2005
ANNUAL REPORT

SUHAKAM
HAK ASASI UNTUK SEMUA

HUMAN RIGHTS COMMISSION OF MALAYSIA

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HUMAN RIGHTS COMMISSION OF MALAYSIA ANNUAL REPORT 2005

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SUHAKAM COMMISSIONERS 2005



Seated from left: Hj. Ahmad Yusuf Hj. Ngah (Secretary), Dato' Karam Chand Vohrah, Tan Sri Datuk Seri Panglima Simon Sipaun, Tan Sri Abu Talib Othman, Prof. Dato' Hj. Mohd Hamdan Adnan, Dato' Asiah Abu Samah, Tan Sri Ramon Navaratnam

Standing from left: Dato' Muhammad Shafee Abdullah, Tunku Datuk Nazihah Tunku Mohamed Rus, Prof. Dato' Dr. Khoo Kay Kim, Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin, Dato' Siva Subramaniam A/L Nagaratnam, Dato' Ranita Mohd Hussein, Dato' Choo Siew Kioh, Dr. Mohammed Hirman Ritom Abdullah, Dato' Dr. Abdul Monir Yaacob, Datuk Dr. Raj Abdul Karim, Dr. Chiam Heng Keng

CHAPTER 1

KEY ISSUES AND OUTCOMES



CHAPTER 1

KEY ISSUES AND OUTCOMES

Several encouraging developments over the year reflected the marked expansion of awareness of both individual rights and issues relating to human rights. This could be gauged by the willingness of the public to speak up on relevant issues and to question alleged violations or abuses.

In turn, this prompted heartening responses from members of both the Executive and Legislature. An example of this was the move towards greater transparency in governance with the disclosure of numerical readings in the Air Pollution Index for the first time since 1997. The Government also cleared doubts over the issuance of Approved Permits to import cars, by releasing the hitherto secret lists of permit-holders in July and September respectively.

In December, the Government acted on public concerns to create a Commission of Inquiry into the Standard Operating Procedure, Approaches or Regulations in the Handling of Body Searches in Connection with Arrest and Detention by the Police.

The establishment of the bipartisan Parliamentary Human Rights Caucus in December 2004 had created an additional conduit for individuals and interest groups to raise human rights issues and to lobby for legislative change. Over the year, this direct engagement with the public helped enhance the human rights perspective in parliamentary debate and, by extension, influenced certain policy decisions.

Pro-active measures like these will go a long way in addressing long-standing issues of human rights. SUHAKAM continues to receive numerous complaints and memoranda from individuals and non-governmental organisations (NGOs). They alleged the abuse of individual

rights in the context of detention under security laws, treatment under remand, exercise of due process, freedom of speech, right to information and right to assembly. The concerns of minority and vulnerable groups were brought to SUHAKAM's attention, alongside an emerging issue involving the right to freedom of religion.

1. DETENTION WITHOUT TRIAL

This continues to be cause for concern in the matter of human rights in Malaysia. The Government has yet to respond to the calls of SUHAKAM and civil society to review the Internal Security Act (ISA). SUHAKAM had, following a comprehensive review of the ISA in 2003, recommended its repeal and replacement with legislation dealing specifically with security matters and containing safeguards consistent with international human rights norms.

The most recent arrests included persons allegedly involved in issuing false documents to human trafficking syndicates. Among them were officials in the National Registration Department (NRD) and the Immigration Department. The Prime Minister has revealed that at least 34 NRD employees were arrested and detained under the ISA from 1980 to date, over suspected involvement in issuing various documents to illegal immigrants. One reason given for invoking the ISA in these situations was the need to sever the link and isolate the persons said to be involved.

At this point, it is relevant to reiterate SUHAKAM's observation in its report on the Review of the Internal Security Act 1960 that certain individuals had previously been detained for allegedly counterfeiting coins, falsifying documents or on suspicion of involvement in human trafficking. It remains SUHAKAM's view that any case involving an offence that is dealt with and punishable under a specific criminal law should be handled under these legal provisions.

In June, the Parliamentary Human Rights Caucus conducted fact-finding missions to the Kamunting and Simpang Renggam Detention Centres. The members of the Caucus

recommended that ISA detainees should be charged in a court of law if there is evidence against them or otherwise released, instead of being issued an additional two-year detention order as has frequently been the practice.

Notwithstanding this, the authorities extended the detention order of nine alleged members of Kumpulan Mujahidin Malaysia in September. By then, they had been held for four years for suspected involvement in militant activities that were said to pose a threat to national security. However, three of them were released the following month.

Another welcome development was the release of five students detained since 2003 for alleged links to an international militant organisation. They have each since been subjected to a Restricted Residence Order which requires them to reside in a prescribed district. The order was issued under the Restricted Residence Enactment 1933 which provides for arbitrary restriction of movement of persons. The students were among 13 Malaysians studying at universities in Karachi and who had been arrested by Pakistani authorities in September 2003 for suspected links to terror groups.

2. LAW ENFORCEMENT

(a) Police

In May, the 'Report of the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police' (the Report) was made public following a year-long review that involved public consultations. This was a positive move that was applauded by all parties. However, it is of concern that the Report noted the death of 80 persons while in Police custody between 2000 and 2004. Furthermore, only eight inquests have been carried out to date.

The Report further revealed the prevalence of corruption, abuse of power and non-compliance with prescribed laws in the Police force. It also showed a breakdown of public trust and

confidence in the Police force. There is an urgent need for the Police to strive to gain full public trust and confidence by improving their methods of investigation, of apprehending suspects and of dispersing assemblies or gatherings, as well as the treatment of people in detention.

SUHAKAM received 97 complaints against Police personnel during the year, involving such allegations as abuse of power, inaction, late investigation and brutality.

The Report offered 125 recommendations to improve Police operations, and ultimately, the Police force. Sub-committees were set up to study these, but implementation is still pending. Subsequent events appeared to indicate some response to the issue of deaths in custody. In August, the Prime Minister's Department announced that it was discussing the possibility of penalising Police officers who do not report deaths in custody to magistrates and judges. It was stressed that the Police should be held accountable for every such death. This is in line with the Royal Commission's suggestion that the Criminal Procedure Code (CPC) be amended to direct the Police to submit a sudden-death report. Such reports should be submitted to a magistrate within a week of the death, while an inquest should be held within a month.

In another development, the Attorney-General Y. Bhg. Tan Sri Abdul Gani Patail issued a directive to end the use of cautioned statements and confessions in criminal trials. He said only the Public Prosecutor can allow the use of cautioned statements in special circumstances, while persons pleading guilty could make confessions in court. In practice, Section 113 of the CPC allows the Police to record confessions from suspects while Section 115 allows a magistrate to record a suspect's cautioned statement.

This was reaffirmed in September by the Minister in the Prime Minister's Department (Legal Affairs), Y.B. Dato' Seri Mohd Radzi Sheikh Ahmad, who proposed the repeal of laws that allow for cautioned statements and confessions to be taken by the Police. The proposal is timely as it will assist in reducing allegations of unlawful handling of suspects or admission under duress. It will further compel the Police to conduct thorough investigations. This is crucial following the loss of high-profile criminal cases, mainly attributed to poor investigations and prosecution. The Minister, who is also the chairman of the Parliamentary Select Committee on Amendments to

the Penal Code and CPC, stated that the panel may make changes on confessions and cautioned statements before presenting its report to the Parliament in March 2006.

In contrast to these developments, a Court of Appeal ruled that magistrates can issue the maximum 14-day remand order for Police to conduct a criminal investigation. Magistrates have such discretion under Section 117 of the CPC, which empowers them to issue a remand order. At the same time, though, it was stressed that magistrates are to address their minds sufficiently to the facts presented by the Police and state reasons for granting the order.

In November, there was widespread outrage over the circulation of a one-minute video clip recorded on a mobile phone. It showed a woman in a cell stripping and doing 'ear-squats', watched by a policewoman. Both the Government and opposition called on the Police to respond. The Police claimed that this mode of search is part of the standard operating procedures. In December, the independent Commission of Inquiry into the Standard Operating Procedure, Approaches or Regulations in the Handling of Body Searches in Connection with Arrest and Detention by the Police was set up. Its terms of reference included examining the current practice of body searches and the extent of its legality. Its proceedings were opened to the public, while its findings will be submitted in early 2006.

Of relevance is the fact that, prior to this incident, SUHAKAM had recommended an end to the practice of strip searches, as well as the withdrawal of instructions to carry out such searches. Ordinary body searches should be conducted instead. Additionally, appropriate amendments should be made to the Lock-Up Rules 1953 and the CPC to specify the manner and extent of searches permissible under these laws.

(b) Other Enforcement Agencies

In January, officers of the Federal Territory Religious Department (JAWI) raided a nightclub in Jalan Ampang, Kuala Lumpur. They arrested some 100 Muslim patrons for alleged indecent behaviour. The incident created a public outcry when the media reported claims by those arrested that they had been subjected to harsh and degrading treatment. This drew public

attention to the powers of JAWI officers. In February, the Government decided that the religious authorities must obtain Police approval before conducting any raid and that their teams must include a senior Police officer.

This decision to restrict the powers of the religious authorities, in this case JAWI, was a constructive move in light of reports of alleged abuse or abusive attitudes of some officers. Enforcement agencies play a pivotal role in ensuring a fair and efficient criminal justice system that protects the rights of the public. Over the year, SUHAKAM received at least 50 complaints against officers of enforcement agencies.

3. ADMINISTRATION OF JUSTICE

Delays in disposal of cases could be deemed to impinge on the right to justice. In late 2003, the Chief Justice issued a directive to the courts that all pre-2000 cases should be disposed of by the end of June 2004. By July 2004 there was improvement in the rate of disposal of criminal cases, which were given priority over civil cases. A directive was then issued to those courts which had succeeded in disposing of all pre-2000 cases to proceed with the disposal of pre-2003 cases.

In June 2005, the Judiciary was reported as stating that it had agreed in principle to standardise case management to expedite the court process. This included addressing two contributing factors to delays - adjournment of cases and the requirement of written submissions. The Judiciary also expressed its intention to set its next target in clearing the backlog of pre-2004 criminal cases.

Even as efforts were being made to address the issue, further examples of delays arose. In August, public attention was drawn to a civil case that took 25 years to be resolved. The case commenced in the Kuantan High Court in 1979 and concluded at the High Court in 1997. The appeal was heard and concluded in 2003. It was finally disposed of at the Federal Court in August 2005.

In another instance, a criminal case in the Ipoh Magistrate's Court was delayed for 10 months following repeated requests for postponement by the prosecuting officer, for reasons including delays in obtaining consent to transfer the case to the High Court. The magistrate then gave the accused a discharge not amounting to an acquittal. However, the magistrate subsequently requested the High Court to revise her decision on the grounds that it was wrong in law. The accused was re-arrested and charged again in the Magistrate's Court, pending transfer of the case to the High Court.

The problem of delays cannot be addressed in a vacuum. A concerted effort is required from all quarters as there are many factors that contribute to delays. In this respect, the Attorney-General's recent directive to end the use of cautioned statements and confessions in criminal trials is also expected to reduce delays in the disposal of criminal cases. In April, SUHAKAM organised a forum on the right to an expeditious and fair trial. This was intended to consolidate efforts to address the issue of delays and to facilitate discussion of remedies and to offer recommendations.

4. FREEDOM OF SPEECH AND INFORMATION

In September, the Prime Minister's Department stated that the Government will not enact a law on freedom of information "as the need does not arise". It was of the opinion that current legislation is adequate to allow and ensure public access to Government-held or official information.

SUHAKAM, in its report on Freedom of the Media, had recommended that Freedom of Information legislation be enacted to allow the public access to official information, thereby indirectly assisting the Government in its fight against corruption. Next to political will, freedom of speech and the right to information are essential to the elimination of corrupt practice.

5. RIGHTS OF VULNERABLE GROUPS

(a) Orang Asli

Among the main concerns of the Orang Asli communities is the status of native customary land or native land which is being encroached upon. This is a common problem especially in Sarawak where the State authorities are making available large tracts of rural land to corporations for development. Complaints against plantation and logging activities which affect native customary land rights are increasingly being taken to court. Other complaints relating to these economic activities involve the alleged destruction of crops or pollution of the environment, including sources of drinking water.

In September, a landmark court decision was delivered specifically recognising the native land rights of the Orang Asli communities. The Court of Appeal upheld a ruling of the Shah Alam High Court in a case involving acquisition of native customary land. The Court ordered the Federal Government, Selangor Government, Malaysian Highway Authority (MHA) and United Engineers Malaysia Bhd (UEM) to compensate Sagong Tasi and six others from the Temuan tribes for acquisition of their 38-acre plot of customary land in Bukit Tampoi. In addition, UEM and MHA were ordered to pay exemplary and special damages for harsh treatment of the Orang Asli while evicting them from their land.

SUHAKAM has, apart from receiving complaints, taken various initiatives to examine the problems of the Orang Asli communities. This included conducting visits to their communes in order to see their problems first-hand and holding roundtable discussions and workshops to obtain a clearer picture of their predicament.

Whenever justified, the problems have been immediately referred to the authorities. In August, for example, SUHAKAM urged the Government to look into the main causes of under-development of the Penan community in Sarawak. This included the community's difficulties in securing their land and official identification documents. The lack of such documents has left many Penan youth unable to pursue education or obtain benefits from Government schemes.

In September, Pahang Menteri Besar Y.B. Datuk Seri Adnan Yaakob ordered an investigation into a claim that the authorities had ignored the plight of a Jakun family. Paraplegic Siyatek Pekom and his family had been surviving on handouts ever since he suffered a stroke. SUHAKAM had brought their plight to the attention of the media.

Another major concern faced by the Orang Asli communities relates to their right to education. Poverty and under-development among these communities are rooted in the lack of education or access to education. In October, therefore, SUHAKAM held a roundtable discussion on the indigenous communities' right to education. The issues and challenges were identified and discussed with participants representing the Ministry of Education, Department of Orang Asli Affairs, community leaders and NGOs. Further research is being carried out by SUHAKAM with a view to identifying solutions.

(b) Migrant Workers/Asylum Seekers

Following the tsunami of December 2004, the Government twice extended its deadline to round up and deport more than one million illegal immigrants, as many were from affected parts of Indonesia. In March, however, the crackdown on undocumented migrants began through an operation dubbed '*Ops Tegas*'.

This had a negative outcome in two cases. In May, Nepali restaurant worker Mangal Bahadur Gurung, was reported to have spent 51 days in Kajang Prison and given one stroke of the rotan. He had been caught during a round-up and was then convicted. It was later established that he had been wrongly convicted because he had a valid passport and work permit, which his employer had been holding at the time of his arrest. Mangal was released when the High Court set aside the lower court's decision.

In July, Pajirudeen Pichaikani, a migrant worker from India, was found to have been wrongly imprisoned. As in the case of Mangal, his passport and work permit were being held by his employer. He had been arrested by Rela officers in April while visiting a friend in Puchong, Selangor.

There was better response by the Government in an incident involving 131 Thai Muslims. They crossed into Kelantan in August due to civil unrest in their home provinces in southern Thailand. The Kuala Lumpur office of the United Nations High Commissioner for Refugees interviewed the asylum seekers to determine their eligibility for refugee status. Although the Thai authorities claimed that they were not 'refugees', Malaysia agreed to provide them temporary shelter. Although Malaysia does not recognise 'refugee' status, the Government explained that it would not deport them without an assurance of their safety and a guarantee of their human rights from the Thai authorities. Efforts are continuing to determine their status and reasons for leaving.

(c) Persons with Disabilities

The needs of persons with disabilities are not confined to matters of welfare and benefits. As citizens, they have a right to education, employment, medical care, transportation, proper housing, a barrier-free environment, as well as sports and recreation. They also have a right to participate in all aspects of life, but it requires strong awareness to address the issues that affect their ability to do so.

SUHAKAM has been working closely with the Government, NGOs and persons with disabilities to promote such rights and to improve public awareness. Following-up on roundtable discussions held in 2004, SUHAKAM organised two more dialogues in March and August respectively with the Ministries of Education, Human Resources, Transport, and Housing and Local Government. Although the relevant agencies have acted on previous recommendations and some results can be seen, there is much room for improvement.

(d) Women and Children

Building on SUHAKAM's forums on trafficking of women and children in 2004, another forum was held in September, focusing on the rights, liberty and safety of children. Such a focus is crucial in light of increasing media reports on violence, abuse and exploitation of children in

today's world. Incidents of babies being trafficked for sale, for example, warrant immediate attention before this develops into a serious problem in Malaysia.

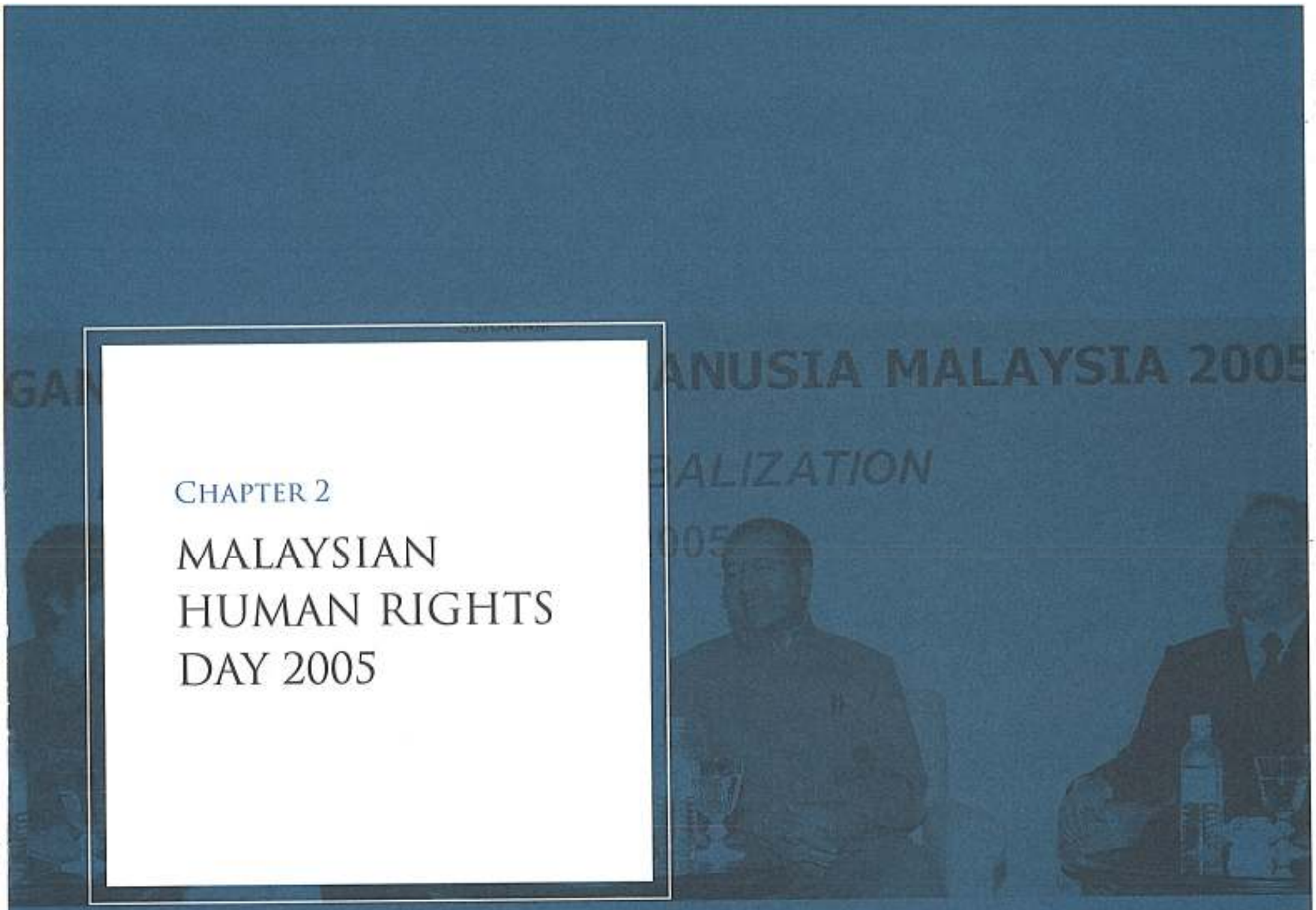
Generally, victims of trafficking should have access to adequate remedies such as assistance, protection and compensation. With regard to this, SUHAKAM has made recommendations in its report on Trafficking in Women and Children, but these have yet to be considered by the Government.

On the issue of rights of Muslim women, the hasty passage of the Islamic Family Law (Federal Territories) (Amendment) Bill 2005 by Parliament has been widely protested by women senators, NGOs and the general public. The controversial provisions are perceived to be derogative in their effects on the rights of Muslim women. SUHAKAM shares the reservations expressed in regard to the legislation and has urged that the disadvantages faced by Muslim women be redressed.

(e) Target Groups in the Millennium Development Goals

The Millennium Development Goals (MDGs) are significant in relation to the state of development in Malaysia. The MDGs comprise a set of targets and indicators that relate to the alleviation of poverty and attainment of basic needs such as primary education, health care and gender equality. These goals were extracted from the United Nations Millennium Declaration and agreed upon by the attending Heads of State at the Millennium Summit in New York in 2000.

In January, Prime Minister Y.A.B. Datuk Seri Abdullah Ahmad Badawi launched the Country Report documenting Malaysia's progress towards the MDGs. Although Malaysia has attained and exceeded most of the objectives and expectations, certain areas require more attention. For instance, the country is still lagging in meeting the goal to curb the spread of HIV/AIDS. Further attention is also needed to address poverty and deprivation faced by women and the Orang Asli communities.



CHAPTER 2

MALAYSIAN HUMAN RIGHTS DAY 2005

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MALAYSIAN HUMAN RIGHTS DAY 2005

SUHAKAM celebrated the fifth Malaysian Human Rights Day with a conference on 'Human Rights and Globalisation'. The theme was selected to assign attention to rights-related developments arising from borderless trading and the free market system. Globalisation will affect the economy, tradition, cultures and lifestyles in every nation, and force society to confront sweeping change. This will bring about positive and negative consequences that will undoubtedly affect human rights.

The objectives of the conference were to analyse the impact of globalisation on human rights and the quality of life in Malaysia, in order to:

(i) promote understanding of the positive and negative consequences of globalisation, and

(ii) seek appropriate responses to negate inequality in globalisation.



Tun Dr. Mahathir Mohamad (second from right) with SUHAKAM's Commissioners

SUHAKAM invited five eminent speakers based on their expertise and experiences in dealing with different aspects of globalisation. They were the fourth Prime Minister of Malaysia, Tun Dr. Mahathir Mohamad, Dr. Peter Vardy, Professor Vitit Muntarbhorn, Encik Md. Hussin Nayan and Tan Sri Hasmy Agam.

The 304 participants represented a cross-section of society and included representatives of Government agencies, diplomatic missions, the Attorney-General's Chambers, Malaysian Bar, the media, non-governmental organisations (NGOs), corporations, law firms and tertiary institutes, as well as students and individuals.

1. PRESENTATIONS AND ISSUES

(a) Special Address on Human Rights and Globalisation

Tun Dr. Mahathir Mohamad brought into focus the meaning and implication of globalisation from a human rights perspective. He began by illustrating the main problem in the perception of human rights and linking this to the concept of globalisation as currently interpreted. He concluded that human rights must be upheld. However, an accurate perspective is needed to ensure that the concept of human rights is not used by those who are advantaged or by wealthier countries to serve their agenda. There is also a need to ensure that globalisation will not result in abuse of human rights.

Tun Dr. Mahathir highlighted several issues of concern:

- "Multiple standards" exist in the realm of human rights: in reality, the concept of human rights is subjected to a different perception or interpretation whenever influenced by personal values, interests or benefits.

- The definition of "an act of terror" or terrorism remains unclear and is interpreted differently in various quarters; this is compounded by human rights abuses of the "terrorists" themselves.

- There is no clear determination of the right to interfere in another country's affairs; in the event there is a "case for interference", there is no assurance that this will be carried out in the interests of human rights.

- A "globalised" world should be one without borders; however, globalisation is currently interpreted by the advantaged or wealthier countries in terms of economic globalisation and free flow of capital, rather than in terms of human migration or accessibility to jobs and opportunities.

(b) Globalisation and the Environment

Dr. Peter Vardy, a lecturer and vice-principal of Heythrop College, University of London, spoke passionately on the issue of globalisation and the environment, including issues of "environmental ethics". He identified two major issues concerning preservation of the environment:

(i) The absence of an agreed set of ethics upon which to build an environmental code of practice; and
(ii) The absence of a model or framework for implementing an environmental code of practice.

In arriving at a solution, there will have to be greater effort and co-operation at all levels from the international community, including the United Nations (UN), to governments, trans-national corporations and individuals. However, problems can be anticipated due to differences with regard to:

- The question of human rights: whether human rights are accepted as absolute rights which cannot be taken away or whether human rights are conferred by way of an agreement which can be removed;

- The subscription to "deep ecology" or "shallow ecology": deep ecologists regard animals and nature itself as having rights and place the importance of the environment before the interests of mankind, while shallow ecologists regard the existence and importance of the environment as merely for the benefit and interests of humankind;

- The question of values: what is regarded as morally wrong by an individual may not be so to another. The lack of an agreed set of values or a global standard as to what is ethically and morally acceptable has encouraged relativism and the view that there are no absolute values.

(c) Impact of Globalisation

A three-member panel led the discussion on the impact of globalisation on development and security, and on the role of the UN in a globalised world.

(i) Globalisation and Development

Professor Vitit Muntarbhorn, Professor of Law at Chulalongkorn University of Bangkok and a UN Special Rapporteur, defined the latest wave of globalisation as one that integrates trade and commerce with communications and information. He maintained that, although globalisation helps to promote economic growth, growth does not necessarily guarantee human development and the satisfaction of basic needs. He outlined and addressed five key issues that deserve attention:

- The interface between the global economic/commercial system and human rights;
- The nexus between development, human rights and the environment;
- The advocacy of the 'Rights-based Approach' in human development;
- The challenges to human rights, peace, democracy and human security in relation to cultural relativism, terrorism and insecurity; and
- Reform of the UN.

He concluded by indicating preferred directions from the perspective of globalisation, development and human rights.

He said:

- All countries should become parties to human rights treaties to establish a standard that can be used by all.

- All countries should consider the recommendations of UN human rights treaty bodies and special rapporteurs, and initiate reforms in law and policies to elevate national practices to international standards.

- Globalisation and human development should be fostered alongside the promotion and protection of human rights, peace, democracy and human security.

- Civil society and NGOs should be encouraged to contribute to human development and human rights in a non-violent manner.

- Global institutions dealing with finance, trade and commerce should reflect human rights and be more flexible in accommodating the needs of developing countries.

- Regional Free Trade Agreements should be geared to assessing the human rights impact and reducing negative impacts of economic activities.

- Globalisation should address and manage the flow of migration without jeopardising human rights and causing insecurity.

- The UN should be reformed to ensure that it is more accessible to people and more effective in preventing and rectifying human rights transgressions.

- The setting up of strong national systems to protect human rights could be complemented by regional and other protection systems where the national setting is unable to offer redress.

- Globalisation and human development should complement human rights with an ethical and non-material perspective.

(ii) Terrorism and Globalisation

Encik Md. Hussin Nayan, the Director-General of the Southeast Asia Regional Centre for Counter-Terrorism under the Ministry of Foreign Affairs, Malaysia, discussed aspects of globalisation and terrorism and the challenges posed by both. He characterised globalisation as being catalysed by advances in technology and transportation, as these have led to greater global integration of economies and of many important aspects of daily life. Challenges posed by both globalisation and terrorism were identified as:

- The unstoppable flow of information, including sensitive or disruptive information, coupled with extensive media coverage which can be used against the government, who has to deal with terrorism, propaganda and other disruptive intentions;

- The unstoppable access to information technology and its use by terrorists to communicate with one another, gather information on targets, learn how to assemble weapons, spread propaganda and recruit new members, all of which can only support and encourage further terrorist activities;

- The expanding targets of terrorist threats through the Internet which may include computer systems of governments, critical infrastructure and key institutions;

- The blurring of lines in decisions to ensure the safety of visitors to a country while preserving their rights, and to prevent "suspected terrorists" from slipping in;

- The unlimited accountability of governments which are expected to be more active and aggressive in detecting terrorist activities and preventing terrorist attacks;

- The global approach taken by modern-day terrorist groups to sustain their movements by forming an ideological bond with similar groupings abroad;

- The international funding and networking resources of terrorist groups, where they collect money in one country, launder it in another country and purchase equipment, supplies or weapons in other countries; and

- The growing disregard of terrorists for the international community by targeting iconic national symbols and public locations as a way of drawing wider attention to their causes.

He said the challenges posed by terrorism require a global response through the international community's co-operation. In this regard:

- International organisations such as the UN play a pivotal role in co-ordinating international efforts against terrorism, despite having failed to bring about consensus on an internationally-accepted definition of terrorism or adequately addressing the root causes of terrorism.

- Countries can learn from one another, drawing from available expertise and experience.

- There must be an open environment for all parties to express opinions on different approaches to combat terrorism and reach consensus on an internationally recognised definition of terrorism.

- There is a need to investigate and understand terrorist motives and to subsequently develop appropriate counter-terrorism responses that address the root causes as well as anticipate potential targets or *modus operandi*.

(iii) Role of the UN in a Globalised World

Tan Sri Hasmy Agam, Ambassador-at-Large in the Ministry of Foreign Affairs Malaysia, explained the role of the UN in the context of human rights and globalisation. He covered the origin, structure and inner workings of the UN and its involvement in the evolution and promotion of human rights. He also touched on the globalisation process and its impact on human rights, as well as plans for reform of the UN in order to meet the challenges of a globalised world.

He concluded by listing the positive effects of globalisation on human rights:

- Re-affirmation of the universality and interdependency of all human rights and fundamental freedoms;

- Emphasis on States' responsibility to respect all human rights and fundamental freedoms irrespective of race, colour, sex, language and religion;

- Greater accountability of States and international institutions on the basis of rule of law in the conduct of international affairs;

- Acceptance of States' responsibility to protect citizens from genocide, war crimes and other crimes against humanity. and increasing the pressure for international intervention through sanctioned enforcement action if States fail to live up to this responsibility;

- Expansion of the UN's role through mainstreaming of human rights throughout its systems and more effective functioning of the principal UN body on human rights;

- Increased importance of respect and understanding of religious and cultural diversity within and between States, and stronger commitment towards dialogue at all levels for greater tolerance and respect among cultures;

- Increased role of, and contributions by, civil society, NGOs and the corporate sector in the promotion of human rights; and

- A more active role for regional organisations in the promotion of human rights.



Participants attending the conference on Malaysian Human Rights Day 2005

2. SUHAKAM S OBSERVATIONS

Four general conclusions may be drawn from the proceedings:

- There is a need for proper understanding of globalisation, its process, advantages and disadvantages, as well as its effects in general and on human rights specifically.

- There is a need for an ethical or 'humanised' globalisation process, guided by human rights principles as enshrined in the Universal Declaration of Human Rights 1948.

- There is a need for the government or local authorities to devise and install appropriate measures to preserve human rights in a globalised world.

- There is need to recognise and support the role and purpose of the UN as a mechanism to promote and preserve human rights and to regulate efforts to create new and acceptable global rules or to impose common standards in the global interest.

3. RECOMMENDATIONS

SUHAKAM would like to offer the following recommendations.

(a) Role of the Ministry of Education

Knowledge of human rights must coincide with an understanding of globalisation and its effects on Malaysian society so that there is a full appreciation of human rights in a globalised environment. As globalisation can be interpreted differently due to economic, political and cultural influences, it is important to examine globalisation in every context in order to understand its implications, including the impact on human rights. In this regard, subjects taught in school, especially Economics, Geography and History, should cover both globalisation and human rights in discussions. SUHAKAM recommends that the Ministry of Education incorporates the study of both globalisation and human rights in every relevant subject.

(b) 'Rights-based Approach' to Development in Policy-making

According to the UN, "*a human rights based approach ensures that human standards, as established in international law, are applied as a criterion for policy orientation and the solution of problems in specific areas*[1]".

Most of the Government's policy approaches to date have stressed the need for the country to remain economically competitive in a globalised environment. In a developing country like Malaysia, the support and application of a 'Rights-based Approach' will not only incorporate human rights into policy-making, but would also prevent a situation where the national interest may override human rights considerations.

Borrowing examples, trade and development policies that cater to the needs of globalisation have increased the role of international organisations such as the International Monetary Fund in Argentina or trans-national corporations like Dabhol Power Corporation (a subsidiary of Enron Development Corporation) in India. This has exacerbated the incidence of poverty and human rights abuses in the two countries. It is therefore recommended that the Government takes the necessary steps to consider a 'Rights-based Approach' in policy-making.

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[1]1998 Report of the UN Secretary-General to the ECOSOC

(c) Role of the Legal Profession

The role of the legal profession will be even more important when globalisation brings in global standards, rules and practices that will have an impact on human rights. Lawyers and legal advisers in both the public and private sectors will have to be fully equipped to deal with changing needs and challenges.

In Malaysia, the legal profession is undergoing its own process of globalisation[2], which has raised the necessity of research into new legal issues and working knowledge of international law. It is therefore recommended that the relevant authorities give the Malaysian Bar the support and attention it deserves to lead improvements in the legal profession.

(d) Establishing a Regional Media

There is a perception that the Western media have a 'Western-centric' outlook in reporting the news. With the dominance of such news networks on the international front, there is little room for one that caters to regional viewpoints or reporting perspectives. It is therefore recommended that the call for the establishment of a regional media be supported, to facilitate balanced news reporting.

(e) Role of the Judiciary and Alternative Dispute Resolution Mechanisms

New legal issues and solutions, different perceptions and varying standards can be anticipated within a globalised environment. The Judiciary has, all along, been expected to update itself continuously with regard to rapidly changing aspects of law, including issues of human rights[3]. With globalisation, the Judiciary will not only have to equip itself to face emerging situations, but also to share its role with Alternative Dispute Resolution Mechanisms. Among these are international arbitration and mediation bodies, both of which will play a bigger role in a globalised environment. It is therefore recommended that the Judiciary continues to update itself to meet changing needs and challenges, as well as to work with existing alternative dispute resolution mechanisms.

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[2] Addressed on Nov 16-18, 2005 at the 13th Biennial Malaysian Law Conference 2005: 'Globalising the Legal Profession'
[3] See SUHAKAM's Report on Malaysian Human Rights Day 2003: 'Human Rights and the Administration of Law'

(f) Role of the Ministry of Foreign Affairs

Globalisation will impact strongly on Malaysia's foreign policy. As such, the challenge is for the country to extract the best from the process and to contribute in turn to the globalised system. At the multilateral level, Malaysia remains active in international bodies, including the UN. Such fora are useful in promoting co-operation between member-States to identify solutions to global issues and establish ground rules to guide peaceful conduct of international relations. It is therefore recommended that the Ministry utilises all available platforms to raise such issues as human rights, environmental degradation, terrorism, refugees, democracy and UN reform. In relation to the problems of globalisation, it is imperative for the Ministry to sustain its pro-active role in the World Trade Organisation.

4. CONCLUSION

SUHAKAM echoes the sentiments of its Vice-Chairman, Tan Sri Datuk Seri Panglima Simon Sipaun, as expressed in his closing remarks. He noted that globalisation cannot be avoided, and that it will affect the country in one way or another and to varying degrees. SUHAKAM is of the view that only adequate preparations and a concerted effort by all will place society on a firmer footing to neutralise the negative effects of globalisation.



CHAPTER 3

REPORTS OF WORKING GROUPS:

CHAPTER 3

REPORTS OF WORKING GROUPS

3(i) REPORT OF THE HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP

In keeping with the mandate to extend human rights awareness to a cross-section of society, the Education and Promotion Working Group (EWG) stepped up activities that addressed the needs of students, teachers, trainers, indigenous peoples, persons with disabilities, and enforcement officers. An important stride was made during the year to take the human rights message to young Malaysians especially.

Two new activities were introduced to inculcate human rights awareness among school children: a Human Rights Camp for students in secondary schools and a Human Rights Awareness Programme for those in primary schools. These were conducted with the approval of the Ministry of Education. At a meeting on July 19, the Director-General of Education and senior Ministry officials acknowledged the importance of creating a human rights culture in schools. This has widened the window of opportunity for SUHAKAM to conduct programmes and activities involving students and teachers.

1. HUMAN RIGHTS EDUCATION IN SCHOOLS

(a) Human Rights Training for Master Teachers

SUHAKAM was invited to participate in three training sessions for master teachers involved in teaching 'Civics and Citizenship' in schools. The first session on April 28 was for participants from Sarawak, Sabah and Labuan. The other two were held for the northern region on May 12 and for the southern and east coast region on May 26.

SUHAKAM highlighted several areas where human rights elements can be integrated into teaching the subject. The Convention on the Rights of the Child (CRC) and Universal Declaration of Human Rights (UDHR) were the basic documents used. SUHAKAM also supplied other human rights resource materials.

(b) Human Rights Awareness Programme

Between July and October, talks were delivered on human rights awareness in six primary schools. In all, 900 students aged 10-12 years attended the programme in co-ed urban or rural schools, schools for indigenous children, Chinese- and Tamil-medium schools and single sex schools.



Primary schools students at the awareness programme

The objective was to raise awareness of human rights with emphasis on responsibility. Basic concepts of human rights were introduced from the CRC and UDHR, followed by activities to encourage participation. There was positive response, with the children showing interest in the activities. However, it was observed that those from schools for indigenous children had a lower rate of participation.

In most of the schools, the principals requested additional programmes such as camps for children and teachers. SUHAKAM plans to develop a training module for teachers to conduct similar activities, so that there is continuity and the programme reaches a larger audience in schools.

(c) Human Rights Training for State Education Officers

SUHAKAM organised two workshops with the theme 'Human Rights Education in Schools' as follow-up action to the National Conference on Human Rights Education in Schools held in 2004. The objective was to increase awareness of human rights education, particularly the importance of understanding the CRC and the relevance of rights of the child in the school environment. The programme was therefore centred on strategies to tackle issues of children's rights.

Participants were officers from the State Education Department, District Education Officers, lecturers from teacher-training colleges and senior teachers from schools including principals and counsellors. Four facilitators from the Human Rights Education in Schools sub-committee assisted with the sessions.

One workshop was held in Kuching, Sarawak, from Sept 26-27, while the other was in Kota Kinabalu, Sabah, from Dec 5-6. Apart from the workshop sessions, an open forum was held for participants to express their views on human rights and human rights education in schools.

(i) Central issue in discussions

During the workshops, a main issue of discussion was on compulsory and free primary education. SUHAKAM welcomes the Government's action to amend the Education Act 1996 (Article 29A) to make primary education compulsory. Every Malaysian parent is required to enrol a child who has attained the age of 6 as a pupil and to ensure that the child remains in school for the whole period of primary education. This is in keeping with Article 28 of the CRC, which states that the child has a right to education, and that the State's duty is to ensure that primary education is free and compulsory.

Primary education in Malaysia is not entirely free. Although school fees are not charged, students have to pay fees for sports, extra-curricular activities, examinations and insurance, among others. They are also required to buy items such as personal files, a report card, T-shirt for sports activities, school badge and name tag.

Discussions at the Sarawak and Sabah workshops revealed specific difficulties:

- Implementation of compulsory education may affect parents who have disabled children, those who are from indigenous and minority communities, and those living below the poverty line.

- Disabled children are affected by the absence of facilities in schools that are not disabled-friendly; where understanding and awareness of their needs are lacking among teachers and peers; and when their parents are over-protective.

- Indigenous children have problems going to school when they live in remote and inaccessible areas without regular transportation services.

- Indigenous children have difficulty enrolling for school when they do not hold a birth certificate.

- Children from families that live below the poverty line are burdened by the need to buy school uniforms and exercise books and to pay fees imposed by schools. As a result, some leave school in order to work and supplement the family income.

- Closure of schools due to low enrolment would hinder attainment of the target of compulsory education.

(ii) Workshop recommendations

- Efforts should be made to convince parents of the importance of education as a means of improving the standard of living.

- Parents of disabled children should be informed of their responsibility to expose their children to as much education as other children, as well as informed where to send their children for education.

- There is a need to build awareness and disseminate information to civil society on the rights of disabled people.

- Schools should provide disabled children with the facilities they need to obtain the same quality of education as other children.

- Education awareness programmes should be conducted among indigenous peoples.

- Education should be made available in indigenous settlements and communities, with experienced teachers being sent to these locations.

- The Government, especially the Department of Orang Asli Affairs, should collaborate with schools and indigenous communities to ensure that reliable transportation is available for children to attend school.

- School children from remote areas should be provided hostel accommodation.

- Families living below the poverty line should be granted financial aid so that they can provide their children with basic necessities.

- The Ministry of Education, the Social Welfare Department, Government agencies, non-governmental organisations (NGOs) and representatives of the communities should go on the ground to identify problems and issues pertaining to education.

(iii) Supplementary issues in discussions

Additional issues were raised in Sarawak and Sabah in relation to:

- Indiscipline in schools, especially bullying and threatening of peers;

- Social and delinquency problems arising from family problems and from peer influence; and

- Denial of the right of students to make decisions and express opinions especially in choosing their subject-stream and in appointing the head of class and school prefects.

(iv) Workshop recommendations

- There is a need to improve the students' sense of security in school through more effective rules that stress human rights education and responsibilities.

- All teachers should have training in counselling and interpersonal communication skills so they can communicate better with students and help them express their views and feelings.

- Teachers should help students to negotiate, exchange views and reflect carefully before making decisions.

- Parents should be more involved in their children's whereabouts and activities to address concerns over the lack of proper care and guidance.

- Schools should ensure that the environment is conducive for children to develop and progress to the best of their capability.

Participation at the workshops in Sarawak and Sabah exceeded SUHAKAM's expectations, with attendance being higher than the number of invitations issued. This has motivated SUHAKAM to conduct additional workshops in future.

However, SUHAKAM is concerned that primary education, while compulsory, is not free because students are required to pay various fees. SUHAKAM urges the Government to review the situation so that primary education fully complies with the CRC requirements.

(d) Poster Competition

The annual poster competition to promote human rights awareness among primary and secondary children was based on the theme 'Children's Rights to Family Life'. This right is enshrined in Articles 5, 9 and 18 of the CRC. A total of 773 entries were received, but this was a substantial reduction from previous years. This was probably due to withdrawal of the award for the school with the most entries. As in previous years, primary schools submitted the largest number of entries. The competition is open to primary, lower secondary and upper secondary students. However, four entries were received from pre-school children. Given the quality of their work, the judges decided to award prizes to this group as well.

Y. Bhg. Dato' Dr. Haji Ahamad Sipon, the Director-General of Education, officiated at the prize-giving ceremony on Sept 17. Apart from the 43 winners, there were 140 guests at the ceremony comprising parents of winners, as well as teachers and students. SUHAKAM took the opportunity to launch its 'Report on the Roundtable on Education for Children with Disabilities' and 'Report on the National Conference on Human Rights Education in Schools'. SUHAKAM had organised these events in collaboration with the Ministry.



Y. Bhg. Dato' Haji Dr. Ahamad Sipon (centre) and Commissioner Dr. Chiam Heng Keng with the winner of the Human Rights Poster Competition during the prize giving ceremony

2. RIGHTS OF THE CHILD

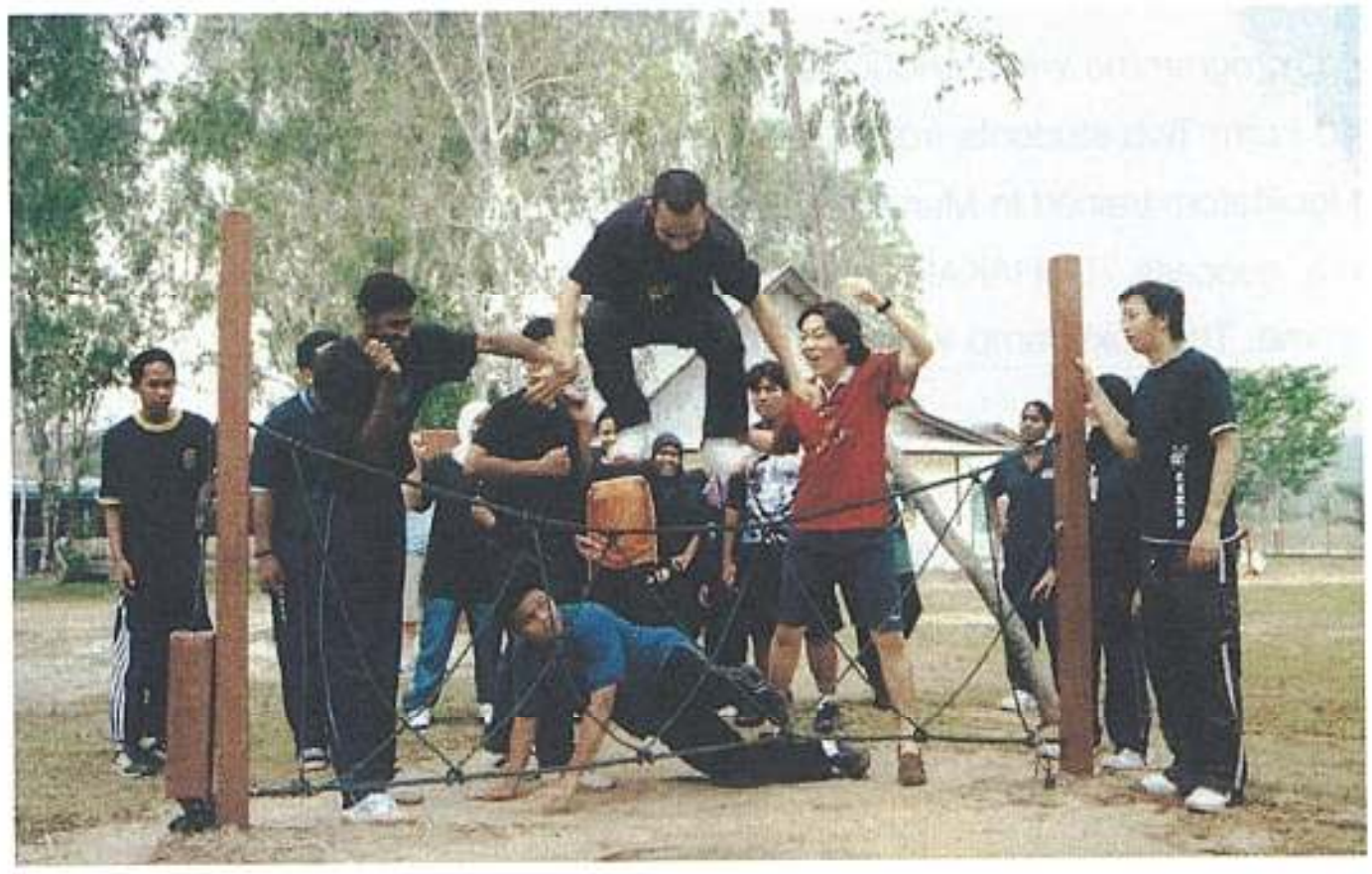
(a) Training-of-Young Trainers

Since 2002, SUHAKAM's annual Training-of-Trainers programme on the CRC and strategies for implementation had targeted personnel from the Government and NGOs. This year, the focus shifted to youth and school children.

As a first step, a Training-of-Young Trainers Workshop was held from March 21-25. The 25 participants were from various associations such as Persekutuan Pengakap Malaysia, Persatuan Sokka Gakai Malaysia, Majlis Belia India Malaysia, Persatuan Kebangsaan Pelajar Islam Malaysia, Belia 4B of Sungai Raya Branch and Majlis Kanak-Kanak Malaysia.

The training was held camp-style at Kem Ampang Pecah, Kuala Kubu Bharu, Selangor. The course content was drawn from the CRC and delivered through participatory and child-centred methodology. This emphasised learning through doing, and the use of fun simulations and energisers which helped participants to better absorb the content.

The overall strategy in designing the camp was to generate interest among young participants to develop better understanding of the CRC and related human rights principles. In this way, they will be able to integrate their understanding into concrete actions in future. In this respect, one of SUHAKAM's objectives is to produce a pool of young trainers to serve as future facilitators. Another aim is to encourage the participants to integrate their new skills and knowledge into the social and educational activities of their associations. Towards the end, participants were required at the end of the programme to come up with activities to be implemented through 'CRC Action Plan'.



Participants of the Training-of-Young Trainers Workshop tackling the obstacle course at Kem Ampang Pecah, Kuala Kubu Bharu

A follow-up meeting was held on May 31 for the young facilitators to report back on the progress of their respective CRC Action Plans. Positive indications were noted. For instance, the facilitators from Belia 4B Sungai Raya had co-operated with trainers from Majlis Kanak-Kanak Malaysia to organise three CRC awareness workshops for 100 children aged 7-12 years in Selangor and Negri Sembilan. The Persatuan Sokka Gakai Malaysia, Majlis Belia India Malaysia and Persatuan Kebangsaan Pelajar Islam Malaysia were in the midst of preparing programmes for their members. These are promising signs that efforts will continue in instilling awareness of human rights in associations and other target beneficiaries. This has been an encouraging outcome from the Training-of-Young Trainers programme.

(b) Human Rights Camps for School Children

Following up on the Training-of-Young Trainers programme, SUHAKAM, with the support of the Ministry of Education, organised a series of Human Rights Camps for school children aged between 13 and 14 years. The main objective was to educate children on their rights and responsibilities as stated in the CRC, as well as on related human rights principles. It is hoped that their early understanding and exercise of human rights will eventually pave the way for a culture of human rights at home, in school and in the community.

The pilot programme was conducted in Sepang, Selangor, from July 1-3. The participants were 40 Form Two students from Sekolah Sri Bestari, Bandar Sri Damansara. Three of the young facilitators trained in March were assigned to conduct the whole camp, which proved to be a success. SUHAKAM obtained useful pointers to improve and enhance the programme. The next camp was held in Sabak Bernam, Selangor (Oct 1-2) for 60 students in Form 1 and 2.

Overall, the programme proved that children can enjoy human rights education while benefiting from it. The participants demonstrated a high level of interest in learning and showed both enthusiasm and leadership qualities in drawing up a CRC Action Plan to be implemented in school with the help of teachers and peers.

Future programmes will try to reach out to other groups such as children from indigenous communities, those living in shelter or protection homes, and groups of high-risk children especially those living in urban areas.

(c) CRC Training Awareness Workshops

To facilitate public understanding of the CRC, three more Training-of-Trainers and awareness workshops were conducted in Kuala Lumpur during the year. These were respectively for persons with disabilities and those who work with them, teacher trainers, and indigenous peoples. The CRC training manual, which has been translated into Bahasa Melayu, was used. It contains important guidelines that are useful for trainers and facilitators.

The workshop for persons with disabilities was held from Feb 28 to March 2 for 33 participants, including representatives of Government agencies and NGOs that work with persons with disabilities. A main topic of discussion involved the right to education for disabled children. One suggestion was that the Government should provide inclusive education through the education system. However, participants viewed the shortage of qualified teachers as a problem and urged the Government to train more teachers in this field.



Activities on CRC for participants from teacher training colleges

The workshop for teacher training colleges from June 27-29 was aimed at familiarising lecturers with the CRC so that they can promote it in their respective colleges. The 33 participants were from 23 teacher training colleges. During discussions, they cited difficulty in disseminating knowledge of the CRC due to lack of funds for such programmes in their colleges. At the end of the workshop, the participants drew up a plan of action for promoting CRC. Since finance is the problem to overcome, the participants suggested integrating CRC elements into current programmes.

The workshop for indigenous peoples was held from Sept 26-27 for 34 participants representing various indigenous groups from Peninsular Malaysia. The workshop was divided into two sessions. The first covered the four central planks of the CRC - the child's rights to

survival, protection, development and participation - while the second session covered education-related problems and challenges confronting the indigenous communities.

SUHAKAM has trained 373 participants since 2003 and now has plans to take training to the next level, to deal with the CRC in depth. This includes focusing on specific target groups, drawing up a plan of action and creating a monitoring mechanism in the long run.

3. INDIGENOUS PEOPLES

(a) Seminar on Land Rights

The EWG organised the Seminar on Land Rights of Indigenous People in Kuching, Sarawak, from March 27-29. This served to continue discussion of issues raised by the indigenous communities, as published in the SUHAKAM report entitled 'Hak Asasi Orang Asal'.

Y.B. Dato' Francis Harden a/k Hollis, Assistant Minister of Land Development, Sarawak, officiated at the opening. The 116 participants came from organisations representing different indigenous communities, as well as Government agencies such as the State Planning Unit, Kuching District Office and Sarawak River Board. Six experts on indigenous peoples' land rights presented papers during two sessions, after which a case-study workshop was conducted. A dialogue with Government agencies made up the final part of the seminar, allowing for participants to exchange opinions and pose questions to a panel of seven representatives of related Government agencies.

Five main recommendations emerged from the proceedings:

1. That indigenous peoples' customary land be exempted from provisional lease;

2. That a review be conducted of the need for indigenous peoples to produce documentary evidence to prove ownership of land, and that the situation be revised accordingly since these communities have occupied the land for generations;

3. That interpretation of legal terms involving Native Customary Rights be clarified to assist indigenous peoples, as this is crucial to their right to land as well as helpful to the authorities in land-related matters;

4. That initiatives of indigenous peoples in mapping their areas be officially recognised as a valid method of determining boundaries; and

5. That the authorities and developers engage and consult indigenous peoples when planning development projects.

SUHAKAM welcomes these recommendations and looks forward to effective and improved strategies that will resolve the issues involved.

(b) Visits to Orang Asli Settlements

SUHAKAM conducted three visits to indigenous peoples' settlements in order to get first-hand information on needs of these communities. The visits focused on obtaining data on the status of indigenous peoples in terms of their right to land and resources for livelihood; right to education; official identification documents; and indigenous skills and knowledge.

Details of the visits follow:

1. March 24: Settlements in Kuala Kubu Bharu, Selangor, covering Sekolah Kebangsaan Tun Abdul Razak, Kampung Gerachi, Kampung Pertak and Kampung Buloh Telor;

2. May 25 - 26: Settlements around Rompin and Pekan districts in Pahang; and

3. July 21 - 13: Settlements in Grik, covering RPS Banun Kampung Sg Raba, a community living near Belan River, Kampung Bukit Asung and Kampung Desa Ria.



Indigenous children in a settlement in Grik, Perak

The EWG also used these visits to conduct research on the educational status of indigenous children. These were the main findings:

1. Poverty among families contributes to the low percentage of children receiving education. Their low socio-economic status is mainly due to insufficient income that is reliant on traditional economic practices. This is exacerbated by displacement of communities as a result of development programmes that do not consider the sustainability of their livelihood.

2. Parents lack the motivation to encourage their children to go to school. Contributing factors are that children are needed to help out with daily economic and cultural activities during school hours, and that the parents lack awareness of the importance of education.

3. Stigmatisation of indigenous children still exists in school. The respondents alleged that teachers and peers discriminated against them by making pejorative remarks and calling them names like 'jakun'.

4. Families face difficulty in obtaining educational materials and accessing facilities. Respondents cited their inability to obtain school uniforms, stationery and exercise

books; the unavailability of transportation; and poor conditions in hostels as the reasons why children are deprived of a sound education.

5. Most indigenous children have difficulty coping with their studies mainly due to limited ability to communicate in Bahasa Melayu and English. Another reason is that they often start school late compared to other students of their age. These factors generate an inferiority complex that lead to their withdrawal from school.

(c) Roundtable Discussion: The Indigenous Community's Right to Education

Held on Oct 25 in Kuala Lumpur, the event drew 58 participants comprising representatives of the Ministry of Education, Department of Orang Asli Affairs and NGOs, as well as community leaders. A presentation by SUHAKAM highlighted its observations in relation to rights of the Orang Asli and issues affecting the communities. Examples and case-studies from visits to Orang Asli settlements were included.

The Roundtable Discussion provided an effective platform for representatives of the indigenous communities to raise their concerns, especially on their right to education and problems encountered. These can be categorised as:

1. The low socio-economic standards of the Orang Asli;

2. Low motivation among parents to send children to school;

3. Insufficient supply of items such as books and uniforms, as well as financial difficulty; and

4. The need to integrate indigenous culture, lifestyle, language and special abilities into the curriculum, to make school more meaningful and relevant for children; teacher training courses should also cover such aspects so that teachers are more sensitive to the needs of Orang Asli children.

Representatives offered several noteworthy strategies to resolve the issues identified:

1. Revise the Poverty Income Line used to determine aid for the Orang Asli; the current ceiling is RM405, which does not reflect their real socio-economic needs;

2. Undertake professional, transparent and standardised implementation of policies on finance and assistance for the Orang Asli;

3. Review the school curriculum to meet the needs of Orang Asli children;

4. Organise motivational programmes for parents, especially those in rural areas, to encourage them to send children to school; these programmes should emphasise the importance of education;

5. Ensure Government support for organisations or individuals who provide informal education to the Orang Asli community; and

6. Introduce the *Sekolah Balai* concept - formal classes conducted in the community - to rural areas so that young children need not be placed in boarding schools and be separated from their family at an early age.

4. PERSONS WITH DISABILITIES

Since the inaugural observance of Malaysian Human Rights Day in 2001, SUHAKAM has worked closely with the Government, NGOs and persons with disabilities to promote the rights of persons with disabilities through a series of dialogues and Roundtable Discussions. Two more were added during the year under review.

The 'Roundtable Discussion on Employment for Persons with Disabilities' was a collaboration between SUHAKAM and the Ministries of Education and Human Resources. The 'Roundtable Discussion on Least Restrictive Environment' was another collaborative effort, this time with

the Ministry of Transport and Ministry of Housing and Local Government. It recognised the right of persons with disabilities to a barrier-free environment.

Both events shared the common aim of providing an opportunity for Government agencies, NGOs, persons with disabilities, parents and the private sector to discuss strategies for working together to enable persons with disabilities to attain their optimal potential.

(a) Roundtable Discussion on Employment for Persons with Disabilities

Held on March 31, it helped identify obstacles and recommended strategies to overcome these. Sixty representatives from Government agencies, employment agencies, the corporate sector and media participated in the discussion together with individuals with disabilities.

(i) Issues discussed

- Parents still have a low level of awareness of the importance of employment for children with disabilities, with many being deemed as over-protective in this regard.

- Greater collaboration is needed among parents, teachers and society to disseminate information on the needs of persons with disabilities.

- The majority of the employers hold a negative perception of the capabilities of persons with disabilities. Many offer jobs out of sympathy and not based on ability or merit.

- Difficulty of access to public infrastructure limits the mobility of people with disabilities who wish to work, in particular wheelchair users.

- There is a high turnover rate involving persons with disabilities because they find it difficult to adjust and adapt to workplace conditions.

- Despite the substantive increase in number of seminars, discussions and workshops related to job placement, the number of disabled people who are beggars remains high.

- Some individuals have experienced discriminatory treatment and even abuse at the workplace.

(ii) Participants' recommendations

- Schools should provide students with disabilities with the information they require, as well as career guidance through clubs.

- Institutes of higher learning should make available interpreters for students with hearing impairment.

- Public infrastructure should be disabled-friendly; ramps, handrails, toilets and communication-related services should be made available in public buildings and on public transportation.

- Employers should be more understanding of the needs of persons with disabilities during the process of recruitment and while conducting performance-based assessment.

- The Government should make it mandatory for all employers in the private sector to reserve one percent of jobs for persons with disabilities.

- The relevant Ministries should set up a special unit to handle issues affecting persons with disabilities. This unit should be linked with other agencies and disability-related associations.

- Those who are severely mentally ill should be recognised as persons with disabilities so that they can be integrated into the mainstream of services provided by Government agencies and NGOs.

- Awareness programmes on persons with disabilities should be sustained at all levels to increase society's understanding of the culture of persons with disabilities.

- The Micro-credit Loan Scheme introduced by Bank Pertanian and Bank Simpanan Nasional should allocate a percentage of funds to persons with disabilities, and make this available without red-tape.

- Employers should work closely with NGOs to organise in-house training and workshops. This working relationship would help the employers to be sensitised to the abilities of the disabled.

(b) Roundtable Discussion on Least Restrictive Environment

This brought together 63 participants on Aug 2 from relevant Government agencies including local councils; public transportation companies; NGOs; the media; and individuals with disabilities. The main objectives were to identify the challenges faced by persons with disabilities and to promote a disabled-friendly environment for them to move around independently and be fully integrated into society.

(i) Issues discussed

- Facilities for persons with disabilities are being used by non-disabled people and for unintended purposes. For instance, the pedestrian pavements in Brickfields, Kuala Lumpur, are frequently used for parking and petty trade, which pose hazards to the visually impaired and restrict their movement.

- Wheelchair users cannot enter some public toilets for the disabled because of the narrow doorway and the absence of non-slip flooring as well as hand railings.

- Persons with disabilities are not given priority for units on the lower floor of apartment buildings when making a purchase.

- Most public facilities and buildings are not disabled-friendly and do not meet the standards outlined by the Ministry of Housing and Local Government in its Guidelines on Building Requirements for Disabled Persons. Sub-standard materials, such as handrails made of inferior materials and installed at the wrong height, pose a hazard to users as well.

- Public transportation is generally not disabled-friendly especially for wheelchair users.

- Taxi drivers often refuse to pick up persons with disabilities.

- The majority of the public lacks awareness of the rights of persons with disabilities.

(ii) Participants' recommendations

- The Government should convert the Guidelines on Building Requirements for Disabled Persons into law.

- The public should be more civic-minded and refrain from using facilities such as parking lots that are reserved for persons with disabilities. Those who do so should be severely penalised.

- Public transport services should be disabled-friendly.

- All international and domestic airports in Malaysia should provide facilities for persons with disabilities.

- The National Physical Plan should be given prominence in the development of the public transportation system.

- All buildings, especially shopping complexes, should meet the standard requirements in relation to the needs of persons with disabilities.

- Local councils are urged to increase the one percent allocation of low-cost housing units set aside for persons with disabilities and to provide general disabled-friendly facilities. This allocation should also be made for medium-cost apartments.

- University curricula should include the needs of persons with disabilities in degree programmes in Architecture and Civil Engineering as well as in other disciplines that involve construction, such as Quantity Survey and Town Planning.

SUHAKAM was deeply encouraged by the enthusiastic participation in these discussions. The outcomes underlined needs and issues as well as strategies to overcome challenges faced by persons with disabilities. SUHAKAM is pleased to note that some local councils have already implemented initiatives to raise awareness and respect the rights of the disabled. For an example, the Petaling Jaya Municipal Council has made the SS2 area a disabled-friendly neighbourhood.

SUHAKAM believes that collaboration among all sectors in the community is essential in mainstreaming the rights of persons with disabilities. In this regard, SUHAKAM will continue to play its role in upholding and promoting the rights of persons with disabilities. SUHAKAM will forward the outcome of the discussions to the relevant Ministries for action.

5. HUMAN RIGHTS FOR ENFORCEMENT AGENCIES

(a) Human Rights Workshop for Prison Department

The workshop was held on May 24 for 54 senior Prison Department officers from around the country. It was divided into two sessions, comprising the presentation of working papers on human rights issues and the discussion of case studies.

As this was SUHAKAM's first programme with the Department, the immediate objective was to raise the officers' awareness of human rights. At the end of the workshop, the participants urged SUHAKAM to conduct more human rights programmes, especially for lower-ranking staff whose duties involve handling prisoners. The participants suggested that the Government appoints additional personnel, including officers, as the current ratio of detainees to wardens is very high.



Human Rights Workshop for the Prison Department

(b) Human Rights Workshop for Police

SUHAKAM has organised workshops for the Police since 2002. This time around, the workshop - held from Dec 18-21 in Kuala Lumpur - was for 38 District Crime Investigation Officers.

The rationale for such workshops is to enable discussion of alleged human rights violations and abuse of powers by the Police - based on public complaints - as well as to assist in fine-tuning departmental procedures through guidelines on human rights. The objectives are to sensitise participants on their role in promoting and protecting human rights and to develop their ability to prepare standing orders in line with human rights principles.

The workshop was conducted in two sessions. During the first session, papers were presented relating to human rights principles and the daily work of the Police force. The second session was for group discussions to enable participants to review the standing orders for Police. Recommendations on the standing orders will be finalised at a later stage and submitted to Police Headquarters in Bukit Aman, Kuala Lumpur, for consideration.



Human Rights Workshop for Police held from December 18 - 21

During the proceedings, a number of needs were highlighted arising from the current shortage of manpower for crime investigation departments; lack of facilities in Police stations; lack of support from, or misunderstanding by, the public; and inadequate co-ordination between enforcement agencies.

Participants, though, acknowledged the importance of human rights education. They recommended that human rights elements be integrated into Police training, especially for new recruits.

6. SUHAKAM LIBRARY

SUHAKAM has continued with efforts to expand its library so that it becomes the premier human rights resource centre offering an extensive collection of books, documents and electronic materials. The year saw the addition of 371 materials, bringing the total number of books and reference materials to 3,676. All titles can be accessed via the Library Online Public Access Catalogue.

MEMBERS OF HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP

Dato' Asiah Abu Samah (Chairperson)

Tan Sri Datuk Seri Panglima Simon Sipaun

Dr. Chiam Heng Keng

Prof. Dato' Haji Mohd Hamdan Adnan

Dato' Dr. Sharifah Hapsah Syed Hassan (2003-2005)

Prof. Emeritus Dato' Dr. Khoo Kay Kim

Dato' N. Siva Subramaniam

3(ii) REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

The Complaints and Inquiries Working Group (CIWG) adopted an increasingly pro-active approach towards complaints handling and investigations. This was done by stepping up site visits when reviewing complaints as well as organising dialogues on human rights awareness for both public and private-sector employees, especially those who have long been daily-paid contract workers. In addition, CIWG maintained its schedule of visits to Police lock-ups, prisons and detention camps to check on conditions.

CIWG also increased its participation in joint programmes with SUHAKAM's Human Rights Education and Promotion Working Group, and the Law Reform and International Treaties Working Group. This was mainly in relation to issues involving training programmes for Prison officers, and the economic and socio-cultural dislocation of the Orang Asal communities.

A high level of human rights awareness in recent years has contributed to a dramatic escalation in the number of complaints received. This improved understanding is an encouraging outcome of SUHAKAM's efforts in organising workshops, forums, seminars and dialogues to promote organisational and societal consciousness of human rights. As in previous years, the complaints were mainly on alleged violation of human rights by law enforcement officers including the Police; land matters; and alleged abuse of power by Government agencies.

1. ACTION ON COMPLAINTS

The following is an overview of the complaints received.

(a) Analysis of Complaints

In all, 1,342 complaints were received at the three SUHAKAM offices in Kuala Lumpur, Kota Kinabalu and Kuching. This was a 118.6% increase over 2004 (Table 1) and the highest number recorded since SUHAKAM's inception in 2000.

Table 1: Complaints Received by SUHAKAM, 2000-2005

Year	No. of Complaints	Year-on-Year Change	
		(Vol)	(%)
2000	152	-	-
2001	319	167	109.9
2002	221	-98	-30.7
2003	269	48	21.7
2004	614	345	128.2
2005	1,342	728	118.6

Our enquiries showed that most of the complaints were not cases of violation of human rights, but complaints against the Administration either for delay in dealing with the subject matter or total inaction. In our view, the complaints should in the first place be addressed to the relevant Government agencies for the necessary action.

Complaints relating to human rights made up 721 of the cases received during the year (Table 2). These included memoranda classified and handled as complaints. The single biggest increase involved land matters which went up to 396 complaints, from 163 recorded in 2004.



A peaceful demonstration against ISA held outside SUHAKAM's office

Table 2: Nature of Complaints, 2005

NO.	COMPLAINTS	TOTAL
1.	**Government Agencies**	
	(i) Police Force	
	• Delays in investigation	32
	• Police inaction	27
	• Allegations of abuse of power	25
	• Police violence	25
	• Dissatisfaction with superior officers	11
	• Grounds of arrest/family not informed	11
	• Deaths in custody	5
	• Death by Police shooting	1
	• Application for permits/assembly	1
	(ii) National Registration Department	163
	(iii) Anti-Corruption Agency	7
	(iv) Election Commission	5
	(v) Customs Department	2
	(vi) Prison Department	2
2.	**Internal Security Act**	8
3.	**Land**	396
	TOTAL	721

(b) Decision on Jurisdiction

Every complaint is thoroughly investigated. Where the inquiry discloses infringement of human rights, SUHAKAM will refer the matter - with appropriate recommendations - to the relevant authority or person with authority, for their attention. In other cases, SUHAKAM will merely forward and refer these to the relevant agencies or classify the cases as 'No Further Action' (NFA).

Through this process, 354 complaints (or 26% of the total) were determined to be outside SUHAKAM's jurisdiction and therefore filed as NFA. These involved:

(i) Allegations of administrative inefficiency, foot-dragging over approvals, and/or reversal of decisions by Government agencies such as town or district councils;

(ii) Criminal cases that had been referred to and/or were being investigated by the Police or other agencies, and required a certain degree of confidentiality; and

(iii) On-going court cases or court decisions, by virtue of Section 12(2) of the Human Rights Commission of Malaysia Act 1999.

(c) Action on Complaints

The CIWG acts on complaints in different ways. The most common method is to seek official clarification from the parties alleged to have violated human rights.

Over the year, SUHAKAM also conducted dialogues, initiated or attended a series of visits, and monitored activities in relation to complaints received. These included:

- Monitoring events where there were planned peaceful demonstrations;

- Visits and on-site interviews concerning allegations of violation of human rights of persons in Police custody and in prisons or other detention centres;

- Attending and participating in UNHCR dialogues/talks concerning refugees in Malaysia; and

- Giving lectures on human rights for senior Malaysian Police and Navy officers.

Holistic action was initiated especially in cases involving law enforcement officers and land matters.

(i) Complaints against law enforcement officers

To minimise recurrence of problems, CIWG organised separate meetings with Police, Immigration and Prison personnel at various levels to highlight the complaints against the respective agencies. Besides drawing attention to the issues, these small meet-the-officers sessions served as a platform to build human rights awareness and to impress upon them that they should see SUHAKAM as a partner, not as an adversary. This networking has helped enforcement officers to be more aware of human rights issues in undertaking their duties. In turn, SUHAKAM officials have gained access to persons with primary responsibilities or duties in these agencies. The purpose of such visits and meetings was to expose officers to the need to take all necessary measures to protect and promote the human rights of the public in their care. SUHAKAM has been open and consistent in seeking co-operation from all parties in the belief that everyone has an interest in promoting and protecting human rights.

(ii) Complaints on land matters

SUHAKAM received 396 complaints involving issues of Orang Asli reserve land and land used under Temporary Occupation Licence, and related compensation. Of these, 381 complaints were lodged in Sabah and Sarawak with regard to uncertainty over ownership of Native Customary Rights land. There were 15 complaints from Orang Asli communities in Peninsular Malaysia. Apart from visits to Orang Asli villages in Perak, Selangor and Pahang together with other working groups in SUHAKAM, CIWG conducted several visits on its own. A dialogue was held with the Sarawak Penan Association in Kuching on Aug 25 to address the many grievances in relation to land and forest use, as well as access to education and medical facilities.

Table 3: Human Rights Awareness Dialogues, 2005

Date	Location	Event
Aug 25	Sarawak	Dialogue with Sarawak Penan Association
Sept 19	Sabah	Dialogue with Workers
Sept 24	Sarawak	Dialogue with Workers
Oct 3	Kuala Lumpur	Dialogue with Workers

(d) Resolution of Complaints

The year saw 246 files (18% of total complaints) being closed, with 742 cases (56%) pending resolution. The remaining 354 cases (26%) have either been classified as NFA or have been forwarded to the relevant Government agencies with more appropriate jurisdiction over the issues (Figure 1).

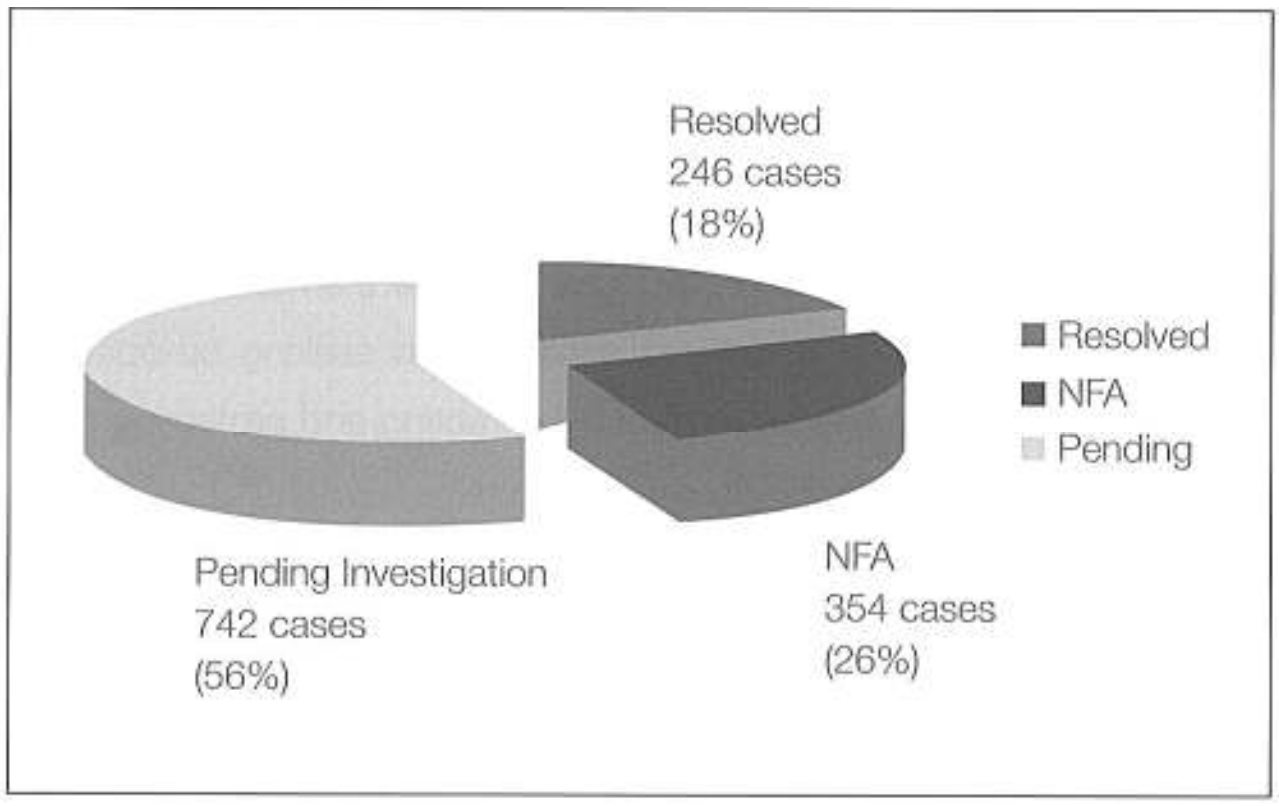


Figure 1: Resolution of Complaints

2. VISITS TO DETENTION CENTRES

SUHAKAM is empowered to conduct visits to detention camps under Section 4(2)(d) of the Human Rights Commission of Malaysia Act 1999. The visits cover Police lock-ups, prisons and Immigration detention depots.

CIWG visited 22 detention centres around the country. Most of the visits were undertaken on SUHAKAM's own initiative, with the rest being prompted by complaints received. Generally, there was no major change in conditions at the 22 locations visited (Table 4). The issue of space is still a problem, and prisons and certain Immigration detention depots remain overcrowded.

The administration of all Immigration detention depots was fully handed over to the Prison Department during the year, by the Royal Malaysia Police. The only detention depot retained under the Immigration Department is at the Kuala Lumpur International Airport. With this change of administration, all matters including security of the detention depots are now under the jurisdiction of the Prison Department. The Immigration Department is only involved in matters relating to documentation of detainees before they are sent back to their country of origin or on to a Third Country for resettlement.

The completion of the handover has facilitated co-ordination of the administration and operation of detention depots, prisons and other correctional centres nationwide. The process had to be implemented gradually to cope with difficulties such as shortage of human resources, including officers, as well as logistics of renovating the detention depots before they were handed over to the Prison Department.



SUHAKAM's visit to the Immigration Detention Depot, Belantik, Kedah

Table 4: Visits to Places of Detention, 2005

DATE	PLACES OF DETENTION
Jan 13	Kamunting Detention Camp, Perak
Jan 22	Sungai Buloh Prison, Selangor
April 1	District Police Headquarters, Rembau, Negri Sembilan
April 28	Immigration Detention Depot KLIA, Sepang
Aug 3	Batu Gajah Rehabilitation Centre, Perak
Aug 4	Immigration Detention Depot, Semenyih, Selangor
Aug 15	District Police Headquarters, Kota Setar, Kedah
Aug 15	Alor Star Prison, Kedah
Aug 15	Immigration Detention Depot, Belantik, Kedah
Aug 16	Sungai Petani Prison, Kedah
Aug 17	Kamunting Detention Camp, Perak
Aug 25	Pusat Serenti Kuching, Sarawak
Aug 26	Immigration Detention Depot, Semuja, Sarawak

Table 4: Visits to Places of Detention, 2005

DATE	PLACES OF DETENTION
Sept 14	Immigration Detention Depot, Tanah Merah, Kelantan
Sept 20	Immigration Detention Depot, Tanah Merah, Kelantan
Sept 21	Pengkalan Chepa Prison, Kelantan
Oct 7	Kluang Prison, Johor
Oct 8	District Police Headquarters, Klang, Selangor
Oct 8	Johor Bahru Prison, Johor
Oct 14	Immigration Holding Room, KLIA, Sepang
Oct 21	Pusat Rawatan Islam Darul Islah, Sabak Bernam
Dec 27	Hospital Bahagia Ulu Kinta, Tanjung Rambutan

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Datuk Dr. Raj Abdul Karim
Datuk Asiah Abu Samah
Dato' K.C. Vohrah
Dato' Dr. Abdul Monir Yaacob
Dr. Mohammad Hirman Ritom Abdullah
Dato' N. Siva Subramaniam

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

As the Economic Social and Cultural Rights Working Group (ECOSOC) reviewed the status and development of issues under its portfolio, it gave special emphasis to three aspects during the year - the rights of older persons, the right to health and rights of children.

The programme of activities began with a public forum on 'Ageing with Dignity' held in February, followed by a policy dialogue in July linked to the United Nations Millennium Development Goals (MDGs). A forum on the Right to Health was held in August, with another in September on 'Reducing Violence, Harm and Exploitation of Children'.

In planning and executing these events, ECOSOC was particularly mindful of the need to prepare the authorities and the public to take up the central issues with a human rights perspective, since policies and practices will have a long-term impact on the groups concerned.

1. PUBLIC FORUM ON AGEING WITH DIGNITY

ECOSOC worked with a group of individuals representing Government agencies and non-governmental organisations (NGOs) to form a working committee to address the rights of older persons. The discussions led to a public forum, themed 'Ageing with Dignity', being held on Feb 12.

ECOSOC felt that there was a need to draw attention to the fact that individuals are reaching an advanced age in greater numbers, while being in better health than ever before. There are 1.66 million persons aged over 60 in Malaysia today and, by 2020, this age-group is expected to make up a significant proportion of the population. There is much diversity in the situation of older persons, who therefore require a variety of policy responses and services to enhance their quality of life.

The keynote address at the forum was delivered by Y.B. Datuk Seri Shahrizat Abdul Jalil, the Minister of Women, Family and Community Development. About 250 participants attended, comprising representatives from Government and NGOs, and academics and stakeholders interested in the rights and dignity of older persons.

Panellists and speakers comprised medical doctors, social security providers, educationists and NGO representatives. The topics of discussion covered 'Improving Human Rights for Older Persons'; 'Ageing and Health Security'; and 'Multi-sectoral Response in Caring for Older Persons'.

Participants pointed out the need for appreciation of the contributions of older persons to society and to ensure that policies have positive, not discriminatory, effects on older persons. They further said stakeholders should be persuaded to create opportunities for willing and capable older persons to participate in, and contribute to, the well being of society.

(a) Issues and Concerns Raised

The discussions revolved around mainly practical considerations, which also guided participants in framing their concerns on relevant issues and the human rights of older persons.

(i) Implementation of National Policy

Although the National Policy for the Elderly was formulated in 1995 to ensure integration and participation of older persons in the development process and to draw up an Action Plan in 1999, the Policy has yet to be effectively implemented.

(ii) Definition of 'Senior Citizens'

The new definition of 'Senior Citizens' as those aged 56 and above is inadequate. The official retirement age in Malaysia is 56 years. Most retirees do not know what to do with their time and tend to live unproductive lives.

(iii) Pension scheme

Pensioners from the lower-income group who have children in school, college or university find it difficult to maintain a decent standard of living because the pension received is generally inadequate.

(iv) Participation of older persons

The United Nations Principles for Older Persons provides that this group should remain integrated in society. They should participate actively in the formulation and implementation of policies that directly affect their well being, and share their knowledge and skills with the younger generation. However, not many older people have the skills required for re-employment. The issue goes beyond extending the retirement age, to identifying ways to improve the utilisation and capacities of the elderly. This is the biggest challenge ahead.

(v) Health care, medical facilities and services in Government hospitals

Participants noted that elderly patients are made to wait or to queue for long periods for medication and medical appointments in Government hospitals.

(vi) Public transportation, amenities and facilities

It was highlighted that public transportation facilities are currently not 'older persons-friendly'. These are not too safe either. For instance, floor surfaces are slippery; steps are high; and hand-rails on buses are not suited to the needs of the elderly.

(vii) Insurance and bank loans

It is difficult for older persons to rent cars or obtain bank loans. The rights of a person seem to end at a certain age, as is seen in the inability of older persons to buy into insurance schemes. Claims were made that insurance companies seem to prefer to insure only those who are young and healthy.

(viii) Insensitivity towards the elderly

Participants pointed out the frequent absence of sensitivity towards older persons, who are often neglected, ignored or exposed to rude and selfish treatment by younger people.

(ix) Dignity, security and freedom from abuse

The United Nations Principles provide that older persons should be able to live in dignity and security. They should be free from exploitation and physical or mental abuse and they should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently for their economic contribution.

(x) Education and self-fulfilment

It was also said that older persons in Malaysia do not have sufficient opportunities to experience life-long education through formal or informal channels.

(b) SUHAKAM's Recommendations

Older persons face many issues and challenges. SUHAKAM feels that a human rights approach is essential in dealing with issues of ageing. It is important to recognise the ability of older persons to contribute to society by taking the lead for their own betterment, as well as that of society as a whole.

SUHAKAM would therefore like to offer the following recommendations to enhance the dignity of older persons:

1. That the Government's National Policy for the Elderly formulated in 1995 and Plan of Action of 1999 be strengthened, and that all the recommendations are implemented at all administrative levels;

2. That a monitoring system be set up to oversee the welfare of older persons, and that civil society representatives are involved in this process;

3. That the retirement age be increased to 60 years, as life expectancy has increased to 70 years - the United Nations World Assembly on Ageing held in Vienna in 1982, adopted the age of 60 for deliberating issues on ageing;

4. That the Ministry of Women, Family and Community Development should set up a Register of Volunteers of older persons who are able and willing to serve society;

5. That private hospitals be urged to provide health care that is affordable to older persons in the lower-income group, and that pharmaceutical companies be requested to channel part of their profits into subsidising the cost of drugs for the elderly.

6. That the corporate sector be urged to play a more pro-active role in enhancing the dignity of older persons - banks, for instance, could consider paying a higher interest rate on deposits placed by those above 60, while pharmacies, optical shops and supermarkets could give discounted rates to older persons;

7. That the courts impose more severe sentences against those found guilty of abusing or assaulting older persons, especially in view of the rising rate of crimes against, and abuse of, older persons; and

8. That a study be conducted on the feasibility of establishing Social Pension Schemes and extension of existing social protection mechanisms.

SUHAKAM further suggests that it is important to promote the rights of older persons by facilitating partnerships at all levels of Government, civil society, NGOs, and the private sector. The voices of older persons should be heard and their concerns taken into consideration in formulating Government policies for their well being.



Participants at the Forum on 'Ageing with Dignity' held on Feb 12

2. POLICY DIALOGUE ON HUMAN RIGHTS PERSPECTIVE OF MDGS

Malaysia's general achievements in relation to the Millennium Development Goals (MDGs) are laudable, having fulfilled five of the eight goals set out in the Millennium Declaration of September 2000. The Declaration spells out human rights principles and values of freedom, equality, solidarity, tolerance and respect for nature and shared responsibility.

On Jan 28, the Prime Minister, Y.A.B. Dato' Seri Abdullah Ahmad Badawi, launched the country-report on progress towards the MDGs. Entitled 'Malaysia: Achieving the Millennium Development Goals: Success and Challenges', it shows that significant progress has been made, but that some issues require specific attention. For instance, Malaysia is still lagging in relation to preventing the spread of HIV/AIDS. In addition, there must be action to eradicate pockets of poverty and deprivation that persists - among women and the Orang Asli especially - within the wider scenario of successful development.

Malaysia's overall success, though, has paved the way to go beyond the MDGs, in terms of both the targets and basic needs enshrined in human rights instruments.

It is necessary to ensure consistent, continuous and sustained progress towards the MDGs and to raise the targets constantly. The concept of 'going beyond' requires standards and a quality of life that are human-rights compatible. The next step, therefore, is to formulate country-specific goals, targets and indicators that address the situation and needs of the groups affected, with a firm emphasis on human rights.

Thailand and Vietnam are among the first countries to have developed country-specific targets and indicators. In Thailand, there are now additional indicators for HIV/AIDS, while the curbing of heart disease has been added as a new target.

The ratification of various human rights instruments binds a country to uphold the rights of its people and be accountable in implementing these provisions. The human rights approach is built on principles of accountability; equality and non-discrimination; the right to live a life free from poverty; (Article 25 of the Universal Declaration of Human Rights) and the right to active and informed participation (Article 21).

(a) 'Going Beyond' the MDGs

Against this backdrop, ECOSOC collaborated with the United Nations Development Programme (UNDP) to organise a Policy Dialogue on 'The Human Rights Perspective of MDGs and Beyond' on July 26. The wide-ranging input from the discussions has been submitted to the Economic Planning Unit in the Prime Minister's Department, for proposed inclusion in the 9th Malaysia Plan (2006-2010).

The objectives of the dialogue were to discuss MDG-related issues pertinent to Malaysia; facilitate development of country-specific targets and indicators; promote adoption of human rights principles in the development and implementation of country-specific MDG targets and indicators; and strengthen partnership and relationship among the Government, UNDP, NGOs and other organisations.

The scope and focus of the dialogue revolved around the term 'beyond', with participants expressing their opinions as to what this should mean. While MDGs refer to the goals, targets and indicators set by the United Nations, the term 'beyond' - as determined during the

dialogue - refers to country-specific goals, targets and indicators that should be designed within the economic, social, cultural and political context of Malaysia. Another key aspect of 'beyond' covers the need for human rights principles to be incorporated in the development and implementation of country-specific MDGs.



Participants at the policy dialogue - The Human Rights Perspective of MDGs & Beyond

(b) Issues and Recommendations

Participants reflected on the following issues as they suggested directions that could be taken in addressing the concerns.

(i) Poverty and inequality

The majority of currently poor households in Malaysia lies within the Bumiputera community and is mainly concentrated in the agricultural sector, especially in the least developed states. These groups, in particular the indigenous communities of Sabah and Sarawak and Orang Asli in the peninsula, are less accessible and may be less amenable to general poverty-reduction programmes. Better-targeted and participatory approaches are needed. These should take into account new layers of poverty that are emerging, including the relatively new phenomenon of urban poverty.

Practical programmes and budgets would facilitate equal access to poverty-reduction schemes. The poverty line index needs to be reviewed as well. The current index mainly takes into account the basic right to food. There is a need to go beyond this. Social ills - rising crime rate, violence and drug abuse - are often related to poverty and have to be addressed.

Poverty mapping, as stated in the Eighth Malaysia Plan (2001-2005), has to be extended. The human rights approach will ensure that groups greatly affected by poverty are identified and that the strategies formulated will address their needs. Hence, there is a need to prioritise groups that are the worst affected.

(ii) Access to education

A particular challenge is to expand access to educational facilities and to improve their quality for hard-to-reach groups. This should emphasise the presence of good quality teachers in rural areas. There is a moral obligation to ensure that every child, in particular the Penan child, receives primary education as well. Given the rapid spread of ICT, education policies need to be sensitive to the possible creation of a digital divide between rural and urban children.

(iii) Gender-related developments

At the secondary and tertiary levels of education, the enrolment of girls now exceeds that of boys. If the cause of this persists and the gap continues to widen, there will be serious implications for Malaysia's labour force and social development. Hence, the situation merits study.

Employment is another area requiring focus, given that most women are caught between holding down a job and undertaking primary responsibility for bearing and nurturing children. This is increasingly preventing Malaysian women from returning to the labour market after childbirth. Often, they leave their jobs. Improved childcare facilities and flexi-working arrangements are required to increase female participation in the labour market. Maternity benefits should be upgraded in line with global standards. Highly-educated women would naturally want to participate fully at all levels of employment and political life, but this necessitates access to major positions in the decision-making process.

(iv) Improved child and maternal health care

These efforts must be sustained through commitment to allocate the required human and financial resources, thereby raising the profile of child and maternal health in the national agenda. High priority should be given to reducing the current inequalities that exist among ethnic groups. Equity could be attained through new strategies, such as intensifying health education among parents in hard-to-reach groups, on matters like the importance of spacing out births and going for regular check-ups. Child mortality should be reduced not just in cities and big towns, but also where there is poverty, and particularly in the interior areas of Sabah and Sarawak.

(v) HIV/AIDS, malaria and tuberculosis

The incidence of HIV/AIDS and tuberculosis is rising. Both diseases are related to social problems and have a potential to undermine the nation's development. Efforts and resources must be increased to eradicate these diseases, including operational research into the causes of drug use among youth. More religious and community leaders should support the battle against substance dependence, particularly injecting drug use, thus far the primary source of HIV infection in Malaysia. The Government has done much to reduce the cost of medicines for treatment of HIV/AIDS. However, legislation has yet to address prohibition of discrimination against people living with HIV/AIDS. Their right to confidentiality has to be addressed, while concerted efforts should be put in motion to raise awareness of HIV/AIDS.

(vi) Sharing of health costs

Overall, Malaysians enjoy public-sector health care that is heavily subsidised, especially for civil servants, and which is virtually free of charge for those in the lower-income group. However, rising public expectations and greater demand for specialist medical services, even for primary care, will lead to increased costs and a heavier burden for the public health sector. Private-sector support is required to consider equitable cost-sharing schemes or models offering shared responsibility for health care.

(vii) Sustainable development

With rapid economic development, much of Malaysia's land use has changed from being covered with forests to being developed for agricultural use and development projects, such as for housing and industrial activities. The protection of natural resources and the environment involves pro-active and consistent co-ordination between agencies - for example, environmental authorities, industrial agencies, trade agencies, land agencies - in order to ensure sustainability of socio-economic progress. There is, further, a need to optimise co-ordination of land development by the state and federal planning agencies. The role of civil society in moving towards sustainable development has gained crucial importance in prompting transparency and credibility. Additional avenues are required for participation in governance and for the sharing of knowledge and best practices.

(viii) Migrants' needs

The influx of both documented and illegal foreign workers and their families into Malaysia has to be carefully monitored for the impact on health care services, education and other social and economic indicators. Whether or not basic social services and targeted programmes should be made available to undocumented migrants is a subject for further policy debate. It is important to bear in mind that migrants, especially those lacking proper documentation, often have limited access to health care services, and this could result in undesirable outcomes.

(ix) Improving information systems

There is much scope to improve the coverage, quality, timeliness and dissemination of social and health statistics and indicators. Sex disaggregated data and information on sub-populations ought to be made available more readily. It is necessary to develop analytical and spatial profiles of the poor to assist in targeting them, identifying their characteristics and determining their spatial distribution.

(x) Bilateral partnerships

The policies, strategies, and programmes that have led to Malaysia's impressive socio-economic development could be offered as a model to build capacities in partnership with other less developed countries.

(xi) Programmes to improve social policy

It was recommended that additional programmes and projects of a practical nature should be implemented to overcome social problems that have an impact on human development. Although it was recognised that there are social policies to address such situations, participants felt that these should be better reflected in the programmes implemented.

(xii) School dropouts among pregnant teenagers

It was recommended that the matter of pregnant teenagers being forced to drop out of schools by administrators should be addressed. Various international human rights instruments enshrine the right to education for all. This includes pregnant teenagers who should therefore be encouraged to continue their studies.

(xiii) Registration of children born out of wedlock

It was recommended that greater effort be made to encourage parents concerned to register such births to prevent problems for the child when being enrolled for primary school.

3. FORUM ON RIGHT TO HEALTH

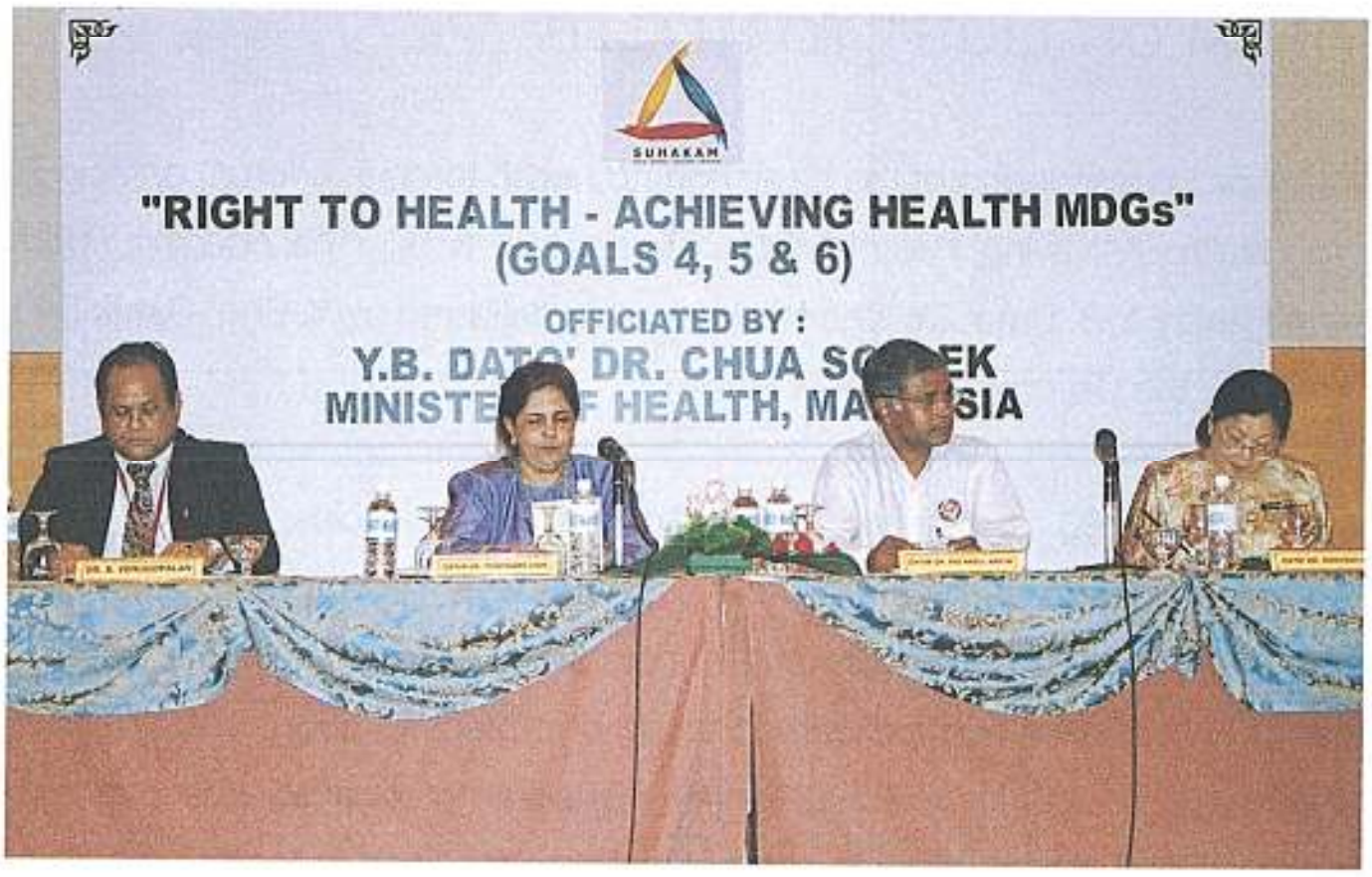
ECOSOC took up discussion of the basic right to health through a forum on Aug 22, themed 'Right to Health: Achieving Health MDGs (Goals 4, 5 & 6)'. The opening address of the Minister of Health, Y.B. Dato' Dr. Chua Soi Lek, was delivered by Y. Bhg. Datuk Dr. Haji Mohd Ismail Merican, the Director-General of Health.

The forum drew 160 participants from Government agencies, NGOs, academia and stakeholder groups concerned with the right to health and health care services. The objectives were to raise awareness and understanding of human rights issues relating to health care, and to drive home the importance of protecting and promoting human rights. Another aim was to identify practical ways of integrating recommendations on advocacy, training and guidance, to support the authorities in their efforts to tackle HIV/AIDS.

The panellists and speakers were individuals well-versed in the field of health care and included representatives of the Ministry of Health and NGOs, as well as medical doctors and specialists and educators. The topics included 'MDGs in the Asia Pacific Region - Relationship of Health MDGs to Poverty'; 'Success in Future Challenges - Malaysian Scenario'; and 'Ensuring Access - Health Systems' and Health Financing and Equity - Protecting the Poor'.

A number of issues were raised during the forum. These covered poverty in relation to health; the escalating cost of health care; child mortality and maternal health; the HIV/AIDS situation in Malaysia and the region; access to health; improvement of the National Health Care System; improving funding of health care; and upgrading human resource planning and development in the health services.

Participants put forward several recommendations to improve health and accessibility to health care services throughout Malaysia.



Speakers at the Forum on 'Right to Health - Achieving Health MDGs (Goals 4, 5 & 6)'

(i) Access to health care facilities

Malaysia has done well in providing access to health infrastructure, with 90% of the population living within 5km of a health facility. However, more hospitals and clinics are required to expand access for rural communities, especially those living in remote areas in Pahang, Kelantan, Terengganu, Sabah and Sarawak.

(ii) Affordable health care services

There is a need to ensure that all Malaysians can afford medical fees and health care services.

(iii) Soft-skills training

The Ministry of Health adopted a 'corporate culture' in administration in 1992. In this regard, more effective strategies are required to enhance 'soft skills' among such personnel as nurses and care providers, so that they are women- and child-friendly and patient-centred. This would equip them with 'people skills' and avert the potential for allegations of rudeness and lack of empathy.

(iv) National Health Council

Participants suggested that a National Health Council be set up, involving representatives from the Government, universities, medical profession, health care and consumer organisations, and the corporate sector. Its main task should be to advise the Minister of Health in matters affecting the overall health status of the country, to improve delivery of health care and set higher standards for this sector.

(v) Improved funding of health care

It was suggested that, to improve funding of health care, a health financing scheme could be introduced through a suitable social insurance scheme. This would help mobilise human and financial resources from several sources, create a mechanism to better co-ordinate the work of the private and public sectors, and encourage more co-operation. This would benefit the patients in terms of choice, improve the referral system, and make health affordable for everyone.

(vi) Transparency in health policy

To support the National Health System, it was suggested that the current health policy be made more transparent. Other national policies should also be tailored to fully support the health policy so as to inject greater effectiveness in the whole health care system.

Malaysia has generally achieved outstanding progress in the health sector and has done relatively well in providing women and children access to health and health care. However, there are pockets of the population for whom access remains a challenge especially in geographically remote communities. As much as the country's attainments towards MDGs 4 and 5 could provide a good model to other developing countries, concerted efforts will be required in combating HIV/AIDS, malaria and other communicable diseases. Current trends indicate that achieving MDG 6 - on HIV/AIDS targets - could be difficult.

4. FORUM ON CHILDREN S RIGHTS

The protection of children has to be examined from a rights perspective. Children have rights, the most basic of which is the right to life, to be lived with dignity and safety. In reality, however, children face many threats in the form of violence and human trafficking and this is a cause for concern. The basis of children's rights is such that even whatever happens in families is not exempted from the scope of external scrutiny, backed by international human rights standards and the best interests of the child[1].

Children have a right to a safe and secure environment. With this objective in mind, ECOSOC worked with the United Nations Children's Fund to jointly organise a forum themed 'Reducing Violence, Harm and Exploitation of Children' from Sept 26-27. This built on SUHAKAM's Forum on 'Trafficking of Women and Children - A Regional Perspective' held in April 2004; Workshop on 'Trafficking of Women and Children - Towards a National Task Force' in October 2004; and related recommendations in SUHAKAM's report on the Trafficking of Women and Children'.

The focus of the forum was the rights, liberty and safety of children. The keynote address was delivered by Y.B. Dato' Seri Mohd Radzi Sheikh Ahmad, the Minister in the Prime Minister's Department. Panellists and participants included individuals from Malaysia, Thailand, Indonesia, Singapore, Australia, Romania and Timor Leste. Amongst the issues discussed were 'Trafficking of Children in Asia'; 'Care and Protection of Child Victims of Trafficking'; 'Babies for Sale' and 'Stateless Children in Sabah'.

Among the key issues and concerns raised were:

(i) Need to ratify Optional Protocol

The Optional Protocol to the CRC on the sale of children, children in prostitution and child pornography should be ratified. The ratification of both this treaty and ILO No. 182 would provide a starting point for international action against the exploitation of children. The Optional Protocol could also be used to establish the framework for action.

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[1] Professor Vitit Muntabhorn in his paper presented at the Forum on Sept 26, 2005



From left: Y.B. Dato' Seri Mohd Radzi Sheikh Ahmad, Datuk Dr. Raj Karim and Ms. Gaye Phillips at the forum on 'Reducing Violence, Harm and Exploitation of Children'



Y.B. Dato' Seri Mohd Radzi Sheikh Ahmad with SUHAKAM Commissioners at the press conference after the launch

(ii) Synergy in actions

Government agencies and NGOs should co-operate towards a complementary approach in solving problems affecting children. Each should focus on what it does best and build on the strengths of the other. For example, the NGO community could assist the Government by collecting data and information on trafficked, abused, exploited, stateless and street children. SUHAKAM could contribute the human rights perspective to plans and actions.

Best practices from other countries could be studied and developed to cater to Malaysia's needs and requirements. There is a role for everyone in upholding the rights of children and their dignity. The task should be shared and not left solely to the Government, SUHAKAM or NGOs. All must work in partnership and strategise as a united force with a common agenda to achieve the results desired[2].

(iii) Babies for sale

The issue of babies for sale is a concern to be addressed. Although the incidence is relatively small in Malaysia, the fact that even one baby is sold is unacceptable.

(iv) Need to create awareness

Child trafficking should not be silenced. With the advance of globalisation, child trafficking has also been increasing. Children and families are often unaware of the dangers of trafficking; many believe a better quality of life is available in other countries and therefore become more vulnerable to people who seek to exploit them.

[2] Keynote Address by Y.B. Dato' Seri Mohd Radzi Sheikh Ahmad, Minister in the Prime Minister's Department

(v) Developments in other countries

China, Cambodia and Myanmar are among Asian countries that have taken steps to address the trafficking of children and women:

- Myanmar has eight vocational centres for women and girls in border areas. Cambodia and China have strategies to address abduction and forced prostitution.

- Belgium, Ukraine, Costa Rica, Italy and Ukraine are examples of countries that have introduced specific legislation on trafficking, sexual exploitation, forced labour and other forms of exploitation and harm.

Table 1: Number of cases from 1992 - 2005

Year / States	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005 Jan-Aug	TOTAL
Perlis	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Kedah	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Penang	-	-	1(1)	-	-	-	-	-	-	-	-	-	-	1(1)	2(2)
Perak	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Selangor	-	-	-	-	-	-	-	-	-	-	1(3)	-	-	-	1(3)
K.Lumpur	-	-	-	-	-	-	-	-	-	-	-	-	-	1(1)	1(1)
N.Sembilan	1(3)	-	-	-	-	-	-	-	-	-	-	-	-	-	1(3)
Malacca	-	-	-	-	-	-	-	-	-	-	-	-	1(1)	-	1(1)
Johor	-	-	8(11)	-	-	-	-	-	-	-	-	1(2)	1(4)	-	10(17)
Pahang	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Terengganu	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Kelantan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sabah	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sarawak	-	-	1(2)	-	-	-	-	-	-	-	5(11)	2(8)	1(2)	2(2)	11(25)
TOTAL	**1(3)**	**0**	**10(14)**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**6(14)**	**3(10)**	**3(7)**	**4(4)**	**27(52)**

( ) = No. of babies

Source: Royal Malaysia Police Force

Table 2: Race/Nationality of Babies

Year / Race	2002	2003	2004	2005
				Jan-Aug
Malay	0	0	4	1
Chinese	0	0	0	0
Indian	3	0	0	0
Others	0	0	0	0
Unknown	11	0	3	3
Indonesian	0	10	0	0
TOTAL	**14**	**10**	**7**	**4**

Source: Royal Malaysia Police Force

Table 3: Sex of Babies

Sex	2002	2003	2004	Jan 2005
Male	10	8	5	2
Female	4	2	2	2
TOTAL	**14**	**10**	**7**	**4**

Source: Royal Malaysia Police Force

Table 4: Race/Nationality of Perpetrators

Year / Race	2002	2003	2004	2005
				Jan-Aug
Malay	2	1	2	3
Chinese	6	2	4	3
Indian	6	5	0	0
Others	1	0	0	1
Indonesian	7	0	0	1
Unknown	3	0	0	0
TOTAL	**25 (17)**	**8 (6)**	**6 (1)**	**8 (5)**

( ) = Female

Source: Royal Malaysia Police Force

MEMBERS OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP

Tan Sri Dato' R.V. Navaratnam (Chairperson)

Dr. Mohammad Hirman Ritom Abdullah

Datuk Dr. Raj Abdul Karim

Tunku Datuk Nazihah Tunku Mohamed Rus

Dato' Choo Siew Kioh

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

The Law Reform and International Treaties Working Group's focus for the year was on seven areas - the right to be tried without undue delay, freedom of expression, women's rights, the rights of the child, preventive detention laws, life imprisonment and ratification of international human rights instruments.

1. RIGHT TO BE TRIED WITHOUT UNDUE DELAY

The right to be tried without undue delay is a human right explicitly provided in Articles 9(3) and 14(3)(c) of the International Covenant on Civil and Political Rights (ICCPR) and Article 6 of the European Convention on Human Rights, and recognised by domestic courts as an implicit element of the right to personal liberty and security *(PP v Choo Chuan Wang [1992] 3 CLJ (Rep) 329).*

In April, SUHAKAM organised a forum on the right to an expeditious and fair trial. It was felt that a forum to address undue delay in the disposal of court cases would be useful to consolidate efforts and to facilitate discussion on further remedies. The outcome was a report on 'The Right to an Expeditious and Fair Trial' (the Report), published in July.

The Report takes into consideration the issues and remedies highlighted during the forum and court systems in other jurisdictions. The Report observes that there are many causative factors to the problem of undue delay - the Police (for criminal cases), lawyers, the prosecution, litigants, the litigation process itself, and the lack of or inefficient use of court resources.



Y.A.A. Tun Dato' Sri Ahmad Fairuz bin Dato' Sheikh Abdul Halim, Chief Justice of the Federal Court, Malaysia

Generally, the recommendations in the Report, which are addressed to various parties, are geared towards tackling the problem of undue delay in two ways - by decreasing the rate at which cases are registered in court and by increasing the rate of disposal of cases.

In reviewing delay in criminal courts, the Report notes that unnecessary delay occurs at almost every stage of a criminal trial, from framing of charges to obtaining consent or sanction from the Public Prosecutor (if any), and disclosure of documents and information to the trial process itself. Therefore, SUHAKAM recommended that:

- Deputy Public Prosecutors should play a greater role in the framing of charges.
- There should be definite procedures between the Public Prosecutor's office, the Police and the Chemist/Pathology Department.
- Defence lawyers should be given unfettered access to their clients.
- There should be management of criminal cases through categorisation of cases and pre-trial reviews.
- There should be an amendment to the Criminal Procedure Code (CPC) to provide a two-stage procedure for disclosure of documents and materials.
- There should be introduction of custody time limit.

With regard to civil cases, the Report notes the high rate at which these are being registered in court. SUHAKAM considers that pre-action protocols and Alternative Dispute Resolutions may be beneficial in resolving disputes without recourse to the courts. The Report also observes that effective and efficient management of cases by judges is the key to the expeditious disposal of civil cases. SUHAKAM therefore recommended greater control of the trial process by judges, introduction of time standards for the court and lawyers, greater reliance on oral submissions, a continuous trial system, and specialisation among judges.

In addition to suggesting reform of procedure and practice, the Report notes that there must be a supporting framework of reforms in the structure of the court system, *inter alia*, through modern techniques; appointment of more judges and part-time judicial officers; establishment of a National Institute for Judges for the training and continuing judicial and legal education; and the development of an information technology infrastructure that is viable. The Report considers that the establishment of an independent judicial commission would ensure not only that the process of appointment of judges is transparent and fair, but also that only competent individuals are appointed to the Bench.

The recommendations in the Report should be seen as a first step towards further and in-depth research and reform. To ensure that the reforms become viable in resolving the problem of undue delay, it must be realised that the recommendations are complementary in nature - the success of a particular reform would be reliant on the implementation of other reforms. In addition, there must be objective evaluation of the progress of the recommendations.

Since the publication of its report, SUHAKAM has been encouraged by the positive steps taken to resolve the undue delay in disposal of court cases. These include the appointment of additional judges, judicial commissioners, senior federal counsels and officers of the Attorney-General's Chambers; standardisation of case management; increased role of Deputy Public Prosecutors in the prosecution of criminal cases in the Sessions Courts; and establishment of a special intellectual property court. At this junction, it must be emphasised that there must be meaningful participation and commitment of all key stakeholders in the formulation and implementation of the reforms. Above all, fairness and justice should be the overarching principle in every reform to accelerate court proceedings.

SUHAKAM plans to organise in early 2006 a follow-up discussion to deliberate, among others, the recommendations in the Report and further strategies to tackle the problem. SUHAKAM will seek feedback and information on any progress made with regard to the recommendations.

2. FREEDOM OF EXPRESSION

Freedom of expression is the cornerstone of democracy. The right includes the 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[1]. Although Article 10 of the Federal Constitution guarantees freedom of expression, this freedom is not absolute. Certain restrictions are acceptable as long as these are provided by law, necessary for the respect of the rights or reputation of others, and for the protection of national security and public order or public health or morals[2].

In the latter part of the year, SUHAKAM began research on freedom of expression. This was precipitated by two factors; firstly, SUHAKAM's continued commitment to the right to freedom of expression; and secondly, the complaints received on alleged abuse and restrictions of the right to freedom of expression. The research also reinforces SUHAKAM's recommendation to the Government to ratify the ICCPR, particularly Article 19, and is an elaboration of SUHAKAM's report on 'A Case for Media Freedom: Report of SUHAKAM's Workshop on Freedom of the Media' (2003).

The research examines, against international human rights standards, laws that are most commonly used to restrict freedom of expression in Malaysia, such as the Sedition Act 1948, the Printing Presses and Publications Act 1984 (PPPA), the Official Secrets Act 1972, the Internal Security Act 1960 (ISA), the Communications and Multimedia Act 1998 (CMA) and civil and criminal defamation (offences in the CPC), in particular, issues concerning the requirement of licences for the media[3], the discretion of the Minister in granting these licences, the wide definition of sedition, and arbitrary decisions by local councils when granting licences for theatre and other performances.

The research was in progress at the time of writing.

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[1] Article 19 of the Universal Declaration of Human Rights
[2] Article 19 of the ICCPR
[3] Printing Presses and Publications Act 1984

3. WOMEN S RIGHTS

Malaysia retains its reservations to Articles 5(a), 7(b), 9(2), 16(1)(a), (c), (f) and (g), and 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). To date, Malaysia has yet to enact an Act of Parliament that translates the provisions of CEDAW into law.

In August, SUHAKAM published the 'Report on the Forums on CEDAW in Sabah and Sarawak'. Among others, it recommended that the Government puts in place a law granting women all rights enshrined in CEDAW; that efforts be intensified in areas of gender mainstreaming and gender disaggregated data; that more shelter homes for survivors of domestic violence be set up in Sabah and Sarawak; that the Government develops a workplace environment that accommodates working parents; and that a review is conducted of the Government's reservations to CEDAW.

In relation to child care, SUHAKAM supports the Government's grant of RM1.2 million for the establishment of 10 community child-care centres and a monthly subsidy of RM180 to those in the lower-income group[4]. It is hoped that the grant and subsidy will create the momentum for a more family-friendly working environment. Furthermore, integral to the broader agenda of providing the necessary environment and mechanism to allow women to achieve a balance between work and family life, SUHAKAM reiterates its recommendation to introduce parental leave in addition to maternity leave. Parental leave should be for one month, given to both parents on grounds of birth and adoption and applicable until the child is 7 years old, save for a child with disabilities where parental leave should be applicable until the child attains 18 years.

In relation to Malaysia's reservations to CEDAW, SUHAKAM appointed two external researchers at the end of 2003 to examine these further. SUHAKAM studied their findings and recommended the withdrawal of the reservation to Articles 5(a), 7(b) and 9(2). The research, together with SUHAKAM's recommendations, was submitted to the Ministry of Women, Family and Community Development in July.

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[4] As announced by the Prime Minister at the Women's Summit 2005, Aug 25, 2005, Kuala Lumpur

Article 5(a) of CEDAW

SUHAKAM notes that cultural and customary ideologies, which stereotype roles of men and women, should not be confused with religious rule. The Quran or the *Sunnah* does not state that men are superior to women or that men have absolute authority over women. Under Islamic law, a man is responsible as a protector of his wife and children. However, this does not mean that a man is superior to his wife in a way that he can do whatever he wants. In Islam, the relationship between husband and wife is reciprocal and complementary in nature. Everyone in the family has rights, roles and responsibilities. Islam recognises the equality of men and women as human beings but does not advocate absolute equality of roles between them, especially in family relationships.

Therefore, SUHAKAM recommends withdrawal of the reservation to Article 5(a), which requires State Parties to eliminate prejudices, customs and practices based on the idea of the inferiority or the superiority of sexes or on stereotyped roles for men and women.

Article 7(b) of CEDAW

Article 8 of the Federal Constitution prohibits discrimination on the ground of gender. Nothing in the Quran or *Sunnah* excludes women from doing any legitimate work of their choice so long as they have the required skills and expertise and are not exposed to any hazard. The only restriction is the appointment of a woman as *Imam* (in leading men in prayers) and a *Kadi* (for solemnisation of marriage, since the *Wali* in a marriage must be a man).

SUHAKAM therefore recommends that the reservation to Article 7(b) - which places a positive obligation on the State to ensure that women have the right to participate in the formulation and implementation of government policy, to hold public office and to perform all functions at all levels of government - should be withdrawn with modifications.

Article 9(2) of CEDAW

Article 9(2) concerns equal rights of men and women with respect to the nationality of their children. SUHAKAM views the different regulations applicable to men and women in terms of nationality of their children as discriminatory. In the case of a male Malaysian citizen who marries a non-Malaysian, the application for citizenship of their children, if born abroad, is made to the Immigration Department. If a female citizen marries a non-Malaysian, their children (below the age of 6), if born abroad, would be required (through their mother) to apply for the status of permanent resident. After the age of 6, their children if they wish to visit Malaysia would have to apply for a visiting visa. Thus, a Malaysian woman married to a non-Malaysian would have no right to convey her citizenship/nationality to her children. In Islam, men and women are treated as equal in terms of citizenship.

SUHAKAM recommends that the discriminatory immigration regulations be amended and the reservation to Article 9(2) be withdrawn without further delay.

Article 16 of CEDAW

The reservation to Articles 16(1) (a), (c), (f) and (g) and 16(2) of CEDAW proved more complex than anticipated and as such, SUHAKAM decided to conduct further research into these provisions. The work was in progress at the time of writing. Briefly, it examines member-countries of the Organisation of the Islamic Conference (OIC) that maintain reservations, either wholly or in part, to Article 16 (see Table), and member-countries of the OIC that do not have reservations - Gambia, Nigeria, Yemen and Indonesia. In addition, SUHAKAM is holding a series of discussions with JAKIM, the Ministry of Women, Family and Community Development and the Ministry of Foreign Affairs on Article 16 of CEDAW.

OIC Member-countries that Maintain Reservations to Article 16. CEDAW

COUNTRIES	MAZHAB	ART. 16(1)(a)	ART. 16(1)(b)	ART. 16(1)(c)	ART. 16(1)(d)	ART. 16(1)(e)	ART. 16(1)(f)	ART. 16(1)(g)	ART. 16(1)(h)	ART. 16(2)
Algeria	Maliki	×	×	×	×	×	×	×	×	×
Bahrain	Ja'fari	×	×	×	×	×	×	×	×	×
Bangladesh	Hanafi			×						
Egypt	Hanafi	×	×	×	×	×	×	×	×	×
Iraq	Ja'fari Hanafi	×	×	×	×	×	×	×	×	×
Jordan	Hanafi			×	×			×		
Kuwait	Maliki						×			
Lebanon	Ja'fari Hanafi		×	×		×	×			
Libyan Arab Jamahiriya	Maliki			×	×					
Malaysia	Shafi'i	×		×	×		×	×		×
Morocco	Maliki	×	×	×	×	×	×	×	×	×
Syrian Arab Republic	Hanafi			×	×		×	×		×
Tunisia	Maliki			×	×		×	×	×	

Note: × denotes reservations

The research analyses the personal status legislation of these countries which deal with the right to enter into marriage, the responsibilities of a married couple during the marriage and divorce, the interest of children, ownership of property, the right to gainful employment for married women and retention of family names.

Initially, it was observed that OIC member-countries that reserve Article 16 could generally be divided into two categories: where reservations are retained because of contradictions with Syariah law (Bahrain, Egypt, Kuwait, Libya, Morocco and Syria); and where the provisions in

Article 16 conflict with national law (Algeria, Jordan, Lebanon and Tunisia). However, upon further examination, the division became indistinct. The research finds that while some countries submit that the reservations to Article 16 are based on contradictions with national law, the reservations may in fact be due to conflict with Syariah law, as in the case of Algeria.

4. RIGHTS OF THE CHILD

When Malaysia acceded to the Convention on the Rights of the Child (CRC) in 1995, the Government maintained reservations to eight provisions. The reservations are to Articles 1, 2, 7, 13, 14, 15, 28(1)(a) and 37.

With the advent of the domestic Child Act 2001, the protection of children who offend the law was enhanced, with specific provisions concerning the treatment of children, detention, trial procedure and sentencing methods. However, many issues remain unresolved for instance, Regulation 3(3) of Essential (Security Cases) Regulations 1975 (ESCAR)[5] and the jurisdiction of the Court for Children to try offences committed under the Firearms (Increased Penalties) Act 1971 and the Dangerous Drugs Act 1952.

Similarly, cases such as *Shamala Sathiyaseelan v Dr. Jeyaganesh C. Mogarajah*[6] and *PP v Lim Hang Seoh* brought to the forefront other issues that need to be addressed, such as freedom of religion and the imposition of the sentence of the death penalty on children. The impact of restrictive laws on children's rights in Malaysia should also be examined in relation to such laws as the PPPA, Sedition Act 1948, the ISA, the CMA and the Police Act 1967 in terms of freedom of expression and association.

With this in mind, SUHAKAM organised a forum in September to discuss Malaysia's reservations to the CRC. It was felt that such a discussion would provide an opportunity for all parties to identify the implications and complications resulting from the reservations, and the conflicts, if any, with the Federal Constitution and other domestic laws; and to explore the possibility of withdrawing the reservations.

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[5] See PP v Lim Hang Seoh [1978] 1 MLJ 68
[6] (2004) 3 CLJ 516



Forum on Malaysia's Reservations to the Convention on the Rights of the Child, September 29

The deliberations were encouraging as participants were open in discussing the issues and advocating change. Some of the problems highlighted by speakers and participants included:

- The different laws, definitions and cut-off age to denote a 'child';
- The failure and ignorance of parents to register their children at birth;
- The problems faced by 'estate' children who do not have valid birth documents;
- Steep fees and other charges imposed by schools;
- The problem of undocumented children who are not allowed to attend school;
- The problem of children with disabilities and the lack of facilities at learning institutions for children with disabilities;
- The incompatibility of provisions in ESCAR and ISA with children's rights, and also certain vague provisions in the Child Act 2001;

- The contradiction between Article 11 of the Federal Constitution which provides for freedom of thought, conscience and religion and the reservation placed on Article 14 of the CRC;

- The cautious attitude and the reluctance of the courts to address questions relating to conversion of Muslims to other religions; and

- The lack of procedures in the Syariah Courts in matters relating to cases of apostasy.

While recognising the problems in implementing the CRC provisions in Malaysia, participants said that maintaining the reservations would reinforce rather than resolve these problems. Keeping in mind the best interests of the child, participants felt that - since there were no contradictions that could not be resolved between the reserved Articles in the CRC and domestic laws and the Federal Constitution - most of the reservations should be withdrawn, followed by immediate action to change national laws and policies.

At the time of writing, the report on the forum was under preparation.

5. PREVENTIVE DETENTION LAWS

Following SUHAKAM's report on the 'Review of the Internal Security Act 1960' in 2003, it has continued to monitor the use of the ISA and progress towards the recommendations made. Save for the release of six ISA detainees, including five students, in March and three alleged Islamist militants said to be involved with Kumpulan Militan Malaysia in October, and the positive recommendations of the Parliamentary Caucus on Human Rights after its visit to the Kamunting Detention Camp in June, SUHAKAM regrets to note that there has been diminutive progress with regard to the recommendations.

2005 marked 45 years since the enactment of the ISA. SUHAKAM observes that the law has been used in an unrestrained manner, contrary to principles of proportionality and necessity. In particular, it has been used to detain persons for allegedly issuing and selling forged identification documents to non-citizens. During the year, the Government had threatened to

use the ISA to detain those who manipulate the supply of diesel (which had caused a shortage throughout the country in May) and those who cause public alarm by spreading false news. SUHAKAM views any such use of the ISA with grave concern as these criminal offences could be drawn under the Penal Code or other ordinary criminal laws.

There was an escalation of the insidious threat of terrorism over the year, particularly with the attacks in London, Jordan and Bali. Given the compulsion of the circumstances and the human sentiments as a reaction to the increased threat to individual security, it is hardly surprising that anti-terrorism laws are being enacted or tightened across the globe. In addition, the public is more willing to accept such measures at the expense of certain fundamental liberties.

However, it is precisely at such times that human rights must be respected and not ridden roughshod over by national security legislation. One of the root causes of terrorism is the violation of human rights. Allowing national security legislation like the ISA to be used at the expense of human rights and fundamental liberties does nothing more than perpetuate the vicious cycle. As such, SUHAKAM reiterates its recommendations to repeal the ISA. The ISA is not a necessary evil to combat the threat of terrorism, and a balance between national security and the respect for human rights is possible.

6. LIFE IMPRISONMENT

In November, a newspaper reported the situation of a 56-year-old man sentenced to spend his natural life in Taiping Prison, Perak. He had been convicted in 1976 for armed robbery. The man, recognised as a model prisoner by the prison authorities, had on eight occasions applied for Royal pardon from the Sultan of Kedah. His story drew great interest from various parties, who urged the authorities to commute the sentence. It was also suggested that the sentence for natural life imprisonment should be replaced with imprisonment for a maximum of 20 years.

The number of prisoners sentenced to natural life imprisonment, or commonly referred to as 'natural lifers', increased almost three times within two years - from 24 persons in 2002[7] to 60 persons in 2004[8]. Concern that an indefinite sentence of imprisonment may violate human rights, SUHAKAM carried out and is continuing to conduct research on the most extreme

[7] Prisons Department of Malaysia, http://www.prison.gov.my
[8] A. Damis (Dec 25, 2004), New Straits Times

form of life imprisonment - imprisonment until the death of the person. Laws that impose the sentence of natural life imprisonment include the Firearms (Increased Penalties) Act 1971, the Arms Act 1960 and Chapter VA of the Penal Code.

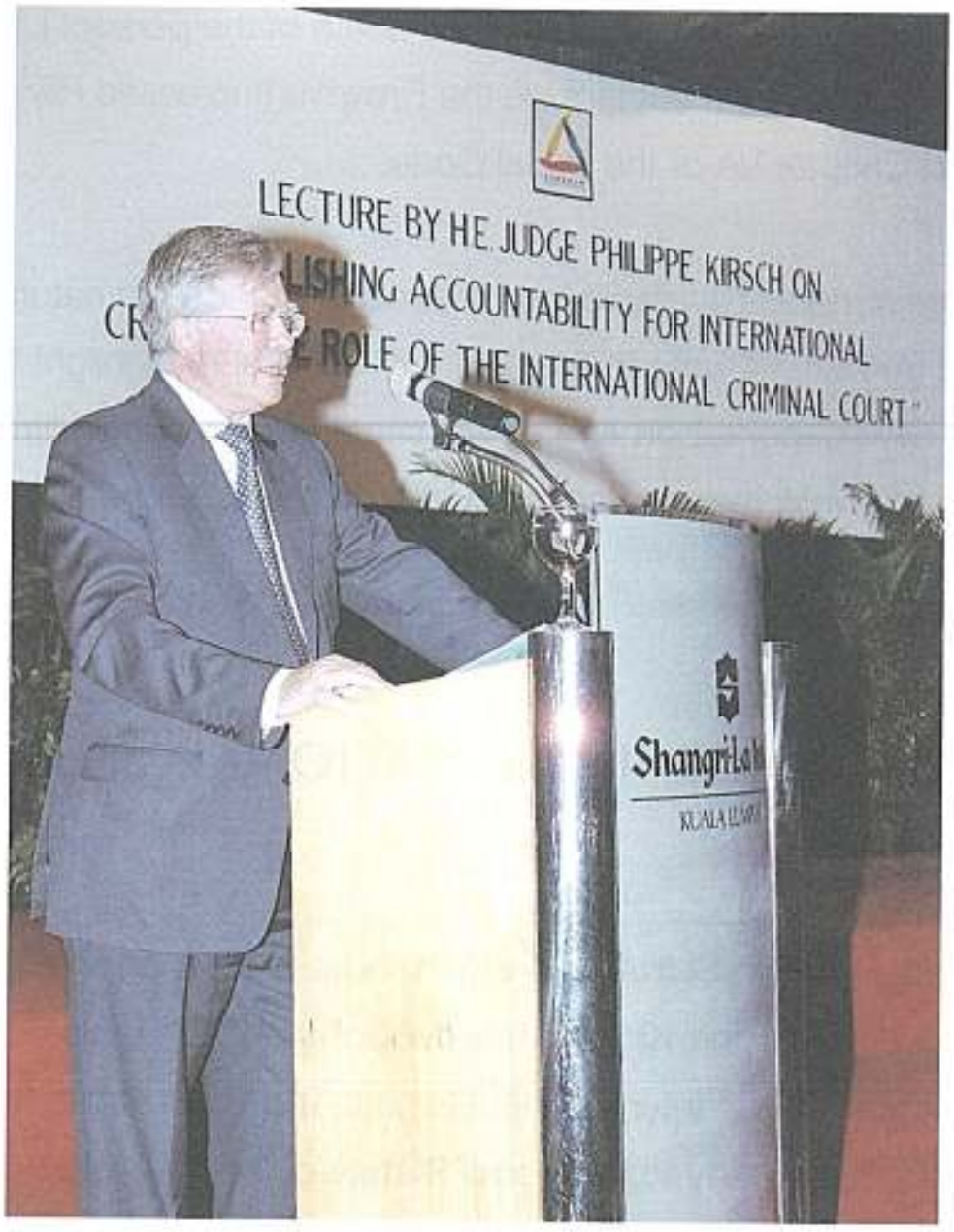
There are immediate remedies available to a prisoner sentenced to natural life imprisonment. Based on this, SUHAKAM will write to the Attorney-General to highlight the situation of both the prisoner in the newspaper report and others sentenced to natural life imprisonment, with a recommendation to review their sentences in light of available remedies such as a remission of sentence or a Royal pardon.

7. RATIFICATION OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

During the year under review, SUHAKAM organised a lecture on the International Criminal Court (ICC). H.E. Judge Philippe Kirsch, President of the ICC, delivered the lecture entitled 'Establishing Accountability for International Crimes: The Role of the International Criminal Court'. As Malaysia is not a party to the Rome Statute of the ICC, SUHAKAM envisaged that the lecture would create a better understanding of the important role of the ICC in the promotion and protection of human rights and the rule of law in Malaysia. SUHAKAM hopes that Malaysia will give serious consideration to being a party to the ICC.

SUHAKAM had previously recommended the ratification of the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Optional Protocol to the CRC on the involvement of children in armed conflict and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

Apart from an officer-level meeting between SUHAKAM and the Ministry of Foreign Affairs in 2004, there has been no substantive development by the Government towards ratification of the ICCPR, ICESCR and CAT. At the time of writing, SUHAKAM is in the process of carrying out research on the ICCPR, ICESCR, CAT and the Optional Protocols to the CRC.



H.E. Judge Phillippe Kirsch, President of the International Criminal Court

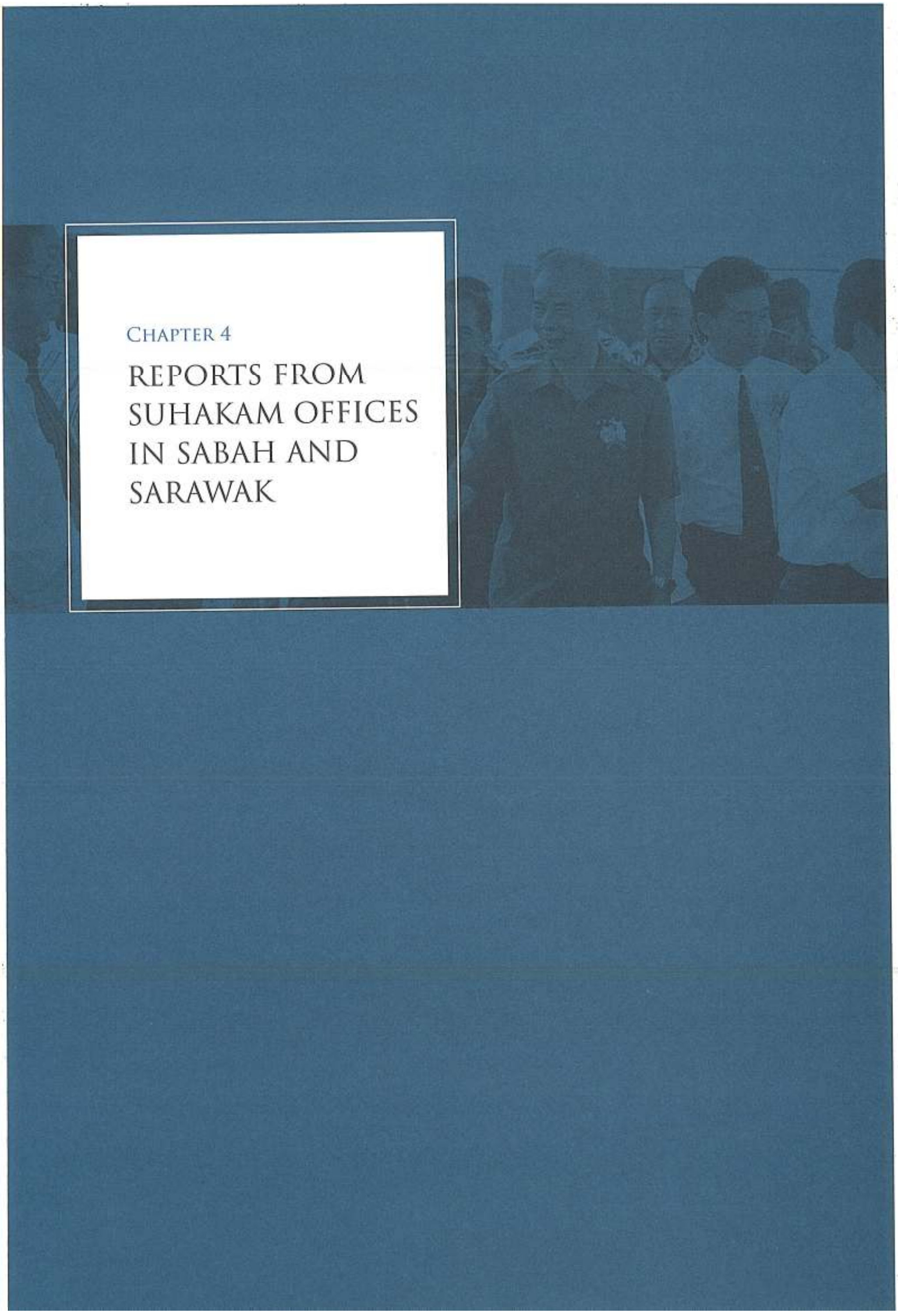
As for the Optional Protocol to the CRC on the involvement of children in armed conflict, the Ministry of Foreign Affairs has indicated that research is now in its final stages. The Ministry also stated that the research on the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography is in its early stages.

In light of this, SUHAKAM considers it necessary to reiterate its recommendation that the ICCPR, ICESCR, CAT and the two Optional Protocols to the CRC be ratified/acceded to by the Government without further delay. These international human rights instruments contain basic human rights standards which would give Malaysians the basic guarantee of fundamental freedoms and further strengthen the constitutional protections of fundamental liberties.

Just as CEDAW and the CRC have to an extent elevated women's and children's rights in Malaysia, the ratification/accession to the ICCPR, ICESCR, CAT and the Optional Protocols to the CRC would be instrumental in reiterating Malaysia's commitment to eradication of poverty, protection of socio-economic rights and sustainable development, enhancement of human dignity, and promotion of civil and political rights and justice for all.

MEMBERS OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

Dato' K.C. Vohrah (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Dr. Chiam Heng Keng
Datuk Dr. Raj Abdul Karim
Dato' Dr. Abdul Monir Yaacob
Dato' Ranita Mohd Hussein
Dato' Choo Siew Kioh
Tunku Datuk Nazihah Tunku Mohamed Rus
Dato' N. Siva Subramaniam
Dato' Muhammad Shafee Abdullah



CHAPTER 4

REPORTS FROM SUHAKAM OFFICES IN SABAH AND SARAWAK

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4(i) ACTIVITIES OF SUHAKAM IN SABAH

The Sabah Office was kept busy by complainants who arrived on almost daily basis. The cases were each evaluated to identify any evidence of human rights violations. At the same time, complainants received an explanation of the extent to which SUHAKAM could act so that their expectations would be grounded in reality. Although the Office is short-staffed and the process is time-consuming, this effort had to be sustained in order to get the right message across to complainants.

In taking up the cases with the relevant authorities, SUHAKAM was able to effectively articulate the frustration, unhappiness and worries of complainants, many of whom live in rural areas or who have not attained a literacy level that adequately allows them to represent themselves on a formal basis.

1. ACTION ON COMPLAINTS

As the figures indicate, 376 (or 48.1%) of the 781 complaints received during the year were related to land matters (Table 1). This is comparable in proportion to 107 similar complaints in 2004, which made up 44% of the 238 lodged. SUHAKAM resolved 234 of the complaints made in 2005 and is continuing to act on 386 others. The remaining 161 cases have been filed as requiring 'No Further Action'.

Table 1: Complaints Received by Sabah Office, 2005

No.	Nature of Complaints	No. of Cases
1.	Land matters	376
2.	Birth certificates/identity cards/passports	154
3.	Discrimination in the workplace	58
4.	Police matters	46
5.	Basic amenities	37
6.	Employees Provident Fund/insurance/SOCSO/pension	27
7.	Legal matters	17
8.	Housing matters	13
9.	Educational matters	3
10.	Others	50
	TOTAL	**781**

2. LAND MATTERS

Based on the increasing volume of complaints, it is clear that land matters are a main concern of people living in rural areas. Their strong reaction to any intrusion into their land is understandable, since this has a direct impact on their source of livelihood.

It is therefore both heartening and encouraging to note that the Chief Minister has taken a personal interest in problems associated with land matters. The major Sabah newspapers reported on Dec 1 that the Chief Minister was prepared to consider the establishment of a Commission of Inquiry to look into these issues. However, he pointed out that complainants should have the correct facts and figures in hand, so that the State Government is not inaccurately portrayed as inconsiderate, insensitive and unfair. He was further quoted as saying that, in some cases, villagers had sold the land allocated to them and then returned to the State Government to complain that developers had encroached into these areas.

SUHAKAM'S Recommendations

Having consistently drawn the attention of the State authorities to this matter in the past, SUHAKAM would like to offer these recommendations:

(i) That the Sabah Land Ordinance (Cap 68) be reviewed and amended to eliminate ambiguity and confusion - a workshop could be organised to bring together experts, complainants' representatives and other interested parties to identify the changes required;

(ii) That multiple land applications should not be entertained in respect of the same piece of land;

(iii) That Assistant Collectors of Land Revenues should not be allowed to stay in the same place longer than three years;

(iv) That an independent mediator be appointed to examine land disputes;

(v) That an expert or consultant on land administration be appointed to identify the real sources of the problems and make recommendations to resolve these;

(vi) That land applications be treated on a 'first come, first served' basis - if an application is rejected, the reasons should be revealed to the applicant;

(vii) That the capacity of officers and staff of the Lands and Survey Department and Land Offices in Sabah be upgraded through suitable training courses that enhance their efficiency and a caring attitude;

(viii) That any indication of corrupt practice be reported immediately to the Anti-Corruption Agency to facilitate the Government's 'zero tolerance' stance on corruption;

(ix) That an ad-hoc independent Inquiry Committee be formed to look into the grouses and complaints of those whose applications for land are rejected; and

(x) That the Valuation Section in the Lands and Survey Department be separated to operate as a department in its own right.

3. ACTIVITIES

The main activities and programmes have sustained the emphasis on spreading human rights awareness among the people. In turn, the programmes have strengthened SUHAKAM's ability to reach out to the grassroots and provide information on both SUHAKAM and the existence of its Sabah Office, its main functions and responsibilities, and the concept of human rights.

Those invited to these events include political and community leaders, civil servants, native chiefs, village heads, representatives of non-governmental organisations (NGOs), teachers, students, district and village dignitaries and interested individuals.

During the dialogue session built into each activity, SUHAKAM has an opportunity to assess participants' perception and understanding of SUHAKAM and human rights. This is a forum for participants to bring up complaints and air grievances directly to representatives of the relevant authorities, who can then explain their side. Many of the questions raised are answered on the spot. In this sense SUHAKAM has facilitated improved understanding between complainants and Government agencies, in particular enforcement personnel.

(a) SUHAKAM Bersama Rakyat

These grassroots dialogue sessions have been renamed 'SUHAKAM Bersama Rakyat' (SUHAKAM with the People) for a more accurate reflection of the aim. The events were planned and organised with the close co-operation and assistance of the respective District Officers, who have been supportive of SUHAKAM's efforts. Four such sessions were organised during the year.

(i) District of Pitas

Y.B. Datuk Masrani Parman, the Assemblyman for Pitas, officiated at the opening of the event on April 4. He stayed on until the end, responding enthusiastically to questions and complaints. About 90% of these were related to land problems and issues. About 900 people attended the function.



Participants at the 'SUHAKAM Bersama Rakyat' in Pitas

(ii) Sub-district of Sook, Keningau

Y.B. Tan Sri Datuk Seri Panglima Joseph Kurup, the Assemblymen for Sook, opened the event on April 23, which drew about 600 people. He too, stayed on until the end and showed keen interest in the issues raised, about 95% of which were on land matters. He further expressed appreciation of SUHAKAM's efforts, especially in working with people at the grassroots.



'SUHAKAM Bersama Rakyat' in the sub-district of Sook

(iii) District of Kinabatangan

About 350 people attended the function on June 28, with about 85% of their complaints being related to land issues. Some participants pointed out that many parts of the district have yet to enjoy the benefits of development after 42 years of independence in Sabah. Others voiced disappointment that political leaders, especially the MP for the area and State Assemblymen, were not present. The MP for Kinabatangan was to have officiated at the opening, but was unable to attend due to unavoidable circumstances.

(iv) District of Beluran

Y.B. Datuk Ronald Kiandee, the MP for Beluran, opened the event on Sept 6. It attracted about 450 participants. Y.B. Datuk Michael Asang, the Assemblyman for Labuk, was also present. Both stayed until the end and assisted in responding to complaints, about 93% of which were related to land matters. As there was insufficient time for all the complainants to be heard, they were advised to submit their complaints in writing. Most had anticipated this, having come to the event with written complaints already in hand.

(b) Meeting with Political Leaders

A programme themed 'SUHAKAM and Sabah Political Leaders', held on Feb 23, had a similar objective to that of 'SUHAKAM Bersama Rakyat'. In this case, the target groups were political leaders including Members of Parliament, State Assemblymen, political secretaries and other political and community development leaders. About 150 of them turned up for the event in Dewan Maksak, Likas, in Kota Kinabalu.



Participants at the 'SUHAKAM and Sabah Political Leaders' programme

(c) Workshop on Human Rights and the Media

This was held at the Pacific Sutera Hotel on Sept 15 for 56 participants comprising journalists and other representatives of the media, the Broadcasting and Information Departments and Press Office of the Chief Minister's Department, as well as final-year information technology students of the Sabah Foundation College.

The main objectives of the workshop were to:

(i) Create awareness among the mass media of human rights and SUHAKAM;

(ii) Promote and upgrade the awareness of the community on human rights issues via the local media and other publications; and

(iii) Improve the quality of reporting with regard to human rights.

(d) Dialogue with Workers' Union

About 151 participants attended the session held on Sept 19 at the Promenade Hotel. They comprised members of the Malaysian Trades Union Congress, Congress of Union of Employees in Public and Civil Services and workers' unions from Federal and State Government departments and agencies. The objective of the dialogue was to identify and better understand the problems faced by workers from the human rights perspective. Also brought into focus were issues affecting workers in lower grades, support groups, and temporary and daily-paid workers.

(e) Talk on Human Rights

A talk on 'SUHAKAM and Human Rights', with particular emphasis on the importance of human rights education, was held on Oct 17 at the SMK Telipok, about 28km north of Kota Kinabalu. The 50 participants, comprising teachers and non-teaching staff of the school, showed keen interest in SUHAKAM and its activities especially those organised in Sabah. Among the issues raised during the dialogue session that followed were the presence of a large number of illegal immigrants and street children in the State, as well as the poor and inadequate facilities at the school.

(f) Workshop on Human Rights Education

Held from Dec 5-6 at the Shangri-la Tanjung Aru Resort, it was aimed at raising human rights awareness and to familiarise participants with the Universal Declaration of Human Rights and the Convention on the Rights of the Child. The 80 participants comprised education officers, supervisors, school principals, counsellors and teachers.

4. FIELD VISITS

SUHAKAM conducted 31 field visits. Such visits have provided a clearer picture of situations and led to more realistic and effective approaches to problem solving. On occasion, SUHAKAM has been able to resolve problems informally through mediation and conciliation.

5. INFLUENCE ON STATE AGENCIES

For all the constraints it faces, SUHAKAM has been able to exert a considerable amount of moral force and influence on Government agencies in Sabah, partly due to extensive media coverage of its activities. Officials, preferring to avoid negative publicity, have usually responded promptly to SUHAKAM's requests for information and action.

4(ii) ACTIVITIES OF SUHAKAM IN SARAWAK

SUHAKAM's Sarawak Office concentrated its efforts over the year on handling complaints, organising human rights awareness programmes and conducting visits to places of detention.

1. ACTION ON COMPLAINTS

The Office received 91 complaints. Of these 59 (or more than 50%) were tied to Native Customary Rights land issues. Among the issues and problems raised were that Native Customary Rights have not been sufficiently recognised by the State Government, and that it allegedly failed to issue documents of title to genuine claimants who had to provide proof of NCR land. There were also claims that logging companies had encroached into native land.

Other categories of complaints centred on allegations of physical abuse by the Police and abuse of administrative power, as well as wage-related problems and lack of identification documents.

Fifteen cases were closed over the year, while 38 were found to be unrelated to human rights violations, therefore requiring 'No Further Action'. The remaining 38 cases were being worked on with the relevant authorities, at the time of writing. In seeking resolution of the complaints, SUHAKAM received co-operation from Government departments and assistance from some non-governmental organisations (NGOs).

Table 2: Complaints Received by Sarawak Office, 2005

No.	Nature of Complaints	No. of Cases
1.	Native Customary Rights Land	59
2.	Wages	7
3.	Police matters	6
4.	Human resource matters	3
5.	Identification documents	3
6.	Education	2
7.	Abuse of power	2
8.	Sexual harassment	1
9.	Illegal hawkers	1
10.	Environmental matters	1
11.	Lack of infrastructure (electricity)	1
12.	Others	5
	TOTAL	**91**

2. MAIN ISSUES

(a) Native Customary Land *(Tanah Adat Bumiputera)*

The Orang Asal living in the interior have had difficulty comprehending why their land is being taken away for development. From time to time, SUHAKAM has held dialogues in an effort to examine related complaints like alleged trespass by logging companies into native customary land. For example, in Kampung Raso, Lundu, logging companies are said to have cut down mature trees and then insufficiently compensated the Orang Asal for loss of the trees. In the past, the State Government has fined companies found to have logged beyond the boundaries of assigned concession areas.



SUHAKAM Commissioner, Prof. Dato' Hj. Mohd. Hamdan Adnan (second from right) with some villagers during a visit to Lundu



A protest banner put up by the villagers in Lundu

The issue of inadequate compensation is among the main sources of dissatisfaction among villagers who have had to give up land taken for development purposes. For example, residents of Kampung Haji Wahed, Miri, have expressed dissatisfaction with the State Government, which has told them to move out of the area where they have lived for years. According to the Land and Survey Department, decisions on the issues raised have been put on hold pending further action.

In view of the sensitivities involved, SUHAKAM would like to advise the authorities to exercise extra caution over approvals for use of native customary land. They should prevent unsupervised development of such areas, and ensure that the Orang Asal communities are included in the decision-making process.

(b) Educational Needs

Additional schools are needed in certain areas in the interior, while existing premises require improvement so that Orang Asal children can attain higher academic standards. Hostels must be built and the intake increased to cater for children from remote villages. This will reduce absenteeism and ensure continuity of education for students. Qualified teachers should be assigned to teach in schools especially those in remote areas.

(c) Identification Documents

A sizeable number of Malaysians in Sarawak remain without official personal identification documents. Many women still use the services of traditional midwives to deliver children because of difficulty in accessing modern health facilities. This is usually followed by their failure to register the birth of their children. Without birth certificates, it is difficult to enrol children in school.

The situation is extremely serious for the Penan community, which lives in remote areas and therefore has difficulty obtaining medical treatment at hospitals/clinics and in sending children to school. Whenever they apply for identification documents, a 'late registration' fee is imposed. SUHAKAM would like to suggest greater co-operation between the Government and the Penan community to overcome such problems.



Discussion with officers of the National Registration Department in Sarawak

(d) Infrastructure Requirements

Access to roads, water and electricity supply and health care services are still lacking in remote areas of Sarawak. Urgent attention should be given to expanding basic infrastructure and utility supplies.

3. ACTIVITIES

(a) Talks and Dialogues

This programme is a continuation of work done in 2004. Talks and dialogues on human rights were organised to promote human rights awareness and to educate the public on available redress for human rights violations.

Between 300 and 1,300 people attended each event. They included Government officials, members of NGOs and religious bodies, community leaders like Penghulu, Pemanca and Temenggong, as well as teachers and students. SUHAKAM received co-operation from the respective District and Resident Offices in organising the events.

Several organisations, such as Pusat Latihan Polis and Jemaah Pemasaran Lada Hitam, invited SUHAKAM to deliver talks on human rights.

(b) Dialogue with Daily-Paid Workers of Public Works Department

The dialogue on Aug 26 brought together three parties - the Public Works Department (PWD), its Workers' Union and the Public Service Commission Sarawak. This was to discuss the impact of the Sarawak Government's decision to privatise the administration of the PWD in the State.

During the dialogue, it was revealed that the workers were unhappy with the decision. They said this would lead to problems such as the loss of pension and gratuity. They were also dissatisfied with the new pay-scheme and allowances offered. For instance, daily-paid workers will not be entitled to housing and car loans, among others. Some of those who have been employed on daily-paid basis for more than 10 years had hoped to be given priority for permanent employment, so that they would be eligible for all perks, including loans.

(c) Dialogue with Daily-Paid and Support Workers

Commissioner Dato' N. Siva Subramaniam chaired the session, held on Sept 24 in Kuching for 80 support workers of Government agencies and NGOs. The dialogue was aimed at educating participants on how to identify human rights violations, and on remedies available.

Participants said most of the daily-paid workers in the public sector are not entitled to housing and car loans, among other perks, although these are available to permanent workers. In addition, daily-paid workers are dissatisfied with the perks offered, such as medical benefits, maternity leave, paid annual leave and fixed housing allowance.

Workers attached to NGOs are unhappy with the privatisation of certain companies, due to the effects on salary increment and allowances. They are further concerned that privatisation could lead to the companies downsizing the workforce.

(d) Workshops for Law Enforcement Agencies

Since 2003, two workshops have been conducted to help law enforcement officers gain a better understanding of human rights, and to educate them on the importance of respecting the rights of individuals in the course of their duties.

The first workshop was held for 50 participants on Aug 5, 2003 in Kuching. It covered the 'Northern zone' areas of Kuching, Kota Samarahan and Betong.

The second workshop on Feb 17, 2005, covered the 'Middle Zone' areas of Miri, Bintulu and Sibu. The 50 participants were from the Police force, Immigration Department, Anti-Corruption Agency, Customs and Excise Board, Social Welfare Department, municipal councils and National Drug Agency.

Feedback from the workshop shed some light on the reasons for deprivation of human rights in certain situations:

(i) Right to liberty

In addition to undocumented immigrants in custody, those who have been convicted and who have served their sentence frequently remain in prison, thereby contributing to overcrowding. Factors that have led to deprivation of their liberty include the drawn-out documentation process in deporting immigrants; the 30-day Order of Detention imposed by authorities involved in repatriating immigrants; and the inability of the relevant agencies to meet the high cost of transportation and processing documents. In addition, countries of origin have not helped expedite the process of repatriating undocumented persons, because of the expense.

(ii) Right to acquire knowledge

Although a number of prisoners are interested in reading, there are insufficient resources to cater to their right to acquire knowledge. One reason for the limited volume of reading materials is that these are subjected to stringent vetting for security reasons.

(iii) Rights of the child

Participants recommended that youths below the age of 21 should no longer be charged under the Penal Code, but under the Child Act 2001, if alleged to have committed certain offences. If held in custody, they should be provided work-related training, such as technical skills, that will aid their re-integration into society upon release. Participants also felt it would be helpful if the Pardons Board expedites its deliberations on cases involving young offenders in particular.

(e) Seminar on Human Rights and the Media

The seminar, held on Sept 22 in Kuching, saw the participation of 50 journalists and university students majoring in journalism and media studies. The objectives were to educate them on human rights and to instil awareness of related issues that are in the public interest.

Papers on the media's role in reporting human rights were presented by SUHAKAM Commissioner Prof. Dato' Haji Mohd. Hamdan Adnan, Universiti Teknologi Mara lecturer and *Malaysiakini.com* Chief Executive Officer Premesh Chandran. They urged journalists to maintain a focus on reporting the facts and encouraged the media to be more transparent in providing information on human rights.

4. VISITS TO PLACES OF DETENTION

As empowered by the Human Rights Commission of Malaysia Act 1999, SUHAKAM conducted scheduled visits to places of detention.

(a) Pusat Serenti

During the visit on Aug 25, it was found that overall conditions were satisfactory, but that the state of the cells did not meet the Standard Minimum Rules for the Treatment of Prisoners. Vocational training is being conducted but there is a shortage of trainers. Religious and spiritual knowledge is emphasised so that detainees are aware of their religious and social responsibilities.

(b) Immigration Detention Depot, Semuja

The visit to the facility in Semuja, Serian, on Sept 25 was to examine the conditions of management and detention, and to ensure that adequate facilities were available. At the time of the visit, 92 detainees were being held under Sections 51(5)(b), 35 and 34 of the Immigration Act 2002.

The Immigration Department is responsible for management of the centre and welfare of detainees in terms of access to food, clean water, health, and deportation procedures. Police officers are in charge of ensuring security in the detention blocks, while General officers are assigned to overall security duties.

During the visit, it was found that new blocks had been built to house the detainees, thus reducing overcrowding. It was also established that most of the detainees were being held for entering Malaysia without permits, through agents. Other detainees were workers who had run away from employers when their wages were not paid.

5. INFORMATION DISSEMINATION

SUHAKAM Commissioners and officers were periodically interviewed by the broadcast and print media in Sarawak on the role and activities of the body and the importance of human rights to the public. Press statements were issued following visits to places of detention.

APPENDICES



APPENDIX I

ACTIVITIES OF SUHAKAM IN 2005

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
1.	Jan 2	Meeting with Madam Christina Liew, Honorary Life President of Sabah United Chinese Women Association	Sabah	SUHAKAM Sabah
2.	Jan 6	Visit to Kampung Raso 1 & 2	Sarawak	SUHAKAM Sarawak
3.	Jan 6	Meeting with the Lundu District Office	Sarawak	SUHAKAM Sarawak
4.	Jan 12	Visit to Kamunting Detention Centre	Perak	Complaints and Inquiries Working Group
5.	Jan 17	Meeting with Y.B.Tan Sri Joseph Kurup, State Assemblyman N37 Sook	Sabah	SUHAKAM Sabah
6.	Jan 18	Meeting with Persatuan Warisan Idahan Sabah, Lahad Datu	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
7.	Jan 19	Visit to Menggatal Detention Centre	Sabah	SUHAKAM Sabah
8.	Jan 27	Meeting with the Chief Police Officer, Keningau, Land and Survey Department, Environment Department and leaders of Sook locality	Sabah	SUHAKAM Sabah
9.	Jan 27	Visit to Kg. Sinulihan, Keningau	Sabah	SUHAKAM Sabah
10	Jan 27	Roadshow 'SUHAKAM Bersama Rakyat', Serian	Sarawak	SUHAKAM Sarawak
11	Feb 4	Visit to Kg. Mentenior, Beaufort	Sabah	SUHAKAM Sabah
12.	Feb 7	Visit to Kg. Karambunai, Menggatal	Sabah	SUHAKAM Sabah
13.	Feb 7	Meeting in Kota Kinabalu with representatives of the Philippines Embassy	Sabah	SUHAKAM Sabah
14	Feb 17	Workshop in Miri on 'Human Rights for Law Enforcement Agencies'	Sarawak	SUHAKAM Sarawak

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
15.	Feb 23	Dialogue between SUHAKAM and Sabah Political Leaders	Sabah	SUHAKAM Sabah
16.	Feb 28-March 2	Workshop on CRC for Persons With Disabilities	Kuala Lumpur	Human Rights Education and Promotion Working Group
17.	March 4	Visit to Kg. Ulu Kivatu, Penampang	Sabah	SUHAKAM Sabah
18.	March 5	SUHAKAM exhibition booth at the 'Legal Careers Fair 2005' organised by the International Islamic University, Malaysia	Selangor	Public Affairs Division
19.	March 11	Visit to Kg. Warisan, Telipok	Sabah	SUHAKAM Sabah
20.	March 12	Public Forum on 'Ageing with Dignity - Rights of Older Persons'	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
21.	March 14	Visit to Kg. Gumpa, Pitas	Sabah	SUHAKAM Sabah
22.	March 21	Meeting with Vice-Consul of the Indonesian Consulate	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
23.	March 21-25	Training-of-Young Trainers Workshop at Kem Ampang Pecah, Kuala Kubu Bharu	Selangor	Human Rights Education and Promotion Working Group
24.	March 22	Visit to Sungai Buloh Prison	Selangor	Complaints and Inquiries Working Group
25.	March 22	Meeting with Y. Bhg. Datuk Iliyas Ibrahim, Mayor of Kota Kinabalu	Sabah	SUHAKAM Sabah
26.	March 24	Visit to indigenous people's settlement	Kuala Kubu Bahru	Human Rights Education and Promotion Working Group
27.	March 26	Visit to Kg. Simpangan, Tuaran	Sabah	SUHAKAM Sabah
28.	March 27-29	Seminar on 'Land Rights of Indigenous People'	Sarawak	Human Rights Education and Promotion Working Group; and SUHAKAM Sarawak
29.	March 31	Roundtable Discussion on Employment for Persons with Disabilities	Kuala Lumpur	Human Rights Education and Promotion Working Group

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
30.	April 1	Visit to Police District Headquarters, Rembau	Negri Sembilan	Complaints and Inquiries Working Group
31.	April 4	Roadshow 'SUHAKAM Bersama Rakyat', Pitas	Sabah	SUHAKAM Sabah
32.	April 4	Roadshow 'SUHAKAM Bersama Rakyat', Shah Alam	Selangor	Public Affairs Division
33.	April 7-8	Forum on the 'Right to an Expeditious and Fair Trial'	Kuala Lumpur	Law Reform and International Treaties Working Group; Legal Division; and Human Rights Education and Promotion Working Group
34.	April 9	Visit to Kg. Kabon, Pitas	Sabah	SUHAKAM Sabah
35.	April 11	Visit to Kg. Suang Parai, Inanam	Sabah	SUHAKAM Sabah
36.	April 20	Visit to Kampung Bokah Lundu	Sarawak	SUHAKAM Sarawak
37.	April 23	Roadshow 'SUHAKAM Bersama Rakyat', Sook	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
38.	April 27	Visit to Kampung Haji Wahid, Miri	Sarawak	SUHAKAM Sarawak
39.	April 28	Visit to Immigration Detention Depot KLIA, Sepang	Selangor	Complaints and Inquiries Working Group
40.	May 13	Visit to Kg. Ulu Kinarut, Papar	Sabah	SUHAKAM Sabah
41.	May 17	Roadshow 'SUHAKAM Bersama Rakyat', Ipoh	Perak	Public Affairs Division
42.	May 24	Workshop on 'Human Rights Awareness' for Prison Department Officers	Kuala Lumpur	Human Rights Education and Promotion Working Group
43.	May 25-26	Visit to indigenous people's settlement	Pahang	Human Rights Education and Promotion Working Group
44.	May 27-29	SUHAKAM exhibition booth at 'Kempen Informasi Kesedaran Sempena Pertandingan Karate Terbuka Malaysia dan Karnival Karate 2005', organised by Karate Hayashi-Ha Association	Kuala Lumpur	Public Affairs Division

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
45.	May 27-30	SUHAKAM exhibition booth at 'Kids of the World' programme organised by the International Islamic University, Malaysia	Selangor	Public Affairs Division
46.	May 31	Meeting with young facilitators from Training-of-Young Trainers Workshop	Kuala Lumpur	Human Rights Education and Promotion Working Group
47.	June 17	Visit to Kg. Gaya Ratau, Tamparuli	Sabah	SUHAKAM Sabah
48.	June 18	Visit to Kg. Tomis Mangi, Ranau	Sabah	SUHAKAM Sabah
49.	June 27-29	Workshop on CRC for Teacher Training Colleges	Kuala Lumpur	Human Rights Education and Promotion Working Group
50.	June 28	Roadshow 'SUHAKAM Bersama Rakyat', Kinabatangan	Sabah	SUHAKAM Sabah
51.	July 1-3	Human Rights Camp for School Children, Sepang	Selangor	Human Rights Education and Promotion Working Group
52.	July 7	Meeting with Madam Aegile Fernandez, Tenaganita	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
53.	July 10	SUHAKAM exhibition booth at the 'Crime Awareness Campaign' organised by the Subang Jaya Buddhist Association	Selangor	Public Affairs Division; and Human Rights Education and Promotions Working Group
54.	July 12	Visit to Menggatal Detention Centre	Sabah	SUHAKAM Sabah
55.	July 16	SUHAKAM exhibition booth at the 'Kempen 2R: Mencegah Rogol & Ragut' organised by Kempen 2R	Selangor	Public Affairs Division
56.	July 18	Discussion on Native Customary Land Rights issues with the Land and Survey Department	Sarawak	SUHAKAM Sarawak
57.	July 20	Visit to Kg. Tambalugu, Tamparuli	Sabah	SUHAKAM Sabah
58.	July 21-23	Visit to indigenous people's settlement, Grik	Perak	Human Rights Education and Promotion Working Group
59.	July 23	SUHAKAM exhibition booth at the '6th Ahmad Ibrahim Memorial Lecture'organised by the International Islamic University, Malaysia	Kuala Lumpur	Public Affairs Division

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
60.	July 25	Meeting with representative of the US Embassy	Sabah	SUHAKAM Sabah
61.	July 26	SUHAKAM/UNDP High Policy Dialogue on 'The Human Rights Approach to the MDGs and Beyond: New Development Targets and Indicators for the Ninth Malaysia Plan'	Kuala Lumpur	Ecenomic, Social and Cultural Rights Working Group
62.	July 31	SUHAKAM exhibition bcoth and talk at the 'Crime Awareness Campaign' organised by the Subang Jaya Buddhist Association	Selangor	Public Affairs Division
63.	Aug 2	SUHAKAM exhibition booth at the 'Career Exhibition 2005' organised by the International Islamic University, Malaysia	Selangor	Public Affairs Division
64.	Aug 2	Roundtable Discussion on Least Restrictive Environment for Persons with Disabilities	Kuala Lumpur	Human Rights Education and Promotion Working Group

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
65.	Aug 3	Visit to Batu Gajah Rehabilitation Centre	Perak	Complaints and Inquiries Working Group
66.	Aug 4	Visit to Immigration Detention Depot, Semenyih	Selangor	Complaints and Inquiries Working Group
67.	Aug 5	Visit to Kg. Bakau, Likas	Sabah	SUHAKAM Sabah
68.	Aug 15	Visit to District Police Headquarters (IPD) Kota Setar, Alor Setar, and Alor Setar Prison	Kedah	Complaints and Inquiries Working Group
69.	Aug 15	Visit to Alor Setar Prison	Kedah	Complaints and Inquiries Working Group
70.	Aug 15	Visit to Immigration Detention Depot, Belantik	Kedah	Complaints and Inquiries Working Group
71.	Aug 16	Visit to Sungai Petani Prison	Kedah	Complaints and Inquiries Working Group
72.	Aug 17	Visit to Kamunting Detention Centre	Perak	Complaints and Inquiries Working Group
73.	Aug 19	Meeting with Persatuan Pesara Negeri Sabah	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
74.	Aug 20	SUHAKAM exhibition booth at the 'Law Careers Convention 2005' at Kolej Damansara Utama	Selangor	Public Affairs Division
75.	Aug 22	Visit to Kg. Serusup, Tuaran	Sabah	SUHAKAM Sabah
76.	Aug 22	Forum on 'Right to Health - Achieving Health MDGs'	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
77.	Aug 25	Visit to Menggatal Detention Center	Sabah	SUHAKAM Sabah
78.	Aug 25	Dialogue with representative of the Penan Community	Sarawak	SUHAKAM Sarawak; and Complaints and Inquiries Working Group
79.	Aug 25	Visit to Pusat Serenti Kuching	Sarawak	Complaints and Inquiries Working Group
80.	Aug 25	Meeting with YB Puan Jainab Datuk Ahmad State Assembly Representative, N12 Karambunai	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
81.	Aug 26	Visit to Immigration Detention Depot, Semuja	Sarawak	Complaints and Inquiries Working Group
82.	Sept 1	Visit to Kg. Tebobon, Menggatal	Sabah	SUHAKAM Sabah
83.	Sept 2	Meeting with the Co-ordinator of Rukun Tetangga, Bandaraya Kota Kinabalu	Sabah	SUHAKAM Sabah
84.	Sept 2	Meeting in Kota Kinabalu with representatives of the Philippines Embassy	Sabah	SUHAKAM Sabah
85.	Sept 6	Roadshow 'SUHAKAM Bersama Rakyat', Beluran	Sabah	SUHAKAM Sabah
86.	Sept 9	Conference in conjunction with Malaysian Human Rights Day 2005	Kuala Lumpur	SUHAKAM
87.	Sept 14	Visit to Immigration Detention Depot, Tanah Merah	Kelantan	Complaints and Inquiries Working Group

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
88.	Sept 15	Workshop on 'SUHAKAM and the Media'	Sabah	SUHAKAM Sabah
89.	Sept 17	Prize-giving ceremony for Poster Art Competition 2005 themed 'Children's Right to Family Life'	Kuala Lumpur	Human Rights Education and Promotion Working Group
90.	Sept 19	Visit to the village of Philippine's refugee, Telipok	Sabah	SUHAKAM Sabah
91.	Sept 19	Dialogue with Workers' Union	Sabah	SUHAKAM Sabah; and Complaints and Inquiries Working Group
92.	Sept 19	Meeting in Kota Kinabalu with representatives	Sabah	SUHAKAM Sabah
93.	Sept 20	Visit to Immigration Detention Depot, Tanah Merah	Kelantan	Complaints and Inquiries Working Group
94.	Sept 21	Visit to Pengkalan Chepa Prison	Kelantan	Complaints and Inquiries Working Group
95.	Sept 22	Seminar on 'Human Rights and the Media'	Sarawak	SUHAKAM Sarawak

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
96.	Sept 24	Dialogue with PWD Daily-Paid Workers and Support Workers	Sarawak	SUHAKAM Sarawak; and Complaints and Inquiries Working Group
97.	Sept 26-27	Workshop on 'Awareness of CRC' for Indigenous Groups	Kuala Lumpur	Human Rights Education and Promotion Working Group
98.	Sept 26-27	Human Rights Training for State Education Officers	Sarawak	Human Rights Education and Promotion Working Group
99.	Sept 26-27	SUHAKAM/UNICEF Forum on 'Reducing Violence, Harm and Exploitation of Children'	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
100.	Sept 26-27	Workshop on Human Rights Education	Sarawak	SUHAKAM Sarawak
101.	Sept 29	Forum on 'Malaysia's Reservations to the Convention on the Rights of the Child'	Kuala Lumpur	Law Reform and International Treaties Working Group
102.	Oct 1	Roadshow SUHAKAM Bersama Rakyat', Georgetown	Pulau Pinang	Public Affairs Division

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
103.	Oct 1-2	Human Rights Camp for School Children, Sabak Bernam	Selangor	Human Rights Education and Promotion Working Group
104.	Oct 3	Dialogue with Workers	Kuala Lumpur	Complaints and Inquiries Working Group
105.	Oct 4	Lecture by H.E Judge Philippe Kirsch On 'Establishing Accountability For International Crimes: The Role Of The International Criminal Court'	Kuala Lumpur	Law Reform and International Treaties Working Group; and Legal Division
106.	Oct 7	Visit to Kluang Prison	Johor	Complaints and Inquiries Working Group
107.	Oct 8	Visit to District Police Headquarters (IPD) Klang	Selangor	Complaints and Inquiries Working Group
108.	Oct 8	Visit to Johor Bahru Prison	Johor	Complaints and Inquiries Working Group
109.	Oct 12	Visit to Kg. Togudon, Penampang	Sabah	SUHAKAM Sabah
110.	Oct 14	Visit to Kg. Gayang, Tuaran	Sabah	SUHAKAM Sabah
111.	Oct 14	Visit to Immigration Holding Room, KLIA	Selangor	Complaints and Inquiries Working Group

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
112.	Oct 17	Visit to Kg. Rampayan, Menggatal	Sabah	SUHAKAM Sabah
113.	Oct 17	Talk and Dialogue with teachers and staff of SMK Telipok, Kota Kinabalu	Sabah	SUHAKAM Sabah
114.	Oct 21	Visit to Pusat Rawatan Islam Darul Islah, Sabak Bernam	Selangor	Complaints and Inquiries Working Group
115.	Oct 25	Roundtable Discussion on the Indigenous Community's Rights to Education	Kuala Lumpur	Human Rights Education and Promotion Working Group
116.	Nov 7	Meeting with Deputy Director-General of Dewan Bandaraya Kota Kinabalu	Sabah	SUHAKAM Sabah
117.	Nov 14	Visit to Kg. Kapa, Tamparuli	Sabah	SUHAKAM Sabah
118.	Nov 15	Visit to Kg. Kiulu, Tamparuli	Sabah	SUHAKAM Sabah
119.	Nov 16	Visit to Menggatal Detention Centre	Sabah	SUHAKAM Sabah
120.	Nov 16	Meeting with District Chief Police Officer, Kota Kinabalu	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
121.	Nov 21	Visit to Bina Tungau, Kota Marudu	Sabah	SUHAKAM Sabah
122.	Nov 21-23	Human Rights Camp for School Children, Kota Bharu	Kelantan	Human Rights Education and Promotion Working Group
123.	Dec 2	Visit to Sukang Mampai, Inanam	Sabah	SUHAKAM Sabah
124.	Dec 4	Roadshow 'SUHAKAM Bersama Rakyat', Alor Setar	Kedah	Public Affairs Division
125.	Dec 5-6	Human Rights Training for State Education Officers	Sabah	Human Rights Education and Promotion Working Group
126.	Dec 8	Visit to Kg. Suang Parai, Inanam	Sabah	SUHAKAM Sabah
127.	Dec 19	Visit to Kg. Muhibbah, Sandakan	Sabah	SUHAKAM Sabah
128.	Dec 20	Visit to Sandakan Prison and Temporary Detention Centre	Sandakan, Sabah	SUHAKAM Sabah
129.	Dec 21	Visit to Tawau Prison, Temporary Detention Centre and Police Lock-Up, Tawau	Sabah	SUHAKAM Sabah

NO.	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
130.	Dec 23	Visit to Karamunsing Lock-Up and Kepayan Prison, Kota Kinabalu	Sabah	SUHAKAM Sabah
131.	Dec 27	Visit to Hospital Bahagia Ulu Kinta, Tanjung Rambutan	Perak	Complaints and Inquiries Working Group

APPENDIX II

TALKS, SEMINARS AND CONFERENCES - NATIONAL (2005)

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	Feb 21	Talk on Human Rights in collaboration with Teachers' Day at SMK Air Tawar	Perak	Ms. Shazeera Ahmad Zawawi, Officer
2.	March 13	Seminar on Special Education	Sarawak	Dr. Mohd Hirman Ritom Abdullah, Commissioner
3.	March 21-22	9th Malaysian Education Summit, ASLI	Kuala Lumpur	Dr. Chiam Heng Keng, Commissioner
4.	March 23	Seminar on the 9th Malaysia Plan, Ministry of Education	Kuala Lumpur	Dr. Chiam Heng Keng, Commissioner
5.	April 9	Talk on Human Rights at SMK Sura, Dungun.	Terengganu	Ms. Shazeera Ahmad Zawawi, Officer
6.	April 28	Human Rights Training For Master Teachers (Sarawak, Sabah and Labuan Region), Kota Kinabalu - Ministry of Education	Sabah	Dr. Chiam Heng Keng, Commissioner; Mr. Simon Karunagaram, Officer; Ms. Shazeera Ahmad Zawawi, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
7.	May 5	Teacher's Forum and 9th Malaysia Plan	Kuala Lumpur	Dato' Asiah Abu Samah, Commissioner
8.	May 11-12	Seminar Kepengetuan Kebangsaan Ke-4 - Institut Pengajian Kepengetuan Universiti Malaya	Kuala Lumpur	Dr. Chiam Heng Keng, Commissioner
9.	May 12	Human Rights Training For Master Teachers (Northern Region), Langkawi - Ministry of Education	Kedah	Dr. Chiam Heng Keng, Commissioner; Mr. Simon Karunagaram, Officer; Ms. Shazeera Ahmad Zawawi, Officer
10.	May 17	Seminar on 'Enforcement of Law Governing Morals: Its Challenges and Solutions'	Kuala Lumpur	Ms. Emy Hadida Mohd. Noor, Officer; Ms. Nurul Hasanah Ahamed, Officer Ms. Rozaliana Zakaria, Officer
11.	May 26	Human Rights Training For Master Teachers (Southern & East Coast Region), Johor Bahru - Ministry of Education	Johor	Dr. Chiam Heng Keng, Commissioner; Mr. Simon Karunagaram, Officer; Ms. Shazeera Ahmad Zawawi, Officer
12.	June 9-30	International Conference II on 'Harmonisation of Shariah Law Civil Law'	Kuala Lumpur	Ms. Suraina Pasha, Officer; Ms. Nurul Hasanah Ahamed, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
13.	July 4-5	International Conference on the Indigenous People	Kuala Lumpur	Ms. Shazeera Ahmad Zawawi, Officer; Ms. Rozaliana Zakaria, Officer
14.	July 7	UNDP and MWFD - Social Policy Dialogue on Compensating Malaysian Women for their Multiple Roles in Society	Kuala Lumpur	Ms. Norita Azmi, Officer; Ms. Rozaliana Zakaria, Officer
15.	July 13-14	International Conference - Mediamorphosis Communication, Technology and Growth, Shah Alam	Selangor	Ms Noor Azizah Atdenan, Officer
16.	July 15	Malaysian Strategic Research Center & Konrad Adenauer Foundation - Intercultural Discourse Series: Moral Education and National Integration	Kuala Lumpur	Ms. Emy Hadida Mohd Noor, Officer; Ms Norita Azmi, Officer,
17.	July 21	Workshop on Civic and Citizenship Curriculum	Kuala Lumpur	Mr. Simon Karunagaram, Officer
18.	July 31	Drug Awareness Campaign, Subang Jaya	Selangor	Mr. Nur Amir Saravanan, Officer
19.	Aug 1-3	International Conference on Thinking - Institut Pemikiran Tun Dr Mahathir Mohamad.	Kuala Lumpur	Ms. Siti Rahayu Mohamed Noor, Officer
20.	Aug 2-4	The 10th International Conference on Translation 2005, Kota Kinabalu	Sabah	Ms. Hanani Izzati Mohd Zubir, Officer; Ms. Noor Azizah Atdenan, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
21.	Aug 15-17	Seminar Pendidikan Luar Bandar: Isu dan Cabaran Sekolah-Sekolah Kecil, Subang Jaya	Selangor	Ms. Nor Syaharazad Mohd Yusof, Officer
22.	Aug 19-20	Seminar on Eradication of Poverty in Old Age through Social Pension - National Council of Senior Citizens Organisation Malaysia	Kuala Lumpur	Dr. Chiam Heng Keng, Commissioner
23.	Aug 25	The Women's Summit 2005 - Managing and Nurturing the Next Generation	Kuala Lumpur	Ms. Norita Azmi, Officer
24.	Aug 25	Inaugural Tun Hussein Onn Lecture	Kuala Lumpur	Ms. Long Seh Lih, Officer; Ms. Nurul Hasanah Ahamed, Officer
25.	Sept 13	Interview on WaFM	Kuala Lumpur	Ms. Lee Pei Hsi, Officer;
26.	Sept 20	Conference on 'Youth Leadership: The Challenge of Globalisation' - Malaysian Strategic Research Centre	Kuala Lumpur	Ms. Long Seh Lih, Officer; Ms. Nurul Hasanah Ahamed, Officer
27.	Sept 21-22	Asia-Pacific Moral, Civic and Citizenship Education Conference	Kuala Lumpur	Mr. Simon Karunagaram, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
28.	Oct 10	Talk on 'Good Governance in Nation Building' at the Rotary Club of Pudu Weekly Luncheon Meeting	Kuala Lumpur	Tan Sri Dato' (Dr) Ramon Navaratnam, Commissioner
29.	Nov 16-18	13th Biennial Malaysian Law Conference - 'Globalising Legal Profession'	Kuala Lumpur	Ms. Long Seh Lih, Officer; Mr Wan Mazlan Wan Mat, Officer; Ms. Azlina Aziz, Officer; Mr. Azlan Ismail, Officer;
30.	Nov 16-18	Regional Conference on Stateless/Undocumented Children in Sabah	Sabah	Prof Dato' Haji Mohd Hamdan Adnan Commissioner;
31.	Nov 17	Talk on 'SUHAKAM: Early Development, Role Function' for police officers at the Royal Malaysian Police College, Cheras	Kuala Lumpur	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman; Mr. Sri Raman Palakrishnan, Officer;
32.	Nov 21-23	Training Workshop on Education for Non-Discrimination	Kuala Lumpur	Dato' Asiah Abu Samah, Commissioner; Mr. Sri Raman Palakrishnan, Officer
33.	Nov 22	Talk on 'Human Rights Situation in the World' at ELC International School	Kuala Lumpur	Ms. Shazeera Ahmad Zawawi, Officer;
34.	Dec 10-12	3rd East Asia Congress	Kuala Lumpur	Dr. Chiam Heng Keng, Commissioner
35.	Dec 15-17	Perdana Global Peace Forum 2005	Kuala Lumpur	Tan Sri Abu Talib Othman, Chairman

APPENDIX III

TALKS, SEMINARS AND CONFERENCES - INTERNATIONAL (2005)

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
1.	Feb 29-March 3	Managing A National Human Rights Institution - An International Workshop for Chief Executive Officers and Senior Managers of National Human Rights Institution of the Commonwealth, Belfast	Ireland	Haji Ahmad Yusuf Haji Ngah, SUHAKAM Secretary
2.	April 4-8	Orientation-cum-Training Workshop on Human Rights Lesson Plan for Southeast Asian Schools, Manila	The Philippines	Dr. Chiam Heng Keng, Commissioner
3.	April 9-17	61st Session of the Commission on Human Rights, Geneva	Switzerland	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner; Ms. Suraina Pasha, Officer
4.	April 26-27	Conference on Trafficking: 'Demand for Child Sex Tourism and Sex Trafficking in East and Southeast Asia'	Singapore	Ms. Kamala Bhaie Pillai Officer
5.	May 10-15	Asean People's Assembly and 12th ASEAN/ISIS Colloquium on Human Rights, Manila	The Philippines	Dr. Mohd Hirman Ritom Abdullah, Commissioner; Ms. Kamala Bhaie Pillai, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
6.	June 14-16	East Asia & Pacific Regional Consultation: The United Nations Study on Violence against Children, Bangkok	Thailand	Ms. Shazeera Ahmad Zawawi, Officer
7.	July 26-27	UNESCAP Workshop on Regional Follow-up to the Fifth Session and Preparation for the Sixth Session of the Ad Hoc Committee on an International Convention On the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, Bangkok	Thailand	Ms Long Seh Lih, Officer
8.	Aug 23-26	10th Annual General Meeting of the Asian Pacific Forum, Ulaan Batar	Mongolia	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman; Dato' K.C.Vohrah, Commissioner Haji Ahmad Yusuf Haji Ngah, SUHAKAM Secretary; Ms. Suraina Pasha, Officer
9.	Aug 28	Meeting/Discussion with the President and Members of the China Society for Human Rights Studies, Beijing	China	Tan Sri Datuk Seri Panglima, Vice-Chairman Dato' KC Vohrah, Commissioner; Haji Ahmad Yusuf Haji Ngah, SUHAKAM, Secretary; Ms Suraina Pasha, Officer;
10.	Aug 30-Sept 2	13th Annual Workshop of the Framework Regional Co-operation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, Beijing	China	Dato' Ranita Mohd Hussein, Commissioner

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
11.	Sept 19-24	UN-appointed Adviser to the Provedor and Deputy Provedor of the newly-established Human Rights Institution of Timor Leste	Timor Leste	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman; Ms. Suraina Pasha, Officer
12.	Sept 19-21	Seminar on 'Combating Racism, Racial Discrimination, Xenophobia and related intolerance: Role of Education', Bangkok	Thailand	Dato' Asiah Abu Samah, Commissioner; Ms. Nor Syaharazad Mohd Yusuf, Officer;
13.	Oct 22-25	Conference on National Human Rights Institution in the Asia-Pacific	Taiwan	Dato' Choo Siew Kioh, Commissioner
14.	Nov 14-19	2rd Asian Thematic Training Programme on Emerging Issues in Economic, Social & Cultural Rights in the Global Context, Bangkok	Thailand	Ms. Rafidah Yahya, Officer
15.	Nov 20-23	Workshop On 'Trafficking And National Human Rights Institution: Co-operating To End Impunity For Traffickers And Secure Justice For Victims', Sydney	Australia	Ms. Kamala Bhaie Pillai, Officer
16.	Nov 21-Dec 2	Raoul Wallenberg Institute Training Programme for Asia-Pacific Human Rights Institutions, Bangkok	Thailand	Ms. Emy Hadida Mohd. Noor, Officer; Mr. Wan Mazlan Wan Mat, Officer

NO.	DATE	TALKS, SEMINARS AND CONFERENCES	VENUE	REPRESENTATIVE
17.	Nov 25-Dec 2	Workshop on Justpeace Education, Hyderabad	India	Ms. Shazeera Ahmad Zawawi, Officer
18.	Dec 7-9	Gwangju Forum on Asian Human Rights 2005, Gwangju	Korea	Dato' K.C. Vohrah, Commissioner
19.	Dec 19-20	Roundtable Discussion on the Bientiane Action Programme on Human Rights, Bali	Indonesia	Dr. Chiam Heng Keng, Commissioner; Ms Leena Ghosh, Officer

APPENDIX IV

VISITORS TO SUHAKAM IN 2005

NO.	DATE	ORGANISATION
1.	Feb 15	Minister for Justice and Ambassador of Sweden
2.	Feb 21	Palestinian Commission of Human Rights
3.	March 4	President, Franco-Malaysian Friendship Group and a French MP, Mr. Jean-Marie Le Guen
4.	April 5	Australian Senator, Ms Marise Payne
5.	April 12	Malaysian International Visitors Programme
6.	April 28	Malaysian International Visitors Programme
7.	May 6	Mr. Volker Turk, UNHCR
8.	May 19	Malaysian International Visitors Programme
9.	May 20	RTM Interview on Police Report
10.	June 9	Malaysian International Visitors Programme
11.	June 10	Mr. Thomas Pepinsky, Yale University, USA
12.	June 13	Mr. Abd. Hakim Garuda Nusantara, Chairperson and two Commissioners of the Indonesian Human Rights Commission
13.	June 15	UNHCR Inspection Team

NO.	DATE	ORGANISATION
14.	June 22	Mr. Thierry Rommel, Ambassador of European Union
15.	July 20	European Union Heads of Mission headed by British High Commissioner
16.	Aug 15	Mr. Francis Amar to introduce his replacement, Mr Werner Kaspar, Head of International Committee of the Red Cross
17.	Aug 29	Meeting with Vice-Chancellors of local universities
18.	Sept 21	Members of Parliament of Malaysia
19.	Oct 3	Judge Philippe Kirsch, President of the International Criminal Court
20.	Oct 5	Malaysian International Visitors Programme
21.	Oct 21	Ms. Purna Sen, Amnesty International Asia Pacific Programme Director and Mr Josef Roy, Executive Director, Amnesty International Malaysia
22.	Oct 28	Mr. Zuhrin Azam bin Ahmad, *The Star*
23.	Nov 15	Ms. Sharon Kam, *The Sun*
24.	Nov 15	Malaysian International Visitors Programme

NO.	DATE	ORGANISATION
25.	Nov 17	Mr. Michael Miner, Regional Director for the Canadian International Development Agency and Ms. Maureen Maloney
26.	Nov 24	European Parliament Delegation
27.	Dec 16	Malaysian International Visitors Programme
28.	Dec 19	Malaysian Consultative Council for Buddhism, Christianity, Hinduism and Sikhism

APPENDIX V

MONTHLY MEETINGS 2005 - COMMISSIONERS' ATTENDANCE

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
1.	59th Meeting	Jan 10	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramanian a/l Nagaratnam			

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
2.	60th Meeting	Feb 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Dato' Asiah Abu Samah Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramanian a/l Nagaratnam	Datuk Dr. Raj Abdul Karim Dato' Dr Abdul Monir Yaacob	✓ ✓	
3.	61st Meeting	March 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah	Dato' Choo Siew Kioh Dato' Dr Sharifah Hapsah Syed Hasan Shahabudin	✓ ✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramanian a/l Nagaratnam			
4.	62nd Meeting	April 11	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Prof Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam	Dato' Dr. Abdul Monir Yaacob Tunku Datuk Nazihah Tunku Mohamed Rus	✓ ✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
5.	63rd Meeting	May 9	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Datc' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam	Datuk Dr. Raj Abdul Karim Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin	✓ ✓	
6.	64th Meeting	June 13	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Datc' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob	Dato' Karam Chand Vohrah Dato' Dr Sharifah Hapsah Syed Hasan Shahabudin	✓ ✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam			
7.	65th Meeting	July 11	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr Abdul Monir Yaacob Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam	Dr. Chiam Heng Keng Dato' Karam Chand Vohrah	✓ ✓	
8.	66th Meeting	Aug 8	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah	Dato' Choo Siew Kioh	✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam			
9.	67th Meeting	Sept 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr. Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin			

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam			
10.	68th Meeting	Oct 10	Tan Sri Abu Talib Cthman Tan Sri Datuk Seri Panglima Simon Sipaun Prof. Dato' Haji Mohd Hamdan Adnan Dr. Chiam Heng Keng Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Datuk Dr Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramaniam a/l Nagaratnam			
11.	69th Meeting	Nov 14	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun	Dr. Chiam Heng Keng	✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Prof Dato' Haji Mohd Hamdan Adnan Dr. Mohammad Hirman Ritom Abdullah Tan Sri Dato' Ramon Navaratnam Dato' Asiah Abu Samah Dato' Dr. Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Ranita Mohd Hussein Dato' Choo Siew Kioh Dato' Dr. Sharifah Hapsah Syed Hasan Shahabudin Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramaniam a/l Nagaratnam Prof. Dato' Dr. Khoo Kay Kim	Datuk Dr. Raj Abdul Karim Dato' Muhammad Shafee Abdullah	✓ ✓	
12.	70th Meeting	Dec 12	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Prof Dato' Haji Mohd Hamdan Adnan Dr Chiam Heng Keng Tan Sri Dato' Ramon Navaratnam Datuk Dr Raj Abdul Karim Dato' Asiah Abu Samah Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus	Dr Mohammad Hirman Ritom Abdullah Dato' Ranita Mohd Hussein	✓ ✓	

No.	Serial No of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			Prof. Dato' Dr. Khoo Kay Kim Dato' Muhammad Shafee Abdullah Dato' Siva Subramanian a/l Nagaratnam			

APPENDIX VI

CERTIFICATE OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF HUMAN RIGHTS COMMISSION OF MALAYSIAFOR THE YEAR ENDED 31 DECEMBER 2005

SIJIL KETUA AUDIT NEGARA
MENGENAI PENYATA KEWANGAN
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
BAGI TAHUN BERAKHIR 31 DISEMBER 2005

Penyata kewangan Suruhanjaya Hak Asasi Manusia Malaysia bagi tahun berakhir 31 Disember 2005 telah diaudit oleh wakil saya. Pihak pengurusan bertanggungjawab terhadap penyata kewangan ini. Tanggungjawab saya adalah mengaudit dan memberi pendapat terhadap penyata kewangan tersebut.

2. Pengauditan telah dilaksanakan mengikut Akta Audit 1957 dan berpandukan piawaian pengauditan yang diluluskan. Piawaian tersebut menghendaki pengauditan dirancang dan dilaksanakan untuk mendapat kepastian yang munasabah sama ada penyata kewangan adalah bebas daripada kesilapan atau ketinggalan yang ketara. Pengauditan ini termasuk memeriksa rekod secara semak uji, menyemak bukti yang menyokong angka dan memastikan pendedahan yang mencukupi dalam penyata kewangan. Penilaian juga dibuat terhadap prinsip perakaunan yang digunakan dan penyampaian penyata kewangan secara keseluruhan.

3. Pada pendapat saya, penyata kewangan ini memberi gambaran yang benar dan saksama terhadap kedudukan kewangan Suruhanjaya Hak Asasi Manusia Malaysia pada 31 Disember 2005, hasil operasi dan aliran tunainya untuk tahun tersebut berdasarkan piawaian perakaunan yang diluluskan.

(FATIMAH BINTI MAMAT)
b.p. KETUA AUDIT NEGARA
MALAYSIA

PUTRAJAYA
23 Februari 2006

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA OLEH SURUHANJAYA

Kami, TAN SRI ABU TALIB BIN OTHMAN dan TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN, yang merupakan Pengerusi dan Naib Pengerusi SURUHANJAYA HAK ASASI MANUSIA MALAYSIA, dengan ini menyatakan bahawa, pada pendapat Suruhanjaya, lembaran imbangan pada 31 Disember 2005, penyata pendapatan, penyata perubahan dana serta penyata aliran tunai bagi tahun berakhir pada tarikh tersebut, dan nota-nota yang disertakan, adalah disediakan menurut piawaian perakaunan yang diluluskan yang berkenaan di Malaysia untuk menunjukkan gambaran yang benar dan saksama berkenaan kedudukan SURUHANJAYA HAK ASASI MANUSIA MALAYSIA pada 31 Disember 2005 dan hasil kendaliannya serta aliran tunainya bagi tahun berakhir pada tarikh tersebut.

Bagi pihak Suruhanjaya,

TAN SRI ABU TALIB BIN OTHMAN

Pengerusi

Kuala Lumpur

Tarikh: - 6 FEB 2006

Bagi pihak Suruhanjaya,

TAN SRI DATUK SERI PANGLIMA SIMON SIPAUN

Naib Pengerusi

Kuala Lumpur

Tarikh: - 6 FEB 2006

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENGAKUAN OLEH PEGAWAI UTAMA YANG BERTANGGUNGJAWAB KE ATAS PENGURUSAN KEWANGAN SURUHANJAYA

Saya, Haji Ahmad Yusuf Bin Haji Ngah, Pegawai Utama yang bertanggungjawab ke atas pengurusan kewangan SURUHANJAYA HAK ASASI MANUSIA MALAYSIA, dengan ikhlasnya mengakui bahawa lembaran imbangan pada 31 Disember 2005, penyata pendapatan, penyata perubahan dana serta penyata aliran tunai bagi tahun berakhir pada tarikh tersebut dan nota-nota yang disertakan, mengikut sebaik-baik pengetahuan dan kepercayaan saya, adalah betul dan saya membuat ikrar ini dengan sebenarnya mempercayai bahawa ia adalah benar dan atas kehendak-kehendak Akta Akuan berkanun, 1960.

Sebenarnya dan sesungguhnya diakui)
oleh penama di atas,)
Haji Ahmad Yusuf Bin Haji Ngah)
di Kuala Lumpur pada :- 6 FEB 2006)

Di hadapan saya,

PESURUHJAYA SUMPAH MALAYSIA
No. W 317
M.S. NATHAN

1 LORONG TUANKU
ABDUL RAHMAN
51000 KUALA LUMPUR

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

LEMBARAN IMBANGAN PADA 31 DISEMBER 2005

	Nota	2005 RM	2004 RM
LOJI DAN PERALATAN	3	1,731,767	2,359,140
ASET SEMASA			
Pelbagai penghutang, deposit dan prabayar	4	107,377	96,322
Simpanan tetap	5	1,000,000	2,000,000
Wang tunai dan baki di bank	6	528,997	371,585
		1,636,374	2,467,907
LIABILITI SEMASA			
Pelbagai pemiutang dan akruan	7	68,837	245,445
		68,837	245,445
ASET SEMASA BERSIH		1,567,537	2,222,462
		3,299,304	4,581,602
Dibiayai oleh:			
DANA TERKUMPUL		3,211,699	4,551,602
AKAUN AMANAH	8	87,605	30,000
		3,299,304	4,581,602

Nota-nota yang disertakan merupakan sebahagian asasi penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PENDAPATAN
BAGI TAHUN BERAKHIR 31 DISEMBER 2005

	Nota	2005 RM	2004 RM
PENDAPATAN			
Geran		6,820,600	6,820,600
PENDAPATAN LAIN			
Hibah		11,862	6,466
Faedah ke atas simpanan tetap		94,384	123,672
Mudharabah-Insurans		3,394	1,717
Lain-lain		3,161	-
		6,933,401	6,952,455
PERBELANJAAN			
Emolumen		1,347,189	1,692,682
Perjalanan dan sara-hidup		555,226	750,782
Pengangkutan		4,362	1,247
Perhubungan dan utiliti		244,148	226,899
Sewaan		1,084,481	1,081,645
Bekalan makanan dan minuman		9,076	5,529
Alat ganti dan pembaikan		117,193	100,655
Bekalan dan bahan-bahan lain		246,008	239,747
Penyelenggaraan dan pembaikan kecil		307,846	235,111
Perkhidmatan ikhtisas dan hospitaliti		3,579,999	3,344,495
Susutnilai		766,319	672,468
Ganjaran		7,972	79,585
Perbelanjaan lain		3,485	3,514
		8,273,304	8,434,359
Kurangan pada tahun	9	(1,339,903)	(1,481,904)

Nota-nota yang disertakan merupakan sebahagian asasi penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PERUBAHAN DALAM DANA TERKUMPUL
BAGI TAHUN BERAKHIR 31 DISEMBER 2005

	Nota	Dana terkumpul RM
Pada 1 Januari 2004		6,033,506
Kurangan bagi tahun		(1,481,904)
Pada 31 Disember 2004/ 1 Januari 2005		4,551,602
Kurangan bagi tahun		(1,339,903)
Pada 31 Disember 2005		3,211,699

Nota-nota yang disertakan merupakan sebahagian asasi penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA ALIRAN TUNAI
BAGI TAHUN BERAKHIR 31 DISEMBER 2005

	2005 RM	2004 RM
ALIRAN TUNAI DARI AKTIVITI OPERASI		
Penerimaan	6,820,600	6,820,600
Pembayaran untuk perbelanjaan	(7,851,179)	(7,618,838)
Tunai bersih (digunakan untuk)/dari aktiviti operasi	(1,030,579)	(798,238)
ALIRAN TUNAI DARI AKTIVITI PELABURAN		
Hibah	11,862	6,466
Keuntungan diterima dari simpanan tetap	94,384	123,672
Mudharabah	3,393	1,717
Belian loji dan peralatan	(138,946)	(626,800)
Hasil dari pelunasan loji dan peralatan	-	-
Tunai bersih digunakan untuk aktiviti pelaburan	(29,307)	(494,945)
ALIRAN TUNAI DARI AKTIVITI PEMBIAYAAN		
Akaun amanah	216,920	30,000
Tunai bersih dari aktiviti pembiayaan	216,920	30,000
(Penurunan)/peningkatan bersih dalam tunai dan bersamaan tunai	(842,966)	(1,263,183)
Tunai dan bersamaan tunai pada awal tahun	2,371,585	3,634,768
Tunai dan bersamaan tunai pada akhir tahun	1,528,619	2,371,585
ANALISA TUNAI DAN BERSAMAAN TUNAI		
Simpanan tetap	1,000,000	2,000,000
Wang tunai dan baki di bank	528,619	371,585
	1,528,619	2,371,585

Nota-nota yang disertakan merupakan sebahagian asasi penyata kewangan ini.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

NOTA-NOTA KEPADA PENYATA KEWANGAN - 31 DISEMBER 2005

1: OBJEKTIF-OBJEKTIF/AKTIVITI-AKTIVITI UTAMA

1.1 Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) ditubuhkan oleh parlimen di bawah Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999, (Akta 597). Akta ini diwartakan pada 9 September 1999.

1.2 Fungsi utama SUHAKAM adalah untuk:

1.2.1 Memupuk kesedaran dan menyediakan pendidikan yang berhubungan dengan hak asasi manusia.

1.2.2 Menasihati dan membantu Kerajaan dalam merumuskan perundangan dan arahan dan tatacara pentadbiran dan mengesyorkan langkah-langkah yang perlu diambil.

1.2.3 Mengesyorkan kepada Kerajaan berkenaan dengan penandatangan atau penyertaan dalam perjanjian triti dan suratcara antarabangsa yang lain dalam bidang hak asasi manusia.

1.2.4 Menyiasat aduan berkenaan dengan pelanggaran hak asasi manusia.

2: DASAR PERAKAUNAN PENTING

2.1 Asas Perakaunan

Penyata kewangan ini telah disediakan menurut kelaziman kos sejarah dan mematuhi piawaian perakaunan yang diluluskan terpakai di Malaysia.

2.2 Loji dan Peralatan dan Susutnilai

Loji dan peralatan dinyatakan pada kos ditolak susutnilai terkumpul.

Susutnilai diperuntukkan berdasarkan kaedah garis lurus dikira untuk menghapus kira kos setiap aset sepanjang anggaran hayat kegunaannya.

Kadar susutnilai tahunan adalah 20%.

(Samb.)

2.3 Tunai dan Bersamaan Tunai

Tunai merangkumi wang tunai di tangan dan di bank dan simpanan. Bersamaan tunai merangkumi pelaburan mudah tunai yang boleh ditukarkan kepada amaun tunai yang diketahui yang tertakluk kepada risiko pertukaran nilai yang tidak signifikan. Pihak Suruhanjaya telah menggunakan kaedah langsung di dalam penyediaan Penyata Aliran Tunai.

2.4 Faedah Kakitangan

Faedah Jangka Pendek

Upah, gaji dan bonus diiktiraf sebagai perbelanjaan pada tahun yang mana perkhidmatan berkaitan diberikan oleh kakitangan Suruhanjaya.

Rancangan Caruman Tetap

Suruhanjaya membuat caruman kepada Kumpulan Wang Simpanan Pekerja ('KWSP'). Caruman sedemikian diiktiraf sebagai perbelanjaan dalam Penyata Pendapatan seperti yang ditanggung. Apabila caruman telah dibayar, Suruhanjaya tiada obligasi bayaran lagi.

2.5 Akaun Amanah

Penerimaan daripada pihak ketiga untuk tujuan tertentu diambilkira di bawah Akaun Amanah. Perbelanjaan yang berkenaan akan dicaj terus kepada akaun ini.

2.6 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.

(Samb.)

3: LOJI DAN PERALATAN

2005	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Jumlah
	RM	**RM**	**RM**	**RM**	**RM**
Kos					
Pada 1 Januari	608,194	187,798	2,610,965	383,190	3,790,147
Tambahan	110,297	26,269	0	2,380	138,946
Pada 31 Disember	718,491	214,067	2,610,965	385,570	3,929,093
Susutnilai Terkumpul					
Pada 1 Januari	236,175	45,087	973,149	176,596	1,431,007
Caj untuk tahun	129,123	40,570	520,680	75,946	766,319
Pada 31 Disember	365,298	85,657	1,493,829	252,542	2,197,326
Nilai Buku Bersih					
Pada 31 Disember	353,193	128,410	1,117,136	133,028	1,731,767

2004	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng-ubahsuaian	Jumlah
	RM	**RM**	**RM**	**RM**	**RM**
Kos					
Pada 1 Januari	493,396	140,403	2,163,106	379,022	3,175,927
Tambahan	114,798	47,395	447,859	16,748	626,800
Pelarasan	-	-	-	(12,580)	(12,580)
Pada 31 Disember	608,194	187,798	2,610,965	383,190	3,790,147
Susutnilai Terkumpul					
Pada 1 Januari	128,888	14,269	512,486	102,896	758,539
Caj untuk tahun	107,287	30,818	460,663	73,700	672,468
Pada 31 Disember	236,175	45,087	973,149	176,596	1,431,007
Nilai Buku Bersih					
Pada 31 Disember	372,019	142,711	1,637,816	206,594	2,359,140

(Samb.)

4. PELBAGAI PENGHUTANG, DEPOSIT DAN PRABAYAR

	2005 RM	2004 RM
Pelbagai penghutang	5,533	26,795
Deposit	94,652	49,748
Prabayar	7,192	19,779
	107,377	96,322

5: SIMPANAN TETAP

Simpanan tetap dengan bank berlesen tidak dicagarkan untuk sebarang tujuan.

Kadar faedah efektif bagi simpanan tetap dengan bank berlesen ialah di antara 2.3% hingga 2.9% (2004: 2.75% hingga 3.7%) setahun. Tempoh matang simpanan tetap ialah antara 30 hari hingga 1 tahun.

6: WANG TUNAI DAN BAKI DI BANK

	2005 RM	2004 RM
Tunai di tangan	5,000	2,779
Tunai di bank	523,997	368,806
	528,997	371,585

7: PELBAGAI PEMIUTANG DAN AKRUAN

Pelbagai pemiutang	19,058	120,243
Akruan	49,779	125,202
	68,837	245,445

(Samb.)

8: **AKAUN AMANAH**

Akaun Amanah terdiri daripada sumber kewangan yang diterima daripada United Nations Children's Fund (UNICEF) bagi perbelanjaan Konvensyen Hak Asasi Kanak-Kanak dan Penyeludupan kanak-kanak dan percetakan buku modul latihan.

9: **KURANGAN PADA TAHUN**

Lebihan belanjaan pada tahun semasa dibiayai oleh baki tunai tahun sebelumnya.

10: **MAKLUMAT KAKITANGAN**

Jumlah kakitangan SUHAKAM pada akhir tahun adalah 67 (2004: 63).

11: **INSTRUMEN KEWANGAN**

Objektif dan Polisi Pengurusan Risiko Kewangan

Polisi pengurusan risiko kewangan Suruhanjaya bertujuan memastikan sumber kewangan mencukupi untuk menjalankan operasi-operasinya dengan lancar.

(a) Risiko Mudah Tunai

Pihak Suruhanjaya mengamalkan pengurusan risiko mudah tunai yang hemat untuk meminimumkan ketidakpadanan aset dan liabiliti kewangan dan untuk mewujudkan tahap tunai dan bersamaan tunai yang mencukupi bagi memenuhi keperluan modal kerja.

(b) Nilai Saksama

Nilai dibawa tunai dan bersamaan tunai, pelbagai dan lain-lain belum terima, pelbagai dan lain-lain belum bayar menghampiri nilai saksama kerana sifat instrument kewangan yang jangka pendek.

APPENDIX VII

SUHAKAM'S COMMENTS ON THE GOVERNMENT' S RESPONSE TO SUHAKAM'S ANNUAL REPORT 2003

CHAPTER 1 : CHALLENGES

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
1.	Dealing with negative perceptions	SUHAKAM expressed its concern over the lack of positive response to its calls for law and policy reform contained in some reports of public interest, including those on Freedom of Assembly, the Kesas Highway Inquiry and	Ministry of Foreign Affairs (MFA) The MFA had informed SUHAKAM in the Government's Response to SUHAKAM's Annual Report 2002 that the Government is in the process of considering the ratification of human rights instruments as proposed by SUHAKAM.	The in-depth studies on the international human rights instruments carried out by the MFA are commended, and SUHAKAM offers its assistance in taking the matter to the next step in light of the urgency in resolving this matter.

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
		ratification of fundamental human rights treaties.	As every international instrument that Malaysia has ratified requires implementation of various administrative steps and legal procedures, in-depth studies on these international human rights instruments had been carried out at the *Jawatankuasa Penyelaras Mengenai Hak Asasi Manusia* level, chaired by the MFA. The MFA also stated that it had met with SUHAKAM on July 19, 2004 to discuss every human rights instrument proposed by SUHAKAM. This shows the Government's commitment in this	The meeting held on July 19, 2004, raised the following matters: the imposition of the death penalty and corporal punishment on a child; freedom of religion; right of self-determination; preventive detention laws; right to free and compulsory primary education; principle of non-refoulement; and the principle of non-discrimination. Feedback on certain issues is imminent. On other issues which relate to the rationale for not adopting certain human rights instruments, SUHAKAM is working on ways to adopt specific principles in those instruments.

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
			matter and should be duly acknowledged by SUHAKAM. As at Sept 21, 2004, the MFA had yet to receive any feedback from SUHAKAM on the outcome of the said	
2.	Institutionalising Human Rights	While one of SUHAKAM's functions, under Section 4(1) of the Human Rights Commission of Malaysia Act 1999, is to advise and assist the Government in formulating legislation and administrative directives, draft legislation	<u>Attorney-General's Chambers</u> In relation to SUHAKAM's observation that draft Bills were never referred to SUHAKAM for its views, the AG's Chambers informed that the drafting of Bills by the Drafting Division is based on the drafting directives received from relevant ministries, departments or agencies.	Although ministries are free to discuss with or gather views from any parties including SUHAKAM, most NGOs and SUHAKAM are not aware that new Bills are being drafted. As such, interested parties would not have the opportunity to express their views or comment on these Bills. As a result, new laws have been passed without any due

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
		has never been referred to SUHAKAM for advice. Nor has the Government responded to SUHAKAM's recommendations in 2000 that major Bills be referred to a Select Committee after the first reading, that these should not be stamped as official secret, but that these bills should be open to public debate and scrutiny before being referred to the legislative bodies.	The drafting directives will be studied to determine, among others, that it is consistent with the Federal Constitution and other laws as well as Malaysia's obligations at international level, and whether relevant parties have been consulted by those ministries, departments or agencies. These ministries, departments or agencies are free to discuss with or gather views from any relevant parties including SUHAKAM before the draft Bills are submitted to the AG's Chambers or at any time before the draft Bills are finalised	consideration by all the relevant parties, for instance the Penal Code (Amendment) Bill 2003. SUHAKAM notes the growing trend towards public debate on Bills, such as the establishment of a Select Committee for the Penal Code (Amendment) Bill 2004 and the Criminal Procedure Code (Amendment) Bill 2004. However, it is recommended that the legislation process be made more transparent and publicised. SUHAKAM reiterates its recommendation in the Annual Report 2001 that: 1.Procedures for the preliminary

NO.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
			by this AG's Chambers. According to the *Peraturan Tetap 54 Peraturan-Peraturan Tetap Majlis Mesyuarat Dewan Rakyat (Peraturan-Peraturan Tetap),* the draft Bill that is circulated for the first reading is a public document where the public may have access to it. The Selection Committee *(Jawatankuasa Pilihan)* is reviewing the *Rang Undang-Undang Kanun Keseksaan*	examination of issues in Bills should be adopted and published to ensure public exposure of issues, papers and consultation of major reforms; and 2.Increased reference of Bills to a select committee allowing for detailed examination of such legislation and the taking of evidence from the public. This would give the opportunity to the public, including SUHAKAM to give their views and present recommendations. The practice of opening for debate and public scrutiny before being referred to the legislative bodies,

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
			(Pindaan) 2004 and *Rang Undang-Undang Kanun Tatacara Jenayah (Pindaan)* 2004. Through this Selection Committee, every level of society is given the opportunity to take part actively in providing views, proposals and recommendations on the Bills. On the recommendation that the Bills should be opened for debate and public scrutiny before being referred to the legislative bodies, it is said that this involves policy matters which is not within the job scope of the AG's Chambers.	does not depend on the job scope of the AG's Chambers. This recommendation can be adopted by the Government as a matter of policy.

No.	Topic (Issues)	SUHAKAM's Observations/ Recommendations	Government's Response	SUHAKAM's Comments
		SUHAKAM feels that there is a need to conduct a study with regard to the issue of migrants and in particular, refugees. There is also a need for a co-ordinated response from the relevant agencies such as the Home Ministry, the Women, Family and Community Development Ministry, the Police, Immigration Department and the UNHCR. SUHAKAM understands the Government's concern over the presence of 'economic	The Government's response to this issue took the form of individual responses of the various ministries especially pertaining to human trafficking and the primary victims, women. The Women, Family and Community Development Ministry stated that it has met with other relevant ministries and agencies to tackle this issue, including the Home Ministry, Internal Security Ministry, Ministry of Foreign Affairs, Immigration Department and the Royal Malaysia Police to study the issue of women in the flesh trade including women who	The Commission has conducted three inter-agency dialogues, in 2002, 2003 and 2004 respectively, to discuss the issue of migrants, especially of asylum seekers experiencing difficulties due to not having proper (valid) identification and inability to find legitimate work without undergoing harassment from the authorities.

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		migrants' among genuine asylum seekers in the country. SUHAKAM suggests that the various agencies come up with a clear-cut policy, guidelines and procedures to quel discontentment directed towards these migrants.	are victims of trafficking. The Home Ministry and the Internal Security Ministry remarked that both the Police and the Immigration Department are increasing efforts to curb human trafficking, especially of women.	

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CHAPTER 2 : THE STATE OF HUMAN RIGHTS

3.	Freedom of Assembly	SUHAKAM remains concerned that civil society groups continue to face difficulties in exercising their right to assemble peacefully on issues of urgent and public importance, in particular the initial refusal of the Police to grant AWAM, a permit to hold a gathering of citizens in Bangsar and subsequently at Mid-Valley Megamall, to address the issue	Ministry of Internal Security AWAM had submitted an application to organise an assembly in front of the Chillis Restaurant, Bangsar Shopping Centre, Jalan Maarof, Bangsar, Kuala Lumpur. After being referred to the Special Branch, Bukit Aman District Police Headquarters, KPD Brickfields was advised to reject the application for security reasons and for maintaining public order after due investigation by the police on the surroundings of the assembly area.	SUHAKAM reiterates its recommendation that application procedures for police permits should be made easier, with full co-operation on the part of the Police in issuing such permits. Article 10(1)(b) of the Federal Constitution guarantees the right to assemble peaceably and without arms. It should be noted that not all assemblies are unlawful. Section 141 of the Penal Code clearly states that an assembly is unlawful only if it falls within one of the five objectives,

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		of rape and violence against women.	Nevertheless, KPD Brickfields had advised AWAM to hold the assembly in private place. Reasons given were that: i.The venue for the assembly was not suitable as it was a public place which could cause traffic congestion and disturbance to public order; and ii.There was the probability that the assembly could not be controlled by the organiser and would cause trouble to all shop owners at the Bangsar Shopping Center.	i.e. to overawe the Government by criminal force, to resist the execution of law or legal process, to commit an offence, forcible possession or dispossession or to compel any person to do an illegal act. Therefore, it should be a general rule for the police to approve permits to hold static and peaceful assemblies. Civil society should be allowed to continue exercising their right to assemble peacefully. -SUHAKAM has also received complaints of the excessive use of force and unprofessional police conduct in dispersal of peaceful assembly in past assemblies and

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			AWAM agreed to the suggestion only if the KPD Brickfields could attend the assembly, which was then rejected by the KPD Brickfields. In the absence of police permit, AWAM proceeded to continue with the assembly on July 20, 2003 at about 2pm. At least 20 members were present at the assembly, wearing white t-shirts with the words 'citizens against rape', and gathering at the pavement in front of the restaurant. They also brought along a banner measuring 20' x 30' with the words *"warga*	particularly at the assembly at Bukit Aman on Feb 28, 2004. During the said assembly, orders to disperse, though given three times, were at four-seconds intervals, with the use of water cannon laced with chemical irritants, 60 seconds from the time of the first order to disperse. SUHAKAM reiterates its recommendations on procedure and appropriate police action in its Report on Freedom of Assembly.

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			anti rogol, ke arah komuniti tanpa keganasan". At 3pm, KPD Brickfields ordered them to disperse and to bring down the banner immediately as the assembly was being held illegally. The crowd dispersed at about 3.05pm. The Police in this case, had exercised discretion by allowing them to hold the assembly for at least one hour before they were ordered to disperse.	

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			Apart from this, another assembly which was supposed to be held by the same organiser at Mid-Valley Megamall, was also cancelled as the organiser failed to obtain permission and permit from the management authority and the police.	
4.	Accessibility to Basic Needs	Based on the Mid-Term Review of the Eighth Malaysia Plan, SUHAKAM notes that the hardcore poverty rate among households of vulnerable groups such as the elderly, single mothers and Orang Asli, is higher.	Economic Planning Unit: In line with the aim to create a caring society, poverty eradication programmes are given priority by the Government through the relevant ministries such as the Ministry for Women, Family and Community Development and the Ministry of Rural and Regional Development.	SUHAKAM's report on Poverty Eradication recommended the following: 1.That the Government ratifies the International Convenant on Economic, Social and Cultural Rights (ICESCR) to ensure obligations towards and

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		For example in 2002, hardcore poverty among households headed by the elderly was at 4.9% while that for female-headed households was at 9.4%. The incidence of hardcore poverty among the Orang Asli was registered at 15.4% in 1999.	In the period of the Third Long-Term Plan and the Eighth Malaysia Plan, execution of the poverty eradication programmes are oriented to specific target groups particularly to eradicate poverty among the poor and hardcore poverty groups in the rural areas and groups that have not received any benefits from the country's development. Among them are the Orang Asli and minority Bumiputera in Sabah and Sarawak, single mothers, the elderly, and persons with disabilities. The Government aims to eradicate poverty within the next five yearsIn poverty eradication strategies at the state level,	entitlements of the poor are fulfilled. 2.That the definition of poverty and Poverty Line Income (PLI) considers the human rights aspects which significantly affect poverty. 3.That the implementation of poverty mapping be expedited. 4.That the implementation of policies and programmes be closely monitored. 5.That the Economic Planning Unit considers SUHAKAM's recommendations to be incorporated in the Ninth Malaysia Plan.

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			State governments are also involved in executing the *Skim Pembangunan Kesejahteraan Rakyat (SPKR)* which emphasises programmes to eradicate poverty among the vulnerable groups mentioned by SUHAKAM. Poverty rates in all States were reduced in 2002. The Government takes note of the higher poverty rate among the vulnerable groups mentioned. Thus, programmes to eradicate poverty have been geared towards solving this problem. In the Eighth Mid-Term Review, the Government increased its allocation for the Department of Orang Asli Affairs (JHEOA) from RM160 million to	6.That the implementation of the Amanah Ikhtiar Malaysia programme be expanded in order to benefit all relevant groups in society. 7.That issues in relation to poverty be mainstreamed in order to educate the public on their entitlements and duties. 8.That agencies responsible for the implementation of policies and programmes are transparents.

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			RM257.5 million which encompasses three main programmes - social, economy, and stratified settlement *(penempatan tersusun)*. The allocation for economic development geared towards efforts to eradicate poverty has been increased from RM33.6 million to RM70.8 million. Among the main projects are land development, livestock and entrepreneurship among the Orang Asli community.	

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5.	Detention without charge/trial	Complaints received from ISA detainees include allegations of unreasonable threats by the officers as follows: i. disallowing detainees to perform suitable exercise and recreational activities; ii. delay in providing specialist treatment; iii. unreasonable restrictions by the authorities with regard to access to lawyers; iv. withholding of bank books and ATM cards by the Police	<u>Internal Security Ministry</u> The Ministry maintained that no threat or restriction is imposed on the detainees. The treatment of ISA detainees by the Taiping Detention Centre *(Tempat Tahanan Perlindungan Taiping) is based on the Peraturan ISA (Orang Tahanan)* 1960 which sets out the management procedures, rules and discipline for the control and security interest as well as rehabilitation of detainees. <u>Recreational facilities/activities</u> Recreational activities are provided to all detainees.	<u>Recreational facilities/activities</u> The positive measures taken by the Ministry from time to time to improve the recreational facilities for

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		thereby causing financial hardship for the detainee's family; v. denying visits by family members; vi. a lengthy wait for family members; and vii. expensive food at the canteen. Although detainees are allowed to eat with their family members, only food bought at the canteen is permitted.	Furthermore, Taiping Detention Center's has a daily schedule of activities for detainees that includes recreational activities. However, the detention centre is unable to provide recreational facilities suited to every individual's needs. Thus, the detention centre has from time to time improved recreational facilities. <u>Right to medical treatment</u> Detainees are allowed to receive medical treatment including specialist treatment. Immediate attention would be given to those detainees who are in need of medical treatment.	detainees is commended. However, SUHAKAM's recommendation was that appropriate recreational facilities be provided for detainees, not for recreational activities to be catered to individual needs of detainees. <u>Right to medical treatment</u> As for the practice that detainees would only be referred to a specialist on recommendation by a medical officer or the hospital, SUHAKAM urges greater flexibility. Detainees should be allowed to

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			Detainees would first be treated by a medical officer. Only if the detainee requires further treatment or in the absence of a medical officer or in an emergency, is he referred to the hospital. This is a well established procedure, based on an order issued by the Prison Department. A detainee would only be referred to a specialist upon the reference of the examining doctor/hospital and not the detention centre. The detention centre cannot refer a detainee for treatment by a specialist without recommendation from the hospital.	consult or to have access to his personal or family doctor/specialist. In any event, the detainees' allegations were about the delay in receiving specialist treatment. In addition, SUHAKAM notes with concern of allegations that detainees involved in the December 2004 incident in Kamunting were denied immediate medical assistance. Detainees alleged that they only received medical treatment for their injuries which included a bleeding eye, bruises and a broken rib, only three days after the incident. Copies of medical report were not made available thereafter.

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			The health of detainees is always prioritized. All new detainees would be given a medical check-up to ascertain his health status, to ensure the health of all detainees. <u>Right to consult a lawyer</u> The procedures with regard to the right to consult a lawyer is governed by the *Peraturan ISA (Orang-orang Tahanan) 1960*. The rules provide that security checks have to be carried out on detainees and visitors, including *KEMTA personnel.* As such, examination on lawyers is not intended to restrict meetings	<u>Right to consult a lawyer</u> With regard to the right of detainees to consult their lawyers, the response did not address the complaint of detainees. Furthermore, complaints continue to be received of officers being rude and making derogatory comments.

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			between lawyers and detainees. Rather it is carried out pursuant to safeguard the security of the detention centre, lawyers and the detainees themselves. Such meetings could be carried out even after the lawyers and detainees are examined. The examination was conducted as required by the rules to ensure the safety of the detention center, lawyers and the detainees themselves. In addition, any visit by a lawyer must be preceded by written request, stipulating the date and time thereof. This is to ensure	In addition, while restrictions are appropriate to ensure the safety of the detention centre and the detainees, the complaint is the manner in which the inspection is carried out and the unreasonable restrictions imposed on lawyers and family members. Wives of detainees have complained to SUHAKAM that the frisking carried out by officers was derogatory and humiliating. As such, it is reminded that there is a need to respect the dignity and integrity of all persons. In addition, the allegations that the KEMTA authorities take their time to process lawyers' visits cannot be

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			that the detainee would be in KEMTA at the requisite time, and not at other approved venues outside of KEMTA (such as hospital, court, or visiting family). Prior appointments would also ensure smooth co-ordination between the lawyers and detainees. <u>Allegation that the Police withhold bank books and ATM cards of detainees</u> Once a detainee informs the said Ministry of their bank books	dismissed entirely as these are still subjective complaints and are just as difficult to disprove. Adequate time and facilities for consultation with lawyers should be provided to all detainees, who should also be entitled to as many visits as their lawyers consider necessary for the preparation of their defence or appeal and without any unreasonable restrictions. This is part of the right to a fair trial. <u>ATM cards and bank books</u> -While it is encouraging that the Ministry has assured that the matter would be tackled, complaints that

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			and ATM cards, the said Ministry has assured that they would write to the Police to ensure that bank books and the ATM cards are returned to the detainee.	ATM cards and bank books are not returned to detainees, continue to be received. If KEMTA has been instructed to write to the Police to hand back the passbooks and ATM cards to the detainees (to be handed to their families), SUHAKAM would appreciate confirmation that this has been effected.
			<u>Visits by family members</u> The *Peraturan ISA (Orang-orang Tahanan) 1960* states that family members are allowed to meet the detainee once a week for a period of 30 minutes at each meeting. However, after due	<u>Visits by family members</u> Monitoring is needed to ensure there is no gap between decisions of the Ministry and action, as many decisions are dependent on the duty officer for the shift or day when the families come to visit the detainees.

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			consideration, the period was extended to 45 minutes. In certain cases, extension of time or additional visits outside of the established schedule would be considered, provided an application is made, stating reasons thereof. -Visits by family members are particularly frequent during weekends or public holidays. As such, the limited visitor-rooms are unable to support the surge of visits during these times. This also results in a long waiting period. Efforts will be	On the issue of lengthy waiting period, SUHAKAM urges the Ministry to improve facilities soonest, to avoid overcrowding and a long waiting period. SUHAKAM is deeply concerned that wire mesh and fiberglass partitions separating the detainee and his/her family members have been reintroduced in 2005. SUHAKAM reiterates the recommendation (in its 'Report of the Public Inquiry into the Conditions of Detention under the ISA' and 'Report on the Review of the ISA') that detainees should not be physically separated from their

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			made to improve the facilities.	families with a wire mesh barrier. Wire mesh barriers are not essential for the maintenance of the proper discipline of the place of detention as required by Rule 81 of the Internal Security Act (Detained Persons) Rules 1960. <u>Physical abuse and ill-treatment of ISA detainees</u> SUHAKAM views with concern the allegations of physical abuse and ill-treatment of ISA detainees during the December 2004 incident in Kamunting. Detainees alleged that they were punched, hit with batons, kicked, spat on, verbally abused

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				and stripped naked. SUHAKAM reiterates the recommendations in its 'Report of the Public Inquiry into the Conditions of Detention under the ISA' and 'Report on the Review of the ISA' that authorities should strictly conform with the prohibition against torture, cruel or inhuman or degrading treatment or punishment and to respect the inherent dignity, worth and value of detainees at all times. <u>Expensive canteen food</u> We still await a response on the suggestion of allowing home-cooked meals for the prisoners and on the issue of expensive canteen food.

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6.	Police inaction	In 2003, SUHAKAM received a surge of complaints with regard to police inaction and the slow pace of investigations. SUHAKAM is of the view that crimes such as murder, rape and theft infringe upon a person's right to life and personal security as enshrined in Article 5 of the Federal Constitution and Article 3 of the UDHR. Therefore, allegations of Police inaction are viewed with great concern.	<u>Internal Security Ministry</u> i. The Police assured that the following actions are taken/will be taken: • A suspect would only be remanded if the investigation is not complete and only if necessary. Greater effort will be made to co-ordinate the investigation process in cases where a suspect is also involved in cases in other States/districts, to ensure that a suspect will not be remanded for an extensive period. However, a suspect may be remanded in another State/district Police to facilitate ID parade.	SUHAKAM welcomes and supports the directives issued by the Police to address the problem of Police inaction. SUHAKAM had suggested that the cases of delay reported by it be brought to the immediate attention of the Police higher management at regular intervals (quarterly basis) to ensure that such cases are given due attention at the district, state and national-levels. Again, it is urged that the Police give prompt attention to all reports lodged and duly respond when the public inquire about their cases.

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			• Arrested persons would be informed of the grounds of arrest and would be allowed to meet his lawyer/family provided it does not interfere with Police investigations; • Police officers have been ordered to take immediate action on all police reports lodged and to improve the quality of service to the public; and • Feedback on the "delivery system" is being developed, including follow-up action to improve its weaknesses.	While the Police have given assurance that arrested persons would be allowed to consult his/her lawyer, the Police qualified this right as being subject to their discretion and that it does not interfere with police investigations. The Police must note that the right to consult a lawyer is guaranteed in Article 5(3) of the Federal Constitution. The right to counsel and to receive legal advice on all matters relating to the detention should be afforded to the arrested person immediately upon arrest. SUHAKAM reiterates its recommendation that the CPC be amended to clearly provide that the right to legal counsel is an unfettered

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			Orders have been issued from time to time, providing a clear guideline to all Police officers on ways to best serve society. PDRM does not tolerate any abuse of power. This is evident by the increasing number of officers being arrested and charged in court for various criminal offences. ii. PDRM is aware of complaints made by the public. The Police will take immediate action on complaints lodged by the public.	right and exercisable immediately upon arrest. (See SUHAKAM 'Report on Right of Remand Prisoners', 'Report on the Forum on the Right to an Expeditious and Fair Trial' and 'Submission on the Penal Code (Amendment) Bill 2004 and Criminal Procedure Code (Amendment) Bill 2004)'. SUHAKAM notes the findings of the Royal Commission Report[1] that many of the complainants were not informed of the action taken by the Police. This created the impression that the Police had not taken any follow-up action.

[1]Report of Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police

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			To ensure quality service, PDRM continuously strives to increase the knowledge and efficiency of its officers, in all aspects - investigation, prosecution and prevention of crime particularly in criminal cases such as murder, rape and theft. All District Heads of Crime Investigation Division *(Ketua Bahagian Siasatan Jenayah Daerah)* are required to give priority to the quality of investigations and arrest/prosecution of suspects and also to increase the rate of settlement of cases.	Where reports are not followed up promptly, there is the risk of disappearance of important evidence as well as suspects, thus adversely affect investigations and prosecutions.[2] SUHAKAM further supports the recommendation to enact a new section 107A in the CPC. The proposed section 107A obligates the officer in charge of a police station to give a status report on the investigation of the offence to the compliainant not later than two (2) weeks after the receipt of a request from the complainant.

[2]Report of Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police, pages 37&38

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			The Police have also introduced the use of scientific aids/tools, through its Forensic Lab in Cheras, Kuala Lumpur, to facilitate investigations. In addition Officers in Charge of Police District (OCPDs) have been ordered to ensure that all police stations under their control receive all police reports from public. Any Police officer who refuses to receive a police report would be subject to disciplinary action that could amount to expulsion.	A Police officer who fails to do so would be committing an offence.[3]

[3] Report of Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police, page 38

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			According to statistics, 565 murder cases were reported in 2003 as compared to 516 in 2002. This shows an increase of 49 cases or 9.5%. Of the 565 cases, 347 cases have been solved, or 61.42% with 808 arrests. This shows the increased efforts and commitment on part of the Police in solving more than 50% of murder cases throughout the year. With regard to rape cases, 1,471 cases were reported in 2003 as compared to 1,418 cases in 2002.	

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			This shows an increase of 33 cases or 3.74%. Of that number, 1,309 cases were settled in 2003, or 88.99%, with the arrest of 1,127 persons. This also shows that the Police have successfully settled more than 80% of rape cases. For theft, there were 27,638 reported cases compared to 28,043 cases in 2002. This shows a decrease of 405 cases or 1.44%. Of these, 1,409 cases have been settled, or 50.98%, with 9,615 arrests. This also shows that Police have managed to reduce the rate of theft cases for the year 2002-2003 by more than 50%.	

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			PDRM encourages the public to assist by providing as much information as possible to curb crime. With regard to SUHAKAM's recommendations that a complainant should be informed of the result of police investigation, a specific order was issued in 2002 directing all investigation officers to inform the result of investigation. In addition, orders have been issued that any Police officer who receives a public report must efficiently respond to that report.	

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7.	Continuous remand orders	SUHAKAM is concerned with the frequency of the Police applying for continuous remand orders. Remand is more often than not extended upon Police application, as Courts do not evaluate the remand applications. SUHAKAM recommended that Magistrates: • Determine when the accused was arrested, whether he has been moved from one place to another and how long has the arrested person been remanded;	<u>Office of the Chief Registrar of the Federal Court</u> As regards lengthy remand period, where in some cases remand period is 2-5 years due to the high amount of bail, Judges and Magistrates would give due consideration in an appeal to reduce the amount of bail. It is submitted that amount of bail depends on the seriousness of the offence, the submission of the parties, the facts and circumstances surrounding the case. In addition, Judges and Magistrates would give due consideration in an appeal to reduce the amount of bail.	<u>Lengthy remand period</u> At the recent SUHAKAM Forum on the Right to an Expeditious and Fair Trial in April 2005, complaints with regard to lengthy remand were highlighted. An arrested person may be in remand for a period of 2-5 years. While the Ministry reports only 148 cases of lengthy remand, the problem of extensive periods of remand remain a pressing problem despite two Practice Directions by the Chief Justice on the issue. SUHAKAM reiterates its recommendation that in general, if the police are unable to complete investigations within 24 hours of arrest and if the provision of section

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		• Look into the welfare of persons in remand as a safeguard against any form of abuse; • Scrutinise the remand application. A remand order should only be given provided that the Magistrate is satisfied that there are enough reasons to justify the extension of remand and not grant an extension merely upon the application of Investigating Officers;	Regarding the recommendation to prioritise remand cases by the courts, the Chief Justice had issued a Practice Direction 2/2004 directing all Judges and Magistrates to prioritise remand cases. Magistrates throughout the country are already putting into practice SUHAKAM's recommendations. Further, Practice Direction 3/2003 issued by the Chief Justice to all Magistrates setting out steps and the proper procedure in a remand hearing, including the procedure for the police in	117 of the CPC is not invoked, police bail pursuant to sections 387(1) and 388(1) of the CPC be employed for persons accused of or charged with a bailable or non-bailable offence, as the case may be, and provided that he is prepared to furnish bail. In addition, SUHAKAM urges the relevant authorities to introduce a provision in the law setting a custody time limit for accused persons. (See SUHAKAM's 'Report on the Forum on the Right to an Expeditious and Fair Trial').

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		• The Police should only apply to extend a remandorder only if investigations cannot be completed. Article 5(3) of the Federal Constitution states that an arrested person must be given reasons for his arrest and to be allowed consultation with a lawyer of this choice.	applying for remand, requiring Magistrates to inquire into the length of remand of the arrested person, his background, his right to consult a lawyer and reasons a remand order is granted. In summary, SUHAKAM's recommendations are being implemented. <u>Ministry of Internal Security</u> According to statistics as at Sept 30 2004, only 148 of 11,355 persons were remanded for more than 3 years. Based on information from the Prison Department, this usually involves serious offences under the	<u>Continuous remand orders</u> Remand orders should only be sought for the purpose of enabling the Police to complete investigations and provided that investigations are conducted diligently. Further, the practice of consecutive remand orders is misconstrued and should be stopped. Section 117 of the CPC states that "...the Magistrate may authorise the detention of the accused...for a term not exceeding 15 days in the whole..." indicating that a person should not be detained for more than 15 days in totality. (See SUHAKAM's 'Report on the Rights of Remand Prisoners'

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		SUHAKAM further recommended that the Lock-up Rules 1953 be amended to reflect these recommendations.	Dangerous Drugs Act, Penal Code and Firearms Act. In this regard, the Prison Department has taken measures to expedite hearing of remand cases by: i. providing on a monthly basis, statistics to the AG"s Chambers with regard to the number of persons remanded; ii. assisting detainees by submitting a list of detainees who require legal representation from the Legal Aid Bureau; and iii. holding meetings between the Judiciary, AG's Chambers, to address the problem of lengthy remand.	and SUHAKAM's Memorandum to the Royal Commission on the Police Force).

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			With regard to the bail amount, the courts could introduce a more flexible bail amount. The power to allow remand exceeding 24 hours is up to the Magistrates in accordance with Section 117 of the Penal Code, which details the procedures if investigations could not be completed within 24 hours. The Police are given the power to remand any persons suspected of any crime for more than 24 hours by applying for remand order from the Magistrate. Under Section 117 of the Penal Code, the Magistrate can grant remand for a period not more than 15 days.	

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			When making applications, the Police will submit reasons for applying to remand a person for more than 24 hours. The Police require more time to complete investigation of serious cases. Detainees are released on bail as soon as investigation has been completed.	
8.	Deaths in police custody	SUHAKAM is concerned over the high incidence of deaths in police custody. From complaints and reports received from family members of the deceased or NGOs, it	<u>Ministry of Internal Security</u> In 2002 and 2003, a total of 38 cases of death while in police custody were reported: Illness - 29 cases; Suicide - 4 cases; Altercations - 2 cases; and Attempting to escape - 3 cases.	From the complaints lodged with SUHAKAM, it is observed that victims of death in police custody are generally young men. Their deaths have been viewed with doubt and suspicion as family members generally maintain that the deceased persons were

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		was alleged that deaths may be due to excessive use of force by the police.	From the above, the Ministry maintained that no deaths were caused by the Police.	in good health prior to or at the time of detention. SUHAKAM urges the Ministry to cause the Police to conduct a thorough investigation into every case of death while in custody and inform the Ministry of the details and results of the investigation. SUHAKAM further recommends that training of Police officers at every level and seniority be conducted, to ensure that there is a better understanding among Police officers of their legal powers and limitations, the respect of human rights and to treat accused persons and/or detainees with utmost dignity and respect. (See SUHAKAM's Memorandum to the

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				Royal Commission on the Police Force). In addition, SUHAKAM recommends an amendment be made to the CPC to make it mandatory for Magistrates to hold an inquiry into the cause of death unless a person has been charged for an offence in respect of the death. (See SUHAKAM's Memorandum to the Royal Commission on the Police Force).

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9.	Delay in disposal of civil and criminal cases	SUHAKAM's recommendations include: i. To adopt more pro active strategies to reduce undue delay, including the use of information technolcgy; ii. To reform the regulations, particularly to encourage alternative dispute resolution; iii. Trials should not be postponed unless there are good and cogent reasons;	<u>Office of the Registrar of the Supreme Court</u> Several factors contributed to the issue of delay in disposal of civil and criminal cases, including pending completion of investigation, or the defendants' counsel had cases at other courts which are older, witness unable to attend for health reasons, priority given to cases involving Government officials, pending approval from the deputy public prosecutor *(timbalan pendakwa raya)*, magistrates being transferred, on leave or attending courses, translators unable to attend for health reasons and	SUHAKAM organised a Forum on the Right to an Expeditious and Fair Trial, in April 2005. A report with 60 recommendations was released in June 2005. The recommendations sought to reduce undue delay in the disposal of both civil and criminal cases and it is hoped that the relevant authorities would implement these recommendations. (See SUHAKAM's 'Report on the Forum on the Right to an Expeditious and Fair Trial').

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			unavailabity of foreign translators. Steps that have been taken to alleviate the problem of undue delay: Practice Direction 1/2004 provides it is the Court's discretion whether to grant a postponement or otherwise; The Courts are in the process of adopting 'e-mahkamah' where computers are used during the trial process and taping of witnesses' statements; Cases should only be postponed on valid reasons;	

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			Practice Direction 1/2003 provides that Judges and Magistrates must give decisions within 4 weeks and grounds of judgment within 8 weeks thereafter. <u>Attorney General's Chambers</u> There are many factors that cause delay. There must be holistic actions by all parties to improve the situation.	
10.	Freedom of the Press	Issues with regard to freedom of the press include the raid of *Malaysiakini*'s office, the ranking of Malaysia at	<u>Ministry of Internal Security</u> Pursuant to the Printing Presses and Publications Act 1984, the Ministry is only responsible for monitoring the printing and publishing. The Ministry does	It is not SUHAKAM's recommendation for absolute freedom of the press. SUHAKAM recognises that there are responsibilities with every freedom. Article 19(2) of the International

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		110 by *Reporters sans Frontieres* and the establishment of a Media Council. SUHAKAM had offered to hold consultations with journalists, newspapers, editors and the public with regard to the establishment of a Media Council.	not have the power to control or determine foreign media. The foreign media is free to determine the press freedom index of Malaysia. Nevertheless, the Ministry continues to monitor the development the publishing industry to ensure conformity with the Printing Presses and Publication Act 1984. <u>Ministry of Information</u> The Government does not curb freedom of the press in Malaysia and encourages journalists to establish a Media Council. The Government acknowledged that journalists and editors take responsibility for their publication to ensure that it does not	Covenant on Civil and Political Rights acknowledges that the right to freedom of expression carries with it "special duties and responsibilities....and may be subject to certain restrictions..." SUHAKAM is currently conducting a study on freedom of expression. A report will be published soonest.

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			jeopardise national unity and the safety of the nation. The responsibility to ensure unity, peace and national security is a collective responsibility, the media and the Government included. In the context cf press freedom, the public is provided with diverse views, critics and comments by political parties through their own publication, for example, *Harakah* and *Rocket*, which are freely printed and distributed. Furthermore, social and political activists are free to voice their opinion, views and criticisms through media such as, *Aliran* and *Malaysiakini*.	

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			Freedom of the press is a relative concept and is allowed as long as it does not jeopardise the safety of the nation. There is no one country that allows absolute freedom.	

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CHAPTER 3 : ISSUES IN FOCUS

11.	Accessibility to Basic Needs	(a) The Right to Healthcare: i. Affordable medical care for all	<u>Ministry of Health</u> The Government is studying the various elements in setting up the best national health fund to be implemented to ensure fairness and equality in providing healthcare. The matter is also under the jurisdiction of the Economic Planning Unit. The Ministry of Health and the Economic Planning Unit encourages views from parties involved in the matter.	While SUHAKAM appreciates the efforts of, and measures taken by. the various Ministries in ensuring that basic needs are made accessible to the various sectors of the population, the human rights aspects should be considered and not neglected. For example, in eradicating poverty, we should not merely look at the aggregates, but whether measures taken have reached the marginalised groups as well.

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			Even though the Government admits that there is no perfect mechanism in healthcare funding, the Government is selective and cautious in using any scheme. Implementation of the new healthcare funding mechanism will be carried out in stages, to ensure that it is introduced properly. Introducing the national healthcare funding mechanism will benefit all parties involved in healthcare, including healthcare providers, the Government, and consumers and users themselves. It will reduce inequality by improving public accessibility to healthcare	There should be poverty mapping to identify the poor and eradicate poverty, be it relative or absolute, as soon as possible. Basic facilities and amenities in less developed rural and remote areas need to be improved to enhance the opportunity of poverty affected groups to improve their livelihood, to reduce social exclusion and to reduce spatial inequalities. High priority should be given to identifying vulnerable groups and individuals who are deprived of their basic rights to an adequate standard of living, including the right to health, education, safe and

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			services, including services by the private sector.	clean water sources and a safe environment.
		ii. Control the spread of water-borne diseases among indigenous peoples	Ministry of Health As part of its programme for a clean and healthy environment, efforts have been made to ensure availability of water supply particularly in rural areas. A total of 239 projects were implemented under the Alternative Rural Water Supply System *(Sistem Bekalan Air Alternatif Luar Bandar, BALM)* to meet the increasing need for water supply in rural areas. RM12 million was spent under BALM, including construction of 141 gravity flow, 140 tube wells	Emerging trends should be considered in the development of country-specific poverty reduction strategies and should reflect equal benefit for both genders. The 9th Malaysia Plan should present disaggregated data necessary for poverty and inequality to better identify the most vulnerable.

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			(lubang telaga) and 12 water catchment projects. Attention is given to underground water as a source of alternative supply of surface water. Alternative programmes for water supply to the rural areas will be increased, emphasising affordable water supply, small-scale and community-driven including water catchments, developing groundwater supply and shallow water cleaning technology *(teknologi pembersihan air cetek).* Clean and safe water has been supplied to 94.1% of houses while 98.5% are equipped with	As a follow-up of the recommendations in SUHAKAM's 'Report on Accessibility To Basic Needs', ECOSOC held a Forum on Right To Health: Achieving Health MDGs. The following recommendations are made: 1. That the Health Ministry considers revising the current health system to ensure quality heath care services are delivered to all sectors of the society; 2. That a new Health Financing Scheme be introduced to improve the current Funding System;

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			bathrooms. The National Research on Ground Water Resources *(Kajian Sumber Air Tanah Kebangsaan)* will be continued. Emphasis is given to promoting health and prevention of diseases through sectorial relationship between health and other sectors in society. In rural areas, the Government has carried out programmes aimed at improving the socio-economy status of the people, including Orang Asli communities.	3. That policies and programmes which provide improved health care for poor and older persons are formulated and implemented; 4. That the poor are excluded from user charges for health services. 5. That reproductive health targets be set to improve maternal health; 6. That sex education in schools be intensified to prevent health problems; and 7. That country-specific MDG-plus targets relating to mental health, heart disease and cancer be set and monitored.
		iii. Healthcare needs of an ageing population	<u>Ministry of Health</u> The Institute of Gerontology, Universiti Putra Malaysia, together with the Ministry of	

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			Health and other universities, is conducting a research on 'Quality of Life of the Older Persons'. The research is divided into several sub-topics: • Economic and Financial Aspects of the Older Persons; • Older Persons' Quality of Life in terms of Health; • Psychosocial Relationship and Inter-Gereration Of Older Persons; • Friendly Housing Environments for Older Persons; and • Consumerism among Older Persons in Malaysia.	

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			The research is conducted under the IRPA project and is expected to be completed in 2005. In 2004, LPPKN conducted the Fourth Malaysian Family and Population Research *(Kajian Penduduk dan Keluarga Malaysia ke Empat)*. It covers several aspects affecting older persons such as family relationships, level of health, use of healthcare facilities and the economic status of the older persons.	

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			UKM (under its Dietetics Unit) is conducting 'A Community-based Intervention Study of Promotion of Healthy Ageing: Identification, Prevention and Management of Malnutrition among Elderly Rural Malays. This project is also under IRPA, with the aim of drafting a 'National Intervention Package For Healthy Ageing' upon completion. Acknowledging that the structure of the Malaysian population will show an increase in the composition of the older persons from 4.7% (1.3 million) in 2010 to 6.2% (2 million) in 2020, the Ministry of Health has expanded its Family Health Services since the Seventh	

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			Malaysia Plan to include healthcare for older persons. Currently, 513 clinics throughout the country are able to offer healthcare services for older persons.	
		iv. Medical facilities in estate hospitals and clinics	<u>Ministry of Health</u> Basic healthcare services for estate settlers are offered by estate clinics under the jurisdiction of the estate management, as enshrined in the *Akta Tahap Minima Pekerja untuk Kemudahan dan Perumahan 1990 (Akta 446).* However, the Ministry is aware of the health problems of estate settlers and is making efforts to	

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			ensure that equitable healthcare services are provided. Such services include prevention, medication and rehabilitation care. The services are provided by hospital assistants, selected doctors or a Temporary Medical Officer. The Ministry also offers healthcare services to estate settlers through nearby Government facilities such as health clinics, Maternal and Infant Care clinics and mobile Out-Patient Clinics. The health clinics also handle cases referred by the estate clinics. To improve the quality of health services at estate clinics, the Ministry has set Guidelines on the Minimum	

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			Standards for Estate Clinics *(Garispanduan bagi Tahap Minima untuk Klinik-klinik Estet)* and also provides financial assistance for purchase of medicines and medical equipment and training of assistants at the estate clinics. The Ministry conducts monitoring activities and visits to the estates from time to time to gather relevant data and to review the health standards of the estate settlers.	
		v. Educate women on health issues	<u>Ministry of Health</u> Programmes conducted for women include:	

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			• Cervical cancer screening (Pap Smear) The service is offered to women aged between 20 and 65 years. It is provided free of charge at all Government health clinics. The examination is also conducted by other agencies such as LPPKN, Hospital Universiti, non-governmental organisations and private clinics/hospitals. • Breast cancer screening This service is provided to women of all ages, from	

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			teenagers to older persons. Promotion of self-examination or PSP is carried out at all health clinics, with trained health officers teaching women how to carry out a PSP as well as providing health education on breast cancer. • HIV/AIDS/STI screening for pregnant mothers The screening is aimed at preventing the vertical transmission of HIV from mother to the unborn child. All mothers confirmed positive and the unborn child will receive appropriate treatment.	

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			• Family planning services This service is provided at all healthcare facilities throughout Malaysia. Among the activities conducted are recruiting new receivers, physical examination, health education and counseling, supply of contraceptives, Pap Smear screening, breast screening and pregnancy testing. • Antenatal care, during and after child delivery This aims to provide quality care for pregnant mothers. This is to ensure optimum standards for	

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			the mother's health and that a healthy child is born in a safe environment. • One-stop crisis centre at all Government hospitals This service is provided as a one-stop centre to address cases of rape and abuse and is client-centred. This service is available at all major hospitals throughout Malaysia.	

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			Apart from these, dietary education has long been carried out to promote community health. Information on activities is channeled through the healthcare system as well as through other agencies and the mass media. Four approaches used in dietary education are activities at maternity and child clinics; healthy diet programmes in rural areas, which involve the local community; establishing support groups among mothers in promoting breastfeeding; and the Baby-friendly Hospitals Initiative *(Inisiatif Hospital Mesra Bayi)* programmes.	

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			The healthy diet education programme, through mother and child health, aims to prevent malnutrition among specific groups, such as women who are pregnant and breastfeeding, children and babies. Under the family health programme, the healthy diet education is expanded to various age groups including youth and older persons. In the rural areas of Sarawak, community-based volunteer health programmes known as '*Program Wakil Kesihatan Kampung*' were introduced in the 1990s. Village representatives	

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			are trained on the basics of healthy diets to enable them to advise villagers on dietary care for children and mothers. Various educational aids and modules have been drafted to support healthy diet education and training activities. In addition, two recipe books on a healthy diet have been published. The Physical Well-Being Programme, where nutrition is the main aspect, is aimed at achieving ideal body weight for working women.	

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		vi. Raise public awareness on health issues	Ministry of Health: Since 1984, the Pharmaceutical Division of the Ministry has conducted a registration programme whereby all pharmaceutical products including traditional medicines are evaluated fcr safety, quality and efficacy. A registration number is issued if the products meet the criteria. One aspect of health education is to ensure that the public only buys and consumes medications that have been registered by the Ministry of Health. To achieve this objective, the Pharmaceutical Division in each State produces posters and brochures to be distributed and exhibited at	

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			relevant places such as hospitals and health offices. In addition, this campaign is conducted from time to time through health exhibition at hospitals and relevant places. Enforcement officers in every State also take part in talk-shows on radio stations to convey the message that only registered medicines are safe for consumption and intake of unregistered medicatiaon can be hazardous to health.	
12.	Human Rights and Persons with Disabilities (PWD): (a) Education	Use of the term 'educable' and 'non-educable' The term should not be used as it could give rise	Ministry of Women, Family and Community Development: The Ministry uses the term 'learning difficulties'.	

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		to stigmas and could be taken to mean that PWD cannot be taught. <u>Issues of inclusive education</u> Since the Government acceded to the Convention on the Rights of the Child in 1995, primary education has been made compulsory for all children, including for children with disabilities. All barriers should therefore be removed and support services be made available to them.	<u>Ministry of Education:</u> Compulsory education for children at primary schools was gazetted and implemented in 2002 and students of special education are not excluded. However, parents of these students can request for exemption from compulsory education via the Education Minister.	Intensified efforts are required to encourage enrolment of children from vulnerable groups at all education levels and to sustain their participation. Pre-school education should be given as much emphasis as primary education, should made by universal and funded by government. Attention needs to be given to the high drop-out rates of boys at secondary and tertiary levels, and the target should be to ensure all children complete secondary schooling.

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		Shortage of trained teachers Teacher-training and transfer of trained teachers should be studied and monitored carefully.	Ministry of Education The problem of properly trained teachers in the areas of disabilities being promoted and transferred to mainstream schools is common and unavoidable, as it is done to ensure fairness and the professional future of the teachers. The Ministry is identifying areas of special education that needs specialisation. This involves close working relationship with various Ministries including Bahagian Pendidikan Guru, EPRD and Scolarship. At the	SUHAKAM requests that as much as possible, trained teachers should be placed at schools that have students with learning disabilities such as autism, hyperactivity and ccncentration problems *(masalah penumpuan).*

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			time of writing, two candidates have been chosen to enroll for special education studies. The Ministry has also identified and sent candidates for special education courses locally and overseas. The Ministry, whenever possible, will assign special education teachers according to their specialties. However on a humanitarian basis, the Ministry is forced to place these teachers in programmes with different areas of specialisation due to lack of students with disabilities	

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		Inaccessibility to education Intellectually impaired children are not given help in the form of remedial classes, while the additional time allocated to them during examinations is insufficient.	Ministry of Education Every primary school in Malaysia except Schools With Very Low Enrolment Rate *(Sekolah Kurang Murid)* have special classes *(kelas pemulihan)* with a teacher assigned on 'one and above' basis. These special classes aim to overcome the intellectual problems among students in mainstream schools. For the time being, additional time is not provided for students of special classes. The time provided to answer examinations is similar to the time provided to normal students.	SUHAKAM was informed that children who are intellectually impaired were not assisted through special classes, while the additional time provided during examinations is inadequate. In few cases, schools have rejected their application for enrolment.

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		Children with learning disabilities such as autism, hyperactivity and attention deficit disorder do not have teachers with expertise to assist them.	The Special Education Department has conducted introductory courses for special education teachers in assisting them to understand and manage students with problems such as autism, and hyperactivity. The courses were conducted in 2002 and 2003.	
		Some special classes stop at a certain level, for example at Form 3, and students have to continue their education in other schools.	Only a small percentage of the students with special needs are able to further their academic studies to secondary levels. Ingeneral, academic achievements of students with special needs are:	SUHAKAM feels that even though the number of students continuing their studies is low, their rights to quality education are very important. Efforts can be made to place them at a special education institution instead of enrolling them in other schools.

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			i). vision/sight problems - secondary schools to university; ii). hearing problems - integration programme up to form 3 - can choose to remain in the academic integration program or vocational program at secondary schools; iii). learning difficulties - undergoes the integration programme up to age 19++. Some of the students undergoes the vocational skills programme at Sekolah Indah Pura (the same program will be extended under the 9th Malaysia Plan).	

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	(b) Accessibility to Buildings	Uniform Building By-Laws 1984 should be complied with, when constructing buildings.	Ministry of Housing and Local Government authorities (PBT), the majority of new buildings meets the requirements. KPKT have also issued the 'Guidelines on Building Requirements for Disabled Persons' to assist Consultants and PBT in adhering to the requirements. PBT will be reminded to ensure that new and old buildings are equipped with accessible facilities for PWD as provided under the Uniform Building By-Laws 1984.	SUHAKAM welcomes efforts taken by the PBT in ensuring that new buildings meet the requirements. As for old buildings, SUHAKAM is of the opinion that an instruction should be given to renovate or provide disabled-friendly facilities for the PWD, and that this should be made compulsory. The PBT should monitor this matter.

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	(c) Public Transportation	Public transportation in Malaysia is not disabled-friendly thus causing difficulties for PWD in using public transportation.	No response on this issue.	Facilities for public transportation are important for PWD to ensure that they are able to move from one place to another.
	(d) Employment	The 1% quota in the public sector posts for PWD is not met.	Civil Service Commission The Commission is of the opinion that the Government should provide a clearer guideline on this matter. For example, what is meant by the 1% rate, i.e. whether it is based on the whole civil service sector under the Commission's jurisdiction (approximately	SUHAKAM hopes that the relevant Government authority would provide a guideline pertaining to the 1% rate to clarify this matter.

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			350,000 jobs) or based on new recruitments.	
	(e) Finance	Commercial banks do not permit the visually impaired to open bank accounts in their own name.	<u>Ministry of Finance</u> Banking institutions usually allow the blind to open and manage deposit accounts at their institutions. However, some banking institutions might require that the blind to be accompanied by a third party or their relatives. The terms and conditions will be read to the blind for them to ensure that they understand the terms and concitions imposed by the banking institution.	

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			All transactions of deposit accounts require the thumbprint of the blind person instead of their signature. These terms and conditions are set by the banking instuitions to protect their customer's interest.	
		PWD are categorised as high-risk cases. Thus they cannot purchase a house and make investments. They are also charged additional premiums when buying insurance policies.	<u>Ministry of Finance</u> Insurance companies will not immediately reject suggestions for insurance policies if the proposer is a PWD. Instead, the insurance company will assess the PWDs' ability to ensure they are given coverage consistent with their condition at a suitable additional premium.	

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		Disparity in allocation of funds and benefits for PWD in Sabah and Sarawak compared to their counterparts in Peninsular Malaysia.	Ministry of Women, Family and Community Development: Allowance for Disabled Workers at RM200 to employed PWD earning less than RM750 a month, including other Federal assistance schemes are not extended to Sabah and Sarawak based on policies in both States.	

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		Owing to their irregular income, PWD have difficulty in obtaining housing loans. To assist them, the Federal and State Governments, as well as the local authorities can make available a range of cost-effective and flexible housing options	Ministry of Housing and Local Government: Under the Public Housing Projects (*Program Perumahan Rakyat)* there are two sub-programs namely PPR (Owned) and PPR (Rented). The Housing Loan Scheme for the Lower Income Groups which prioritise PWD whose earnings range from RM500-1,200 a month. State Secretary's Office, Kelantan: The Ministry of Housing and Local Government should draft a guideline to be adopted by all States. This is to ensure standardised implementation among all states	Usually, the PPR houses provided are flats, which are small and not disabled-friendly. Even a normal person faces problems of limited space in PPR housing projects. SUHAKAM recommends that a disabled-friendly housing scheme be introduced. SUHAKAM welcomes the recommendation and hopes that the guideline would be disabled-friendly. For example, the Government of Negri Sembilan provides housing facilities to PWD by placing them in housing units

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				that will ease their mobility. Also, the PBT in Pahang provides tax exemptions to PWD registered with the JKMM.
13.	Trafficking of Women and Children	i. SUHAKAM recommended that the Government studies the need to sign the Palermo Protocol on combating trafficking and to co-operate with global and regional organisations in tackling this crime.	<u>Ministry of Women, Family and Community Development:</u> The Ministry held a meeting with several Government agencies such as the Home Affairs Ministry, Ministry of Internal Security, Immigration Department and the Royal Malaysia Police, to study the issue of women in the 'flesh trade' and women who are victims of trafficking. Some	SUHAKAM is concerned that to date, despite the passage of 19 months, no shelter for these victims of trafficking has been made available. It was stated by the Ministry at a meeting that a Shelter for Trafficked Victims has been identified at Shah Alam but that it cannot be gazetted.

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		ii. It was suggested that more efficient use be made of available laws to restrict opportunities for human trafficking. Licensing authorities in the respective local authorities should play a more effective enforcement role and find out more about the hurdles faced by the detaining authorities;	recommendations were made including: i. To consider the possibility of placing the victims at shelter homes under the Social Welfare Department; ii. To consider the offer by the United States of America to conduct a training programme with enforcement authorities such as the Police and Immigration with the aim of obtaining skills to identify victims of trafficking; and iii. To tighten the checks conducted by the Immigration at entry points.	SUHAKAM recommends that the provisions in the Immigration Act be used to gazette the place as a Shelter Home.

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		iii. It is recommended that further assistance be provided by diplomatic missions in order to recude the extent of this problem, and to help the girls who are detained - especially those who have been trafficked or forced into the sex trade - to go back to their country of origin; iv. It is recommended that personnel in the relevant detaining agencies be provided	Regarding recommendation (iii), the Ministry of Women, Family and Community Development will gather further information from the Immigration Department. <u>Attorney-General's Chambers:</u> This Department is of the view that the human trafficking issue constitutes a serious crime that must be stopped. The Department also stresses Malaysia's commitment in eliminating the crime of human trafficking not only in the country but also at the international level, in line with the United Nations	While it is true that there are sufficient provisions in the various legislations, SUHAKAM reiterates that these legislations are piecemeal in nature and there is a need for comprehensive legislation that encompasses protection of victims, repatriation of victims, and punishment of perpetrators and traffickers.

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		with appropriate training, so that they are better able to respond sensitively to the needs of vulnerable women and the communities involved in this situation; v. There is a need to amend and/or adapt national legislation in accordance with the UN trafficking protocol and other international standards. There is also a need to strengthen transnational co-operation to prosecute violators.	Charter and international laws. Acknowledging the importance of transnational co-operation to curb organised crime, Malaysia became a signatory on Sept 26, 2002 to the 'Convention Against Transnational Crganised Crimes' and ratified the convention on Sept 24, 2004. Two protocols related to the convention namely the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' and 'Protocol Against the Smuggling of Migrants by Land, Sea and Air' are being studied.	

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		There should be legislative provision for confiscation of assets of traffickers to support and compensate trafficked persons. There should be provisions to protect the identity of trafficked persons and witnesses and to ensure their safety in legal proceedings; vi. Guidelines should be developed to facilitate rapid identification of illegal migrants who are victims of trafficking.	The Department takes note that the term 'trafficking in persons' defined in the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children' has been adopted as the common benchmark for the term. Even though this Department accepts that the definition is subject to internal laws and policies, the Department disagrees with the generalisation that all persons trafficked by the methods defined are victims who are immune from legal action and prosecution for prostitution offences.	

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		There is also a need to pay special attention to the needs and concerns of trafficked children. SUHAKAM has found that children, in particular babies, are often brought in via border towns to be sold to childless couples; and vii. SUHAKAM recommends more aggressive enforcement of laws as this is an issue of increasing concern.	The Department stresses that a distinction must be made between victims who were really forcedly trafficked and those who allowed themselves to be trafficked to gain profits at the destination countries. Under the provisions of domestic laws, the Malaysian Government approved the Mutual Assistance in Criminal Matters Act 2002 (Act 621) which was developed to increase transnational co-operation in criminal matters. The co-operation would include investigation, evidence gathering and prosecution process.	

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		Enforcement authorities must also show due regard for the rights of victims of human trafficking. Measures introduced to combat the crime must take into account the need to protect the human rights of trafficked persons particularly in relation to their health and personal security.	Even though Malaysian laws do not have specific provisions for the crime of human trafficking as defined in the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children', the Department is of the view that the existing provisions under Malaysian laws could be used to prohibit and regulate all components and matters related to human trafficking. Provisions under the law that can be used include: Immigration Act 1959/63 (Act 155) (section 55A, 55B, 55D	

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			and 56(1)(d), Penal Code (Act 574) (section 339, 340, 341, 342,343, 360, 361, 362, 370, 371, 372, 372A, 372B, 373 and 374) and Child Act 2001 (Act 611) (section 48(1), 48(2), 49 and 52). These Acts provide the enforcement authorities such as the Police and Immigration with the power to take action to eradicate human trafficking activities within the limitations of the law.	

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			Furthermore, in 2002, the Immigration Act 1959/63 was amended to increase efforts to eradicate human trafficking activities. New provisions such as section 55A and 55D of the Act provides for severe punishment that can be imposed on the perpetrators if convicted. This demonstrates Malaysia's continuous efforts to curb the problem through law. Apart from that, Malaysia also has laws to confiscate the perpetrator's assets. The relevant provisions are included under the Anti-Money Laundering Act 2001 (AMLA	

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			2001). AMLA 2001 provides a legal framework for prevention, investigation and prosecution of an offence of money laundering whereby the scheduled offences includes slavery, forced labour, sexual exploitation and others. Through AMLA 2001, property involved in the crime can be seized by the Government. Abduction and Criminal Intimidation of Witnesses Act 1947 is a provision under the law that protects the safety of the victim and witnesses. If the victim or witness involved is a foreigner, usually they will be detained according to the	

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			provision under the Immigration Act 1959/63. In relation to protection of identity and safety of the victim and witness, this Department is of the view that the Police and other agencies involved have exercised their duties professionally and efficiently to protect the victim and witness throughout the trial proceedings. Furthermore, the Government plans to introduce Witness Protection Bill to strengthen the existing laws relating to protection of witnesses.	

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			SUHAKAM's recommendation as mentioned in 13(ii) can be implemented via provisions under the existing laws and/or through specific amendments to the relevant laws.	
14.	Report on Roundtable Discussion (RTD) on Convention on the Elimination of All Forms of Discrimination Against	SUHAKAM's recommendations include: i. Apart from the amendment to Article 8 of the Federal Constitution, no other domestic laws have been amended to	<u>Ministry of Women, Family and Community Development</u> The 1st and 2nd Country Reports were sent to the Permanent Representative in New York on March 31, 2004.	

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	Women (CEDAW)	provide for gender equality. Further, the Government has yet to submit its Country Report to United Nations Committee on the Elimination of All Forms of Discrimination Against Women (the 'CEDAW Committee')	AG's Chambers Article 8(2) of the Federal Constitution is a gender-neutral provision that prohibits discrimination between men and women. Since the Federal Constitution is the highest law in Malaysia, any written law that conflicts with it is void to the extent of the conflict. According to article 18 CEDAW, after becoming a party to the CEDAW on July 5, 1995, Malaysia is obligated to submit a Country Report to the CEDAW Committee, delineating steps that have been taken by	

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			Malaysia in carrying out its obligation under the convention.	
		ii. The lack of standardisation of Syariah law in Malaysia.	<u>Jabatan Kemajuan Islam (JAKIM)</u> There are five laws that have been standardised: • Administration of Islamic Law; • Islamic Family Law; • Evidence Law in Syariah Courts; • Syariah Criminal Procedure; and • Syariah Court Procedure. JAKIM maintains that there is no discrimination against women in Islamic law.	From SUHAKAM's observation, not all the states in Malaysia have adopted these laws. Thus, it is hoped that a more concerted effort will be done towards standardisation of these laws nationwide. SUHAKAM has always advocated for equality and it acknowledges that equality is not the same as similarity. SUHAKAM views with concern the recent passing of the Islamic Family

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			The issue with regard to the same rights of men and women must be in conformity with the *Sunnah* and al-Quran, and with the views of ulama muktabar especially from Mazhab Syafie. <u>Syariah Department</u> Efforts were made by the Government in 2000 when the five (aforementioned) laws were standardised for Kelantan, Terengganu, Selangor, Melaka, Perak, Negri Sembilan and Johor. Pahang only approved two laws and Sarawak has approved all five but has yet to enforce them.	Law (Federal Territories) (Amendment) Act 2005 as rights of Muslim women are unfairly undermined by the provisions of the said Act.

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			Attorney-General's Chambers The Federal Government has taken steps to standardise Islamic Law. This is to ensure standardisation and unification of Islamic laws in the country. They are:- • Islamic Administration Bill; • Islamic Family Law Bill; • Mal Procedure Bill; • Syariah Criminal Procedure Bill; and • Syariah Evidence Bill. Islamic law is not only law but is the religion to Muslims. Therefore, laws that differentiate between men and women in some aspects are those that	

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			have been dictated by *Hukum Syarak* (the religious dictate) and cannot be changed considering that it is included in the Islamic faith for the Muslim followers. This is in line with the article 11 of the Federal Constitution. Equality is a philosophical concept that cannot be equated with similarity. Equality does not mean similarity. The UN Human Rights Committee that was established according to the International Covenant on Civil and Political Rights (ICCPR) in its General Comment No.18 to the ICCPR states that "The enjoyment of rights and freedoms	

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			on an equal footing, however, does not mean identical treatment in every instance."	
		iii. For an open dialogue to be held with Government agencies and NGOs to discuss the rationale behind the reservations to CEDAW.	Ministry of Women, Family and Community Development An open dialogue will be held soonest.	SUHAKAM hopes to participate in the open dialogue soon. SUHAKAM has sent its research on Malaysia's reservations to articles 5(a), 7(b) and 9(2) of CEDAW. In essence, SUHAKAM recommended that the reservations to these articles be withdrawn. As regards Malaysia's reservations to articles 16(1)(a), (c), (f), (g) and 16(2), SUHAKAM is currently conducting further research on these articles.

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		iv. The lack of a single legislation translating the rights and obligations into domestic law.	<u>The Attorney-General's Chambers</u> Article 8(1) of the Federal Constitution has been amended to prohibit gender discrimination. Generally, provisions of CEDAW do not contravene *Hukum Syarak*. Provisions that are in contrary to *Hukum Syarak,* other religions and customary law of indigenous groups in Sabah and Sarawak, would have to be studied further. This was made known through a declaration when Malaysia ratified CEDAW.	Article 8 of the Federal Constitution was amended in 2001. While SUHAKAM commends the Government in taking a pro-active step in guaranteeing gender equality in the supreme law of the land. However, since 2001, no further laws have been amended to reflect the obligations in CEDAW. Rights of women in Malaysia are found in different legislation. Furthermore, there are domestic laws that discriminate against women, for example the exception in the Penal Code with regard to marital rape and immigration laws. A single piece of legislation, stipulating all rights and obligations of CEDAW would

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				be beneficial and strengthen gender equality in Malaysia. As such, SUHAKAM reiterates its recommendation for a single piece of legislation translating into domestic law, all the rights and obligations of CEDAW.
		v. An examination of all laws, policies, mechanisms and the criminal justice system with a view to amending discriminatory laws and policies, including gender neutral laws.	<u>The Attorney-General's Chambers</u> SUHAKAM's recommendation is being implemented. The AG's Chambers review all laws, not only laws specific to women.	

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		vi. To include a gender perspective in all laws and policies, including systematic monitoring of the effects on women and men at all stages from preparation to implementation.	<u>Ministry of Women, Family and Community Development</u> Efforts carried out by the Ministry include: i. *Dasar Wanita Negara;* ii. *Pelan Tindakan Pembangunan Wanita;* iii. Since the 6th Malaysia Plan policies and programmes have included women; iv. Since the establishment of the Ministry, importance has been placed on gender mainstreaming through capacity building, advocacy and legal literacy programmes.	Efforts in terms of promotion of gender equality and empowerment of women should include: • Improved childcare facilities, more flexi-working arrangements and improved maternity benefits are needed to increase female participation in the labour market. • Women's right to participate in decision making should be further recognised to ensure that 30% of decision-making positions at all levels are filled with women • Gender-based violence, including against children, must be reduced with benchmark

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			v. At the Federal and State level, policies and programmes have been formulated to increase networking between Government agencies and NGOs, including cooperation at the interrational level; vi. Capacity building programme on gender mainstreaming between the Ministry and UNDP. vii. The Ministry is currently developing gender disaggregated data, including gender budgeting; viii. Establishment of a Committee on Gender Equality at the Cabinet.	indicators established to monitor progress. • Monitor and address all discriminate practices against women.

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		vii. Involvement of all stakeholders in the drafting of Malaysia's Country Report to the CEDAW Committee.	<u>Ministry of Women, Family and Community Development</u> Several NGOs and the relevant Government agencies were invited in the consultation during the drafting of the 1st and 2nd Country Reports. The Ministry will be inviting SUHAKAM to participate in drafting of future Country Reports.	SUHAKAM looks forward to participating in the drafting of future Country Reports.
		viii. SUHAKAM will conduct an annual RTD on CEDAW.	<u>Ministry of Women, Family and Community Development</u> The Ministry commends this effort by SUHAKAM and encourages such activities.	

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15.	Human Rights in Schools	SUHAKAM's survey found that only 6.2% of teachers and 7% of school administrators had received information on the CRC. This shows that the vast majority of teachers, school administrators and officers in the Ministry of Education are not aware of the CRC, in spite of the massive campaign in 2001.	No response from the Ministry of Education.	

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		More than 60% of the students and about 50% of the teachers surveyed claimed that discrimination occurs in their schools.	Ministry of Education: The Ministry does not practise discrimination based on race, sex, religion, and any form of disability in providing education services.	Since there is a percentage of students and teachers who claim that discrimination exists in schools, SUHAKAM recommends the Ministry investigates this matter; SUHAKAM is willing to co-operate.

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