agencies that have an outstanding track record in the advancement of human rights in Malaysia. Nominees for the Awards will be judged on their achievements and efforts in promoting human rights in Malaysia.

Nominations are sought for five (5) awards categories. These are:

- Individual Awards
- Organisation/Group Awards
- Media Awards
- Government Agencies Awards
- Business Entities Awards

Nominations close on Monday, 15 June 2015 at 5.00pm. Nominations may be submitted by post, fax or email to hra2015@suhakam.org.my.

The awards will be presented on 9 September 2015, at the Human Rights Awards Presentation Ceremony in Kuala Lumpur which celebrates SUHAKAM Day to commemorate the

Commission’s inception in 1999.

Nomination forms and details of each Award category are online at: www.suhakam.org.my.

-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

25 February 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS ON ALL
PARTIES CONCERNED TO ENSURE THAT THE BEST INTERESTS OF
THE CHILD ARE TAKEN AS A PRIMARY CONSIDERATION IN ALL
ACTIONS AFFECTING CHILDREN**

The Human Rights Commission of Malaysia (SUHAKAM) is concerned at the growing number of cases reported on the fundamental right to freedom of religion, particularly concerning students and minors.

While the Commission warmly welcomes the assurance by the Minister of Rural and Regional Development Datuk Seri Mohd. Shafie Bin Hj. Apdal announcing that colleges in Sabah and Sarawak are to withdraw or rewrite its rules and regulations that restrict non-Muslim students from practising their religions, the Commission reiterates its position that all students have the right to an education free from discrimination in Malaysia’s pluralistic, multi-religious and secular society.

The Federal Constitution of Malaysia guarantees the right to education free from discrimination in Article 12 and the same right is contained in Articles 28 and 29 of the United Nations Convention on the Rights of the Child (CRC), to which Malaysia is a state party. The Commission also takes the view that all educational institutions must promote conditions which facilitate socialisation and unity in the overall aim of national harmony.

The Commission further opines that the religious conversion of minor children and students without the knowledge or consent of both parents violates the rights of the child as well as those of the parents, and is unconstitutional. The Commission therefore calls on the government to address the many complexities on matters concerning religious conversion of minors, and encourages respectful dialogue on the issue.

The Commission also expresses hope that educational institutions in the country recognise and

value racial and religious diversity, and are committed to providing an unbiased environment for all students.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

13 February 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA ASSERTS
THAT PARLIAMENTARY IMMUNITY IS A DEMOCRATIC RIGHT**

The Human Rights Commission of Malaysia (SUHAKAM) regrets the decision of the Royal Malaysian Police (PDRM) to detract from the principle of Parliamentary privilege by invoking the Sedition Act 1948 against Members of Parliament in the course of Parliamentary debates.

The Commission has repeatedly expressed its concern over the invocation of the Sedition Act by PDRM, including recently in 2014 on a state assemblyperson for words spoken in the State Assembly. The Commission registers its serious concern at the latest arrest of a Member of Parliament under the Sedition Act and calls on the authorities to respect and uphold the principle of Parliamentary and State Assembly privilege accorded to our elected representatives.

Crucial to parliamentary democracy is the assurance that Members of Parliament are privileged with the authority to express their views and opinions in Parliament without fear or favour as representatives of the people.

The Commission emphasises that the freedom of speech and expression in Parliament shall not be impeached or become the basis of criminal proceedings. It is therefore essential that Members of Parliament are guaranteed freedom from criminal prosecution, civil suits or superfluous disciplinary action.

While the Commission recognises that there are exceptions to the privileges and immunities enjoyed by Parliamentarians as contained in Articles 63(4) and 72(4) of the Federal Constitution, the Commission reiterates its position that the authorities must ensure proportionality of punishment against Parliamentarians, with due regard to existing measures as provided for under the Standing Orders of Parliament and Assembly. Nonetheless the fundamental right of freedom of speech shall be upheld in Parliament at all times.

The Commission also wishes to advise the authorities that Parliamentary immunity is not an individual privilege granted to Members of Parliament for their personal advantage, but

is instead a privilege for the benefit and interests of all citizens, as Parliament has a central role to play in the protection of the basic rights of all Malaysians.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

19 March 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA
COMMEMORATES INTERNATIONAL WOMEN'S DAY 2015**

The Human Rights Commission of Malaysia commemorates the 2015 International Women’s Day, celebrated globally on 8 March.

2015 marks the 20th anniversary of the Beijing Declaration and Platform for Action (“Beijing Declaration”), a remarkable roadmap adopted unanimously and signed by 189 Governments in 1995. The Declaration had set the agenda for advancing the goals of equality, development and peace, as well as the empowerment for all women.

To this end, the theme of this year’s International Women’s Day is “Empowering Women, Empowering Humanity: Picture it!”

While there have been significant achievements in women’s rights in Malaysia, many impediments still remain. The Commission views with particular concern issues on violence against women, sexual harassment of women at the workplace, the right to education, health and social well-being of women and girls, the rights of indigenous women and incidences of child marriage, amongst others.

Furthermore, despite Article 8 of the Federal Constitution, female employees in the private sector do not enjoy the same constitutional protection against discrimination or enjoy the same benefits as their counterparts in the public sector. For example, even with the recommendation by the International Labour Organisation (ILO) Convention on maternity leave being not less than 14 weeks, most private sector employers offer maternity leave up to only 60 days.

The Commission recalls the assurance by the Malaysian Government in March 2010 reiterating our commitment to the Beijing Declaration at the 54th Session of the Commission on the Status of Women in New York. As such, the Commission calls on the Government to take active steps to remove remaining legal obstacles and gender discriminatory practices and policies in Malaysia. Additionally, the Government announced its plan to increase women’s participation in the workforce to 55% by 2015 in the 10th Malaysia Plan (10MP). In achieving this target, the Commission recommends that the Government emplace a comprehensive

strategy that rejects patriarchal attitudes and stereotypes that discriminate against women in all sectors, in conformity with the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Malaysia is a state party to.

In addition, the ASEAN Declaration on the Elimination of Violence Against Women and the Elimination of Violence Against Children also calls on member states to take “necessary measures to eliminate all forms of discrimination against women” and “intensify efforts to develop and improve existing legislative, education and social measures and support services aimed at the prevention of violence against women.” The Commission hopes this can be achieved in active collaboration with civil society organisations, through public education and awareness on women’s rights at all levels of society.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

6 March 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA WELCOMES
THE ANNOUNCEMENT TO REINSTITUTE A PROCESS OF PRE-
LEGISLATIVE SCRUTINY**

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the recent announcement by Minister in the Prime Minister’s Department, YB Puan Hajah Nancy Shukri, to reinstitute a process of pre-legislative scrutiny of Parliamentary Bills designed to bring about a more efficient system of finalising such Bills. The Commission opines that there is a compelling need for instituting such a process involving, *inter-alia*, the establishment of Parliamentary Permanent or Select Committees as it will contribute towards a more inclusive, efficacious and efficient Parliamentary system, as practiced by other parliamentary democracies.

The Commission strongly supports this laudable proposal as it is very much in line with its own proposal made in 2011 for the establishment of a Parliamentary Select Committee on Human Rights, which was fully endorsed by YB Dato’ Seri Mohamed Nazri Bin Abdul Aziz, then Minister in the Prime Minister’s Department. The Commission believes that the establishment of such a Committee will be an additional measure in strengthening parliamentary democracy, and will undeniably offer a means to increase the institutional capacity of the Parliament to consider human rights, as well as to deliver a more organised and rigorous approach to the pre-legislative consideration of civil liberties, which is in conformity with the Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments of 2012. At the same time this mechanism will further strengthen the legislative process by appropriately balancing the Government’s various goals and policies for the nation with its human rights obligations as a responsible and respected member of the international community.

In reiterating its support for the Minister’s proposal, the Commission looks forward to its early implementation.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

29 April 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS ON THE
AUTHORITIES TO IMMEDIATELY END THE USE OF THE SEDITION
ACT 1948**

The Human Rights Commission of Malaysia (SUHAKAM) expresses its serious concern over the recent arrests of a number of politicians, activists, students and academicians, as well as members of the media under the Sedition Act 1948, which have escalated alarmingly in spite of the Commission's recent call on the authorities to desist from such actions as well as to reconsider the proportionality and necessity for such arrests. The Commission is also appalled at the manner in which these arrests have been made, which appears to be tantamount to harassment and intimidation by the authorities and in breach of the rule of law. Furthermore, the arrests of members of the media to prevent them from performing their legitimate duties are a clear violation of Malaysia's obligations under international human rights law. The Commission therefore recommends that the Government take unwavering steps towards guaranteeing freedom of expression and assembly, including media freedom, in line with the Federal Constitution and the Universal Declaration of Human Rights 1948.

The Commission also reiterates its well-known position on the Sedition Act 1948 and recommends that consistent with the Government's commendable advocacy of moderation at the global level, it repeal this repressive and undemocratic domestic legislation, which directly violates the right to freedom of expression.

The Commission would like to further state that it fully supports the rights of all individuals to assemble peacefully, to express their civil and/or political views without fear of arrest or detention, including the responsible exchange of opinions on social media. The Commission

thus urges the Government to uphold its commitment to these freedoms, and to ensure the effective enjoyment of the rights to freedom of expression and peaceful assembly in Malaysia.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

3 April 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA REGRETS THE
PASSING OF THE PREVENTION OF TERRORISM ACT 2015**

The Human Rights Commission of Malaysia (SUHAKAM) at the outset wishes to make clear, that human rights, which are universal in character, do not counteract peace and national security. As such, the Commission had pledged, in its statement of 28 November 2014, its support to the Government in its efforts to combat the growing threats of terrorism and extremism in Malaysia. The Commission had explained that any proposed legislation to combat terrorism must seek to prevent radicalisation, strengthen existing terrorism prevention and investigation measures, and provide control in order to disrupt all forms of terrorist activities. The Commission also clarified that such laws must be correct in substance, unambiguous, legitimate and proportionate.

Although the Government has an obligation to ensure that the constitutional rights of its citizens are protected by taking positive measures to counter threats of terrorism and extremism, the Commission reiterates that such measures must not pose disproportionate challenges to fundamental human rights and the rule of law, and jeopardise the principles of democracy.

The Commission therefore regrets that the Prevention of Terrorism Act 2015 (POTA) was passed by Parliament today despite uncertainty in several of its provisions; and which was formulated without consultation with the Commission which, under its founding Act, is mandated, *inter-alia*, “to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken” with respect to human rights. The Commission believes many provisions within the POTA are not in line with international human rights standards, despite Malaysia’s assumption of eminent positions at the regional and international levels, where there are expectations of improved human rights standards.

While the Commission acknowledges the assurances by the Honourable Minister of Home Affairs that the legislation will not be misused or used to silence political dissent, the Commission is nevertheless concerned with the legitimacy and human rights implications

of certain provisions in the Act. Due to the seriousness of the POTA’s measures and the need for proper oversight, the Commission shall therefore be making full submissions to the Government in accordance to its statutory mandate.

However, given these concerns and because certain provisions of the Act are wide-reaching without sufficient safeguards against abuse of power, including inadequate oversight and unsatisfactory provision for ensuring transparency and accountability, the Commission would like to highlight the following:

- a) The Commission views the lack of legal representation of an accused person during the Inquiry (section 10(6)) as well as the provision for indefinite detention without trial as matters of serious concern and in breach of the right to a fair trial according to Article 5 of the Federal Constitution as well as Article 10 of the Universal Declaration of Human Rights (UDHR). The Commission asserts that the right to a fair trial is absolute and cannot be limited. Furthermore, arbitrary detention is a serious threat to liberty and to the enjoyment of all other fundamental rights.
- b) The Commission regrets the absence of a right to judicial review, save for the review of procedural matters, which is an affront to the right to a fair hearing and the right to have the legitimacy of one’s detention determined by an independent and competent Court of law. The Commission is also concerned with the lack of procedural safeguards necessary for avoiding unlawful detention, and is therefore of the opinion that these directly violate the Federal Constitution and international human rights law.

In consideration of the above, the Commission calls on the Government to be committed to upholding its international human rights obligations and urges for a revision of the Act, with full and meaningful consultations with all stakeholders, including the Commission. The Commission hopes that such consultations will allow for the exchange and consideration of views with the primary aim of aligning the provisions of the Act with a human rights oriented model of criminal law, to ensure fair and proportionate treatment for any person charged.

The Commission has also been, and is consistent in its call that protecting human rights and public safety must be complementary. As such, the POTA must comply with Malaysia’s international human rights obligations.

The Commission thus recommends that the authorities develop an effective, feasible framework for the detention, interrogation and trial of suspected terrorists which would allow the authorities to capitalise on its intelligence agencies to disable suspected terrorist activities.

In any event, the Commission calls on the Government to ensure that all provisions of the Act are in conformity with Articles 7, 9, 10 and 11 of the Universal Declaration of Human Rights and the provisions of the United Nations International Covenant on Civil and Political Rights (ICCPR).

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

7 April 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PEACEFUL ASSEMBLIES MUST BE PROTECTED
AND FACILITATED**

The Human Rights Commission of Malaysia (SUHAKAM) refers to the proposed May Day rallies to be held in Kota Kinabalu and Kuala Lumpur on 1 May 2015. The Commission has received requests to monitor the assemblies at both locations and will carry out its responsibility accordingly as a national human rights institution.

In this context, the Commission reiterates its position, as contained in its Press Statements of 28 June 2011, 3 May 2012, 1 May 2014 and 7 November 2014 that everyone has the right to freedom of peaceful assembly. This right provides a means for public expression, which is central to a democratic society as enshrined in the Universal Declaration of Human rights (Article 20), the ASEAN Declaration of Human Rights (Article 24) and the Federal Constitution (Article 10).

The Commission acknowledges that the right to freedom of assembly applies only to peaceful gatherings and excludes demonstrations where the organisers have violent intentions which may result in public disorder. However, the possibility of violent counter-demonstrations for example does not forfeit police protection and, therefore, restrictions placed on such assemblies must be in conformity with the law and for the purposes of protecting the right of peaceful assembly.

The Commission further recalls its recommendations in its Public Inquiry Reports of 2012 and 2013 concerning public assemblies in which the Commission emphasised that participants of public assemblies should not take the law into their own hands and must appreciate and respect at all times that the police have its role and responsibilities in maintaining and preserving security, peace, law and order.

While the authorities have a duty to strike a fair balance between the fundamental right to peaceful assembly and the competing rights of others in the locality affected by an assembly, the Commission advises that opposition to an assembly is not good reason to impose prior

restrictions on an assembly. Furthermore, while it is acknowledged that public assemblies may cause some level of temporary interference with, or disruption to, routine daily activities, assemblies are, by definition, temporary activities.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

30 April 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

THE ROYAL MALAYSIA POLICE MUST STRIVE TO ACT WITH COURAGE, COMPOSURE, TOLERANCE, IMPARTIALITY AND WITH RESPECT FOR CONSTITUTIONAL RIGHTS

The Human Rights Commission of Malaysia (the Commission) expresses its support for The Society for the Promotion of Human Rights (PROHAM)'s press release entitled "ROYAL POLICE COMMISSION FINDINGS: TEN YEARS ON (April 29 - 2005 & 2015)" and calls on the Royal Malaysia Police (PDRM) to strive to act with courage, composure, tolerance, impartiality and with respect for the Constitutional rights of all at all times.

The Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police (Royal Commission) was established in 2004 in response to "widespread concerns regarding the high incidence of crime, perception of corruption in the PDRM, general dissatisfaction with the conduct and performance of police personnel, and a desire to see improvements in the service provided by the police."

Among the most significant of the 125 recommendations in the 2005 Royal Commission Report was the proposal to establish an Independent Police Complaints and Misconduct Commission (IPCMC), independent of the PDRM with the mandate, amongst others, to receive and investigate into complaints of alleged misconduct by the police force. The Report of the Royal Commission further identified that there were high instances of deaths in police custody. In its Annual Reports, the Commission noted that there were 20 deaths in police custody in 2013 and at least 10 in 2014 based on the Commission's observations. To date, complaints involving alleged disproportionate use of force by the police, abuse of power and delays in acting on reports lodged are among the highest number of complaints received by the Commission. In response, the Commission had in 2011 and 2012 recommended that the police conduct initial investigations before making an arrest and that arrests should only be made when there is reasonable suspicion that a person has committed an offence, or when it is reasonably considered necessary to prevent a person from committing an offence or from feeling.

The Commission also has over the years outlined many recommendations to the PDRM, as contained in its Public Inquiry Reports of 2001, 2004, 2006, 2009, 2011 and 2013. The

Commission wishes to reiterate several of its key recommendations for the immediate consideration of the PDRM:

- There is need for the PDRM to facilitate peaceful assemblies as envisaged under the Peaceful Assembly Act 2012 by ensuring crowd and traffic management and control, as well as minimising disruptions to the public and activities in the places concerned. These can be realised through meetings with the organisers as well as on-going training and workshops on crowd management and control in line with international standards;
- There is a need for the police to make distinction between a peaceful assembly and a riot as well as to maintain its neutrality in protecting the safety of participants and members of public in the event of public assemblies involving two or more opposing groups in the same area;
- The authorities must undertake to immediately inform the next-of-kin in cases of deaths in custody the essential information, including date, time and place of the post mortem examination, the right to be represented by a legally qualified medical practitioner or a legal practitioner or a medical practitioner during the post mortem examination, right of family members to have a second post mortem examination and a thorough explanation, in layman’s language of the findings of the post mortem examination.

The Commission also stresses that while preventive detention laws have been re-enacted, the PDRM shall refrain from detaining individuals without charge as such practices not only violate human rights principles but can have a devastating impact on the investigative abilities of the police.

In conclusion, the Commission opines that in line with the Royal Commission’s strategic objective which was to “transform the Royal Malaysia Police into a World Class, twenty-first century organisation that is efficient, clean and trustworthy, dedicated to serving the people and the nation with integrity and respect for human rights”, the PDRM must aim towards fully adopting and implementing policing policies and techniques that are effective, lawful and humane.



-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

1 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA EXPRESSES
DEEP CONCERN OVER THE CONTINUED VIOLATION OF THE
RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY**

The Human Rights Commission of Malaysia (the Commission) is pleased to note that the May Day / Anti-GST Rally in Kuala Lumpur on 1 May 2015 was largely peaceful and well facilitated by the police. However, the Commission has identified a number of areas where the right to freedom of peaceful assembly can be better enhanced. The Commission regrets the arrests of several participants following the peaceful assembly, and calls on the authorities to immediately and unconditionally release all detained persons, as the right to participate in a peaceful assembly is critical to a functioning democracy.

The Commission repeats that the right to freedom of peaceful assembly in Malaysia is guaranteed in Article 10 of the Federal Constitution, Article 20 of the Universal Declaration of Human Rights (UDHR) and Article 24 of the ASEAN Declaration of Human Rights. The Commission stresses again that any restriction on the right to freedom of peaceful assembly must be necessary, proportionate and does not threaten the values of tolerance and pluralism. The Commission further reiterates that the police have an obligation to protect and facilitate peaceful assemblies, including those expressing dissent. Arrests and subsequent prosecution of participants of a peaceful assembly are not only unnecessary but also wholly disproportionate.

The Commission is also deeply concerned with what appears to be a tactic of mass arrests following a peaceful assembly and opines that such arrests and prolonged detention periods are not in accordance with the principles of permissibility of limitations to fundamental human rights, as prescribed by international human rights law. The Commission therefore calls on the authorities to ensure that no one is criminalized or subject to threats of or actual intimidation, reprisals or harassment for exercising their constitutional right to freedom of peaceful assembly.

The Commission further calls on the authorities to recognize that the right to freedom of peaceful assembly plays a pivotal role in the emergence and maintenance of an effective democratic system, and urges the Government to show its commitment to upholding

international human rights standards by promoting a safe and enabling environment for all Malaysians to exercise their right to freedom of peaceful assembly. The authorities must ensure that police personnel are adequately trained in relation to international norms governing the right to freedom of peaceful assembly.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

3 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS FOR
THE FULL PROMOTION AND PROTECTION OF THE RIGHTS OF
CHILDREN**

The Human Rights Commission of Malaysia (the Commission) refers to the case of Mr Nur Fitri Azmeer Nordin, a Malaysian student who was recently sentenced to five (5) years imprisonment in the United Kingdom for possessing indecent images and videos of children, and for making indecent photos of a child. The Commission welcomes the Press Statement by the Honourable Minister of Foreign Affairs, YB Dato' Sri Anifah Haji Aman as it views the issue of child pornography as a serious human rights violation and stresses that the commercial sexual exploitation of children which takes many forms, including child prostitution, child pornography and trafficking in children is an atrocious form of child abuse.

Malaysia acceded to the Convention on the Rights of the Child (CRC) in 1995 and in 2012, acceded to two of the three Optional Protocols to the CRC namely the Optional Protocol to the Convention on the Rights of the Child on the Sale Of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict. The accession to these Optional Protocols was very much welcomed as the Government once again recognised its obligation to respect, protect, promote and fulfil the rights of the child, and to be legally bound by the terms of the Convention.

The Commission would like to reiterate that as a State Party to the Optional Protocol to the Convention on the Rights of the Child on the Sale Of Children, Child Prostitution and Child Pornography, Malaysia has the obligation to ensure that, as minimum, laws are enacted to penalise the sale of children, the sexual exploitation of children, and the production, distribution, dissemination, importation, exportation, sale or possession of child pornography, whether such offences are committed domestically or transnationally or on an individual or organised basis. The Commission further notes with concern that although law enforcement is an effective instrument for prevention, there is no clear legal protocol concerning sexual abuse and exploitation of children aimed at providing a strong basis for prosecution. For example, while the Child Act 2001 makes reference to child pornography, it is only in the context of care and protection of the child who is a victim of sexual abuse and does not proscribe activities relating to the making, possession or dissemination of child pornographic materials.

As such, and due to the unique vulnerability of children, the Commission is of the opinion that their rights shall be prioritised within Government policy and therefore recommends that legislation be enacted or that the Penal Code be amended to criminalise any acts or activities relating to, among others, child pornography, in compliance with the Government’s obligations under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

In addition, the Commission strongly recommends that the seriousness of offences against children be acknowledged, and crimes against children shall be addressed by adopting a victim-centred approach.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

8 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**"THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS FOR
FIRM SOLUTIONS IN ADDRESSING ISSUES CONCERNING ASYLUM
SEEKERS, REFUGEES AND MIGRANTS"**

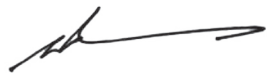
The Human Rights Commission of Malaysia (the Commission) refers to recent media reports concerning the arrival of several thousand victims of human trafficking, asylum seekers and/or migrants, including women and children to Malaysian shores, seeking protection.

The Commission appreciates that the authorities have a duty to enforce Malaysia's strict immigration policies in maintaining national security. This includes taking steps to defend our borders from unauthorised arrivals. However, the Commission is of the opinion that in so doing, the authorities must adopt a humane approach and be guided by, among others, Malaysia's responsibilities and obligations as contained in international human rights treaties, particularly those accepted by Malaysia, such the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD), which apply regardless of nationality or immigration status. Furthermore, it is internationally accepted that the CRC demands that migrant / refugee children be seen and protected first as children, and imposes an obligation on State parties to ensure that the best interests of the child is a primary consideration in all actions concerning children. The Commission is concerned that despite being a long-standing issue, there are no firm solutions in place for refugees and asylum seekers.

There is therefore an imperative need for a comprehensive approach to deal with the problem, addressing the root causes and other contributory factors with a view to safeguarding the basic human rights of this vulnerable group. As the current Chairman of ASEAN that is advocating a people-centred approach towards realising an ASEAN Community in 2016, Malaysia is well-placed and should assume a leadership role to push for a regional approach in dealing with the refugee issue involving all ASEAN member States. At the same time Malaysia, as a responsible member of the United Nations with important regional and international roles, should seriously consider joining the ranks of countries that have endorsed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. This would place the Government's cooperation with the United Nations High Commissioner for Refugees (UNHCR) on a firmer

footing in dealing with the issue than the existing ad-hoc arrangement. While recognising the Government’s cooperation with the UNHCR, the Commission hopes that individuals in need of genuine protection such as refugees, abused and persecuted migrants and victims of trafficking will be screened and accorded the necessary protection.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

14 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS ON THE
GOVERNMENT TO RELEASE TO THE PUBLIC THE REPORT OF THE
NATIONAL TASK FORCE WITHOUT FURTHER DELAY**

The Human Rights Commission of Malaysia (the Commission) expresses its appreciation to the Office of The Honourable Minister in the Prime Minister’s Department, Senator Datuk Paul Low Seng Kuan, for contributing in a briefing session on 30 April 2015, organised by the Commission as part of its follow up plan to update relevant stakeholders on the current status of the Task Force to Review the Report of the National Inquiry on the Land Rights of the Indigenous Peoples 2014 (Task Force).

The update given by the Honourable Minister’s Office to the session which was attended by civil society organisations, including those of the indigenous peoples, was informative and useful in terms of enlightening stakeholders on the status of the Task Force Report. While noting that the Report has been submitted to the Cabinet for its consideration and decision, the Commission wishes to impress upon the Government on the need for early and speedy action, beginning with the public release of the Report given the fact that it has been more than two and a half years since the completion of the Commission’s National Inquiry on the Land Rights of the Indigenous Peoples (NI).

As highlighted in the NI Report, the Commission finds that the social and economic problems of indigenous peoples are caused primarily because of the violation of their rights to land, territories and resources. This has placed a disproportionate number of indigenous peoples into vulnerable situations such as extreme poverty and exploitation.

The Commission also calls on the Government to ensure that the indigenous communities are kept abreast of the implementation status of the Commission’s recommendations, in line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which the Government has endorsed internationally, as the indigenous communities are distressed over the perceived disregard of their rights to land and natural resources.

The Commission is committed to, and will continue its efforts to promote and protect the human rights of indigenous peoples. To this end, the Commission looks forward to implementing its follow up action plan on its National Inquiry report.

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DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

20 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA CALLS
FOR THE STRENGTHENING OF MALAYSIA'S RESPONSE TO
HUMAN TRAFFICKING**

The Human Rights Commission of Malaysia (the Commission) is alarmed at news reports on the discovery of mass migrant graves in the country and reiterates that human trafficking is an egregious violation of human rights abetted by the absence of adequate legislation and policies, lack of enforcement of laws, porous borders, the failure to prosecute traffickers and complicity of corrupt public officials, among others.

The Commission is concerned that despite comprehensive legislation to combat human trafficking in Malaysia, in particular the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, cases of human trafficking and migrant smuggling are on the rise. The Commission is also disappointed that the Council for Anti-Trafficking in Persons (MAPO) has not made more of the opportunity to advise the Government on appropriate measures, albeit temporary, to address these pressing issues, which may result in the deprivation of the right to life, as enshrined in Article 3 of the Universal Declaration of Human Rights.

In line with a human rights approach to address issues of trafficking in persons and migrant smuggling, the Commission advises that Malaysia is responsible under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons. Therefore, the Commission strongly recommends cooperative bilateral efforts between Malaysia and the countries of origin of such victims, as well as regional efforts with a view to improving cooperation to prevent, suppress and punish trafficking in persons. In the interim, the Commission recommends cooperation with nongovernmental organisations that can assist victims on Malaysian soil. The Commission also recommends that trafficking victims be allowed to work and reside outside government facilities.

More importantly, the Commission calls on the authorities to exercise due diligence in identifying and eradicating public and private sector involvement or complicity in trafficking. In so doing, enforcement and/or public officials and private individuals suspected of being implicated in trafficking shall be immediately investigated, tried and, if found guilty,

appropriately punished. The Commission also calls on the authorities to take positive steps to identify, freeze and confiscate assets of individuals and persons involved in the trafficking trade. These confiscated assets can be used to support and compensate victims of trafficking.

The Commission advises that Malaysia’s response to the issue on trafficking in persons must fully reflect its international obligations and therefore urges the Government to immediately accede to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990, Convention relating to the Status of Refugees 1951 and the Protocol Relating to the Status of Refugees 1967 as part of its initiatives to underline the Government’s seriousness in combatting human trafficking and/or migrant smuggling. Furthermore, while Malaysia ratified the United Nations Convention against Transnational Organized Crime in 2004 and acceded to the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children in 2009, the Commission recommends accession to the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air, all of which provide clear guidelines in defining, preventing, and prosecuting human trafficking.

The Commission also stresses that preventing, identifying, and assisting victims of trafficking require a multi-system, coordinated approach and recommends an independent inquiry with the aim of placing human trafficking firmly on the nation’s political agenda. The Commission also takes this opportunity to offer its readiness to assist in such an inquiry.

In addition, the Commission reminds the Government of its commitments on trafficking in persons during Malaysia’s second Universal Periodic Review and reiterates that the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

26 May 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

NO TO CHILD LABOUR. YES TO QUALITY EDUCATION

The Human Rights Commission of Malaysia (the Commission) commemorates the 2015 World Day against Child Labour today. This year’s focus is on the importance of quality education as an important step in confronting child labour; hence its theme: “No to Child Labour. Yes to Quality Education”.

Child labour is a global issue and is regarded as a form of child abuse and exploitation as well as a deplorable human rights violation. Child labour is defined as work that is harmful to the physical and mental development of children and/or deprives children of adequate education, health, leisure and basic freedoms, thus violating their fundamental human rights. The Commission explains that activities such as assisting their parents around the home, helping in a family business or earning pocket money during school holidays, which are common to Malaysian culture are not to be confused as forms of child labour.

The Commission recalls reports on child labour in the country’s palm oil industry as identified in 2014 by the United States Department of Labour’s Bureau of International Labour Affairs (ILAB). The Commission stresses that child labour violates the principles laid down in the Convention on the Rights of a Child, and International Labour Organisation (ILO) instruments, mainly Convention No. 138 on the Minimum Age for Admission to Employment, 1973 and Convention No. 182 on the Worst Forms of Child Labour, 1999, both which Malaysia ratified in 1997 and 2000 respectively; as well as the Forced Labour Convention, 1930 (No. 29).

The Commission therefore calls on all stakeholders to honour the rights embodied in these Conventions as well as for education to be recognised as a fundamental human right and as a basis for guaranteeing the realization of all other human rights at all levels of society. This includes refugee, migrant and trafficked children.

-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

12 June 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

WORLD REFUGEE DAY 2015: WITH COURAGE LET US ALL COMBINE

The Human Rights Commission of Malaysia (the Commission), together with the international community commemorates the 2015 World Refugee Day today in recognising the resilience of forcibly displaced people around the world due to human rights crises.

This year’s theme is “with courage let us all combine.” The Commission explains that refugees are not economic migrants but are persons who are outside their own country and are unable or unwilling to return due to a well-founded fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinion.

In signifying Government efforts to respect and protect the non-derogable right to life, the Government announced its decision to provide temporary shelter for up to 7,000 boat people fleeing persecution for one year on condition that the international community would help with repatriation, after initially turning them away. The Commission welcomes this humanitarian gesture but opines that the problem remains intractable with impermanent steps.

The Commission is deeply concerned with the continuing refugee crisis, resulting in loss of lives and the registered refugee and asylum-seeker population in Malaysia reaching 153,004 as at May 2015, and reiterates its position that the Government should accede to the United Nations Convention Relating to the Status of Refugees 1951 (1951 Convention) as an exemplary Member of the United Nations (UN) that is currently serving on the UN Security Council. The Commission continues to believe that accession to the 1951 Convention would be the most judicious way of dealing with the refugee issue as in its view a State Party to the Convention would be in a much stronger position to obtain international assistance in dealing with the refugee issue, including repatriation, than continuing to stay out of the Convention.

In this regard it is pertinent to quote the United Nations High Commissioner for Refugees, Mr António Guterres, “when a door is closed, people will open a window. If the window is closed, people will dig a tunnel. If there is a basic need of survival, a basic need of protection, people will move, whatever obstacles are put in their way – those obstacles will only make their journeys more dramatic.”

The Commission is also alarmed with allegations of complicity, corruption and involvement of Malaysian law enforcement officials in the trafficking and smuggling of migrants and refugees. The Commission has been called on to conduct an inquiry in respect of these human rights concerns in line with its statutory powers. While the Commission deliberates, it urges the Government to immediately take firmer steps to address this humanitarian crisis in a dignified and humane manner, notwithstanding Parliament’s recent rejection of a motion to discuss the plight of Rohingya and Bangladeshi migrants stranded at our shores.

As this humanitarian and security crisis affects a number of ASEAN States including Malaysia, the Commission urges the Government to call on the ASEAN Governments to confront issues concerning the legal status of these stateless refugees immediately, and to play a leadership role in its capacity as Chair of ASEAN to generate regional and international commitment with respect to international human rights law, international refugee law, international humanitarian law, and the law of the sea.

The Commission also advises that although Malaysia is not a signatory to the 1951 Convention, it is still bound by customary international law not to expel or return refugees to the frontiers of territories where their life or freedom would be threatened, unless there are reasonable grounds for regarding his/her presence as a danger to the security of the country.

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TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

20 June 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE HUMAN RIGHTS COMMISSION OF MALAYSIA, AMNESTY
INTERNATIONAL MALAYSIA, BAR COUNCIL MALAYSIA, SUARA
RAKYAT MALAYSIA AND LAWYERS FOR LIBERTY TOGETHER
LAUNCH THE CAMPAIGN ON MALAYSIA'S ACCESSION TO THE
CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT**

On the occasion of the International Day in Support of Victims of Torture celebrated annually on 26 June, we, the Human Rights Commission of Malaysia (the Commission), Amnesty International Malaysia (AI Malaysia), Bar Council Malaysia, Suara Rakyat Malaysia (SUARAM) and Lawyers For Liberty (LFL) together reiterate our strong commitment to the fight against torture, express our solidarity with all victims of torture and their families, and call on the Government to accede to the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment (CAT).

Decades have passed since the said Convention had entered into force, prescribing through international law a total prohibition of all forms of torture. Yet torture continues across the world, including in Malaysia, despite it being inconsistent with our values. By joining the other 158 United Nations Member States that are party to the CAT, Malaysia would be making a firm commitment towards eliminating torture.

As joint partners in this campaign, the Commission, AI Malaysia, Bar Council Malaysia, SUARAM and LFL emphasise the importance of the right to personal dignity and security of all individuals that are enshrined in the Federal Constitution of Malaysia as well as in the Universal Declaration of Human Rights (UDHR). In so doing, we urge the Government to take effective legislative, administrative, judicial and policy measures to criminalise and prevent any acts of torture in all institutions under its jurisdiction, as torture is a crime that is wholly indefensible.

Disappointingly, incidences of torture rank high in comparison to other categories of human rights violations in Malaysia. As confirmed in Parliament recently, a total of 259 deaths in police custody have been investigated from 2000 to date, signalling a serious problem, including a widespread perception of negligence and systemic failures in police custody, institutional

violence, inhuman treatment and human rights abuses. We are also deeply concerned with the many circumstances faced by prisoners serving death sentences, including extreme delays that cause severe mental trauma and the uncertainty and anxiety created by the threat of death, lengthy solitary confinement, poor prison conditions and lack of activities, be they religious, educational or recreational.

We therefore reiterate our call on the Government to accede to and fully implement the CAT and to declare that it does not engage in torture, or solicit, encourage or condone its use within Malaysia’s borders. Furthermore, states must take rights-based, reasonable and realistic approaches towards ending torture as a form of punishment. We will continue in our efforts to encourage accession, which will send a strong message of a determination to prevent, prohibit and punish torture in Malaysia.

-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia

STEVEN THIRU

President

Bar Council Malaysia

SHAMINI DARSHNI

Executive Director

Amnesty International Malaysia

SEVAN DORAISAMY

Executive Director

SUARAM

ERIC PAULSEN

Executive Director

Lawyers for Liberty



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM DEPLORES THE CURTAILMENT OF FUNDAMENTAL RIGHTS OF MALAYSIANS

The Human Rights Commission of Malaysia (the Commission) expresses serious concern over the recent series of attempts and measures taken by the authorities in the wake of the still unfolding and unresolved national controversy affecting the country, by restricting and limiting the fundamental rights of Malaysians. This includes the freedom of movement, freedom of expression, freedom of information and press freedom among others. The Commission is also deeply concerned at the various forms of discrimination by the authorities against people based on their political affiliations.

The Commission is appalled at the methods employed by the authorities to manage this controversy, and in particular deplores the decision of the Ministry of Home Affairs to impose a three month suspension of the publishing permits of two business newspapers owned by The Edge Media Group purportedly for publishing articles on 1Malaysia Development Berhad (1MDB), which it deemed to be prejudicial to public order and national interests. The Commission also regrets the incomprehensible decision by the Malaysian Communications and Multimedia Commission (MCMC) to block access to the Sarawak Report website on the grounds of national security and public order.

The Commission firmly believes that all Malaysians have a right to freedom of information and access to differing opinions, and accordingly calls on the authorities to immediately revoke the suspension order of the publishing permits of the two newspapers owned by The Edge Media Group, and to respect and ensure respect for press freedom, as well as to preserve the independence and diversity of the media.

The Commission also regrets the unexplained and perplexing decision of the Immigration Department of Malaysia to limit the freedom of movement of several individuals, glaringly opposition politicians and human rights activists. To date, the Department has failed to inform all persons affected by the travel ban the reasons for its decision. Such restrictions therefore appear to be arbitrary, unreasonable and disproportionate, contradicting not only national legislation, but also international law and human rights norms.

In this regard, the Commission urges the authorities to immediately clarify the current situation

concerning the travel ban, and to notify all citizens whose exit from Malaysia is restricted, including those restrictions that have been imposed illegally or erroneously, as well as to provide sufficient opportunity to appeal the decision of the Department in each case. The Commission reminds the authorities that any action taken must be strictly in accordance with existing laws and not *ultra vires* the provisions of the Federal Constitution, and shall be consistent with internationally accepted human rights principles.

In conclusion, the Commission calls on the authorities to be mindful of Malaysia’s international image and standing, taking into account Malaysia’s membership of, and constructive contributions to important organs of the United Nations both in the past and at present, including its current membership of the United Nations Security Council in which Malaysia intends to make constructive contributions during its two-year term in the context of international peace and security which would require the support of other members of the Council.

The Commission also calls on the administrative and judicial authorities to respect the principles of proportionality in applying the law and trusts that the Judiciary will deal with these cases in a fair and just manner in the best traditions of an independent and impartial Judiciary.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

27 July 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM WELCOMES THE DECISION BY THE PERLIS RELIGIOUS COUNCIL IN PUTTING THE BEST INTEREST OF THE CHILD IN THE FOREFRONT

The Human Rights Commission of Malaysia (the Commission) wholeheartedly welcomes the landmark edict (*fatwa*) by the Perlis Religious Council that the custody of a child will be given to the more capable parent regardless of his or her religion. The Commission is of the opinion that the decision of the Council clearly signifies that the child’s needs are paramount and further consolidates the internationally accepted practice of taking a child-centred approach in custody cases involving different religions.

The Commission is pleased that the Perlis Religious Council took the first critical step by recognising that the best interests of the child shall be a primary consideration, which is in line with the Commission’s recent statement on 9 February 2015 calling on the authorities to, among others, uphold the fundamental principle of equality between spouses in a marriage and its dissolution, irrespective of their religion, pursuant to Article 16 of the Universal Declaration of Human Rights (UDHR). The Commission emphasised that where custody of children were concerned, these should first be resolved in an amicable and responsible manner, taking into consideration the best interests of the child in accordance with Malaysia’s obligations under the Convention on the Rights of the Child (CRC). The Commission believes that this progressive decision which recognises that the child, for the full and harmonious development of his or her personality should grow up in an atmosphere of happiness, love and understanding, provides an opportunity for all sections of society to engage in a national level dialogue about the values and importance of the rights of the child, particularly in such cases.

Children, by reason of their physical and mental immaturity need special safeguards and care including appropriate legal protection, as very often, failings in such safeguards are the result of losing sight of the needs of the child, or placing the interests of adults ahead of the needs of the child. The Commission therefore calls on the Ministry of Women, Family and Community Development as well as other State Religious Councils to concentrate their efforts towards the implementation and full realisation of the rights of the child, conforming to international human rights principles. The Commission also calls on the Government to fulfil its pledge in 2009 to prohibit the unilateral religious conversion of minors. It is the ardent

hope of the Commission that the other State Religious Councils, as well as the National Fatwa Council will without further delay emulate this step by the Perlis Religious Council to set an example of excellence for other countries to match, and for Malaysia to be seen as a moderate, innovative and multi-faith role model for the Islamic world.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

28 July 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM NOTES MALAYSIA’S UPGRADE IN THE 2015
TRAFFICKING IN PERSONS REPORT**

The Human Rights Commission of Malaysia (the Commission) notes Malaysia’s upgrade by the United States in this year’s Trafficking in Persons Report from “Tier 3” to “Tier 2 Watch list”. The Report identified that although the Government does not fully comply with the minimum standards for the elimination of trafficking, it is making significant efforts to do so by improving its victim protection policies along with its legal framework.

While the Commission appreciates the Government’s efforts to fight against trafficking in persons as reflected by Malaysia’s ratification of the United Nations Convention against Transnational Organized Crime in 2004; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol); and other international human rights instruments including the ILO Forced Labour Convention 1930 and the ILO Worst Forms of Child Labour Convention 1999, it is concerned that the number of trafficking convictions remain low. The Commission wishes to reiterate its previous recommendations for the Government’s consideration which include:

- (i) To improve victim identification efforts as trafficking victims are often misidentified as smuggled and/or irregular migrants and consequently deported;
- (ii) That all victims are provided with immediate health check-up upon their arrival at the shelters, as well as regular visits by medical personnel;
- (iii) That the victims are informed of the status of their cases, and a special court be established to expedite the resolution of cases pertaining to anti-trafficking in persons;
- (iv) That the Government accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and
- (v) That the Government accede to the Convention Relating to the Status of Refugees 1951 and the Protocol Relating to the Status of Refugees 1967 as part of its initiatives to underline the Government’s seriousness in combatting human trafficking and/or migrant smuggling.

The Commission expresses the hope that encouraged by this unexpected upgrading by the United States, the Government will intensify its efforts to prevent and combat trafficking in persons and to ensure the full protection and assistance for trafficked victims at all stages, in line with international standards set by the UN Convention and Palermo Protocol.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

30 July 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM CALLS ON THE AUTHORITIES TO UPHOLD THE
ASPIRATIONS OF ALL MALAYSIANS FOR A COUNTRY THAT
FULLY RESPECTS THE VALUES OF DEMOCRACY, RULE OF LAW,
INTEGRITY AND GOOD GOVERNANCE**

The Human Rights Commission of Malaysia (the Commission) is deeply concerned about the recent series of events in the country against the Malaysian Anti-Corruption Commission (MACC), the Attorney General's Chambers (AGC), Bank Negara Malaysia as well as media organisations, among others. These have included raids, confiscation of investigative materials, the detention, interrogation, dismissal, and/or the transfer of persons who are directly involved in the on-going investigations surrounding the 1Malaysia Development Berhad (1MDB) controversy.

The Commission is concerned that such actions by the authorities are increasingly being viewed both domestically and abroad as a vexatious attempt to intimidate and deliberately interfere in the administration of justice in Malaysia. Furthermore, the steps taken by the Royal Malaysia Police (PDRM) appear to be perverting the course of justice so as to hamper, hinder, and obstruct the pending investigations. The Commission therefore urges the PDRM as a public institution to respect the constitutional rights of all Malaysians and to defend the rule of law in an honourable manner while discharging its public functions. This includes allowing the MACC and other authorities to independently investigate, ascertain and determine the outcome of their investigations without obstruction or undue influence.

The Commission emphasizes that in the interest of an effective delivery of policing services, the PDRM must be free from any form of political interference and adheres to the rule of law in the same way that it applies to every other citizen. In addition, all police action must respect the principles of legality, necessity, non-discrimination and proportionality, as well as humanity.

The Commission expresses the hope that all public institutions in the country will conduct their affairs in such a manner so as to guarantee the realization of human rights and to be free of abuse and corruption, and with due regard for the rule of law.

The Commission stresses the importance of good governance as recognized by the United Nations Commission of Human Rights in its Resolution 2000/64, which includes the principles of transparency, responsibility, accountability, participation and responsiveness to the needs of the people. These in the Commission’s opinion are crucial for the country’s stability and prosperity.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia

9 August 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM CALLS FOR A REFORM TO THE UNIVERSITIES AND
UNIVERSITY COLLEGES ACT 1971**

The Human Rights Commission of Malaysia (the Commission) continues to view with deep concern the many decisions of Universities and Institutes of Higher Learning in the country against students for their political activism. This includes the recent suspension of two students from the International Islamic University of Malaysia (IIUM) for inviting a Member of Parliament to deliver a talk on the Goods and Services Tax (GST) and the decision of Universiti Kebangsaan Malaysia (UKM) to punish a group of students for organising and/or participating in a peaceful protest.

The Commission reiterates that civil and political rights awareness among students must be viewed positively to complement and supplement the formal education and training that they receive in University. Any unreasonable curtailment of the exercise of their rights, particularly the rights to the freedom of thought, speech and association as guaranteed in Article 10 of the Federal Constitution, would deny them of an education and experience so vital for their development and maturity as responsible citizens and future leaders of the country.

The Commission therefore recommends an urgent law reform, including an amendment to section 16 of the Universities and University Colleges Act 1971 (UUCA) to require all Universities to take into consideration the fundamental rights of its students when enacting or enforcing rules within their University. More specifically, Universities must ensure that the enforcement of their rules does not curtail the basic rights of students, including the right to information, to discuss national and international issues, as well as to express their opinions on any issue in the true spirit of democracy. Furthermore, all educational institutions must seek to ensure that their rules and regulations are not unnecessarily restrictive, arbitrary and disproportionate to a student’s freedom of expression, as students are entitled to the same civil, political, economic, social and cultural rights as all other members of society.

The Commission encourages all concerned stakeholders to recognise that healthy discussions, including discussions on national and political issues on or off campus, provides a space for students to hold opinions and to receive and impart information and ideas which would inspire a more egalitarian and socially conscious society. As meaningful youth and student

political contribution is necessary in order to ensure collaborative participation where young people effectively take part in the country's political and decision-making processes, the Commission urges that student organisations be allowed to be independent and free from external manipulation and undue interference, in keeping with the practice adopted by Universities in many countries, including developing ones, in today's globalised world.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

19 August 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM OPINES THAT FUNDAMENTAL RIGHTS AND UNIVERSAL FREEDOMS ARE AN INTEGRAL PART OF ISLAM

The Human Rights Commission of Malaysia (the Commission) is dismayed by the narrow approach taken by the country’s leadership to interpret and understand the long established universal human rights principles. This may not only send a misleading message both domestically and internationally, but may undermine both Malaysia’s well-respected international position, particularly within the United Nations, and the work of the Commission which has tirelessly since its inception been pushing for the promotion and protection of human rights in the country based on these universal values and in accordance with its mandate.

The Commission wishes to enlighten members of the public that in the simplest of terms, human rights are rights that people have by virtue of being human; and these are based on the fundamental principles of non-discrimination, equality, fairness, justice and respect for human dignity, without which almost all other achievements will be rendered less meaningful. Accordingly, it is important for the country’s leadership to maintain a consistency of position and approach in its interpretation irrespective of which segment of the community is being addressed.

The Commission is disappointed that despite the existence of the Cairo Declaration on Human Rights in Islam (CDHRI), a declaration of the member states of the Organisation of the Islamic Conference (OIC) that seeks to reconcile the concept of human rights and Islam, there has been inadequate and limited public education by the State on human rights. For purposes of clarity, the Commission emphasises that the CDHRI guarantees many of the same rights as the Universal Declaration of Human Rights (UDHR), while at the same time affirming the Sha’riah as its source. Nevertheless, it is stressed that the 30 Articles of the UDHR are not contrary to the tenets of Islam.

Article 1 of the CDHRI explains that “...all men (humankind) are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations.” Similarly, Article 2 of the UDHR states that “everyone is entitled to all the rights and freedoms set forth in this Declaration (UDHR), without distinction of

any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” The Commission therefore regrets the many myths and misunderstandings that have sprung up about the concept of human rights, and in particular the construal and superficial understanding of human rights in Malaysia.

Furthermore, the interpretation of human rights by the leadership has ignored section 4(4) of the Human Rights Commission of Malaysia Act 1999 which provides a legitimacy to the UDHR by stating that regard shall be had to the UDHR “to the extent that it is not inconsistent with the Federal Constitution”. It is the Commission’s view that human rights principles derived from the UDHR have been incorporated in Part II of the Federal Constitution; thus being in harmony with one another.

Malaysia’s accession to the three core human rights conventions, namely on women, children and persons with disabilities marks an explicit acceptance by Malaysia that it shares with the global community common standards and values on human rights regardless of religious, cultural and geographical origins. In addition, at the 1993 Vienna Convention, Malaysia had advanced the principle of the indivisibility and interdependence of all human rights thereby also supporting the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993.

The Commission also wishes to highlight that Malaysia, under the current leadership, adopted the ASEAN Human Rights Declaration during the 21st ASEAN Summit in Phnom Penh, Cambodia on 18 November 2012, thus repeating and reaffirming its human rights commitments.

As Malaysia is still a member of the United Nations, it is bound by the Charter’s Preamble which is the embodiment of values and principles that are subscribed to by the entire international community, including Islamic countries, which have also ratified or acceded to many of the core human rights treaties. The Commission would like to highlight that several Muslim countries adopted the UDHR as far back as in 1948, including Egypt, Iran, Iraq, Lebanon, Pakistan, Syria and Turkey.

In conclusion, the Commission repeats that the challenges of promoting and protecting human rights in Malaysia does not end with the adoption of a Declaration or the establishment of a Human Rights Commission. Ensuring the effective implementation of the Declaration and mainstreaming the principles and ideals contained within the many human rights documents remains a very critical challenge domestically. The Commission will therefore continue in its efforts to increase public knowledge on human rights through its activities with the hope that the concept of human rights is correctly understood and ingrained in our society. At the same time, the Commission calls on the Government to emulate the best practices of other Muslim countries with regard to the advancement of human rights.

Malaysia, as the current Chair of ASEAN, an esteemed and reputable member of the international community, and as former member of the United Nations Human Rights Council, should rise to this opportunity to provide leadership and ensure that the commitments made at the ASEAN and international levels, particularly on human rights are the same domestically.

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TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

20 August 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM CALLS FOR FULL ADHERENCE TO THE HUMAN
RIGHTS PRINCIPLES OF THE RIGHT TO FREEDOM OF
PEACEFUL ASSEMBLY**

In anticipation of the proposed BERSIH 4.0 peaceful assembly to be held on 29 August 2015, the Human Rights Commission of Malaysia (the Commission) advises all parties concerned, including the organisers, authorities and public to fully respect and strictly adhere to the principles of the right to freedom of peaceful assembly which is a constitutional, political and fundamental human right.

The Commission refers to the recent statement by the Deputy Home Minister in that the police were right to ‘ban’ the BERSIH 4.0 assembly, and the decision of the Royal Malaysia Police (PDRM) as reported in The Star on 21 August 2015. The Commission emphasises that following the repeal of Section 27 of the Police Act 1967, the concept of illegal assembly no longer exists in law, and accordingly, cannot be banned. As such, an assembly is to be considered peaceful if its organisers have clarified that its intentions are peaceful and have duly conveyed them to the authorities.

Consequently, the authorities not only have an obligation to protect peaceful assemblies, but should also take measures to facilitate them, and to comply with the many international human rights standards on the freedom of assembly as this right is protected constitutionally in Article 10 of the Malaysian Federal Constitution. The same right is enshrined in Article 20 of the Universal Declaration of Human Rights (UDHR) as a fundamental freedom.

While it is acknowledged that the police have a vast range of statutory powers and duties in relation to the policing of protests, these must not seek to prevent, hinder or restrict a peaceful assembly except to the extent allowed by the Peaceful Assembly Act 2012 (PAA). The Commission reiterates that any restriction must be lawful, and in pursuit of a legitimate aim such as in the interest of the security of the country or public order or the protection of the rights and freedoms of others. However, the burden is on the authorities to provide convincing and compelling reasons to justify an interference with this right and to demonstrate that any interference would be proportionate. The Commission therefore proposes several recommendations for the consideration of the authorities, in particular

the PDRM, in addition to recalling its many recommendations in the Commission’s Public Inquiry Reports of 2012 and 2013:

- (i) To recognise that an assembly is to be considered peaceful if its organisers have peaceful intentions. The PDRM shall therefore, prior to the assembly, ascertain the intentions of the organisers through effective dialogue.
- (ii) To adequately understand their powers and duties, in particular section 9 of the PAA. Regrettably, the PDRM continue to justify the requirement to seek permission from them prior to an assembly, which is now bad law.
- (iii) To respect the Court of Appeal decision in the case of *Nik Nazmi Nik Ahmad v. PP*. The Commission emphasises that under the PAA, the assembly organisers are only required to give advance notification to the Officer in Charge of the Police District in which the assembly is to be held (section 9(1)). In this regard, the Commission wishes to highlight that the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association holds as best practice legislation allowing the holding of spontaneous assemblies, which should be exempted from prior notification.
- (iv) To refrain from preventing, hindering or applying unreasonable indirect restrictions upon the right to peaceful assembly.
- (v) To protect all participants from individuals or groups of individuals, including agent provocateurs and counter-demonstrators, who aim at disrupting or dispersing the assembly. The Commission emphasises that such an obligation does not rest on the organisers.
- (vi) To respect the right to life, as enshrined in Article 3 of the UDHR and the right to be free from torture or cruel, inhuman or degrading treatment or punishment (Article 5 of the UDHR). These shall be the overarching principles governing the policing of public assemblies.
- (vii) To understand that “the free flow of traffic” should not automatically take precedence over the freedom of peaceful assembly. Accordingly, the authorities have a duty to design operating plans that will facilitate the exercise of the right of assembly which may include rerouting pedestrian and vehicular traffic in the areas.
- (viii) To make public the Standard Operating Procedure of the PDRM relating to the control and management of public assemblies in the interest of transparency so that the public understand and appreciate the actions taken by them.

The Commission once again stresses the importance of genuine dialogue, including negotiations, between the authorities and organisers in order to ensure the smooth conduct of the impending public assembly, and repeats that opposition to an assembly is not good reason to impose prior restrictions on it.

Similarly, the Commission advises members of the public and participants of the peaceful assembly to:

- (i) Refrain from taking the law into their own hands and to respect at all times that the PDRM have their role and responsibilities in maintaining and preserving the security, peace and order of the country.
- (ii) Refrain from disrupting or preventing the assembly.
- (iii) Refrain from causing damage to property, among others.
- (iv) Conduct themselves in an exemplary manner throughout the assembly.

The Commission also calls on the organisers of the peaceful assembly to fully cooperate with the authorities, in particular the PDRM, to ensure that the participants in the assembly comply with the law and the terms of the submitted notification. In addition, the organisers are urged to discuss and agree on the security and public safety measures that will be put in place prior to and during the event.

The Commission is confident that the proposed assembly can be conducted in a peaceful manner if these guidelines are adhered to in good faith by both sides and in a spirit of mutual trust and confidence, thereby strengthening further an important attribute of a fully-functioning and vibrant democracy that we all aspire to.

In carrying out its mandate, the Commission will be monitoring the planned BERSIH 4.0 assembly to determine whether the authorities fulfil their positive obligations to uphold the right to freedom of peaceful assembly; whether the parties adhere to any agreements reached as to the conditions for the assembly, and the conduct of the participants. It is hoped that the Commission’s findings will identify patterns of good practice, as well as any shortcomings that requires improvement.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

21 August 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM NOTES THAT THE BERSIH 4.0 PUBLIC ASSEMBLY
CONCLUDED PEACEFULLY**

In accordance with its statutory mandate, the Human Rights Commission of Malaysia (the Commission) monitored the BERSIH 4.0 peaceful assembly and at the outset, wishes to commend the authorities, in particular the Royal Malaysia Police (PDRM) for their professional conduct in facilitating the assemblies, as well as the organisers and participants in ensuring successful and harmonious assemblies in Kuala Lumpur, Kuching and Kota Kinabalu on 29 and 30 August 2015. This in the Commission’s view is testament that such assemblies can be held without untoward incidents if there is proper planning and cooperation among all parties concerned.

The Commission nevertheless remains concerned at the move to criminalise any yellow coloured clothing which contains the words “Bersih 4” and hopes that the authorities will not prior to an assembly, seek to criminalise among others, the participation in and organisation of a peaceful assembly with a view to sanctioning or deterring those intending to participate. In this regard, the Commission calls on the police not to proceed with the arrests of the organisers as previously indicated, as such action will only mar the positive image that has been created in the country and around the world following the peaceful conduct of the assembly.

In conclusion, the Commission wishes to congratulate all parties responsible for the peaceful assemblies over the weekend and stresses the importance of inclusive and meaningful dialogue between the local Police Commanders and the organisers prior to the assemblies, which had clearly demonstrated that in the spirit of mutual confidence and trust it was possible to uphold the right to the freedom of peaceful assembly as guaranteed by the Federal Constitution and the Peaceful Assembly Act 2012, and in compliance with the Universal Declaration of Human Rights. The Commission expresses the hope that future peaceful

assemblies, whenever held, will be conducted in the same exemplary manner as expected of a true fully-functioning democracy.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

1 September 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**IN SUPPORTING THE RIGHT TO FREEDOM OF PEACEFUL
ASSEMBLY, SUHAKAM TRUSTS THAT ALL PARTIES WILL FULLY
RESPECT ITS PRINCIPLES**

KUALA LUMPUR (15 SEPTEMBER 2015) - (the Commission) refers to the impending public assembly on September 16, 2015, also known as “*Himpunan Maruah Melayu*” or “*Himpunan Rakyat Bersatu*” that has received the green light to proceed at Padang Merbok, Kuala Lumpur.

The Commission is pleased that the Royal Malaysia Police (PDRM) has assured that for the duration of the assembly, the safety and security of all Malaysians will be ensured, and reiterates that everyone has the right to freedom of peaceful assembly. The Commission advises that restrictions shall not be placed on the exercise of this right other than such as are prescribed by law, and are necessary in a democratic society in the interests of national security and/or public order.

However, the Commission is seriously concerned with the expressions of racist ideas, opinions and statements made by the spokespersons of the assembly, as reported in the media. This in the Commission’s view could likely stir up racial or religious hatred, and may constitute incitement to discrimination, hostility or violence. The Commission repeats that an assembly is deemed peaceful if its organisers have peaceful intentions and only peaceful assemblies are protected by law. Public assemblies that are deemed non-peaceful will also be unlawful because of the existence of a compelling and demonstrable threat of imminent violence.

Although the Commission has requested a meeting with the organisers, it is awaiting a response, and in the interim calls on the organisers to state clearly the objectives and purpose of the proposed assembly. The Commission hopes that the assembly will not pursue an unlawful objective.

The Commission also reiterates the following general guidelines with regard to peaceful assemblies:

- (i) Any restrictions imposed on a peaceful assembly must have a legal basis, as must the mandate and powers of the restricting authority (eg: City Hall / local authority).

- (ii) Participants must refrain from taking the law into their own hands and respect at all times that the authorities have their roles and responsibilities in maintaining and preserving the security, peace and order of the country.
- (iii) The organisers of the assembly shall fully cooperate with the authorities, in particular the police, to ensure that the participants in the assembly comply with the law at all times.

Further, the Commission is pleased to note that the Honourable Prime Minister has advised that Malaysians are free to participate in the assembly, within the confines of the law, and hopes that the same spirit and vigour will be extended to all peaceful assemblies in the future.

In carrying out its mandate, the Commission will be monitoring the planned assembly, subject to the safety and security considerations of its monitors.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

15 September 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE RIGHT TO PEACEFUL ASSEMBLY IS NOT AN EXCUSE TO
PERPETRATE VIOLENCE**

The Human Rights Commission of Malaysia (the Commission) notes the conclusion of the “**#Merah169**” public assembly yesterday. In accordance with its mandate, the Commission monitored the public assembly and wishes to recognise the significant positive developments with regard to the policing, handling and management of the public assembly by the Royal Malaysia Police (PDRM). In the Commission’s view, these must be commended and recognised as good practices and should be consistently maintained in any future peaceful assembly.

However, the Commission regrets that the peaceful assembly had turned non-peaceful when a group of participants pushed past police restriction lines in an attempt to reach certain parts of Kuala Lumpur that the organisers and PDRM had initially agreed were prohibited. The Commission is also perturbed by the irresponsible and confrontational actions of several participants for inciting lawless and disorderly behaviour by flaunting racially-charged placards and for uttering slogans that promoted racial or religious hatred in our multireligious and secular society. Such behaviour, in the Commission’s opinion, constitutes the intentional provocation of violence which cannot be condoned and must be appropriately dealt with. The Commission reiterates that advocacy of racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law.

The Commission cautions that protest demonstrations and public assemblies must be peaceful in order to be protected by international human rights law, and repeats that should there be disorderly conduct at any stage during a peaceful assembly, protection may be forfeited. The Commission reminds all concerned that for democracy to flourish, people must be guaranteed their fundamental rights, including the rights to freedom of expression and of assembly, as a means to influence, among others, public policies. However, the right to

peaceful assembly is not an excuse to perpetrate violence which will only make a mockery of the concept of peaceful assembly.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

17 September 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM COMMEMORATES INTERNATIONAL DAY OF OLDER PERSONS 2015

Today, 1st October, marks the 25th anniversary of the United Nations (UN) International Day of Older Persons. This year, the theme “Sustainability and Age Inclusiveness in the Urban Environment” has been chosen to draw attention to the impact of the new urban environment on older persons, as well as the effect it in turn has on them. Accordingly, this year’s celebration seeks to demonstrate that an age inclusive agenda is crucial for sustainable urban environments to promote equity, welfare and shared prosperity for all.

According to UN statistics, by 2050, the number of older persons will be twice the number of children in developed countries; and the number of older persons in developing countries are expected to double. In Malaysia, by 2030, older persons will constitute 15% of the population. Naturally, this trend will have profound effects. The Commission wishes to reiterate its statement at the 24th Regular Session of the Human Rights Council in 2013 that older persons should not be seen as a liability to or a burden on a country’s economy, but should be treated as an important asset, whose expertise and experience can be utilised to contribute to society. The Commission therefore recommends the inclusion of age as a ground upon which discrimination shall be prohibited in the Federal Constitution.

The Commission also remains concerned that the National Policy for Older Persons and Plan of Action for Older Persons which were approved by the Government in 2011 to acknowledge, among others, that older persons are entitled to enjoy a comfortable and respected life, have not been adequately promoted and implemented. This is evident from the lack of awareness on age-related issues particularly among marginalised groups such as indigenous peoples. The Commission thus recommends that these plans be immediately strengthened and implemented at all levels and sectors of society with a monitoring system in place. The Commission further recommends the appointment of a Senator to represent and protect the interests of older persons, including on matters such as age discrimination, income, housing and health. In Malaysia’s capacity as ASEAN Chair, the Commission urges the Government to take the lead by encouraging the formation of a regional human rights instrument to provide a comprehensive framework for the promotion and protection of all human rights of older persons in ensuring that ASEAN citizens enjoy their human rights

equally. The Commission is also strongly supportive of the proposal for a UN convention on the rights of older persons that will combat ageism, discrimination and denial of rights in older persons which continues to be tolerated across the world.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

1 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM COMMEMORATES THE 2015 INTERNATIONAL
DAY OF NON-VIOLENCE**

The Human Rights Commission of Malaysia (the Commission) joins the rest of the world in observing the International Day of Non-Violence today, 2 October, on the occasion of the birthday of Mahatma Gandhi who was the embodiment of the spirit of non-violence.

Bearing in mind that non-violence, tolerance, full respect for all human rights and fundamental freedoms for all, democracy, development, mutual understanding and respect of diversity, are interlinked and mutually reinforcing, the United Nations (UN) resolution of 15 June 2007 that established the commemoration invites all UN Member States to, among others, disseminate the message of non-violence, including through education and public awareness.

In this regard, the Commission welcomes the pledge made by the Honourable Prime Minister at the Leaders’ Summit on Countering ISIL and Violent Extremism at the United Nations recently that Malaysia will not tolerate any form of violence and extremism committed in the name of religion, and in its capacity as ASEAN Chair, Malaysia “will fight tooth and nail to stem the spread of Islamic State (IS) ideology and stamp out all forms of extremism regionally as well as locally”. As everyone has the right to live in a peaceful world free of all forms of violence, the Commission calls for the empowerment of all citizens to actively participate in the building of a democratic society grounded firmly on a culture of non-violence and to totally reject any form or manifestation of extremism. On this occasion, the Commission also wishes to reiterate that it shall continue to advocate and promote attitudes, values and actions based on respect for life, dignity, and fundamental human rights of all.

-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

2 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM COMMEMORATES THE 2015 WORLD
MENTAL HEALTH DAY**

The Human Rights Commission of Malaysia (the Commission) commemorates the 2015 World Mental Health Day today, 10 October.

This year’s celebration is themed “Dignity in Mental Health”. According to the statistics from the National Suicide Registry, one to two suicides were recorded daily from 2008 to 2010 as an effect of mental illness, among others. This is a phenomenon faced around the world, and regardless of age or status in life, mental health or mental illness can affect anyone. Unfortunately, persons with mental health problems or suffering from mental illness face, not only the stigma of their condition, but discrimination on a daily basis in obtaining treatment and rehabilitation facilities, and quality of care due to the lack of psychiatric practitioners.

As stigma against mental illness, including prejudicial attitudes and discriminating behaviour directed towards individuals with mental health problems remains a challenge, the Commission advises that negative language used to describe mental illness such as “psycho”, “retard” or “mental” must be avoided as stigmatisation leads to fear, mistrust and even violence against people with mental illness and their families. In line with this year’s theme, the Commission calls for intensified efforts to raise awareness and educate Malaysians about the importance of mental health, respect for dignity and human rights of mental patients and improvement in mental health treatment facilities.

In line with its mandate to promote and educate people about human rights, the Commission awarded the 2015 Human Rights Award for the Organisation category to the Perak Society for the Promotion of Mental Health for their outstanding contributions to improving the lives of those living with and cured from mental illnesses, and for providing rehabilitation treatments.

Dignity, the state of being worthy of honour and respect, is a fundamental right of all human beings, including those suffering from mental illnesses.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

10 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

THE POWER OF THE ADOLESCENT GIRL: VISION FOR 2030

In 2011, the United Nations (U.N.) General Assembly announced 11 October as the International Day of the Girl Child, to recognise girls’ rights and the unique challenges they face globally. On this occasion, the Human Rights Commission of Malaysia (the Commission) affirms the importance of investing in adolescent girls’ empowerment and rights. This year’s celebration is themed “The Power of the Adolescent Girl: Vision For 2030”.

The U.N. General Assembly on 26 September 2015 adopted a determined 2030 Agenda for sustainable development comprising 17 goals and 169 targets. These goals, embodying a universally shared common global vision of progress emphasise, among others, the importance of ending child, early and forced marriage to empower all women and girls and achieve gender equality (Goal 5). This set of Goals have been accepted by Malaysia, as well as all other U.N. Member States. In regard to Goal 5 as highlighted, the Commission calls on all stakeholders to recognise and address the need to find effective approaches to sexual and reproductive education in primary and secondary schools. Such an education must promote human rights, advance gender equality, and improve sexual and reproductive health and must be accompanied by scientific, detailed, realistic and non-judgemental information as early marriage and cases of babydumping are on the rise in Malaysia.

According to statistics from the Malaysian Syariah Judiciary Department (JKSM) in 2012, there were some 1,165 applications for marriage where one partner was below the legal age of marriage. In the first quarter of 2014, 26 baby dumping cases were reported in the media. While the Commission notes that several programmes, including the National Policy and Plan of Action on Reproductive Health and Social Education (*Dasar Pekerti*) have been introduced, the Commission is concerned with the success rate of these programmes as these statistics indicate that a significant percentage of Malaysian adolescents are either without access to effective sexual health education or suffer from a lack of knowledge in order to make transformative decisions concerning their sexual and reproductive health. As a result, they may be vulnerable to coercion, sexually transmitted infections and/or unintended pregnancy and early marriage. Accordingly, the Commission calls for a full review of the programmes with a strong emphasis on the lasting psychological consequences of early marriage and advises that all Malaysians, including children, have a fundamental right to the information

and services necessary to protect their sexual health. While the Commission appreciates the sensitivity of the issue, it is of the opinion that farreaching improvements in legislation and policy are needed to advance Malaysia’s performance in this area as it aspires to attain a developed nation status in 5 years.

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DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

11 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SECURITY AND TERRORISM LAWS MUST NOT BE USED TO STIFLE
POLITICAL EXPRESSION**

The Human Rights Commission of Malaysia (the Commission) refers to the recent arrests and detention of individuals under the Security Offences (Special Measures) Act (SOSMA) 2012 for lodging reports with external enforcement agencies against a Government owned development company. The Commission is perturbed that the broad characterisation of “security offences” under SOSMA now suggests that its ambit extends beyond terrorism offences, contradicting the Prime Minister’s guarantee in 2011 that “that no individual will be arrested merely on the point of political ideology”. These arrests further contravene section 4(3) of the Act which states that “no person shall be arrested and detained for his political belief and political activity”.

As such, the Commission is most indignant at such widespread and flagrant constitutional violations and is deeply concerned that preventive detention, terrorism and security laws are being misused to suppress political expression and dissent. The Commission recalls that preventive detention laws in Malaysia were re-enacted to address terrorism concerns, such as to prevent terrorist attacks and/or to protect evidence relating to terrorist activities. While the Commission appreciates the concerns that the authorities may have and the consequences of not having preventive detention powers to effectively thwart a genuine terrorist threat, it stresses that its use must be proportionate to the challenges faced, after having sufficient and reliable evidence of an imminent terrorist attack. The Commission is therefore alarmed that despite having extensive powers to charge a person for a criminal offence using existing criminal procedural laws without resorting to SOSMA, the authorities have chosen not to do so. In its Press Statement on 16 April 2012, the Commission applauded the Prime Minister’s efforts for democratic reforms and welcomed the SOSMA to preserve national security, although it raised several concerns. The Commission reiterates that “security offences” must be defined in relation to a terrorist activity and urges the Government to promote and implement the provisions of all laws effectively and in good faith.

The Commission further cautions that the authorities, in particular the Royal Malaysia Police (PDRM) risk injuring their credibility if it continues to misuse anti-terrorism and/or security laws for non-terrorism purposes and calls for enforcement personnel to be given proper

guidance and training on the use and application of such laws. The Commission regrets that Government critics have been targeted through national security laws and calls for these charges to be immediately dropped as the SOSMA, when misused, has proven to cause, and will cause serious human rights violations

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

12 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CALLS FOR THE FULL PROTECTION OF ORANG ASLI CHILDREN

The Human Rights Commission of Malaysia (the Commission) expresses its deepest condolences to the families and loved ones of the Orang Asli children who perished in Gua Musang after being missing for approximately 47 days. As highlighted in the Commission’s Report on the National Inquiry into the Land Rights of the Indigenous Peoples, the Commission is of the view that the social and economic marginalisation of the Orang Asli is caused by the violation of their human rights, including that to land, territories and resources. The Commission regrets that its many recommendations have not been acted upon and as a result, the Orang Asli community continue to face immense challenges, including marginalisation.

The Commission is concerned that although education has been formally recognised as a human right since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, and further strengthened in the United Nations Convention on the Rights of the Child (CRC) which Malaysia is party to, Orang Asli children in Malaysia continue to be deprived of access to quality education that is relevant and responsive to their specific cultural context and needs.

The Commission, through its active engagement with the Orang Asli community over the years has found that many Orang Asli children have no possibility of attending primary school because there were no primary schools or teachers where they lived. Consequently, many Orang Asli children are illiterate. The Commission also notes with concern that in most villages, the nearest functioning school is several hours away. In this regard, the Commission regrets the decision of the Ministry of Education to close a number of primary schools in a few Orang Asli villages seemingly, because they were not economically feasible. Those schools were built within a close range of several nearby villages so as to ensure that the young children would not have to be physically removed from their families and their communities and placed in residential schools.

As such, the Commission recommends that the Ministry of Education immediately allocate education resources to ensure that underserved populations, such as the Orang Asli children, have an equal access to education. This includes erecting additional nearby schools and

assigning additional teachers who are able to appreciate, understand and respect the Orang Asli culture and beliefs. The Commission also recommends that the Government ensure that all schools are funded on a non-discriminatory basis. The Commission also continues to receive complaints of abuse by teachers and is appalled by the actions of teachers who abuse, bully and/or mistreat Orang Asli children in their care. The Commission stands firm that discipline among children must be administered in a manner consistent with both the child’s dignity and the right to protection from all forms of violence.

The Commission therefore calls on the School Inspectorate and Quality Assurance Division of the Ministry of Education that monitors the implementation of curriculum and ensures quality of teaching and learning to explain their findings.

The Commission wishes to explain that the Orang Asli have cultures that are in many ways distinct from those of other Malaysian races and cultures and this has implications in education policies. Therefore, education policies affecting the Orang Asli children must adapt to and be in line with their culture and beliefs, with Orang Asli community members being involved in the planning of all policies. Furthermore, schools, including residential schools have an obligation to be sensitive to the communities they serve, to care for and protect the children entrusted to them, and to be accountable to the local community they serve.

The Commission reiterates that the right of every child to education on the basis of equal opportunity and without discrimination on any ground must be fully respected. In achieving this goal, as well as those of the 2030 UN Sustainable Development Goals, the Ministry of Education must ensure that education must be available, accessible and inclusive of all children so as to ensure that all children in Malaysia have an equal start in life.

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DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

13 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

FULFILLING HUMAN RIGHTS THROUGH THE SUSTAINABLE DEVELOPMENT GOALS

The Human Rights Commission of Malaysia (the Commission) welcomes the official adoption of a new international framework, **“Transforming Our World: the 2030 Agenda for Sustainable Development”**, at the United Nations (UN) Sustainable Development Summit on 25 September 2015.

This comprehensive, far-reaching and people-centred set of universal and transformative goals comprise 17 sustainable development goals (SDGs) and 169 targets that seek to guide international development, priorities and collaboration up to 2030 to end poverty, fight inequality and injustice, and tackle climate change. The 2030 agenda, which strongly reflects human rights principles and standards is guided by the purposes and principles of the Charter of the United Nations, which includes full respect for international law and is further grounded in the Universal Declaration of Human Rights (UDHR), among others. All UN member states, including Malaysia, are therefore expected to use the SDGs to frame their agendas and policies over the next 15 years.

As human rights are essential to achieve sustainable development, the Commission believes that a human rights-based approach can enhance and guide national strategies for achieving the SDGs domestically. The Commission summarises below that the SDGs are inextricably linked to human rights through the following goals:

(i) Goals concerning economic, social and cultural rights:

Quite a few goals place emphasis on the importance of economic and social rights such as poverty (Goal 1), food security and improved nutrition (Goal 2), health and well-being (Goal 3), quality education (Goal 4), and water and sanitation (Goal 6); all of which are enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Commission therefore advises the Government to accede to the ICESCR as soon as possible in order to be guided by a normative framework, reinforced by universally recognised values in implementing national policies to effectively achieve the SDGs.

(ii) Goals concerning civil and political rights:

SDG 16 relates to access to justice for all, and its targets include the end of trafficking, promoting the rule of law, reducing corruption, ensuring the right to information and the protection of fundamental freedoms, among others. This in the Commission’s view recognises the inevitable link between civil and political rights and achieving sustainable development. Accordingly, the Commission advises the Government to promptly accede to the International Covenant on Civil and Political Rights (ICCPR) to assist Malaysia in successfully implementing the 2030 Agenda with the continued and expanding participation of all stakeholders.

In addition to the above, reducing inequalities is one of 17 Goals of the 2030 Agenda (Goal 10). In this regard, the Commission wishes to highlight that national policies must now aim to be universal in principle, while paying particular attention to the needs of disadvantaged and marginalised populations such as the Orang Asal/ Asli.

In fully realising the 2030 Agenda, the Commission is committed to promoting the human rights dimensions of the SDGs by, inter alia, providing education to all stakeholders, including relevant Ministries, parliamentarians and civil society. The Commission also hopes to advise the Government on the human rights compatibility of domestic policies that may be implemented to realise the SDGs.

The Commission stresses that achieving the SDGs that shall come into effect on 1 January 2016 by 2030 will require close collaboration, coordination and consistency within various government agencies. Furthermore, placing human rights accountability at the nucleus of the SDGs is crucial in ensuring that the commitments made by Malaysia at the international level are honoured in practice. Accordingly, the Commission hopes that the Agenda will be embraced across all Ministries and integrated into national planning and policies, including in the National Human Rights Action Plan (NHRAP) after open and transparent consultative processes with multi-stakeholders. The Commission stresses that the role of the Commission, private sector and civil society are crucial to fully implementing the SDG agenda.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

23 October 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

BUDGET 2016 MAY RENDER SUHAKAM UNABLE TO CARRY OUT THE FULL RANGE OF ITS CORE FUNCTIONS

The Human Rights Commission of Malaysia (the Commission) met with The Honourable Senator Datuk Paul Low Seng Kuan, Minister in the Prime Minister’s Department to consider the impact and implications of the 2016 budget for the Commission, as well as on section 19(1) of the Human Rights Commission of Malaysia Act 1999 (Act 597) that requires the Government to provide the Commission with adequate funds annually to enable it to discharge its functions under the Act.

The Commission, through Act 597 is accorded functions for the protection and promotion of human rights in Malaysia; and has carried out this statutory mandate diligently and to good effect for the past 15 years by setting its priorities according to a legislatively defined mandate, and with sufficient budgetary allocations from the Government through Parliament. This has resulted in the Commission maintaining its “A” status by the International Coordinating Committee of National Human Rights Institutions (ICC), among others. However, while recognising that the current economic downturn creates a context of reduced finances available to the public sector, the Commission is concerned that its statutory functions may be rendered almost meaningless, or the exercise of its powers substantially limited, if it does not have the financial means to operate effectively.

For 2015, the Commission was allocated an operating budget of RM 10,986,200.00. However, this amount was reduced by a further 10% by the Ministry of Finance and by approximately 9% by the Prime Minister’s Office. In comparison, the Commission has been allocated a sum of RM 5,509,400.00 for 2016, a reduction of almost 50%.

The Commission wishes to explain that demands on the Commission’s resources have continued to grow and have become more challenging in recent years. While the Commission will make every effort to ensure that its programmes and activities will proceed as planned, utilising all of its available resources, it is concerned that in terms of finances, the current budget allocation will see the Commission in deficit by November next year in just meeting

the Commission’s fixed overall costs, without taking into account the Commission’s fixed expenses or the expenses for its programmes, which may result in an earlier deficit situation, if no additional funds are secured.

The Commission also wishes to explain that Parliament and the Commission have a key role to play for the protection of human rights in Malaysia, albeit within their respective mandates, functions and competences. As such, the Commission hopes that Parliament can contribute to protecting the independence of the Commission by guaranteeing an adequate level of funding to the Commission as the lack of such funding erodes the effectiveness of the Commission and undermines the principles upon which National Human Rights Institutions are formed.

The Commission appreciates the valuable commitment made by the Honourable Minister and the assurance that the Commission’s budget will be reconsidered so as to place human rights on the Government’s list of top priorities. This is important amidst concerns being expressed, both at home and abroad, that human rights is not being given the priority it deserves and at time when the Commission is currently undergoing its re-accreditation process as a National Human Rights Institution (NHRI) at the ICC.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

16 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**PROPOSED REVIEW OF THE DEATH PENALTY FOR DRUG
TRAFFICKING AND RELATED OFFENCES ARE WELCCOMED**

The Human Rights Commission of Malaysia (the Commission) welcomes the recent announcement by the Attorney-General of Malaysia (as reported by the Malaysian Insider on Friday, 13 November 2015) that he will propose to the Government to take necessary steps to abolish the mandatory imposition of the death penalty for drug related offences so that Judges will have the power to dispense discretion in all drug trafficking and related cases. The Commission believes that this positive development will bring Malaysia’s position on the issue closer in line with many countries that have in recent years abolished the mandatory death sentence.

The Commission in 2012 welcomed this proposal following an announcement by the then defacto Law Minister Datuk Seri Mohamed Nazri Abdul Aziz, and reiterates that the death penalty undermines human dignity and violates the right to life.

In the interim, the Commission wishes to advise the Government to review all criminal laws to ensure that the death penalty, if imposed, is applicable only to the most serious crimes as defined by Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR). Accordingly, the Commission recommends that the Government consider acceding to the ICCPR and its Second Optional Protocol, and to aim towards the eventual abolition of the death penalty in Malaysia, joining approximately 140 of the 193 United Nations Member States that have abolished the death penalty or introduced moratoriums, either in law or in practice.

The Commission hopes that these proposed amendments will be expeditiously brought to Parliament and that pending such an outcome, there will be a moratorium on all executions.

-END-

TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

18 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM WELCOMES THE GOVERNMENT’S PROPOSAL TO ALLOW ROHINGYA REFUGEES TO SEEK EMPLOYMENT

The Human Rights Commission of Malaysia (the Commission) commends the Government for its proposal announced in Parliament to allow Rohingya refugees to seek employment through a pilot project, which will focus on certain market sectors. The Commission welcomed a similar decision to issue work permits to refugees in July 2013. However, that did not materialise.

The Commission reiterates that although Malaysia has not ratified the 1951 Convention Relating to the Status of Refugees, it is obliged to respect customary international law. Furthermore, access to safe and lawful employment is a fundamental human right, well established in international law, and applies to all persons including refugees and asylum seekers, and with good reason.

However, the Commission remains concerned that despite the presence of thousands of refugees and asylum-seekers seeking registration with UNHCR in Malaysia, the lack of labour market integration of such persons may force them to seek employment in unregulated, illegal or dangerous conditions, which in turn may expose them to other risks including that of sexual exploitation or human trafficking.

While the Commission recognises that many barriers continue to exist which may prevent refugees and asylum seekers from taking full advantage of their right to work, such as insufficient language skills, lack of knowledge of the local employment market and lack of training and work experience among others, it emphasises that refugees/asylum seekers who are permitted to engage in safe and lawful employment will be able to fulfil their basic survival needs and contribute to the needs of their families, in addition to becoming financially independent.

The Commission also advises that the successful employment of refugees and asylum seekers may be beneficial to all Malaysians as this will reduce the Government’s apportionment of social and financial benefits for this group of vulnerable persons. Accordingly, the Commission

calls on the Government to remove all legal and administrative barriers affecting refugees to allow them full access to the labour market and ensure that they enjoy the right to work.



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

19 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CELEBRATES THE 2015 UNIVERSAL CHILDREN'S DAY

The Human Rights Commission of Malaysia (the Commission) today joins the global community in promoting and celebrating children’s rights on this Universal Children’s Day. Today, November 20, marks the day the United Nations General Assembly adopted the Declaration of the Rights of the Child in 1959, and the Convention on the Rights of the Child (CRC) in 1989.

Although Malaysia acceded to the CRC in 1995, the Commission is of the view that there is still much to do in protecting children’s rights in the country. To date, Malaysia maintains reservations to the CRC namely to Article 2 (non-discrimination); Article 7 (citizenship); Article 14 (freedom of thought, conscience and religion); Article 28(1)(a) (the right to free primary school education) and Article 37 (detention and punishment).

Among others, the Commission also remains concerned with the prevalence of child marriages and urges the Ministry of Women, Family and Community Development that had set up a task force to review and raise the marriageable age for girls from 16 to 18 years under the Syariah law so as to be consistent with the Child Act 2001 to do so promptly.

With regard to the right to education for children, the Commission repeats that Orang Asli children continue to be deprived of access to quality education that is relevant and responsive to their specific cultural context and needs. As a result, many Orang Asli children are illiterate. The Commission also notes that many children with learning disabilities continue to be excluded from primary education despite the Government having taken many steps, including the setting up of Special Education Schools to meet their international obligations.

Furthermore, while the State is obliged to create and promote an environment conducive to the maximum development of the child, cases of bullying in schools continue to capture national headlines. The Commission therefore reiterates its call on the relevant authorities and all stakeholders to engage in a national level discussion on the issue and to act with urgency in fulfilling Malaysia’s human rights obligations under the CRC.

While Malaysia has made notable progress since acceding to the CRC, the Commission continues to receive complaints that refugee, asylum-seeking, stateless, and irregular migrant

children still face different forms of discrimination due to their uncertain legal status, which affects their rights to education and health in particular. The Commission explains that the best interests of the child must be paramount in all decisions regarding children, even if they are not Malaysians and repeats that the country’s legal obligations to children, including refugee, asylum seeker and/or migrant children should be the same as that for Malaysian children.

The Commission also calls on the authorities to end the practice of children being placed in immigration detention and for them to be released into the community with the necessary support to education, health and relevant services to ensure their safety and development.

In line with the CRC, the Commission emphasises that the principle of the best interests of the child must be consistently applied and integrated into all policies, programmes, legislation as well as judicial decisions affecting the child, particularly in child custody matters.

While accountability for the rights enshrined in the Convention lies with the Government, the Commission reiterates that everyone has a common and shared responsibility to uphold and protect the rights of all children.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

20 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**SUHAKAM WELCOMES THE ADOPTION OF THE ASEAN
CONVENTION ON TRAFFICKING IN PERSONS**

The Human Rights Commission of Malaysia commends the Malaysian Government and the Governments of the Association of Southeast Asian Nations (ASEAN) for signing the ASEAN Convention on Trafficking in Persons (ACTIP) during the 27th ASEAN Summit and Related Summits. The Commission believes that the adoption of the Convention, which is a regional framework that facilitates cooperation and collaboration among ASEAN Member States in conducting investigations and prosecution of persons involved in trafficking, is a strong signal of the commitment of all ASEAN Governments to the fight against trafficking in persons as well as to protect victims of trafficking in the region.

The objectives of the Convention in Article 1 include to prevent and combat trafficking in persons, especially against women and children; to ensure just and effective punishment of traffickers; to protect and assist victims with full respect for their human rights; as well as to promote cooperation among the relevant parties in meeting these objectives.

The Commission therefore calls on the Government to ensure an effective criminal justice response to the crime of trafficking in persons and the protection of trafficking victims and smuggled migrants.

-END-

DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

23 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM COMMEMORATES INTERNATIONAL DAY FOR THE ELIMINATION OF VIOLENCE AGAINST WOMEN 2015

The Human Rights Commission of Malaysia (the Commission) today marks the International Day for the Elimination of Violence against Women celebrated globally under the theme “Prevention”. The Declaration on the Elimination of Violence Against Women which is the first international instrument that explicitly addresses violence against women states that “violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” The Commission is of the view that despite the numerous developments and multi-stakeholder initiatives to address gender-based violence, violence against women remains common and to a certain extent, tolerated in Malaysia. Among others, cases of violence against women are not treated at all times with the same gravity as other crimes, and this is worse in cases of spousal or intimate partner violence where the victims are often advised and encouraged by the authorities to resolve their domestic issues informally among themselves.

The Commission is also concerned with the definition of ‘rape’ in the Penal Code that does not fully reflect the realities of sexual abuse experienced by women, whether married or unmarried. The Commission strongly advises the Government to remove the exception for spousal rape from the definition of rape, in line with the recommendations of the Committee on the Elimination of Discrimination against Women as rape (non-consensual sexual intercourse) being a violent and degrading act perpetrated by a spouse is no less repugnant than rape committed by a stranger. The Commission emphasises that the ASEAN Declaration on the Elimination of Violence Against Women and the Elimination of Violence Against Children calls on member states to take “necessary measures to eliminate all forms of discrimination against women” and “intensify efforts to develop and improve existing legislative, education and social measures and support services aimed at the prevention of violence against women.” Accordingly, the Commission calls on the Government to lead the way in the region to address the issue of sexual violence in a marriage by having clear laws.

Furthermore, the Commission wishes to point out that Goal 5 of the Sustainable Development Goals concerns gender equality and the empowerment of women and girls. Among its targets is the elimination of “all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation.” In recalling the World Economic Forum’s Global Gender Gap Report 2014 where Malaysia was placed poorly at the 107th position out of 142 countries, the Commission advises the Government to build on its achievements on achieving gender equality in order to ensure that there is an end to discrimination against women and girls in Malaysia.



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

25 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

SUHAKAM CALLS ON THE AUTHORITIES TO TAKE IMMEDIATE ACTION TO INVESTIGATE INTO REPORTS OF THE DEATHS OF ORANG ASLI CHILDREN IN SUNGAI KEJAR, PERAK

The Human Rights Commission of Malaysia (the Commission) is troubled by recent reports of deaths of Orang Asli children from the Jahai tribe in Sungai Kejar, Perak. As Orang Asli children often live in remote areas which generally lack basic social services including education and healthcare, incidences such as these demonstrate clearly and reinforce the need for stronger and more effective action to ensure that the basic human rights of the Orang Asli are respected and protected.

The Commission reiterates that everyone has the right to the highest attainable standard of physical and mental health, and the Government is responsible for promoting, protecting and fulfilling all human rights of all persons. Furthermore, the right to health for indigenous peoples is stipulated in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which also recognises their right to traditional medicines and the maintenance of their traditional health practices (Article 24). Although it is acknowledged that the Orang Asli rarely seek medical attention in Government hospitals, the Commission is of the view that greater efforts and measures must be taken by the authorities, in particular the Ministry of Health and the Department of Orang Asli Development (JAKOA) to reach out to the community and educate them on health-related matters.

The Commission is also appalled that JAKOA which is responsible for the well-being of, the delivery of services and for facilitating the development of policy and programmes that deliver sustainable economic, environmental and social benefits to the Orang Asli, were themselves unaware of the health status and conditions of the Jahai children as reported; and is of the view that theoretical application of their current healthcare policies and practices has failed to benefit this marginalised and vulnerable population. The Commission therefore recalls its recommendations in its Report on the National Inquiry on the Land Rights of Indigenous Peoples and in particular urges for an independent and comprehensive review of JAKOA.

The Commission also hopes that the authorities will take immediate action to investigate the reports of these deaths, and take urgent and immediate action, where necessary.

-END-



DATUK DR KHAW LAKE TEE

Acting Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

27 November 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA

**THE EFFECTS OF THE NATIONAL SECURITY COUNCIL BILL 2015
ON MALAYSIA'S LEGAL LANDSCAPE WILL BE RADICAL**

The Human Rights Commission of Malaysia (the Commission) is extremely concerned about the hasty and unexpected tabling and passing of the National Security Council Bill 2015 (NSC Bill) by the *Dewan Rakyat* at 10.55 pm on 3 December 2015. The Commission regrets that such an important piece of legislation that will have serious effects on and inroads into the fundamental and civil liberties of citizens and the very core of the Federal Constitution itself, was not subject to any form of public scrutiny or consultation before it was tabled in Parliament. Even more regrettable, the effects of the Bill were not properly considered by a Parliamentary Joint and/or Select Committee in a non-partisan manner, or the Commission, before being passed.

The Commission is also extremely concerned that many provisions of the NSC Bill are couched in fairly general terms with hardly any clear definitions or safeguards to guide the declaration of a security area or the implementation of the Bill, when enforced. For instance, the term “security” is not defined but when security is “seriously disturbed or threatened” which causes serious harm to, among others, “any other interest of Malaysia”, the Prime Minister has the power to declare an area a security area. Such unfettered powers with no proper check and balance do not augur well for the state of human rights in the country. The vague concept of security may also be interpreted to criminalise the expression of thoughts, opinions or beliefs on public matters, including on government policies. While not doubting the global threat of terrorism, and the importance of taking measures to counter this threat, the Commission is of the opinion that the NSC Bill is a contentious piece of legislation because it was drafted in such a manner so as to be able to override provisions of the Federal Constitution of Malaysia.

While the Commission recognises that proportionate and reasonable limits on fundamental rights and freedoms can be justified, such limits must be set out in advance in democratically enacted and debated legislation. Unfortunately, this controversial legislation was not preceded by extensive consultations and analysis, but was instead hurried through Parliament. The Commission regrets that the questionable content of the NSC Bill is a reflection of a closed and non-inclusive drafting process as well as a disappointing Parliamentary mechanism and

accordingly calls for the law to be reconsidered with sufficient time given to evaluate how the legislation can effectively deal with the threat of terrorism while also protecting civil liberties that are fundamental to democracy, as enshrined in the Federal Constitution of Malaysia.

-END-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

9 December 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

MIGRATING TO MALAYSIA: CHALLENGES IN FULFILLING HUMAN RIGHTS

To mark the 25th anniversary of the adoption of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by the General Assembly of the United Nations on 18 December 1990, the Human Rights Commission of Malaysia (the Commission) today joins the global community to celebrate the International Migrants Day.

According to the International Labour Organisation (ILO), out of approximately 232 million migrants around the world, it is estimated that half of them are workers. Migrant workers however remain among the most exploited workforce globally. The Commission is concerned that the high influx of migrants to Malaysia, which is mainly due to economic factors, are not met with the necessary measures by the Government to ensure that the rights of the migrants, regardless of their migratory status, are safeguarded.

While the Commission welcomes the recent proposal made in Parliament to allow Rohingya refugees to seek employment, it hopes that the proposal will be extended to other refugees as well. In executing the proposal, the Government should have in place policies and regulations, which are fair and equitable, taking into consideration principles of nondiscrimination and equality, in line with Article 23 of the Universal Declaration of Human Rights.

In addition, the Commission is perturbed by the Government’s decision to increase the medical fees for non-citizens beginning next year as it will have a serious and negative effect on access to healthcare for migrant workers especially those involved in low-skilled labour who may not have the financial means to obtain medical treatment, owing to their low and, at times, irregular wages. Diminishing access to healthcare for migrants, who make up a sizable fraction of the country’s population, may result in a heightened risk of an epidemic, which will have an adverse impact on the health of the rest of the population including citizens. Therefore, the Commission calls upon the Government to review this decision, and echoes the recommendation to the Government by the Special Rapporteur on the Right to Health, following his mission to Malaysia in December 2014, to ensure that non-citizens, in particular undocumented migrants, refugees and asylum seekers, can afford to access public healthcare, and consider exempting them from the increase in fees.

Given the vulnerability of migrant workers, refugees and asylum seekers to exploitation and abuse, the Commission also expresses its concern about the situation in the country with regard to trafficking in persons and smuggling of migrants, especially after the discovery of numerous mass graves and detention camps along the Malaysian-Thai border in May this year. While noting that Malaysia has been upgraded from “Tier 3” to Tier 2 watch list” in the Trafficking in Persons Report 2015 by the US Department of State, the Commission calls upon the Government to update the public, at least with a preliminary report, on the progress of the investigation into the mass graves and detention camps, as a reflection of the Government’s seriousness in tackling trafficking in persons and smuggling of migrants.

In achieving the targets of the recently adopted Sustainable Development Goals, in particular Goal 8, which aims to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”, the Government should mobilise all resources to ensure that this goal is achieved. Among other things, the Government should take immediate and effective measures to eradicate forced labour, end modern slavery and combat human trafficking as well as to protect labour rights and promote safe and conducive working environments for all workers, including migrant workers and in particular women migrant workers and those involved in precarious employments.

The protection of the rights of migrants is a growing human rights challenge, which calls for urgent and more concerted efforts by all stakeholders. Although Malaysia has yet to accede to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, as a Member State of the United Nations, Malaysia has an obligation to ensure that discrimination, exploitation and other forms of human rights violations against migrants and their families have no place in the country.

-End -



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

18 December 2015



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

MORE ACTION NEEDED FOR THE PROTECTION OF WOMEN AND GIRLS FROM VIOLENCE

The Human Rights Commission of Malaysia (the Commission) condemns the threat reportedly made by a Facebook user against Datuk Noor Farida Ariffin, a member and spokesperson of the G25. The Commission views such threats as a violation of the human rights and fundamental freedoms of women, and impairing and nullifying their enjoyment of those rights and freedoms. Such threats should not be tolerated, or be treated with impunity.

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) to which Malaysia is a state party since 1995, calls for the elimination of all types of discrimination, prejudice and gender stereotyping in upholding the fundamental rights and freedoms of women, including freedom from violence. The Commission recalls the UN Declaration on the Elimination of Violence against Women adopted on 20th December 1993, to strengthen and complement CEDAW in the elimination of violence against women. Closer to home, the ASEAN Governments affirmed their stand on violence against women when they adopted the Declaration on the Elimination of Violence against Women and Elimination of Violence against Children in ASEAN.

The Commission is also concerned that investigations are being taken under the Sedition Act 1948 against Datuk Noor Farida Ariffin and another member of the G25. The Commission would like to reiterate its position that voices critical of the government and its policies should not be seen as seditious. The public must enjoy the constitutionally guaranteed and fundamental right to freedom of expression as enshrined under Article 10 of the Federal Constitution and Article 19 of the Universal Declaration of Human Rights. The Government is also required to uphold the rights of women to express and voice their opinions without discrimination or fear.

The Commission wishes to state that, in fulfilling the responsibility as a state party to the CEDAW, the Government must be committed to making changes in policies and legislation

in line with the current challenges and to meet the requirements of gender equality and elimination all forms of discrimination, including violence, against women.

-End-



TAN SRI HASMY AGAM

Chairman

The Human Rights Commission of Malaysia (SUHAKAM)

23 December 2015

APPENDIX II

THE COMMISSION'S STATEMENTS TO THE HUMAN RIGHTS COUNCIL

NO	DATE	TITLE
1.	March	Transcript of SUHAKAM's Video Statement to the Human Rights Council on the Report of the Visit to Malaysia by the Special Rapporteur on Trafficking in Persons 29th Session of the Human Rights Council Palais des Nations, Geneva.
2.	March	Transcript of SUHAKAM's Video Statement to the Human Rights Council in conjunction with the Biennial High-Level Panel Discussion on the Question of the Death Penalty 28th Session of the Human Rights Council Palais des Nations, Geneva, 4 March.
3.	March	Transcript of SUHAKAM's Video Statement to the Human Rights Council on the Report of the Visit to Malaysia by the Special Rapporteur on the Right to Health 29th Session of the Human Rights Council Palais des Nations, Geneva.
4.	July	SUHAKAM's Oral Statement to the 8 th Session of EMRIP Discussion on the UN Declaration on the Rights of Indigenous Peoples (Item 8) Palais des Nations, Geneva 23 July.

HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)
Transcript of SUHAKAM's Video Statement to the Human Rights
Council on the Report of the Visit to Malaysia by the Special
Rapporteur on Trafficking in Persons
29th Session of the Human Rights Council
Palais des Nations, Geneva

Mr. President,

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the comprehensive report of the Special Rapporteur on trafficking in persons, Dr. Maria Grazia Giammarinaro, on her visit to Malaysia in February 2015.

The Malaysian Government's decision to invite Dr. Giammarinaro as well as the Special Rapporteurs on the Right to Health and on the Right to Food, respectively, all within a time frame of less than two years is commendable. The Commission hopes that the Government will extend more invitations to the UN Special Procedures.

The recent arrival of thousands of victims of trafficking, refugees and smuggled migrants on the shores of Malaysia coupled with the discovery of close to thirty abandoned detention camps and over a hundred grave sites in Malaysia where victims of human trafficking were believed to be detained, tortured and buried are a testament to the gravity of the human trafficking situation in the country, which is most alarming indeed.

In order to effectively address this issue, the Government and other stakeholders must acknowledge the interrelatedness between human trafficking, migrant smuggling and the plight of refugees who flee their countries and fall victim to multi-national trafficking syndicates. Governments concerned must also address the underlying causes and push factors, one of which is the lack of recognition of the status of the Rohingyas in their country of origin.

The Commission recognises the complexity of the issue and while it welcomes the Government's ongoing efforts to strengthen the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, it is clear that the issue also calls for a more comprehensive and regional approach involving bilateral and multilateral arrangements. The Commission strongly hopes that Malaysia, as the current Chair of ASEAN, could provide leadership and impetus within the region towards finding concrete solutions to this long-standing issue, which has led to egregious violations of human rights and fundamental liberties.

The Commission urges the Government of Malaysia to consider positively the recommendations of the Special Rapporteur, with a view to adopting them.

Thank you.

HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)
Transcript of SUHAKAM's Video Statement to the Human
Rights Council in conjunction with the Biennial High-Level Panel
Discussion on the Question of the Death Penalty

28th Session of the Human Rights Council
Palais des Nations, Geneva, 4 March 2015

Mr. President,

In Malaysia, recent studies have shown that while it appears that a majority of the people support the death penalty especially for murder cases, their attitude towards the punishment tends to change once they are presented with the circumstances of the crimes committed, leading them to a preference for either a discretionary death sentence, instead of a mandatory one, or other forms of punishment such as indeterminate life imprisonment or a determinate prison sentence.

The Commission therefore believes that the perceived public support for the death penalty is not necessarily a major impediment to abolishing the death penalty in Malaysia. There is a need for greater efforts by stakeholders, including civil society, to educate people on the inherently inhuman nature of the death penalty and how it is a violation of human rights.

The Commission welcomes the Government's proposal to review the mandatory death sentence for drug-related offences and recommends that the review be expanded to include other offences as well. The Commission also looks forward to the outcome of the study that is being undertaken by the Government on the death penalty, which hopefully will serve as a basis for the repeal of the mandatory death sentence, in the short term, and ultimately, the abolition of the death penalty altogether, in the long run. In the interim, the Commission reiterates its call for a moratorium on executions.

From a regional perspective, the ASEAN Human Rights Declaration enshrines the right to life of every person, and affirms that no person shall be subject to torture or any cruel, inhuman or degrading treatment or punishment. In this regard, the Commission hopes that Malaysia, as the current Chair of ASEAN, would not only uphold these principles but could provide impetus for the emerging ASEAN Community to move away from the death penalty.

Thank you.

HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)
Transcript of SUHAKAM's Video Statement to the Human Rights
Council on the Report of the Visit to Malaysia by the Special
Rapporteur on the Right to Health
29th Session of the Human Rights Council
Palais des Nations, Geneva

Mr. President,

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the comprehensive report of the Special Rapporteur on the Right to Health, Mr Dainius Púras, following his visit to Malaysia in December 2014.

The Commission is of the view that on balance, access to healthcare in Malaysia has somewhat improved with the various efforts made by the Government in recent years including the upgrading of healthcare infrastructure and introduction of the 1Malaysia Clinics, 1Malaysia Mobile Clinics and the Flying Doctor service, which seek to provide greater access to healthcare, primarily to low-income households and for those from rural and remote areas.

The Commission notes with much appreciation the Government's commitment to achieve universal access to quality healthcare by adopting several strategies, as outlined under its 11th Malaysia Plan 2016 to 2020. However, the Commission is concerned that such strategies do not adequately address the challenges faced by certain vulnerable and marginalised groups including documented and undocumented migrant workers, refugees, asylum seekers and stateless persons – who make up a sizeable portion of the country's population – in accessing affordable and quality healthcare services. Due to their minimal wages as well as lack of documentation and employment opportunities, among other things, these groups often experience difficulties in accessing public healthcare services, as they cannot afford them or fear being arrested, detained and deported.

The Commission also shares the concern of the Special Rapporteur regarding Malaysia's reluctance to accede to most of the core international human rights treaties as well as other relevant ones, and hopes that the Government of Malaysia will give due consideration to the recommendations underscored in the report of the Special Rapporteur.

Thank you.

HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)
SUHAKAM's Oral Statement to the 8th Session of EMRIP

*Discussion on the UN Declaration on the Rights of
Indigenous Peoples (Item 8)*
Palais des Nations, Geneva, 23 July 2015

Mr Chairperson,

The Human Rights Commission of Malaysia (SUHAKAM) wishes to commend the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) for the important work it has undertaken, which has contributed significantly to the promotion and protection of the rights of indigenous peoples. The Commission also welcomes the decision to discuss again the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) at this session of EMRIP.

In 2007, the Government of Malaysia voted in favour of UNDRIP, and since then has taken steps to safeguard the rights of indigenous peoples. In spite of this, there still exist a huge gap in the implementation of UNDRIP in the country. The Commission observes that in formulating policies affecting indigenous communities, little regard is given to the principles and standards contained in UNDRIP. This is partly due to the lack of awareness and familiarity with UNDRIP among Government officials and has led to policies that are likely to result in some form of violation of indigenous peoples' rights. For instance, the concept of free, prior and informed consent is seldom applied meaningfully. As a result, indigenous peoples continue to experience a wide range of human rights abuses.

As an NHRI, the Commission has the mandate to receive and inquire into allegations of human rights infringements, and many of the complaints received throughout the years relate to rights of indigenous peoples. Among the main human rights issues faced by the indigenous communities in Malaysia are access to education, access to healthcare, resettlements due to development and corporate projects, as well as their right to land.

On the issue of land rights, the Commission is pleased to note that the Government has recently established a Special Cabinet Committee chaired by the Deputy Prime Minister to oversee the implementation of recommendations emanating from the Commission's National Inquiry on Land Rights of Indigenous Peoples, which was carried out from 2010 to 2012. The Commission strongly hopes that the recommendations will be implemented effectively and expeditiously.

Appendix II – The Commission's Statements to the Human Rights Council

Recognising the critical disconnect between Malaysia's support for UNDRIP at the international stage and its application at the national level, there is an urgent need for the Government to intensify its efforts to meet the objectives of UNDRIP towards ensuring the fulfillment of the rights of indigenous peoples in the country.

Thank you.

APPENDIX III

ACTIVITIES OF THE COMMISSION IN 2015

PD	-	Policy Division	ICD	-	International Coordination Division
LRTD	-	Law Reform and Treaties Division	CG	-	Communication Group
CMD	-	Complaints and Monitoring Division	Sabah	-	Sabah Office
PPRD	-	Promotion Public Relations Division	Sarawak	-	Sarawak Office
TD	-	Training Division	SUHAKAM	-	Human Rights Commission of Malaysia

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
1.	1 - 3 Jan	Visit to Orang Asli Settlement at Kg. Kuala Betis, Gua Musang	Kelantan	CG
2.	7 Jan	Courtesy call on Enforcement Agency Integrity Commission (EAIC)	Putrajaya	PPRD
3.	7 Jan	Meeting with Lahad Datu District Officer	Lahad Datu	Sabah
4.	8 Jan	Meeting with Tungku District Officer	Tungku	Sabah
5.	8 Jan	Meeting with Social Welfare Department of Segamat, Johor (JKM)	SUHAKAM, Kuala Lumpur	PPRD
6.	9 - 12 Jan	HRBPS Programme : Follow-up visits to SK Kuala Betis, Gua Musang	Kelantan	CG
7.	13 Jan	Meeting with Mr Matthew Coghlan, Regional Director of the International Union Against Tuberculosis & Lung Disease (The Union)	SUHAKAM, Kuala Lumpur	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
8.	13 Jan	Meeting with Pitas District Officer	Pitas	Sabah
9.	14 Jan	Watching Brief On Custody Case	Federal Court, Putrajaya	LRTD
10.	14 Jan	Talk on Human Rights for the Prison Official Trainer	Kajang, Selangor	CG
11.	15 Jan	Meeting with Kota Marudu District Officer	Kota Marudu	Sabah
12.	19 Jan	Meeting with Amnesty International Malaysia (AIM) on the Joint Campaign on Malaysia's Accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	Petaling Jaya, Selangor	PPRD
13.	19 Jan	Meeting On Section 66 Of The Syariah Enactment 1992 (Negeri Sembilan)	SUHAKAM, Kuala Lumpur	LRTD
14.	19 Jan	Meeting with the National Registration Department on the complaints received pertaining to the issue of citizenship and conversion of religion	Meeting Room Deputy Director General of NRD (Operation), National Registration Department	CMD
15.	21 Jan	Talk on Human Rights for the Prison Official Trainer	Keluang, Johor	CG
16.	21 Jan	Meet-the-People Sessions	Tungku	Sabah
17.	22 Jan	Meet-the-People Sessions	Lahad Datu	Sabah

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
18.	26 Jan	Talk on Human Rights for Malaysia-Anti-Corruption Commission [MACC]	Kuala Lumpur	CG
19.	27 Jan	Watching Brief On Transgender Case	Federal Court, Putrajaya	LRTD
20.	27 - 28 Jan	HRBPS Programme : Follow-up visits to SMK Dengkil SK Bangkok and SK Sg. Judah, Dengkil	Selangor	CG
21.	28 - 29 Jan	Southeast Asia National Human Rights Institutions Forum (SEANF) Technical Working Group (TWG) Meeting	SUHAKAM, Kuala Lumpur	ICD
22.	30 - 31 Jan	Visit to Orang Asli Settlement at Kg. Parit, Gua Musang	Kelantan	CG
23.	1 - 2 Feb	Visit to Orang Asli Settlement at Pos Tohoi, Gua Musang	Kelantan	CG
24.	5 Feb	Talk on HRBPS Programme at SMK Bukit Rambai	Melaka	CG
25.	5 Feb	Meeting with Mega First Corporation (MFCB) on complaint pertaining to the construction of Don Sahong Hydroelectric Dam in Laos	Angkor House, Jalan Duta	CMD
26.	9 Feb	Meeting with the Tenaga Nasional Berhad (TNB) and Orang Asli Development Department (IAKOA) on the complainant pertaining to the construction of Ulu Telom Hydroelectric Dam in Pahang.	SUHAKAM, Kuala Lumpur	CMD
27.	9 - 10 Feb	Visit to Sekolah Agama Rakyat	Negeri Sembilan	CG
28.	11 Feb	Talk on Human Rights for Institut Latihan Kehakiman dan Perundangan (ILKAP)	Selangor	CG

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
29.	12 Feb	Roundtable Discussion On The Definition Of "Torture" And "Right To Acquire Nationality" In Connection With The Reserved Articles In The Convention On The Rights Of Persons With Disabilities (CRPD), Convention On The Rights Of The Child (CRC) & Convention On The Elimination Of All Forms Of Discrimination Against Women (CEDAW)	SUHAKAM, Kuala Lumpur	LRTD
30.	12 Feb	Meeting with Tongod District Officer	Kinabatangan, Sabah	Sabah
31.	13 Feb	Talk on Human Rights for EMPOWER	Kuala Lumpur	CG
32.	14 Feb	Courtesy call on YB Norshida YB Puan Hajah Norshida Binti Ibrahim, Buloh Kasap State Legislative Assembly Member	Segamat, Johor	PPRD
33.	14 Feb	'SUHAKAM Bersama Masyarakat' programme	Segamat, Johor	PPRD
34.	14 Feb	Visit to Orang Asli Settlement at Pos Tohoi, Gua Musang	Kelantan	CG
35.	16 Feb	Visit to Sentul District Police Headquarters for the Research on Death in Police Custody	IPD sentul	SUHAKAM
36.	16 Feb	Visit to Brickfields District Police Headquarters for the Research on Death in Police Custody	IPD brickfields	SUHAKAM
37.	17 Feb	Visit to Kajang District Police Headquarters for the Research on Death in Police Custody	IPD Kajang	SUHAKAM
38.	17 Feb	Visit to Cheras District Police Headquarters for the Research on Death in Police Custody	IPD Cheras	SUHAKAM
39.	18 Feb	Watching Brief On Divorce Petition Case	High Court, Shah Alam	LRTD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
40.	18 Feb	Visit to Klang Utara District Police Headquarters for the Research on Death in Police Custody	IPD Klang Utara	SUHAKAM
41.	18 Feb	Visit to Klang Selatan District Police Headquarters for the Research on Death in Police Custody	IPD Klang Selatan	SUHAKAM
42.	23 Feb	Roundtable Discussion on complaints pertaining to 'Union Busting' with stakeholders	SUHAKAM, Kuala Lumpur	CMD
43.	24 Feb	Meeting with Dr Maria Grazia Giammarinaro, United Nations Special Rapporteur on Trafficking in Persons	SUHAKAM, Kuala Lumpur	PPRD
44.	24 Feb	Talk on Human Rights for the Prison Officials at PULAPEN	Taiping, Perak	CG
45.	24 Feb	Visit to Dang Wangi District Police Headquarters for the Research on Death in Police Custody	IPD Dang Wangi	SUHAKAM
46.	25 Feb	Workshop on Human Rights for the Local Authorities	Pulau Pinang	CG
47.	25 Feb	Roundtable Discussion with Students Representatives Council and Universities Administration on the issue of Campus Election	SUHAKAM, Kuala Lumpur	CMD
48.	26 Feb	Meeting Malaysian Syariah Lawyers Association (PGSM) In Respect Of Commitments Of SUHAKAM By Watching Brief On Courts	SUHAKAM, Kuala Lumpur	LRTD
49.	2 - 6 Mar	HRBPS Programme : Follow-up visits to SK RPS Banun, SK Pos Raya, SK Chenein, SK Ayer Denak and SMK Seri Iskandar	Perak	CG
50.	4 Mar	Watching Brief On Divorce Petition Case	High Court, Shah Alam	LRTD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
51.	10 Mar	Follow-up meeting with Amnesty International Malaysia on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
52.	10 Mar	Meet-the-People Sessions	Kota Marudu	Sabah
53.	15 Mar	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
54.	16 Mar	Talk on Human Rights for RELA Volunteer [Eastern Zone]	Terengganu	CG
55.	16 Mar	Meeting with ASEAN SOGIE (sexual orientation, gender identity and gender expression) Caucus	SUHAKAM, Kuala Lumpur	PPRD
56.	18 Mar	Meeting with International Labour Organisation (ILO) GMS TRIANGLE Project on Migration	SUHAKAM, Kuala Lumpur	PPRD
57.	18 Mar	Meeting with City Council of Kubang Pasu (MDKP)	Kubang Pasu, Kedah	PPRD
58.	19 Mar	Meet-the-People Sessions	Tongod	Sabah
59.	20 Mar	Meeting with AIM, SUARAM, Bar Council Malaysia and Lawyers For Liberty (LFL) on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
60.	20 Mar	Meeting with Universiti Pendidikan Sultan Idris (UPSI) on the MoU between SUHAKAM and UPSI	Tanjung Malim, Perak	CG
61.	21 - 23 Mar	Visit to Orang Asli Settlement at Kg. Ulu Tual, Kuala Lipis	Pahang	CG
62.	23 Mar	Meeting with Sabah Land Survey Director	Kota Kinabalu	Sabah
63.	24 Mar	Meeting Malaysian Muslim Lawyers Association (PPMM) In Respect Of Commitments Of SUHAKAM By Watching Brief On Courts	SUHAKAM, Kuala Lumpur	LRTD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
64.	24 Mar	Watching Brief On Sedition Case	Federal Court, Putrajaya	LRTD
65.	24 – 27 Mar	Workshop on Human Rights for the Prison Officials	Taiping, Perak	CG
66.	25 Mar	Talk on Human Rights at Universiti Perguruan Sultan Idris (UPSI)	Tanjung Malim, Perak	CG
67.	25 Mar	Courtesy call on YB Major General Dato' Seri Jamil Khir Hj Baharom, Minister in the Prime Minister's Department	Kuala Lumpur	PPRD
68.	26 Mar	Follow-up meeting with Monash University Malaysia on Human Rights Mobile Applications Joint Project	Petaling Jaya, Selangor	PPRD
69.	27 Mar	Meeting On CWLD Report With UNICEF	UNICEF Malaysia	LRTD
70.	30 Mar	Talk on Human Rights for the Enforcement Officer at the Pusat Latihan Penguatkuasa Selangor [PULAPES]	Banting, Selangor	CG
71.	31 Mar	Talk on Human Rights for RELA Volunteer [Southern Zone]	Selangor	CG
72.	1 Apr	Talk on Human Rights for RELA Volunteer [Southern Zone]	Melaka	CG
73.	3 Apr	Meeting On CWLD Report With Typical BP Ministry Of Education	Ministry of Education Malaysia, Putrajaya	LRTD
74.	3 Apr	Meeting with United Nations Children's Fund (UNICEF) Executive Board Members	Kuala Lumpur	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
75.	6 – 7 Apr	Book Donations For “Gerbang Ilmu Peribumi Kelantan” Programme at SK Pos Brooke	Cameron Highland	CG
76.	7 Apr	Meeting with the Kuala Lumpur Commissioner of Building on issues pertaining to the dispute between the management board and residents	SUHAKAM, Kuala Lumpur	CMD
77.	8 Apr	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
78.	9 Apr	Meeting With Deputy Religious Associations In Malaysia And Members Of The Academic Share Discuss Issues Regarding The Death Penalty From The Perspective Of Religion	SUHAKAM, Kuala Lumpur	LRTD
79.	11 Apr	Participation in exhibition at UniKL Business School	Cheras, Kuala Lumpur	PPRD
80.	17 Apr	Participation in exhibition at Faculty of Law, University of Malaya (UM)	Kuala Lumpur	PPRD
81.	19 – 21 Apr	Workshop on Human Rights for the Prison Officials	Taiping, Perak	CG
82.	20 – 24 Apr	HRBPS Programme: Follow-up visits to SMJK Pulau Sebang, SMK Ledang, SK Segamat Kechil and SMK Taman Seri Keluang.	Melaka dan Johor	CG
83.	21 Apr	SUHAKAM’s Human Rights Awards: Briefing session with Malaysian Armed Forces (ATM)	Kuala Lumpur	PPRD
84.	22 Apr	Talk on Human Rights for RELA Volunteer [Southern Zone]	Melaka	CG
85.	23 Apr	Meeting with Human Rights Resource Centre (HRRRC)	SUHAKAM, Kuala Lumpur	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
86.	22 Apr	Watching Brief On Citizenship Case	Court of Appeal, Putrajaya	LRTD
87.	27 Apr	HRBPS Programme : Follow-up visits to SK Munshi Abdullah	Melaka	CG
88.	28 Apr	'SUHAKAM Bersama Masyarakat' programme	Bukit Kayu Hitam, Kedah	PPRD
89.	30 Apr	Meeting with Universiti Pendidikan Sultan Idris (UPSI) on the MoU between SUHAKAM and UPSI	Tanjung Malim, Perak	CG
90.	30 Apr	Discussion with Civil Societies on the Implementation of Alternative to Children in Detention (ATD)	SUHAKAM, Kuala Lumpur	CMD
91.	30 Apr	Briefing Session on Special Task Force's Report on SUHAKAM's Report on the National Inquiry on Land Rights of Indigenous Peoples	SUHAKAM, Kuala Lumpur	PPRD, PD
92.	7 - 10 May	Visit to Orang Asli Settlement at Kg. Kuala Betis, Kg. Pared, Kg. Bering dan Kg. Pos Pasek.	Ulu Kelantan, Kelantan	CG
93.	11 May	Roundtable Discussion (RTD) In Relation To The Convention Against Torture And Other Cruel , Inhuman Or Degrading Treatment (Convention Against Torture And Other Cruel , Inhuman Or Degrading Treatment Or Punishment) - CAT	Promenade Hotel, Kota Kinabalu, Sabah	LRTD
94.	11 May	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
95.	11 May	RTD - Convention on Anti-Torture (CAT)	Promenade Hotel, Kota Kinabalu, Sabah	Sabah

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
96.	12 May	Meeting with Mr Bob Paquin, Deputy Director of the Human Rights Division of Canada's Department of Foreign Affairs, Trade and Development	SUHAKAM, Kuala Lumpur	PPRD
97.	12 May	Talk on Human Rights for the Prison Officials at PULAPEN	Taiping, Perak	CG
98.	13 May	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
99.	13 May	Roundtable Discussion (RTD) On The International Covenant On Economic, Social And Cultural - ICESCR	Promenade Hotel, Kota Kinabalu, Sabah	LRTD
100.	13 May	Talk on Human Rights for students at SMKTTDI	Kuala Lumpur	CG
101.	13 May	RTD - ICESCR	Promenade Hotel, Kota Kinabalu, Sabah	Sabah
102.	14 May	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
103.	16 May	Talk on Human Rights for the Prison Official Trainer	Kajang, Selangor	CG
104.	17 May	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
105.	17 - 19 May	Workshop on Human Rights Education with J-qaf Teachers	Kota Bharu, Kelantan	CG
106.	19 May	Meeting with City Council of Cameron Highlands (MDCH)	Cameron Highlands, Pahang	PPRD
107.	20 - 21 May	Visit to Orang Asli Community Settlement School at Kg. Tual	Kuala Lipis, Pahang	CG

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
108.	21 May	Roundtable Discussion (RTD) In Relation To The Convention Against Torture And Other Cruel , Inhuman Or Degrading Treatment (Convention Against Torture And Other Cruel , Inhuman Or Degrading Treatment Or Punishment) - CAT	SUHAKAM, Kuala Lumpur	LRTD
109.	22 May	Visit by delegation from the China Society for Human Rights Studies (CSHRS)	SUHAKAM, Kuala Lumpur	PPRD
110.	22 - 23 May	Visit to Orang Asli Community Settlement School at Labis	Johor	CG
111.	24 May	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
112.	25-26 May	Visit to Bangau-Bangau Village	Semporna	Sabah
113.	26 May	Meeting with YB P. Kamalanathan, Deputy Minister II of Education	Kuala Lumpur	PPRD
114.	1 June	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
115.	2 June	Discussion with the Ministry of Education on complaints received pertaining to the alleged violation of human rights of the educators	Malaysia Ministry of Education, Putrajaya	CMD
116.	5 June	Follow-up meeting with Monash University Malaysia on Human Rights Mobile Applications Joint Project	Petaling Jaya, Selangor	PPRD
117.	5 - 7 June	Visit to Orang Asli Settlement at Kg. Pos Mensoon	Kuala Lipis, Pahang	CG

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
118.	10 June	Courtesy call on YB Leong Ngah Ngah, Tanah Rata State Legislative Assembly Member	Cameron Highlands, Pahang	PPRD
119.	11 June	'SUHAKAM Bersama Masyarakat' programme	Cameron Highlands, Pahang	PPRD
120.	14 - 17 June	Workshop on Human Rights for the Prison Officials	Taiping, Perak	CG
121.	15 June	Pre-Launch meeting with Amnesty International Malaysia, SUARAM, Bar Council Malaysia and Lawyers For Liberty on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
122.	15 - 16 June	Visit to Orang Asli Settlement at Kg. Selangi	Kota Tinggi, Johor	CG
123.	15 - 16 June	SEANF Workshop on Business and Human Rights	Kuala Lumpur	ICD
124.	16 June	Watching Brief On Citizenship Case	Federal of Appeal, Putrajaya	LRTD
125.	17 - 18 June	SEANF TWG Meeting	Kuala Lumpur	ICD
126.	22 - 23 June	Visit to Orang Asli Settlement at Gopeng	Perak	CG
127.	23 June	Meeting with Mr Miroslav Jenca, United Nations Assistant Secretary-General for Political Affairs	SUHAKAM, Kuala Lumpur	PPRD
128.	24 June	Follow-up meeting with Monash University Malaysia on Human Rights Mobile Applications Joint Project	Petaling Jaya, Selangor	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
129.	25 June	Watching Brief On Custody Case	Federal Court, Putrajaya	LRTD
130.	25 June	Visit to SK Bekuku	Kemabong	Sabah
131.	26 June	Official Launch of Joint Campaign on Malaysia's Accession to CAT, jointly organised by SUHAKAM, Bar Council Malaysia, AIM, LFL and SUARAM	Kuala Lumpur	PPRD
132.	29 June	Visit to Orang Asli Settlement	Negeri Sembilan	CG
133.	29 – 30 June	Talk on Human Rights for the Prison Officials Correctional Centre at Pulau Langkawi	Kedah	CG
134.	1 July	Roundtable Discussion with the Universities' Administrators to seek feedbacks on the recommendations highlighted at the RTD on the Campus Election on 25 February 2015	SUHAKAM, Kuala Lumpur	CMD
135.	1 July	Meeting with Hon. Senator Juan Pablo Letelier, Member of the Committee on the Human Rights of Parliamentarians of Inter-Parliamentary Union (IPU)	SUHAKAM, Kuala Lumpur	PPRD
136.	2 July	Visit to Kampung Jakun Batu 10, Gunung Arong Mersing, Johor Bahru	Johor	CMD
137.	3 July	Official Launch of the Human Rights Best Practises in Schools (ATHAM) Comic	Kuala Lumpur	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
138.	6 July	Visit to SK Kuala Betis, Gua Musang and SKJ (T) Shum Yip Leong, Cameron Highland to inquire into complaints received.	Gua Musang, Kelantan and Cameron Highland, Pahang	CMD
139.	8 July	Visit by delegation from the Association for Political Science Students in Leiden University, Netherlands	SUHAKAM, Kuala Lumpur	PPRD
140.	13 July	Meeting with Kemaman Municipal Council (MPK)	Kemaman, Terengganu	PPRD
141.	13 July	Meeting with YB Dato' Seri Idris Bin Jusoh, Minister of Education II on complaints received from PENDIDIK	Putrajaya	CMD
142.	20 July	Site visit to Perak Society for the Promotion of Mental Health	Ipoh, Perak	PPRD
143.	23 July	Follow-up meeting with Monash University Malaysia on Human Rights Mobile Applications Joint Project	Petaling Jaya, Selangor	PPRD
144.	24 July	Visit by Interns from Bar Council Legal Aid Centre	SUHAKAM, Kuala Lumpur	PPRD
145.	28 July	Post-mortem meeting on the Official Launch of the Joint Campaign on Malaysia's Accession to CAT	SUHAKAM, Kuala Lumpur	PPRD
146.	30 July	SUHAKAM's Human Rights Awards: Briefing session with Fire and Rescue Department of Malaysia (JBPM)	Putrajaya	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
147.	31 July	In-house Training on CAT by Ms Shazeera Ahmad Zawawi, Asia-Pacific Programme Officer from Association for the Prevention of Torture (APT)	SUHAKAM, Kuala Lumpur	PPRD
148.	3 Aug	Meeting with YB Christina Liew	Kota Kinabalu	Sabah
149.	12 Aug	'SUHAKAM Bersama Masyarakat' programme	Kemaman, Terengganu	PPRD
150.	12 Aug	Visit by students from SMK Kuala Tememong, Terengganu	SUHAKAM, Kuala Lumpur	PPRD
151.	12 Aug	Visit by Interns from Bar Council Legal Aid Centre	SUHAKAM, Kuala Lumpur	PPRD
152.	12 Aug	Roundtable Discussion (RTD) On The International Covenant On Economic, Social And Cultural - ICESCR	Hilton Hotel, Sarawak	LRTD
153.	13 Aug	Watching Brief On Transgender Case	Federal Court, Putrajaya	LRTD
154.	17 Aug	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
155.	17 - 18 Aug	HRBPS Programmes : Workshop for Principal	Kuching, Sarawak	CG
156.	20 Aug	Visit to the settlement of Orang Asli Pos Lanai, Kuala Lipis, Pahang and the location of Ulu Telom Hydroelectric	Pahang	CMD
157.	21 Aug	Meeting with the TFT	SUHAKAM, Kuala Lumpur	CMD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
158.	24 – 25 Aug	HRBPS Programmes : Workshop for Principal	Kota Kinabalu, Sabah	CG
159.	24-25 Aug	Human Rights Best Practices in School Programme	Promenade Hotel, Kota Kinabalu, Sabah	TD
160.	26 Aug	Meeting with Sabah Environment Department Director	Kota Kinabalu	Sabah
161.	1 – 3 Sept	Visit to Orang Asli Settlement at Pos Tohoi	Gua Musang, Kelantan	CG
162.	1 – Sept	Meeting with Universiti Malaysia Perlis (UNIMAP)	Perlis	CG
163.	2 Sept	Business and Human Rights	Promenade Hotel, Kota Kinabalu, Sabah	Sabah
164.	11 Sept	Visit by delegation from the Bangladeshi Human Rights Foundation	SUHAKAM, Kuala Lumpur	PPRD
165.	12 – 13 Sept	Talk on Human Rights for RELA Volunteer [Eastern Zone]	Terengganu	CG
166.	14 Sept	Meeting with Melaka Historic City Council (MBMB)	Melaka	PPRD
167.	14 Sept	Meeting with Tan Sri Abu Zahar Ujang, President of Senate	Kuala Lumpur	PPRD
168.	15 Sept	Follow up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
169.	17 Sept	Monitoring of International Islamic University Malaysia's campus election	IIUM, Gombak	CMD
170.	17 – 18 Sept	Meeting with PULAPEN Officials	Taiping, Perak	CG

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
171.	18 Sept	Meeting Malaysian Syariah Lawyers Association (PGSM) In Respect Of Commitments Of SUHAKAM By Watching Brief On Courts	SUHAKAM, Kuala Lumpur	LRTD
172.	29 Sept	SEANF Seminar on the Role of NHRIs in the Promotion and Protection of Human Rights	Putrajaya	ICD
173.	29-30 Sept	12th Annual Meeting of SEANF	Putrajaya	ICD
174.	30 Sept	Talk on Human Rights for RELA Volunteer [Southern Zone]	Melaka	CG
175.	2 Oct	Meeting with Dr Sir Iftikhar Ayaz, Jemaat Ahmadiyah Malaysia	SUHAKAM, Kuala Lumpur	PPRD
176.	2 Oct	Talks on Human Rights for Police Officials at MPDRM Cheras	Kuala Lumpur	CG
177.	5 – 7 Oct	Workshop on Human Rights for the Prison Officials	Kuching, Sarawak	CG
178.	6 Oct	Watching Brief On Sedition Case	Federal Court, Putrajaya	LRTD
179.	6 Oct	Visit to the Jslan Chow Sow Lin for inquiry into complaint	Kuala Lumpur	CMD
180.	7 Oct	'SUHAKAM Bersama Masyarakat' programme	Ayer Keroh, Melaka	PPRD
181.	8 Oct	Watching Brief On Transgender Case	Federal Court, Putrajaya	LRTD
182.	9 Oct	Follow-up meeting with Monash University Malaysia on Human Rights Mobile Applications Joint Project	Petaling Jaya, Selangor	PPRD
183.	9 Oct	Talks on Human Rights for Police Officials at PULAPOL	Kuala Lumpur	CG

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
184.	10 – 11 Oct	Visit to Orang Asli Settlement at Pos Tohoi	Gua Musang, Kelantan	CG
185.	10 Oct	Meeting with Dr Sir Iftikhar Ayaz, Jemaat Ahmadiyah Muslim Malaysia	SUHAKAM, Kuala Lumpur	PPRD
186.	11 Oct	Talk on Human Rights for RELA Volunteer [Southern Zone]	Melaka	CG
187.	12 Oct	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
188.	14-15 Oct	Meeting with Semporna District Officer	Semporna, Sabah	Sabah
189.	15 Oct	Meeting with United Nations High Commissioner for Refugees (UNHCR)	SUHAKAM, Kuala Lumpur	PPRD
190.	19 Oct	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
191.	20 Oct	Talk on Human Rights for RELA Volunteer [Southern Zone]	Melaka	CG
192.	20 Oct	Signing Ceremony of the Memorandum of Understanding (MOU) between SUHAKAM and Monash University Malaysia	Subang Jaya, Selangor	PPRD
193.	22 Oct	Talk on Human Rights at Co International	Kuala Lumpur	CG
194.	26 Oct	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
195.	27 – 29 Oct	Workshop on Human Rights for the Prison Officials	Taiping, Perak	CG
196.	28 Oct	Roundtable Discussion on 'Masjid Mesra Orang Kurang Upaya (OKU)', jointly organised by SUHAKAM and Majlis Dakwah Negara (MDN) – Yayasan Dakwah Islamiyyah Malaysia (YADIM)	Bangi, Selangor	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
197.	30 - 31 Oct	AICHR Workshop on 'The Role of Youth in Promoting Human Rights in ASEAN: Making Rights a Reality'	Kuala Lumpur	ICD *SUHAKAM is one of the strategic partners in organising the Workshop.
198.	3 Nov	Luncheon with Barisan Nasional Backbenchers Club (BNBBC)	Kuala Lumpur	PPRD
199.	4 Nov	Interview with Siti Aiysha Na'ilah Binti Harizan from Universiti Teknologi MARA (UiTM)	SUHAKAM, Kuala Lumpur	PPRD
200.	9 Nov	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
201.	14 - 15 Nov	Talk on Human Rights for RELA Volunteer [Eastern Zone]	Terengganu	CG
202.	16 Nov	Participation in exhibition at International Islamic University Malaysia (IIUM)	Gombak, Selangor	PPRD
203.	16 - 17 Nov	Talk on Human Rights for RELA Volunteer [Northern Zone]	Kedah	CG
204.	18 Nov	Courtesy call on Tan Sri Pandikar Amin Hj Mulia, Speaker of Dewan Rakyat	Kuala Lumpur	PPRD
205.	23 Nov	Follow-up meeting with AIM, SUARAM, Bar Council Malaysia and LFL on the Joint Campaign on CAT	SUHAKAM, Kuala Lumpur	PPRD
206.	24 - 27 Nov	Workshop on Human Rights for the Prison Officials	Taiping, Perak	CG
207.	2 Dec	Interview with Mohd Norhisyam Mohd Yusof, from University of Leeds, UK	SUHAKAM, Kuala Lumpur	PPRD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
208.	3 Dec	Meeting with the Royal Malaysian Police (RMP) on the improvement of cooperation with regard to the handling of complaints	Bukit Aman, Kuala Lumpur	CMD
209.	4 Dec	Visit by delegation from Amnesty International (AI)	Kuala Lumpur	PPRD
210.	7 Dec	Commemoration of the 2015 Human Rights Day, jointly organised by SUHAKAM and United Nations Country Team (UNCT)	Kuala Lumpur	PPRD
211.	10 Dec	Dialogue Session on Government's Response to SUHAKAM's Annual Report 2014	Kuala Lumpur	PPRD
212.	11-12 Dec	CAT Campaign Activities in conjunction with the International Human Rights Week, jointly organised by SUHAKAM, Bar Council Malaysia, AIM, LFL and SUARAM	Kuala Lumpur	PPRD
213.	14-15 Dec	Watching Brief On Film Censorship Case	Magistrates' Court, Jalan Duta	LRTD
214.	15 Dec	Visit to Serendah National Vocational Development Centre (PPKK Serendah) for inquiry into complaint	Serendah, Selangor	CMD
215.	15 Dec	Consultation on Malaysia's Universal Periodic Review	Kuala Lumpur	ICD
216.	16-17 Dec	Watching Brief On Sedition Case	Federal Court, Putrajaya	LRTD

NO.	DATE	ACTIVITY	VENUE	DIVISION/UNIT/ BRANCH
217.	16-17 Dec	Visit to the Etno Botani PLKN Camp and the location of temporary tent for flood victims in Gua Musang, Kelantan for inquiry into complaint	Gua Musang, Kelantan	CMD
218.	21 Dec	Visit to Hospital Bahagia Ulu Kinta for inquiry into complaint	Ulu kinta, Perak	CMD
219.	27 - 29 Dec	Visit to Orang Asli Settlement : Invitation to "Majlis Adat Kampung Kuala Woh"	Kelantan	CG

APPENDIX IV

**TALKS, MEETINGS, WORKSHOPS AND CONFERENCES -
NATIONAL 2015**

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	23 Jan	SUHAKAM Meeting With The Chief Judge To Discuss The Involvement Of SUHAKAM In Court Cases Through Watching Brief	Selangor Syariah Judiciary Department, Shah Alam	Tan Sri Hasmy Agam Dato' Dr. Aishah Bidin Rodziah Abdul Ameer Izyanif Nur Syamimi Amer Yustina Ishak
2.	9 Feb	Meeting with International Committee of the Red Cross	Kota Kinabalu	Jasmih Slamet
3.	23 Feb	RELA - Workshops on Human Rights	RELA Training Centre, Tuaran	Jasmih Slamet
4.	26 Feb	Attendance at National Launch of Amnesty International Report 2014-15: 'The State of the World's Human Rights' by Amnesty International Malaysia (AIM)	Petaling Jaya, Selangor	Dayalan S. Rajoo
5.	2 March	RELA - Workshops on Human Rights	RELA Training Centre, Tuaran	Jasmih Slamet
6.	9 March	RELA - Workshops on Human Rights	RELA Training Centre, Tuaran	Jasmih Slamet

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
7.	19 March	Under The Education Committee Meeting At The National Council For Persons With Disabilities Bill 1/2015	Ministry of Education Malaysia, Putrajaya	Ameer Izyanif
8.	26 March	Talk On Race, Relations, ICERD Human Rights	Brickfields Asia College	Nurul Hasanah Nur Syamimi Amer
9.	1 April	Invitation To The World Halal Submit Opening Ceremony	Plenary Hall, KLCC	Nur Syamimi Amer
10.	6 April	Watching Brief Discussion With Syariah Department, Federal Territory On Cases Involving Infringement Of Human Rights	Syariah Judiciary Department, Taman Seri Hartamas	Rodziah Abdul Nurul Hasanah Ameer Izyanif Yustina Ishak
11.	9 April	Consultation Draft Children Act 2015	KPWKM Putrajaya	Nur Syamimi Amer
12.	17 April	RELA – Workshops on Human Rights	RELA Training Centre, Tuaran	Jasmih Slamet
13.	28 April	Invitation To The Launch Of The Legal Forum 4U & Me	BHEUU, Putrajaya	Rodziah Abdul Ammer Izyanif
14.	12 May	Talk on Human Rights and Education for parents and students with Learning Disabilities at SMK Tuanku Muhammad Kuala Pilah	Kuala Pilah, N. Sembilan	Wan Norhafizah Junid
15.	21 May	Meeting On The Death Penalty	Menara Tan & Tan	Nur Syamimi Amer Yustina Ishak
16.	29 May	Justice In Jeopardy – Prevention Of The Terrorism Act	Bar Council	Yustina Ishak

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
17.	11-12 June	1 st Regional Congress On The Death Penalty	Hotel Renaissance	Tan Sri Hasmy Agam Rodziah Abdul Nurul Hasanah Ameer Izyanif Nur Syamimi Amer Yustina Ishak Ariff Saffwan
18.	11-12 June	Attendance at 1st Asian Regional Congress on Death Penalty by the Association Together Against the Death Penalty (ECPM) and the Anti-Death Penalty Asia Network (ADPAN), in partnership with SUHAKAM and Bar Council Malaysia	Kuala Lumpur	Ahmad Afifi Ramli
19.	16 June	Launch Of The Summary Report On Consultations With Labour Attaches And Consular Officials In Malaysia On The Protection Of Migrant Workers In Malaysia	Embassy Of The Philippines	Ariff Saffwan
20.	16 June	Attendance at Report Launch: 'Summary Report on Consultations with Labour Attachés and Consular Officials in Malaysia on the Protection of Migrant Workers in Malaysia' by International Labour TRIANGLE Project (ILO) in collaboration with Bar Council Migrants, Refugees and Immigration Affairs Committee (MRIAC)	Kuala Lumpur	Wan Norhafizah Junid
21.	18 June	Invitation To A Session Of The National Report Regarding CRC Purification	KPWKM Putrajaya	Nur Syamimi Amer

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
22.	6 July	Session Description MCMC Related Research CMA 1998 Re : Issue Of Social Media	The Malaysian Communications And Multimedia, Cyberjaya	Ameer Izyanif
23.	8 July	Invitation To The Workshop On The Draft Revised Regional Plan Of Actions On The Eliminations Of Violence Against Children	KPWKM Putrajaya	Nur Syamimi Amer
24.	30 July	Participation in Roundtable Consultation on 'Building the Evidence Base build on Local Capacity to Remedy Labour Rights Violations among Migrant Workers in Kuala Lumpur, Malaysia' by Tenaganita in collaboration with researchers from the John Hopkins Bloomberg School of Public Health (JHSPH)	Petaling Jaya, Selangor	Prof Dato' Dr Aishah Bidin Dayalan S. Rajoo, Muhammad Syafiq Ikhwani Ghazali
25.	31 July	Meeting with Dr Victor Karuna UNICEF	Kota Kinabalu	Nordin Kasim Madating
26.	6 Aug	Invitation To The Presentation Of The Essence Of The Townhall Session Of The Communications And Multimedia Act 1998 (Act 588) And The Malaysian Communications And Multimedia Act 1998 (Act 589)	The Malaysian Communications and Multimedia, Cyberjaya	Ameer Izyanif Ariff Saffwan
27.	12 Aug	Invitation to the presentation of the essence of the Townhall session of the Communications and Multimedia Act 1998 (Act 588) and the Malaysian Communications and Multimedia Act 1998 (Act 589)	The Malaysian Communications and Multimedia, Cyberjaya	Ameer Izyanif Ariff Saffwan

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
28.	18 Aug	21 Points Dialogue	UMS	Nordin Kasim Madating Jasmih Slamet Aflin Dino
29.	22 Aug	Attendance at <i>Forum dan Ekspo Mampan 2015</i> by <i>Yayasan Al-Tarbiyah Malaysia and Koperasi Jaringan Muamalat Integriti Selangor Berhad (KOJAMIN)</i>	Selangor	Nurul Hasanah
30.	26 Aug	Special meetings With Special Committee On Watching Brief In The Syariah Court Bill 01/2015	Syariah Court, Federal Territory	Ameer Izyanif Yustina Ishak Ariff Saffwan
31.	27 Aug	The Consultation Sessions National : Convention On The Rights Of The Child	KPWKM Putrajaya	Dato' Aishah Bidin Ameer Izyanif Nur Syamimi Amer Amran
32.	29 Aug	Enhancing National Unity & Integration Conference	Magellan Sutera Harbour	Nordin Kasim Madating Jasmih Slamet Aflin Dino
33.	11 Sept	Attendance at Speaker Series: Judicial Transformation by Judicial and Legal Training Institute (ILKAP)	Bangi, Selangor	Lau Sor Pian Dayalan S. Rajoo
34.	16 Oct	RELA - Workshops on Human Rights	RELA Training Centre, Tuaran	Jasmih Slamet

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
35.	17 Sept	Meeting On Death Penalty	Menara Tan & Tan	Nur Syamimi Amer Amran Yustina Ishak
36.	22 Oct	Attendance at National Seminar on Human Rights: 'Progressing Rights in Malaysia' by University of Malaya (UM)	Kuala Lumpur	Rodziah Abdul Adlyss Adnan Dayalan S. Rajoo
37.	26-29 Oct	Visit to Detention Center	Terengganu & Kelantan	Ariff Saffwan
38.	27-29 Oct	Attendance at ASEAN Responsible Business Forum: 'Promoting responsible business practice in the ASEAN Economic Community' by ASEAN CSR Network	Kuala Lumpur	Lee Pei Hsi
39.	29 Oct	Attendance at 5th National Conference: 'Malaysia on the Path to Non-Discrimination – Saying No to Racial Politics' by Pusat KOMAS	Kuala Lumpur	Wan Norhafizah Junid
40.	31 Oct	AICHR Regional Workshop on the Role of Youth in Promoting Human Rights in ASEAN: Making Rights a Reality	Kuala Lumpur	Lee Pei Hsi Ahmad Afifi Ramli
41.	2-5 Nov	Human Rights Training Workshop	Malaysian Centre For Constitutionalism And Human Rights, Kuala Lumpur	Nur Syamimi Amer Amran Yustina Ishak Ariff Saffwan

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
42.	4 Nov	Adjustment Of State Meeting : Convention On The Rights Of Persons With Disabilities (CRPD)	Hotel Everly, Putrajaya	Nurul Hasanah Ameer Izyanif
43.	27 Nov	Mesyuarat Pra AUM bagi Mesyuarat Ketiga, Penggal Ketiga, Parlimen Ketiga Belas, Dewan Negara	Kuala Lumpur	Lee Pei Hsi
44.	30 Nov- 3 Dec	Participation in Blended Learning Course on Immigration Detention by Asia Pacific Forum (APF) with collaboration with Association for the Prevention of Torture (APT)	Kuala Lumpur	Wan Norhafizah Junid

APPENDIX V

TALKS, MEETINGS, WORKSHOPS AND CONFERENCES - INTERNATIONAL 2015

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	24-25 Feb	APF-UNDP Workshop on the Role of NHRIs in Promoting and Protecting the Rights of LGBTI in Asia-Pacific	Bangkok, Thailand	Nurul Hasanah
2.	26-27 Feb	UNDP Regional Dialogue on LGBTI	Bangkok, Thailand	Nurul Hasanah
3.	26-27 Feb	Seminar for Asia-Pacific Parliaments: Translating International Human Rights Commitments into National Realities: The Contribution of Parliaments to the Work of the United Nations Human Rights Council	Manila, the Philippines	Datuk Dr. Khaw Lake Tee
4.	12-13 March	28th Annual Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)	Geneva, Switzerland	Tan Sri Hasmy Agam Chua Yen Sin
5.	23-25 March	RWI Conference on Gender Equality and Human Rights of Women	Bangkok, Thailand	Chua Yen Sin Norashikin Hamzah Helmi Fendy Mohammad Idris
6.	7-10 Apr	Business and Human Rights Workshop	Bangkok, Thailand	Aflin Dino

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
7.	20-24 Apr	Workshop on Investigating Allegations of Torture	Manila, Filipina	Yustina Ishak
8.	4-8 May	Pilot Blended-learning Course on the UN Declaration on the Rights of Indigenous Peoples by APF and Office of the United Nations High Commissioner for Human Rights (OHCHR)	Dhaka, Bangladesh	Lee Pei Hsi
9.	5-7 May	Blended Learning Programme on Business and Human Rights for National Human Rights Institutions by APF	Bangkok, Thailand	Wan Norhafizah Junid
10.	5-7 May	CFNHRI Workshop on Early and Forced Marriage and Sexual Violence in Conflict	Kigali, Rwanda	Tan Sri Hasmy Agam Wan Kasim Wan Kadir Adlyss Aldelya Mohd Adnan
11.	3-4 June	Special Event with NHRIs (European Development Day)	Brussels, Belgium	Datuk Dr. Khaw Lake Tee
12.	7-26 June	36th International Human Rights Training Program 2015 (IHRTIP) by the International Centre for Human Rights Education (Equitas)	Montreal, Canada	Lee Pei Hsi Siti Zaihan Zulkarnain
13.	16-17 June	Expert Meeting on Death Penalty and Foreign Nationals, including Migrant Workers	Geneva, Switzerland	Datuk Dr. Khaw Lake Tee
14.	10-11 Aug	AICHR Workshop on Prevention of Torture	Bali, Indonesia	James Nayagam

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
15.	11-13 Aug	8th Summer Institute in International Humanitarian Law and Human Rights: 'Preventing Slavery and Trafficking in Persons in ASEAN'	Bali, Indonesia	James Nayagam
16.	19-20 Aug	Dialogue between ASEAN and Civil Society Organisations on the Development of a Regional Human Rights Mechanism	Bangkok, Thailand	Datuk Dr. Khaw Lake Tee
17.	26-28 Aug	20th Annual Meeting and Biennial Conference of the Asia Pacific Forum of NHRIs (APF)	Ulaanbaatar, Mongolia	Tan Sri Hasmy Agam Simon Karunagaram
18.	27 Aug	Expert Consultation on the Promotion and Protection of Human Rights in the context of Peaceful Protests	Istanbul, Turkey	Datuk Dr. Khaw Lake Tee
19.	14-15 Sept	AICHR Workshop on the Development of ASEAN Legal Instruments on Human Rights	Manila, Filipina	Ameer Izyanif
20.	21-22 Sept	UNDP Workshop on 'Strengthening the Inclusion of LGBTI issues in UN Human Rights Monitoring Mechanisms'	Bangkok, Thailand	Rafidah Yahya
21.	22-23 Sept	UNDP Workshop on 'Including Voices of Marginalised Women and People of Diverse Sexual Orientation and Gender Identity, in the Universal Periodic Review'	Bangkok, Thailand	Rafidah Yahya
22.	26-27 Sept	AICHR Workshop on the Implementation of Human Rights Obligations relating to Environment and Climate Change	Mandalay, Myanmar	Nurul Hasanah

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
23.	30 Sept – 1 Oct	Conference on Freedom of Religion or Belief in Southeast Asia	Bangkok, Thailand	Nur Syamimi Amran
24.	30-1 Oct	Conference On Freedom Of Religion Or Belief In South East Asia	Bangkok, Thailand	Nursyamimi Amran
25.	26-28 Oct	NHRI Special Session on the Rights of Older Persons and ASEM Conference on Global Ageing and Human Rights of Older Persons	Seoul, South Korea	Datuk Dr. Khaw Lake Tee
26.	3-4 Nov	Workshop on Building a Child-Friendly ASEAN	Makati, the Philippines	Francis Johen
27.	5-6 Nov	AICHR-SOMTC Workshop on Trafficking in Persons	Yogyakarta, Indonesia	Shahizad Sulaiman
28.	5-6 Nov	5th Regional Meeting on Human Rights and Agribusiness in South East Asia	Palawan, Philippines	Nordin Madating Paremeswari Subramaniam
29.	16-18 Nov	UN Annual Forum on Business and Human Rights	Geneva, Switzerland	Prof. Dato' Dr. Aishah Bidin
30.	23-25 Nov	Biennial Meeting of the CFNHRI	Malta	Tan Sri Hasmy Agam Wan Kasim Wan Kadir Chua Yen Sin

NO.	DATE	TALKS, MEETINGS, WORKSHOPS AND CONFERENCES	VENUE	REPRESENTATIVE
31.	1-3 Dec	Regional Workshop on Enhancing Inclusive Development in Asia in the Framework of UNDRIIP	Bangkok, Thailand	Hasmah Manaf
32.	1-3 Dec	AICHR Regional Dialogue on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Bangkok, Thailand	Francis Johen
33.	4 Dec	Bangkok Human Rights Dialogue on Impacts from ASEAN Integration on Children	Bangkok, Thailand	Francis Johen

APPENDIX VI

THE COMMISSION'S PUBLICATIONS 2015

NO.	CATEGORY	TITLE
1.	Report	SUHAKAM Annual Report 2014 (Bahasa Malaysia & English)
2.	Report	<i>Right to Education for Children with Learning Disabilities – Focusing on Primary Education</i>
3.	Report	Report on Care Service for Older Persons and Support for Care Givers
4.	Report	"Mesyuarat Bersama Kerajaan Mengenai Reservasi Artikel di dalam CEDAW"
5.	Report	Strategic Framework (NAP) on Business and Human Rights for Malaysia.
6.	Booklet	<i>Guiding Principles on Business & Human Rights</i>
7.	Booklet	"Modul Latihan Konvensyen Kanak-kanak"
8.	Module (Reprint)	"Modul Latihan Konvensyen Kanak-kanak"
9.	Bulletin (March)	SUHAKAM Bulletin
10.	Brochure (Reprint)	You And Your Rights
11.	Brochure (Reprint)	"Rasuah & Hak Asasi Manusia"
12.	Brochure	<i>Rights of Persons with Disabilities</i>
13.	Brochure	"Perisytiharan Hak Asasi Manusia Kaheerah Dalam Islam"
14.	Brochure	<i>Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</i>
15.	Poster	Justice & Investigation Criminalising Torture Raising Awareness Reviewing Detention Practices
16.	Poster	Awareness raising poster on anti-bullying

APPENDIX VII

MONTHLY MEETINGS 2015 – ATTENDANCE OF MEMBERS OF THE COMMISSION

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
1.	1-2015	13 Jan	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato’ Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato’ Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			
2.	2-2015	10 Feb	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato’ Dr. Mahmood Zuhdi Hj Ab Majid Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Prof. Dato’ Dr. Aishah Bidin	√	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
3.	3-2015	17 Mac	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			
4.	4-2015	14 Apr	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Mr James Nayagam	✓	
5.	5-2015	12 May	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
6.	6-2015	09 Jun	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			
7.	7-2015	07 Jul	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			
8.	8-2015	13 Aug	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Prof. Dato' Dr. Aishah Bidin Mr James Nayagam	✓	

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
9.	9-2015	10 Sept	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid	✓	
10.	10-2015	06 Oct	Datuk Dr. Khaw Lake Tee Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Tan Sri Hasmy Agam Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid	✓	
11.	11-2015	12 Nov	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj Ab Majid Prof. Dato' Dr. Aishah Bidin Mr James Nayagam Mr Nordin Kasim Madating Mr Francis Johen Anak Adam			

NO.	SERIAL NO. OF MEETING	DATE OF MEETING	MEMBERS OF THE COMMISSION PRESENT	MEMBERS OF THE COMMISSION ABSENT	WITH LEAVE	WITHOUT LEAVE
12.	12-2015	8 Dec	Tan Sri Hasmy Agam Datuk Dr. Khaw Lake Tee Prof. Emeritus Dato' Dr. Mahmood Zuhdi Hj. Ab Majid Prof. Dato' Dr. Aishah Bidin Mr Nordin Kasim Madating Mr Francis Johen Anak Adam	Mr James Nayagam	✓	

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APPENDIX VIII

**CERTIFICATE OF THE
AUDITOR-GENERAL ON THE
COMMISSION'S ACCOUNTS**



**LAPORAN KETUA AUDIT NEGARA
MENGENAI PENYATA KEWANGAN
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
BAGI TAHUN BERAKHIR 31 DISEMBER 2015**

Laporan Mengenai Penyata Kewangan

Penyata Kewangan Suruhanjaya Hak Asasi Manusia Malaysia telah diaudit oleh wakil saya, yang merangkumi Lembaran Imbangan pada 31 Disember 2015 dan Penyata Pendapatan, Penyata Perubahan Ekuiti dan Penyata Aliran Tunai bagi tahun berakhir pada tarikh tersebut, ringkasan polisi perakaunan yang signifikan dan nota penjelasan lain.

Tanggungjawab Ahli Suruhanjaya Terhadap Penyata Kewangan

Ahli Suruhanjaya Hak Asasi Manusia Malaysia bertanggungjawab terhadap penyediaan dan persembahan penyata kewangan yang saksama selaras dengan piawaian pelaporan kewangan yang diluluskan di Malaysia dan Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999 (Akta 597). Ahli Suruhanjaya juga bertanggungjawab terhadap kawalan dalaman yang ditetapkan perlu oleh pengurusan bagi membolehkan penyediaan penyata kewangan yang bebas daripada salah nyata yang ketara sama ada disebabkan oleh fraud atau kesilapan.

Tanggungjawab Juruaudit

Tanggungjawab saya adalah memberi pendapat terhadap penyata kewangan tersebut berdasarkan pengauditan yang dijalankan. Pengauditan telah dilaksanakan mengikut Akta Audit 1957 dan piawaian pengauditan yang diluluskan di Malaysia. Piawaian tersebut menghendaki saya mematuhi keperluan etika serta merancang dan melaksanakan pengauditan untuk memperoleh jaminan yang munasabah sama ada penyata kewangan tersebut bebas daripada salah nyata yang ketara.

Pengauditan meliputi pelaksanaan prosedur untuk memperoleh bukti audit mengenai amaun dan pendedahan dalam penyata kewangan. Prosedur yang dipilih bergantung kepada pertimbangan juruaudit termasuk penilaian risiko salah nyata yang ketara pada penyata kewangan sama ada disebabkan oleh fraud atau kesilapan. Dalam membuat penilaian risiko tersebut, juruaudit mempertimbangkan kawalan dalaman yang bersesuaian dengan entiti dalam penyediaan dan persembahan penyata kewangan yang memberi gambaran yang

benar dan saksama bagi tujuan merangka prosedur pengauditan yang bersesuaian tetapi bukan untuk menyatakan pendapat mengenai keberkesanan kawalan dalaman entiti tersebut. Pengauditan juga termasuk menilai kesesuaian polisi perakaunan yang digunakan dan kemunasabahan anggaran perakaunan yang dibuat oleh pengurusan serta persembahan penyata kewangan secara menyeluruh.

Saya percaya bahawa bukti audit yang saya peroleh adalah mencukupi dan bersesuaian untuk dijadikan asas bagi pendapat audit saya.

Pendapat

Pada pendapat saya, penyata kewangan ini memberikan gambaran yang benar dan saksama mengenai kedudukan kewangan Suruhanjaya Hak Asasi Manusia Malaysia pada 31 Disember 2015 dan prestasi kewangan serta aliran tunai bagi tahun berakhir pada tarikh tersebut selaras dengan piawaian pelaporan kewangan yang diluluskan di Malaysia.

(SWAIBATUL ASLAMIAH BINTI HAJI HUSAIN)
b.p. KETUA AUDIT NEGARA
MALAYSIA

PUTRAJAYA
15 MAC 2016



SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA OLEH Pengerusi DAN SALAH SEORANG AHLI SURUHANJAYA

Kami, TAN SRI HASMY 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 2015, Penyata Pendapatan, Penyata Perubahan Ekuiti 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 2015 dan hasil kendaliannya serta aliran tunainya bagi tahun berakhir pada tarikh tersebut.

Bagi pihak Suruhanjaya,



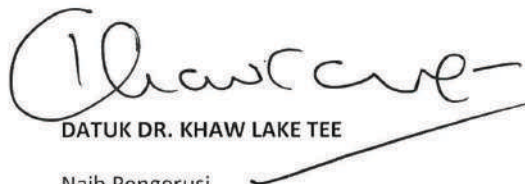
TAN SRI HASMY AGAM

Pengerusi

Kuala Lumpur

Tarikh: **1 5 MAR 2016**

Bagi pihak Suruhanjaya,



DATUK DR. KHAW LAKE TEE

Naib Pengerusi

Kuala Lumpur

Tarikh: **1 5 MAR 2016**

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

**PENGAKUAN OLEH PEGAWAI UTAMA YANG BERTANGGUNGJAWAB
KE ATAS PENGURUSAN KEWANGAN SURUHANJAYA**

Saya, Rodziah Abdul, Pegawai Utama yang bertanggungjawab ke atas pengurusan kewangan SURUHANJAYA HAK ASASI MANUSIA MALAYSIA, dengan ikhlasnya mengakui bahawa Lembaran Imbangan pada 31 Disember 2015, Penyata Pendapatan, Penyata Perubahan Ekuiti 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 Akaun Berkanun, 1960.

Sebenarnya dan sesungguhnya diakui)

Oleh penama di atas,)

Rodziah Abdul)

Di Kuala Lumpur pada **15 MAR 2016**)



Tingkat 38 Menara Tri Perdana
1001 Jalan Sultan Ismail
50250 Kuala Lumpur

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

LEMBARAN IMBANGAN PADA 31 DISEMBER 2015

	Nota	2015 RM	2014 RM
ASET BUKAN SEMASA			
Loji dan peralatan	3	734,670	659,861
ASET SEMASA			
Pelbagai Penghutang, deposit dan prabayar	4	640,576	803,018
Simpanan Tetap	5	3,733,000	4,533,000
Tunai dan baki di bank	6	1,126,100	2,434,363
		5,499,676	7,770,381
LIABILITI SEMASA			
Pelbagai pemiutang dan akruan	7	297,419	454,761
		297,419	454,761
ASET SEMASA BERSIH		5,202,257	7,315,620
		5,936,927	7,975,481
Dibiayai Oleh:			
Dana Terkumpul	8	5,936,927	7,975,481
		5,936,927	7,975,481

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PENDAPATAN

BAGI TAHUN BERAKHIR 31 DISEMBER 2015

	Nota	2015	2014
		RM	RM
PENDAPATAN			
Geran Kerajaan		8,898,822	10,469,700
PENDAPATAN LAIN			
Geran Projek		292,138	-
Hibah		6,983	9,143
Faedah ke atas simpanan tetap		162,394	151,265
Lain-Lain		1,371	5,834
		<u>462,886</u>	<u>166,242</u>
 Jumlah Pendapatan		 9,361,708	 10,635,942
PERBELANJAAN			
Emolumen	9	4,584,655	4,430,550
Perjalanan dan sara hidup		833,655	952,440
Pengangkutan		683	-
Perhubungan dan utiliti		289,795	301,878
Sewaan		2,380,613	2,220,103
Bekalan bahan mentah		60,507	63,525
Bekalan dan bahan-bahan lain		247,395	202,132
Penyelenggaraan dan pembaikan kecil		519,554	420,931
Perkhidmatan Ikhtisas dan hospitaliti	10	2,150,396	1,621,346
Susutnilai		326,076	384,546
Ganjaran		5,004	5,861
Kerugian daripada jualan/pelupusan harta		33	-
Hutang Ragu		-	-
Lain-Lain Perbelanjaan		1,896	1,452
		<u>11,400,262</u>	<u>10,604,764</u>
Lebihan pada tahun		<u>(2,038,554)</u>	<u>31,178</u>

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PERUBAHAN EKUITI

BAGI TAHUN BERAKHIR 31 DISEMBER 2015

	Dana terkumpul
	RM
Pada 1 Januari 2014	7,944,303
Lebihan bagi tahun	31,178
Pada 31 Disember 2014/ 1 Januari 2015	7,975,481
Lebihan bagi tahun	(2,038,554)
Pada 31 Disember 2015	5,936,927

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA ALIRAN TUNAI
BAGI TAHUN BERAKHIR 31 DISEMBER 2015

	2015	2014
	RM	RM
ALIRAN TUNAI DARI AKTIVITI OPERASI		
Penerimaan	9,368,028	10,484,677
Pembayaran untuk perbelanjaan	(11,231,495)	(10,347,341)
Tunai bersih dari aktiviti operasi	<u>(1,863,467)</u>	<u>137,336</u>
ALIRAN TUNAI DARI AKTIVITI PELABURAN		
Keuntungan diterima dari simpanan tetap	157,122	166,499
Belian loji dan peralatan	(401,918)	(230,655)
Tunai bersih digunakan untuk / dari aktiviti pelaburan	<u>(244,796)</u>	<u>(64,156)</u>
 Peningkatan bersih dalam tunai dan kesetaraan tunai	 (2,108,263)	 73,180
Tunai dan kesetaraan tunai pada awal tahun	<u>6,967,363</u>	<u>6,894,183</u>
Tunai dan kesetaraan tunai pada akhir tahun	<u>4,859,100</u>	<u>6,967,363</u>
 ANALISA TUNAI DAN KESETARAAN TUNAI		
Simpanan tetap	3,733,000	4,533,000
Tunai dan baki di bank	<u>1,126,100</u>	<u>2,434,363</u>
	<u>4,859,100</u>	<u>6,967,363</u>

Nota-nota yang disertakan merupakan sebahagian asas penyata kewangan ini

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

NOTA-NOTA KEPADA PENYATA KEWANGAN 31 DISEMBER 2015

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 penandatanganan 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
- 1.3 Penyata Kewangan Bagi Tahun Berakhir 31 Disember 2015 telah diluluskan oleh Suruhanjaya pada 15 Mac 2016.

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) dan Pertubuhan Keselamatan Sosial (PERKESO). 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 jaminanmunasabah 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

2015	Buku, peralatan dan		Kenderaan	Pengubahsuaian	Jumlah
	Kelengkapan	Komputer			
	RM	RM	RM	RM	RM
Kos					
Pada 1 Januari	730,721	849,869	1,637,148	1,568,663	4,786,401
Tambahan	63,709	140,459	-	197,750	401,918
Pelupusan	-	(1,999)	-	-	(1,999)
Pada 31 Disember	794,430	988,329	1,637,148	1,766,413	5,186,320
Susutnilai Berkumpul					
Pada 1 Januari	638,826	598,508	1,508,489	1,380,717	4,126,540
Caj untuk tahun	50,527	83,453	33,686	158,410	326,076
Pelupusan	-	(966)	-	-	(966)
Pada 31 Disember	689,353	680,995	1,542,175	1,539,127	4,451,650
Nilai Buku Bersih					
Pada 31 Disember	105,077	307,334	94,973	227,286	734,670

2014	Buku, peralatan dan		Kenderaan	Pengubahsuaian	Jumlah
	Kelengkapan	Komputer			
	RM	RM	RM	RM	RM
Kos					
Pada 1 Januari	701,162	648,773	1,637,148	1,568,663	4,555,746
Tambahan	29,559	201,096	-	-	230,655
Pada 31 Disember	730,721	849,869	1,637,148	1,568,663	4,786,401
Susutnilai Berkumpul					
Pada 1 Januari	593,083	514,963	1,411,642	1,222,307	3,741,995
Caj untuk tahun	45,743	83,545	96,847	158,410	384,545
Pada 31 Disember	638,826	598,508	1,508,489	1,380,717	4,126,540
Nilai Buku Bersih					
Pada 31 Disember	91,896	251,361	128,659	187,946	659,861

4 PELBAGAI PENGHUTANG, DEPOSIT DAN PRABAYAR

	<u>2015</u>	<u>2014</u>
	RM	RM
Deposit	624,261	782,107
Prabayar (Penghutang Lain-Lain)	968	10,836
Faedah Terakru	15,347	10,075
	<u>640,576</u>	<u>803,018</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 3.50%-3.70% setahun. Tempoh matang ialah antara 30 hari hingga 92 hari.

6 TUNAI DAN BAKI DI BANK

	<u>2015</u>	<u>2014</u>
	RM	RM
Tunai di tangan	5,000	3,429
Tunai di bank	<u>1,121,100</u>	<u>2,430,934</u>
	<u>1,126,100</u>	<u>2,434,363</u>

7 PELBAGAI PEMIUTANG DAN AKRUAN

	<u>2015</u>	<u>2014</u>
	RM	RM
Pelbagai pemiutang	-	-
Operasi pemiutang	-	595
Lain-lain pemiutang	9,828	-
Akruan	<u>287,591</u>	<u>454,166</u>
	<u>297,419</u>	<u>454,761</u>

8 DANA TERKUMPUL

	<u>2015</u>	<u>2014</u>
	RM	RM
Baki pada 1 Januari	7,975,481	7,944,303
Lebihan Bagi Tahun	(2,038,554)	31,178
Baki pada 31 Disember	<u>5,936,927</u>	<u>7,975,481</u>

9 EMOLUMEN

Pembayaran emolumen bagi 86 jawatan Pegawai dan Kakitangan lantikan Suruhanjaya adalah seperti berikut:

	<u>2015</u>	<u>2014</u>
	RM	RM
Gaji	2,835,675	2,594,256
Imbuhan Khidmat Awam	143,741	134,521
Elaun Perumahan	314,693	271,026
Elaun Keraian	123,600	107,770
Lain-Lain elaun	401,757	403,273
Sumbangan Badan Berkanun	597,702	688,278
Faedah Kewangan Lain	167,488	231,426
Jumlah	<u>4,584,655</u>	<u>4,430,550</u>

10 **PERKHIDMATAN IKHTISAS DAN HOSPITALITI**

Termasuk di dalam perbelanjaan ini adalah pembayaran emolumen kepada Pesuruhjaya adalah sebanyak RM 797,157.

11 **MAKLUMAT KAKITANGAN**

Jumlah kakitangan SUHAKAM pada akhir tahun adalah 86 (2014:84).

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.

LIST OF ABBREVIATIONS

ATHAM	Human Rights Best Practises in Schools
ATD	Alternatives to Detention
AICHR	ASEAN Inter-Governmental Commission for Human Rights
APF	Asia Pacific Forum Of National Human Rights Institutions
APT	Association of the Prevention of Torture
ASEAN	Association of Southeast Asian Nations
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.
CBR	Community-Based Rehabilitation centre
CCRC	Cure and Care Rehabilitation Centre
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CFNHRI	Commonwealth Forum of NHRIs
CMD	Complaints and Monitoring Division
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisations
CSR	Corporate Social Responsibility
CWLD	Children With Learning Disabilities
DEO	District Education Office
FCO	Foreign and Commonwealth Office
GLCs	Government linked Companies
GMMF	Global Movement of Moderates Foundation
HRBPS	Human Rights Best Practices in School
HRC	Human Rights Council
ICC	International Coordinating Committee of National institutions for the Promotion and Protection of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross

IDC	Immigration Detention Centres
IDEAS	Institute for Democracy and Economic Affairs
ICERD	International Convention on the Elimination of all Forms of Racial
ICESCR	International Covenant on Economic, Social and Cultural Rights
IIUM	International Islamic University Malaysia
ILKAP	Judicial and Legal Training Institute
JAKIM	Department of Islamic Development Malaysia
JAKOA	Department of Orang Asli Development
JKM	Department of Social Welfare
JKR	Public Works Department
KAP	Kurikulum Asli Penan
KIDEX	Kinrara Damansara Expressway
KWAPM	Kumpulan Wang Amanah Pelajar Miskin
MACC	Malaysian Anti-Corruption Commission
MAPO	Council of Anti-Trafficking in Persons and Anti-Smuggling of Migrants
MOE	Ministry of Education
MOFA	Ministry of Foreign Affairs
MOH	Ministry of Health
MOHA	Ministry of Home Affairs
MoU	Memorandum of Understanding
MTUC	Malaysian Trades Union Congress
MWFC	Ministry of Women, Family and Community Development
NCR	Native Customary Rights
NGOs	Non-Governmental Organisations
NHRAP	National Human Rights Action Plan
NHRI	National Human Rights Institutions
NI	National Inquiry into the Land Rights of Indigenous Peoples in Malaysia
NRD	National Registration Department
OHCHR	Office of the High Commissioner for Human Rights
PAA	Peaceful Assembly Act 2012
PCB	Public Complaints Bureau
PDRM	Polis DiRaja Malaysia

POTA	Prevention of Terrorism Act
PENDIDIK	Persatuan Gerakan Kebangkitan Pendidik Kebangsaan
PROHAM	Society for the Promotion of Human Rights
PULAPES	Pusat Latihan Penguatkuasa Selangor
PWD	Persons with Disabilities
RELA	People's Volunteer Cops
RTD	Roundtable Discussion
SCA	Sub-Committee on Accreditation
SDG	Sustainable Development Goals
SEANF	Southeast Asia National Human Rights Institutions Forum
SES	Special Education Schools
SOSMA	Security Offences (Special Measures) Act 2012
SUARAM	Suara Rakyat Malaysia
UDHR	Universal Declaration of Human Rights
UiTM	Universiti Teknologi Mara
UKM	Universiti Kebangsaan Malaysia
UM	Universiti Malaya
UMS	Universiti Malaysia Sabah
UN	United Nations
UNCT	United Nations Country Team
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
UNGP	United Nations Guiding Principles on Business and Human Rights
UNHCR	UN High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNICEF	UN Children's Fund
UPR	Universal Periodic Review
UPSI	Universiti Pendidikan Sultan Idris
UUCA	Universities and University Colleges Act 1971
WHO	World Health Organisation

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