

HUMAN RIGHTS COMMISSION OF MALAYSIA

**REPORT TO THE 12TH ANNUAL MEETING OF THE ASIA-PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

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REPORT OF THE HUMAN RIGHTS COMMISSION OF MALAYSIA
to
TWELFTH ANNUAL MEETING OF THE ASIA PACIFIC FORM
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1. Introduction

1.1 The following report summarizes the core activities of the Human Rights Commission of Malaysia (SUHAKAM) for the period after the 11th APF Annual Meeting in Suva last August and July 2007. The report also includes some of the Commission's upcoming core activities for the remainder of 2007.

1.2 The core activities pertain to promotion of human rights; human rights education; recommendations for law reform, UN conventions and treaties; complaints and public inquiries; research; and visit to centres of detention as mandated in the Human Rights Commission of Malaysia Act 1999 (ACT 597). The Commission had also been active in promoting for the establishment of an ASEAN Human Rights Mechanism at the national, regional and international level by hosting roundtable discussions within the country and participating in discussions in the region and in international meetings. SUHAKAM has also given focus to the promotion of economic, social and cultural rights by advocating the rights of the marginalized, especially those of the Penans.

2. Promotion of Human Rights and Human Rights Education

2.1 Since its inception in 2000, the Commission has been collaborating with the Ministry of Education to develop a human rights culture in school. The Ministry of Education through its three representatives on the Human Rights Education in Schools Sub-working Group works closely with the Commission to promote awareness of human rights in general and the rights

of the child in particular. Workshops on human rights and their relevance in school had been conducted for senior officers in the State Education Departments. The Director-General of the Ministry of Education officiated the opening of the recent workshop for the central zone (23-24 August 2007). SUHAKAM continued to be involved in the human rights training for master teachers for the Civic and Citizenship subject in primary and secondary schools. The objective of the training was to enable master teachers to integrate human rights into Civic and Citizenship education.

2.2 As a fulfillment of the Plan of Action for the World Programme for Human Rights Education, First Phase (2005-2007) which highlights the key actions for the integration of human rights education in primary and secondary schools, the Commission and the Ministry of Education collaboratively organized a competition on the best human rights practice in school. The submissions are currently being judged at the state level to select the best entries for submission for judging at the national level.

2.3 Human rights education for teacher trainers and teacher trainees which commenced in 2005 continued to be conducted for lecturers and students in public universities. Officers in the Teacher Education Division in the Ministry of Education were given a morning's exposure to human rights and their relevance in school. This is the first step towards integrating human rights education in teacher education institute programmes. This will begin with a workshop on human rights and their implications for schools in October 2007 for lecturers in the Aminuddin Baki Institute, whose task among others is to provide professional training and development for teachers and officers in the Ministry of Education.

- 2.4 The Commission is not restricting the promotion of awareness of human rights to faculties of education in public universities. A committee consisting of SUHAKAM and the Ministry of Higher Education officers had been formed to plan and implement human rights programmes in public universities.
- 2.5 The Commission also promotes human rights through informal education such as through art competition. Art competitions do not only raise awareness of human rights among primary and secondary school children through artistic talents and in a visual form but they also provide SUHAKAM with a rich source of illustrations for its publications, calendars, bookmarks and posters.
- 2.6 Promotion of human rights to law enforcement officials continues to be an important concern of SUHAKAM. In addition to raising awareness of human rights among the police and prison authorities, the Commission had extended its ambit to the People Volunteer Corps (RELA) and immigration officers in view of increasing complaints of human rights violations by them. In the workshops for RELA, the importance of observing international human rights norms was emphasized. The aim of the workshop for RELA was for them to examine the RELA's conduct and procedures from human rights principles' perspectives and to encourage the inclusion of human rights awareness in their training modules.
- 2.7 Currently, a training programme on CEDAW for various target groups, including law students in local universities, is being planned based on the issues and recommendations made at a dialogue with women's groups.
- 2.8 Roadshows were organized in rural areas, especially in Sabah, SUHAKAM, to create human rights awareness among rural

people. They were conducted at the district and village level. At the village level, roadshows were conducted in markets known locally as *tamu*. These dialogue sessions enable SUHAKAM to assess participants' perception and understanding of SUHAKAM and human rights as well as provide opportunities for rural people to submit complaints and air grievances. The events were planned and organized with close co-operation and assistance of the respective District Officers who are supportive of SUHAKAM's efforts.

3. Administration of Justice

- 3.1 The Commission had researched into various aspects of the administration of justice, including the review of the Human Rights Commission of Malaysia Act 1999 and the independence of SUHAKAM according to the Paris Principles. The Commission is currently looking into the powers and rights of RELA in carrying out their functions, in view of the numerous complaints on their violations of human rights when discharging their duties.
- 3.2 The Commission had conducted a review on the rights of prisoners, the right to be treated with dignity, and the prohibition of torture or cruel, inhuman or degrading treatment or punishment. The Commission had also researched into the principle of *non-refoulement* in the context of the Convention against Torture (CAT), victim's compensation scheme/system, imprisonment for failure to fulfill contractual obligations, the meaning of "most serious crime" and "criminal according to the general principles of law recognized by the community of nations".
- 3.3 The Commission's research on life imprisonment with additional portion on capital punishment on children had been sent to relevant government agencies in January 2007. The

Commission is still waiting for the government's feedback and comments.

- 3.4 Currently, the Commission is looking into the right of conversion and its effect on human rights. The research will examine existing laws, the treatment of Islamic laws on apostasy and the current legislations governing apostasy.

4. Complaints and Public Inquiries

- 4.1 From January to June 2007, SUHAKAM received a total of 318 complaints. Out of this total, only 115 were found to pertain to human rights. The majority of admissible cases relate to allegations of human rights violations by law enforcement officials, particularly the police, People Volunteer Corps (RELA) and immigration officials. Complaints were also received on native customary rights mainly, from Sabah and Sarawak. The Commission had also received complaints on rights to housing arising usually from allegations of forced eviction of squatters.
- 4.2 When cases are within the jurisdiction of the Commission, SUHAKAM carries out investigation and makes recommendations to the authority.
- 4.3 In accordance with its power to conduct inquiries, SUHAKM conducted a public inquiry into the alleged use of excessive force by the police to disperse a claimed peaceful assembly in the Kuala Lumpur City Centre on 28 May 2006. The term of reference of the Inquiry Panel was to inquire into persons or agencies responsible, how the violations came about, and the administrative and procedures contributed to the excessive use of force, and to make recommendations for measures to be taken to ensure that such violations do not recur.

- 4.4 The Inquiry Panel examined 54 witnesses and received 52 exhibits in the course of the hearing. In its conclusion, the Panel
- a) observed that the laws regulating assemblies are moving towards a cooperative model in several other jurisdictions where both parties, the organizers and the police, cooperate in the regulation of an assembly.
 - b) suggested that some sections of the Police Act be repealed and in particular to remove the need to apply for any licence to hold a peaceful assembly.
 - c) recommended that the police and the civil society cooperate to ensure the smooth-running of all peaceful assemblies.
- 4.5 In June 2007, SUHAKAM announced that it would conduct a public inquiry into the allegation that a government agency in Sabah had burnt houses that purportedly were built without permission. The inquiry did not materialize as the parties involved had filed a suit against the government agency. Under section 12(3) of the Human Rights Commission of Malaysia Act, SUHAKAM has to cease the inquiry when “the allegation becomes the subject matter of any proceedings in any court”.
- 4.6 Under Section 4(2) (d) of the Act, the Commission is empowered to conduct visits to places of detention. From August 2006 to July 2007, SUHAKAM had conducted a total of 28 visits to places of detention. These included visits to immigration detention centres, prisons and police lock-ups. The primary objective of the visit was to determine whether the condition of places of detention conforms (i) to local laws including the Lock-Up Rules 1953 and Prison Regulations 2000; and (ii) to the UN Standard Minimum Rules on the Treatment of Prisoners. In addition, the visits were to verify allegations of infringement of human rights relating to places of detention.

- 4.7 Though, in general, the conditions in the places of detention met the requirements, there are centres that did not. Overcrowding was the major factor for the less than satisfactory condition. The crowding in prisons was due to the holding of persons under remand while in immigration detention centres it was due to the influx of immigrants without proper documents and the delay in deportation of irregular immigrants. The delay in deportation was also contributed by the time taken by the country of origin to process documents pertaining to the legal status of its people.
- 4.8 In year 2006, SUHAKAM commented on the lack of qualified medical officers in detention centres. The government acted immediately on this concern by introducing “Panel Clinics” this year. With the introduction of Panel Clinics, places of detention, which do not have qualified medical officers, have doctors who may be doctors in private practice appointed to be attached to the centres. These doctors are assisted by medical assistants in the centres.

5.1 Economic, Social and Cultural Rights

- 5.1 The Commission continued to look into various issues on economic, social and cultural rights particularly those of vulnerable and marginalised groups by hosting dialogues, meetings and roundtable discussions with government agencies, NGOs, UNHCR and individuals. The issues discussed include concerns of the refugees, the National Health Financing Policy and trafficking.
- 5.2 The roundtable discussion to develop an Anti-Human Trafficking Plan of Action, had garnered cooperation from relevant government agencies, NGOs, the Bar Council and other stakeholders to form a Working Group to discuss and develop an Anti-Human Trafficking Plan of Action for Malaysia which would be forwarded to the government for consideration.

SUHAKAM had visited the Kajang women's prison to follow up on issues on human trafficking.

5.3 The Commission made field visits to several Penan villages in Sarawak to identify their problems, in particular to their right to land and socio-economic development. In addition, SUHAKAM has engaged a researcher to look into native customary land rights with focus on this indigenous group in Sarawak.

5.4 A research based on the Millennium Development Goals (MDGS) viewed from a human rights perspective is being conducted. This research attempts to apply the MDGs to specific disadvantaged groups such as the urban poor, the rural poor, estate workers and indigenous communities.

6. Women's Rights

6.1 The Commission is currently researching into various aspects of women's rights including Malaysia's reservations on CEDAW. SUHAKAM had completed the draft report and had appointed an external researcher to look further into the reservations. The Commission would continue to encourage the government to lift its remaining reservations in CEDAW and would monitor its implementations and encourage the government to adhere to its treaty reporting obligations.

7. Children's Rights

- 7.1 The Commission submitted its independent report on the state of children's rights in Malaysia to the UN Convention of the Rights of the Child Committee (CRC Committee). SUHAKAM attended a pre-session meeting of the CRC Committee in October 2006 in Geneva.
- 7.2 SUHAKAM was involved in drafting the Education for All Mid Decade Assessment Report Goal 1 which is "Expand Early Childhood Care and Education".
- 7.3 SUHAKAM is currently researching into disadvantaged children's access to primary education. Disadvantaged children include children of hardcore poor, indigenous groups, especially those living in remote areas, refugees and asylum seekers, and migrant workers as well as children in plantations and in centres of detention, and children without document. Though Malaysia has reservation on Article 28 of the Convention on the Rights of the Child which requires States to provide free and compulsory basic education to every child, nevertheless Malaysia is a signatory to the Declaration on Education for All. The objectives of the study are to identify (i) who are the children in Malaysia who do not have access to six years of primary education; (ii) the extent of the problem and (iii) the reasons for not attending school. The research findings and SUHAKAM's recommendations will be presented to the government.

8. Rights of Indigenous People

- 8.1 In addition to the Commission's promotion and protection of the economic, social and cultural rights of indigenous people reported in #5.3, #5.4, #7.3, SUHAKAM had met with the Director-General of Education to discuss indigenous children's education. SUHAKAM notes that the Ministry of Education has taken several initiatives to improve the quality of education for

children of indigenous people. These include outreach programmes and efforts to modify the school curriculum to make it more relevant to them.

8.2 A 20-member team, comprising officers from the various relevant Divisions in the Ministry of Education and a Commissioner, visited several remote Penan villages in Sarawak to investigate the educational provisions, the indigenous culture and environment conditions. The visit was to gather data so that the primary school curriculum could be modified to make learning more meaningful to indigenous children. This visit was probably in response to SUHAKAM's press statement on the plight of Penan children's education.

8.3 The Commission conducted a human rights training camp for indigenous school children to create more awareness of the CRC and the importance of education to their development.

9. Persons with Disabilities

9.1 For this year, SUHAKAM focuses on promoting awareness on the rights of persons with disabilities among the public. Since Rotary Clubs are found throughout the country and they have extensive networking, SUHAKAM decided to collaborate with this organization. Through public forums, talks and projects, distribution of brochures and posters, SUHAKAM and the Rotary Clubs in Malaysia hope to raise awareness of the rights of persons with disabilities so that society does not deny the disabled their rights.

9.2 SUHAKAM participated in the drafting of the national policy for persons with disabilities and had advocated strongly for a rights-based policy.

- 9.3 SUHAKAM had made submissions on the decisions of the Preparatory Meeting for the 8th Session of the Ad Hoc Committee on the UN Comprehensive and Integral International Convention of the Protection and Promotion of the Rights and Dignity of Persons with Disabilities to the Ministry of Women, Family and Community Development at the Ministry's request.
- 9.4 The Ministry of Women, Family and Community has acknowledged SUHAKAM as one of the stakeholders, When the Convention of the Rights of Persons with Disabilities was accepted by the UN General Assembly, SUHAKAM was among the four stakeholders invited to comment on the Convention at a seminar held in conjunction with the acceptance of this Convention by the UN General Assembly.

10. Regional Human Rights Cooperation

- 10.1 The Commission has stepped up its involvement in the promotion of human rights awareness at the regional and international level. The Commission is in favour of the establishment of a regional human rights mechanism. To push forward for such a mechanism, the Commission had two roundtable discussions with the Parliamentary Human Rights Caucus, relevant government agencies and NGOs to draft a proposal of the modalities for the mechanism. This proposal was submitted to Malaysia's representative in the High Level Task Force who had been tasked to draft the ASEAN Charter.
- 10.2 The Commission had worked cooperatively with the other three ASEAN National Human Rights Commissions, namely the Commission of Indonesia, the Commission of the Philippines and the Commission of Thailand, to draw up a Declaration of Cooperation which was signed by the 4 NHRIs on 28 June 2007 in Bali. At this meeting – the 3rd ASEAN National Human Rights Institutions Consultations Mechanism Meeting - SUHAKAM

presented a progress report on its in-depth study on migrant workers and undocumented persons which is expected to be completed in early 2008.

11. Publications and Journal

11.1 The Commission established the Publication Division in September 2006 which was tasked to publish a Malaysian Journal on Human Rights and SUHAKAM Bulletin. For 2007, two Bulletins have been issued and the inaugural issue of the Journal was launched on July 30, 2007.

12. Joint Training/Capacity Building Projects

12.1 A Commissioner and 5 officers participated in the Sub-regional Training Workshop for Southeast Asia National Human Rights Institutions on “National Human Rights Institutions and Human Rights Defenders” on 19–23 February 2007 in Bangkok. The Asia Pacific Forum, who organized this workshop, had engaged the International Service for Human Rights (ISHR) to design the training modules and act as facilitators.

12.2 The course was designed to provide better understanding regarding the roles and functions of human rights defenders and international standards and mechanism for protecting human rights. It addressed the role that NHRIs could play in promoting and protecting the rights of human rights defenders (HRDs). The focus of the course was two-fold: (i) the Paris Principles and the international standards for NHRIs and (ii) the role that the NHRIs can play in protecting the HRDs.

12.3 The training workshop was very useful as it provided the NHRI participants with an understanding of the roles and functions of HRDs; the existence of relevant international standards and mechanisms for protecting their rights; and an environment conducive for work.

12.4 At the end of the course, participants were able to explain the key concepts of rights as set out in the UDHR; to know methods to identify HRDS; to explain the international framework that protects them; to know how to use the international standards, particularly Paris Principles, to develop further existing NHRIs more effectively to ensure that NHRIs fulfil their responsibilities; to learn ways to work effectively with the regional and international NHRI organizations (that is, APF and ICC); and to understand and utilize other HRD protection avenues.

SUHAKAM
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