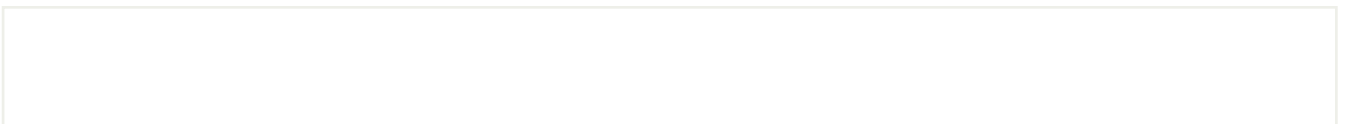




S U H A K A M
HAK ASASI UNTUK SEMUA

ANNUAL REPORT
2007
HUMAN RIGHTS COMMISSION OF MALAYSIA



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HUMAN RIGHTS COMMISSION OF MALAYSIA

ANNUAL REPORT 2007

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SUHAKAM COMMISSIONERS 2007



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CHAPTER 1

KEY ISSUES

Chapter 1

KEY ISSUES

Malaysia has achieved tremendous progress in terms of socio-economic development. There is a need now to enhance the protection of civil and political rights as well.

SUHAKAM continued with its efforts in promoting and protecting human rights through training, research, seminars, workshops and dialogues and by making recommendations to the Government.

The Commission also received numerous memoranda and complaints. The issues in focus were freedom of assembly; freedom of expression and information; freedom of religion; detention without trial; administration of justice; and rights of migrant workers and vulnerable groups.

1. FREEDOM OF ASSEMBLY

A number of assemblies were held over the year, as various interest-groups expressed their concerns through street protests. The first two were held on Jan 20 and Feb 4 in reaction to the increase in toll-charges. The Bar Council's 'Walk for Justice' in Putrajaya on Sept 26 was to back its call for a Royal Commission of Inquiry into allegations related to judicial independence, while a group of lawyers went on a short-lived 'Freedom Walk' on Dec 9 in Kuala Lumpur.

On Sept 8 and Nov 10 respectively, the Coalition For Free and Fair Elections (BERSIH) organized assemblies demanding electoral reform. On Nov 25, the Hindu Rights Action Force (HINDRAF) gathered supporters to submit a memorandum to the British High Commission in Kuala Lumpur. This was in relation to HINDRAF's class action suit filed earlier in London against

the British government over the colonialists' role in bringing Indians to Malaya as indentured labourers, leading to subsequent 'exploitation and marginalization'.

SUHAKAM observes that applications for a permit to hold each of the assemblies were rejected by the Police on the basis that these could lead to public disorder and security risks. While it is recognized that the Police have a duty to ensure peace and security, they should adopt a holistic approach in handling requests for permits. Their action must be consistent with principles of human rights.

Increasingly, citizens are demanding recognition of their democratic rights. Measures to ensure peace and security should not be at the expense of human rights but must ensure that the people enjoy respect for the full range of rights. In this regard the Police should refrain from excessive measures that violate fundamental freedoms and undermine legitimate disorder.

Section 27 of the Police Act 1967 clearly entrusts the Police with unfettered powers to determine who can organize a peaceful assembly. The provision, however, does not set out the criteria and guidelines on meeting requirements for a permit. Discretionary powers are fully vested in the Police.

It is thus time for the Government to review the Police Act and other preventive legislation to reflect international standards. Currently, these laws unreasonably restrict freedom of assembly and freedom of speech as guaranteed by the Federal Constitution.

2. FREEDOM OF RELIGION

One of the biggest challenges for multi-racial Malaysia lies in the fact that it is also multi-cultural and multi-religious. To achieve real unity there has to be mutual respect and tolerance in matters relating to cultural and religious sensitivities, more so when these impinge on citizens' rights and freedoms.

For instance, Malaysia is witnessing increasing anxiety over the administration of religion-based rights. Mosques, temples and churches have been the subject of political intervention. There have been accusations of political high-handedness which, unless delicately handled, could undermine human rights, as well as pose a major obstacle to national unity.

Malaysia is unique in that it has a dual system of judiciary: the Civil Court and Syariah Court. Cases that involve both Islamic and non-Islamic matters could become unwieldy. Much

therefore depends on the wisdom of judges in the respective corridors of justice. SUHAKAM has received a number of complaints arising from conversion to Islam, and on the length of time taken by the courts to deliver a ruling.

The right to freedom of religion is protected by the Constitution, while one of the fundamentals of any religion is social justice. It is, therefore, totally unacceptable to interpret any law relating to religion in any way that leads to injustice. Judges must be bold, impartial and unequivocal in dealing with the complex interfaith cases brought before them. Local authorities and the Police should also be more sensitive in law enforcement lest they be accused of double standards.

SUHAKAM lauds the Federal Court decision in December that the High Court has jurisdiction to hear matrimonial disputes, even if one party has converted to Islam.

3. ADMINISTRATION OF JUSTICE

Delays in court proceedings and availability of written judgments are some of the main concerns that require immediate attention. More than 1,000 prisoners are languishing in jail, unable to appeal simply because judges and magistrates have not provided written judgments early. In the case of two death row prisoners, the trial judge had yet to write the judgment after more than five years.

It is particularly important to ensure that the administration of justice is fair. Without safeguards of the rule of law, including an accountability mechanism, action against criminal suspects may lead to serious violations of human rights, such as detention without trial, delay in trials and unfair trials. The situation could also lead to the criminalization of peaceful activities that are protected and guaranteed by the Constitution. The law must be clear and leave no room for doubt in its interpretation.

In its report on 'The Right to an Expeditious and Fair Trial (Syariah Court)' in 2007, SUHAKAM has dealt comprehensively with the issue of delays and offered recommendations. SUHAKAM hopes that the Government will give serious consideration to these recommendations, as well as those in its 2005 report.

SUHAKAM is further concerned that judicial review has been ousted in a number of instances, including *habeas corpus* challenges. Adoption of the ouster clause undermines the right to justice and the right to a fair trial.

An ouster clause is contrary to the basic and fundamental concept of human rights, in that an aggrieved person should have access to a court of law for the grievance to be decided. The clause is now being used increasingly in laws that deal with non-security matters. This is an affront to human dignity.

The Commission is of the view that the Government must immediately repeal the arbitrary clause in the Internal Security Act 1960 (ISA) in particular and in other provisions generally. SUHAKAM reiterates that detention without trial must be subject to judicial review and that agencies authorizing detention should be held accountable.

4. DETENTION WITHOUT TRIAL

According to data from the Kamunting Detention Centre, there are 70 detainees under the ISA. More than half are serving out their second detention order.

SUHAKAM reiterates its call to the Government to release the detainees or prosecute them, and to abolish the practice of detention without trial, which is contradictory to the principles of the Universal Declaration of Human Rights (UDHR).

5. LAW ENFORCEMENT

SUHAKAM has extended its training programmes for law enforcement personnel to include RELA officers nationwide.

The Commission suggests that the Government should deploy professionally-trained law enforcement personnel, such as from the Police and Immigration Department, to accompany RELA personnel in future operations.

6. RIGHTS OF VULNERABLE GROUPS

(a) Orang Asli and Orang Asai

The adoption of the Declaration on Indigenous Peoples' Rights by the United Nations on Sept 13 and Malaysia's vote were a welcome development in the protection of the rights of Indigenous Peoples.

SUHAKAM published a report on 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development', based on research and investigation conducted in 2006. The Commission found that Penan customs of ownership and stewardship of land have not been factored into the Sarawak Land Code 1958.

SUHAKAM recommends that the Government amends the Sarawak Land Code to include the Penan Community's unique way of establishing land ownership and stewardship.

(b) Migrant Workers

Complaints continued to be submitted by migrant workers, 'refugees' and asylum seekers, alleging excessive use of force and ill-treatment during raids as well as unsatisfactory conditions in detention centres.

SUHAKAM observes that most of the complaints by migrant workers are largely due to exploitation by agencies in the sending and receiving countries. Recruiting agencies control most aspects of handling migrant workers, including work permits, training, transit and placement with employers.

SUHAKAM recommends that the Government and Foreign Embassies in Malaysia thoroughly study the current recruitment process and provide adequate monitoring, regulation and punishment of recruiting agencies that violate human rights.

In view of the increasing number of 'refugees' and asylum seekers, SUHAKAM recommends that the relevant Government agencies work together with the United Nations High Commissioner for Refugees to resolve resultant issues.

(c) Persons with Disabilities

The Convention on the Rights of Persons with Disabilities was adopted by the United Nations in 2006, but SUHAKAM observes that Malaysia has yet to sign the treaty.

SUHAKAM hopes that the drafting of the Persons with Disabilities Bill signals a step toward Malaysia's ratification of the Convention.

(d) Women and Children

The passage of the Anti-Trafficking of Persons Act 2007 and its gazetting is another positive development in the protection of the rights of women and children.

However SUHAKAM suggests that more be done to protect children in view of the increasing number of cases of abuse and violence against very young children.

7. FREE AND FAIR ELECTIONS

Free and fair elections lend legitimacy to a democratic society. Public confidence in the fairness of the electoral process is far more important than a massive mandate. While elections in Malaysia have been free, it cannot be claimed that the process has been completely fair.

SUHAKAM is concerned that certain fundamental rights pertaining to free and fair elections, such as freedom of expression, freedom of association and freedom of assembly, are either curtailed or ignored during election campaigns. SUHAKAM observes too that there is no level playing field, particularly in terms of access to the media, permission to hold political rallies, delineation of constituencies and redress in the courts.

Candidates should not be allowed to resort to undemocratic means to win elections, including vote-buying, providing non-cash incentives and using public funds and facilities. Allegations, such as the existence of 'phantom' voters and the inefficacy and impartiality of the electoral system, should be immediately addressed.

SUHAKAM urges the Government to amend relevant laws to ensure that elections are free and fair.

8. CONCLUSION

Since its inception, SUHAKAM has made numerous suggestions to improve the protection of human rights. The Commission hopes that the Government will give attention to the recommendations made through various reports to date. As a member of the United Nation Human Rights Council, Malaysia should play a leading role in upholding human rights.



CHAPTER 2

MALAYSIAN HUMAN RIGHTS DAY 2007 'HUMAN RIGHTS AND ELECTIONS'

Chapter 2

MALAYSIAN HUMAN RIGHTS DAY 2007 'HUMAN RIGHTS AND ELECTIONS'

SUHAKAM observed Malaysian Human Rights Day on Sept 9 by hosting a half-day conference. As in previous years, the event highlighted a specific human rights issue. The theme for 2007, 'Human Rights and Elections', was deemed fitting because Malaysia was celebrating 50 years of independence. Free and fair elections are, after all, the bedrock of democratic self-rule.



Among the participants registering during the Malaysian Human Rights Day Conference 2007

The fundamental right of citizens to choose their representatives and participate in the government of their country is enshrined in Article 21 of the Universal Declaration of Human Rights (UDHR). In Malaysia, the right of citizens to vote in any election to the House of Representatives or the Legislative Assembly is guaranteed in Article 119 of the Federal Constitution.

The conference was therefore intended to engage concerned citizens in examining the electoral process in Malaysia, to identify its strengths and shortcomings and to propose ways to improve its efficacy toward free and fair elections. This objective was achieved as panellists and participants raised numerous concerns. They were critical but rational in their assessment of the conduct of elections, and proposed several recommendations for consideration.

The programme began with a speech of welcome by Organizing Chairperson and Commissioner Dr Chiam Heng Keng, followed by the keynote address by SUHAKAM Chairman Y Bhg Tan Sri Abu Talib Othman.

During the panel session that followed, three speakers addressed different aspects of free and fair elections:

- Tunku Abdul Aziz Ibrahim, President, Caux Round Table Malaysia, took the voter's viewpoint;
- Dr Marvis Puthucheary, Associate Senior Fellow, IKMAS, Universiti Kebangsaan Malaysia, looked at the electoral process; and
- Mr Ragunath Kesavan, Vice-President, Bar Council Malaysia, considered the topic from the legal angle.

The discussant, Professor Dr Abdul Aziz Bari of the Ahmad Ibrahim Kulliyah of Law, Universiti Islam Antarabangsa Malaysia, commented on the panellists' views and gave a brief analysis of the situation in Malaysia.



(from right) Professor Dr Abdul Aziz Bari, Mr Ragunath Kesavan, Dato' Dr Michael Yeoh Oon Kheng (Moderator), Dr Marvis Puthucheary and YM Tunku Abdul Aziz Ibrahim fielding questions at the Malaysian Human Rights Day Conference

When the session was opened to the floor for questions, comments and suggestions, the response was animated but respectful of differing viewpoints. SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun closed the event.



Participants and SUHAKAM Commissioners at the conference

ISSUES, CONCERNS AND SUGGESTIONS

The general consensus from the discussion was that, while elections in Malaysia have been free and have measured up to international standards to some extent, the process has not altogether been fair.

(i) Respect for fundamental human rights

The atmosphere of an election campaign should be one of respect for human rights, especially freedom of expression, freedom of association and freedom of assembly, access to information and the right to security.

- Freedom of expression should be available to political parties, candidates, voters and the media. Everyone individually or together with others has the right to express political opinions without interference; and to seek, receive and impart information. However, as freedom of expression is accompanied by responsibility, individuals, parties and candidates should not make false, slanderous or racist remarks that incite hatred or violence, or raise false expectations.

While the Government has a duty to ensure peace and security, it should not arbitrarily restrict freedom of expression through the use of laws like the Sedition Act 1948, Official Secrets Act 1972 (OSA), Internal Security Act 1960 (ISA), Police Act 1967, Printing Presses and Publications Act 1984 and Societies Act 1966.

- Freedom of assembly and freedom of association
Opposition parties have usually been denied permits to hold *ceramah* (public talks), while the Registrar of Societies has rejected applications for registration of political parties on grounds that they could threaten public order and national security.

Issuance of permits should not be discriminatory and rejection should be based on evidence, not on speculation, suspicion or fear. Procedures for application and approval of permits should be clear and transparent.

(ii) Access to media

Voters should have access to information so that they can make informed choices.

- Opposition political parties in Malaysia do not have equal access to the media because the print and broadcast media are directly or indirectly controlled by parties in the ruling coalition.
- Fair access is not confined to allocation of broadcast time or print space to all parties and candidates, but must also encompass fairness in the placement or timing of such access, i.e. prime time as opposed to late-night broadcast; and on the front page, rather than inside pages of newspapers.
- The media should be able to cover the election campaign freely, without interference or restriction by the authorities.
- Unequal access to media indicates that the playing field is not level, as candidates and parties are not competing on equal terms and do not receive impartial treatment.
- The Election Commission (EC) should consider a mechanism that ensures fair access to the media, for all candidates and political parties.

(iii) 'Phantom' voters

The issue of 'phantom' voters was raised by both speakers and participants.

- Many remain convinced that 'phantom' voters have not been completely removed from the electoral rolls although the EC has taken steps to reduce problems through: (a) online checking of voters' records via its website; (b) year-round registration at any post office with a computerized system; and (c) sale of the electoral rolls in CD-ROM format.
- The EC needs to be empowered to validate one's claimed residence.
- It should also be authorized to immediately remove the names of deceased voters from the rolls.

(iv) Independent and impartial EC

The duty to conduct and oversee elections would be best handled by an independent and impartial EC.

- Since EC members are currently appointed by the Prime Minister, the agency is unlikely to be able to act independently. To be fully independent, the EC should be made directly accountable to Parliament.
- The administration of elections at all levels should be professional and neutral; the voting, counting and tabulation processes must be free of fraud or manipulation.

(v) Current limitations of the EC

- The EC claimed that it has limited powers and resources. It has no authority to ensure all candidates have equal access to the media; no authority to ensure political parties have the freedom to conduct rallies; and no powers to act over corrupt or illegal practices.
- The EC is in full control of certain aspects of the electoral process such as nomination of candidates, polling, vote counting and announcement of the results.

- To be effective, the EC should be given greater control of all aspects of the electoral process.

(vi) Absence of level playing field

The following conditions are said to prevail, thereby aggravating the situation of inequality:

- There is insufficient notice of elections, implying an unfair advantage for the government of the day in terms of preparation; in Malaysia, the campaign period has gradually been shortened.
- Constituencies are delineated to favour parties in the government of the day.
- There are wide differences in the size of some constituencies, implying disproportionate representation.
- There is no provision for a caretaker government when Parliament is dissolved, which allows the government of the day to function throughout the campaign period.
- The government of the day uses public funds and facilities during election campaigns.
- Postal balloting is less transparent than the process of normal ballot-casting, and lends itself to manipulation.
- Malaysia may be experiencing a culture of 'clientelist control'. When a party is in continuous power for a long time, voters may see little prospect of change and feel that their vote is unlikely to make any difference to the electoral outcome. They either do not vote or continue to vote for the government of the day.

(vii) First-past-the-post system

- This system may not truly reflect the will of the people. Since the winner takes all, there can be a huge disparity between the percentage of votes received by a political party and the number of parliamentary seats it wins.

- This disproportion is aggravated by large differences in the size of some constituencies.
- A system of proportional representation or a system that combines the first-past-the-post system with proportional representation – like the German model¹ - could probably resolve the incongruence.

(viii) Formal and informal disenfranchisement

- It was pointed out that the use of an ethnic form of gerrymandering has been used to control electoral outcomes.
- Another strategy is the mass transfer of voters from constituencies where support for the Government is strong, to constituencies where the contest is likely to be a keenly fought one. Although illegal, such practices are extremely difficult to detect because the EC registers voters according to the address on their Mykad; the power to record the address falls under the jurisdiction of the National Registration Department (NRD).

(ix) Election reform

In addition to changes required for an independent and impartial EC, reforms in other areas and institutions were deemed necessary:

- A large number of election petitions filed have been thrown out on technical grounds. Amendments to electoral laws have further curtailed the power of the Bench.
- The Judiciary needs to be given greater leeway to adjudicate such disputes. Subjecting the electoral process to greater scrutiny and oversight will result in everyone having greater regard for the rules and the need to refrain from unscrupulous tactics.

¹ In the German Model, the legislature consists of both Constituency MPs and MPs who are on the party list. Each voter votes twice – one for his /her Constituency and another for the party of his/her choice. Parties are then allocated additional seats other than their Constituency seat so that the number of seats that a party has matches the percentage of votes cast for the party

(x) Confidence in electoral reform

Concern was raised that many Malaysians have serious doubts about the fairness of the current electoral system. This could be one of the reasons why almost 1 in 3 eligible voters has yet to register.

SUHAKAM'S RECOMMENDATIONS

Based on the issues raised, SUHAKAM makes the following observations and recommendations for free and fair elections.

(i) Right to vote

The will of the people forms the basis of the Government's authority. Hence citizens have the right to select their representatives. For them to make an informed choice, they should have the right of access to information which includes the right to hear the manifesto of all parties and pledges of candidates. Access to information also necessitates the right of assembly.

- Right of assembly

All political parties should be allowed to hold rallies and *ceramah* without having to apply for permits during the campaign period, with the proviso that the assembly is peaceful and speech is not used to slander, create disharmony, incite hatred and compromise national security. The organizers must be made well aware that they are fully accountable for public safety and are liable to face charges in court if the gathering turns unruly.

The Police, meanwhile, should not act on mere suspicion, speculation, fear or imagination. There must be clear evidence of public disorder or incitement to create violence. Powers provided by such restrictive laws as the Sedition Act, ISA, the Police Act and OSA should be exercised judiciously and a balance must be struck between security concerns and civil rights and freedoms.

- Access to media

All parties should have equal access to media in terms of broadcast time and print space, as well in timing and placement of their information. In short, access to media

should be non-discriminatory. The media should be allowed to cover the campaigns freely, without interference or unreasonable restriction by the authorities.

- Universal suffrage
Persons with disabilities and Indigenous Peoples have the right to vote. Hence, it is recommended that polling stations be made accessible to Indigenous Peoples in remote areas, polling stations to be disabled-friendly and ballot papers to be provided in Braille for those who are visually impaired.

(ii) True reflection of voters' choice

The candidates elected should be an accurate reflection of the people's choice. In this respect, several matters require attention.

- 'Phantom' voters
The EC should devise measures to ensure that those on the electoral rolls are genuine voters. The measures it has taken thus far are good but still inadequate in removing 'phantom' voters.

The Government should consider amending all relevant laws to empower the EC to check on the validation of one's claimed residence. There should be better co-ordination between the NRD and the EC so that the names of deceased electors are removed from the electoral rolls as soon as the death certificate is issued.

- Automatic registration
All eligible voters should be automatically registered upon attaining the age of 21.
- Delineation of constituencies
Any delineation exercise designed to dilute or increase the votes of a particular candidate or party is unacceptable in terms of the international norm of equality of suffrage. In this respect, SUHAKAM urges that the principle of democracy enunciated in the Federal Constitution and Article 21 of the UDHR be respected and given due consideration in delineating constituencies. The use of an ethnic form of gerrymandering to control electoral outcomes should be discontinued.
- Longer campaign period
The campaign period for a general election should be longer than it has been in recent years, so that all views are equally represented and voters are able to hear

the views of all parties. A reference point can be found in the 1959, 1964 and 1969 elections.

(iii) Equality during elections

For the elections to be truly fair, equality should be exercised.

- Election-related laws
Administration of such laws should be implemented and enforced non-selectively to ensure that every candidate has an equal chance of winning.
- Caretaker government
It is recommended that when Parliament is dissolved, a caretaker government should take charge to ensure impartiality. This is also necessary to deter the use of public facilities and funds for campaigning.

(iv) Independent and impartial EC

Free and fair elections require an EC that is independent and impartial. The EC should be made directly accountable to Parliament, rather than to the Executive, to secure its independence.

(v) Redress

The Court should be given greater leeway to adjudicate electoral disputes.

(vi) Responsible conduct of candidates

As aspirants who want to represent voters and lead the nation, candidates should act responsibly.

- At all rallies and during any campaign activities, candidates should refrain from slander and false allegations, as well as misuse of freedom of speech to incite hatred and communal and religious tensions.
- Those who resort to undemocratic means to win elections and those who violate the law should be held accountable in timely manner. 'Undemocratic means' include vote-buying through outright gifts (cash, grants to private schools, allowances

ostensibly to cover expenses of party supporters and as compensation in lieu of wages), and inducements such as expediting the administrative process (e.g. in issuing ownership titles to house buyers).

CONCLUSION

Malaysians have the right to elect their representatives to form the Government. To ensure that the true will of the people is reflected, elections have to be free and fair.

The will of the people shall be the basis of the authority of the Government.² Based on this, citizens should exercise their right to vote in serious manner, while candidates and their parties should be responsible in their actions.

Elected candidates must remember that they will be seen, heard and judged beyond the election period. Tunku Abdul Aziz offered an apt reminder when he quoted a Commonwealth Election Commission Representative as saying: "Mr Prime Minister, democracy is not just about elections, but what happens between the elections."

² Article 21 of the UDHR



CHAPTER 3

PUBLIC INQUIRIES

Chapter 3

PUBLIC INQUIRIES

SUHAKAM had intended to conduct three public inquiries over the year into alleged violation of human rights, but its plans had to be cancelled for different reasons.

The first public inquiry was to have been held into allegations of excessive use of force by prison warders. However, this was called off when the Prison Department admitted that several warders had indeed used excessive force and that appropriate action had been taken against them.

The second inquiry was set to look into an incident involving the burning of houses and properties in Kampung Koiboton 1, Sabah. This was cancelled when the complainant took the case to court.

The third case involved the allegation that the Police had used 'live' ammunition to disperse a crowd that had gathered on Sept 8 at Batu Buruk, Terengganu, for an event organized by BERSIH, the coalition for electoral reform. Two individuals sustained gunshot wounds in the incident. However, they were later charged with the criminal offence of voluntarily causing grievous hurt to deter the Police from pursuing their duty while being members of an unlawful assembly.

The latter two inquiries had to be cancelled because of provisions of Section 12(2)(a) and Section 12(3) of the Human Rights Commission of Malaysia Act 1999.

1. PUBLIC INQUIRY: INCIDENT AT KLCC ON MAY 28, 2006

In March 2007, SUHAKAM released a report on its Public Inquiry into the Incident at KLCC on May 28, 2006. The public inquiry ended in October 2006 and the report was completed in

February 2007. In it, the Panel made several recommendations of which the principal one was a call for Sections 27 and 27A of the Police Act 1967 to be repealed, thereby eliminating any need to apply for a permit to hold a peaceful assembly.

The Panel comprised Dato' KC Vohrah (Chairperson), Dato' Choo Siew Kioh, Datin Paduka Zaitoon Dato' Othman and Dato' Dr Michael Yeoh Oon Kheng. The inquiry was held from Oct 5-18, 2006, with the following terms and reference:

- (a) To determine whether there was any violation of human rights of any person or party during the incident;
- (b) If violation of human rights occurred, to determine:
 - (i) Which person or agency was responsible;
 - (ii) How such violations came about;
 - (iii) What administrative directives and procedures, or arrangements contributed to them; and
 - (iv) What measures should be recommended to ensure that such violations do not recur.

(a) Issues Related to Alleged Infringement of Human Rights

- (i) That the Police used excessive force when dispersing the crowd

The issue was whether interference in the form of dispersal of a peaceful assembly was necessary or expedient in the interest of national security or public order. The Panel established that the protestors were expressing their views in a peaceful manner by way of banners, placards, speeches and the distribution of leaflets and pamphlets. In addition, the protestors did not block the entrance to Suria KLCC, which remained accessible to the general public. The crowd had gathered on the pavement in front of Suria KLCC, some distance from the entrance.

The Panel was of the opinion that excessive force was used against members of the assembly. Several persons testified that they had sustained physical injuries (e.g. bruises, abrasions and a wound requiring five stitches to the head) as a result of alleged action by some Federal Reserve Unit (FRU) personnel. The injuries were consistent with the usage of shields and batons.

- (ii) That the right of peaceful assembly was infringed

The Panel observed that the assembly was merely chanting slogans prompted by the speakers, to ask for a reduction in the price of electricity and fuel. Among the slogans were *Hidup Rakyat Hidup* (Live, People, Live) and *Turun, Turun, Harga Turun* (Reduce Prices). It was found that these slogans and chants were incapable of provoking violence. The crowd was not at any time disorderly, unruly or violent.

Therefore, it is the Panel's opinion that the assembly was conducted peacefully according to Article 10 of the Federal Constitution and international human rights standards. Clearly the Police had used excessive force in dispersing the assembly and indeed, had interfered with the right to hold a peaceful assembly as guaranteed by the Federal Constitution.

(b) Findings of the Panel of Inquiry

- (i) The Panel interviewed witnesses and Police personnel. Based on physical evidence and testimony, the Panel concluded that the FRU and the Police on the instructions of the OCPD had used excessive force to disperse the assembly. Based on evidence, it was established that there was disregard for the safety of protestors while dispersing the crowd.
- (ii) The Panel observed that the inappropriate use of shields and batons, the short intervals between warnings, failure to allow the crowd time to disperse, use of water cannon, and pursuit of those in the crowd who had moved away, had led to injuries being sustained.
- (iii) The Panel was of the opinion that orders to disperse should have been clear and audible and that sufficient time should have been given to allow the crowd to leave. The Police should not have pursued and arrested those moving away or who had moved away.
- (iv) The Panel held the view that the deployment of a Police helicopter to prevent the assembly from hearing the speeches and also to disrupt the assembly was dangerous. This act disregarded the safety of the people at the place of assembly.
- (v) The Panel held that helicopters should not be used to disturb any assembly. Such use should be limited to monitoring purposes, and only from a safe distance.

- (vi) The Panel was of the opinion that the use of firearms is only permissible in self-defence against imminent threat of death or serious injury or to arrest a person presenting such a threat. It should not be used to create fear in another person.
- (vii) The Federal Constitution provides for restraints to the freedom of assembly. Article 10(2)(b) states that the right may be restricted if it is “necessary or expedient in the interest of the security of the Federation or any part thereof or public order”. The Public Order (Preservation) Act 1958 and the Police Act 1967 (the ‘Police Act’) contain clauses restricting freedom of assembly. Section 27(2) of the Police Act gives the OCPD the discretion to approve an application for a permit to convene an assembly.

The decision is based on whether the assembly is likely to be prejudicial to the interest of national security or have the potential to disturb the peace. The concern in this instance is not the fact that restrictions are placed upon the right, but the nature of the restrictions. The subjective element of the OCPD’s discretion should prudently be regulated by objective and rational standards, striking a balance between individual rights and public order.



(From right) Dato' Dr Michael Yeh Oon Kheng, Dato' Karam Chand Vohrah (Chairperson), Datin Paduka Zaitoon Dato' Othman and Dato' Choo Siew Kioh conducting the Public Inquiry into the Incident at KLCC, from Oct 5-18, 2006

(c) Recommendations of the Panel of Inquiry

- (i) Subscribing to the belief that a balance may be struck to “accommodate the exercise of the right to protest within a framework of public order which enables ordinary citizens, who are not protesting, to go about their business and pleasure without obstruction or inconvenience”, the Panel of Inquiry makes these main recommendations:
- That peaceful assembly without a permit under Section 27 of the Police Act should be decriminalized;
 - That the rights of any person engaged in lawful advocacy, protest or dissent are not limited by the OCPD or any other authority and to ensure that such rights shall not be considered as prejudicial to national security; and
 - That there shall be a reasonable definition of ‘national security’ which is in harmony with human rights principles.
- (ii) The Panel observes that the laws regulating assemblies are moving towards a co-operative model in several jurisdictions where both parties – the organizers and the Police – work together in regulating an assembly. Such co-operation has proven to be effective in maintaining peaceful and orderly assemblies.
- Therefore, the Panel recommends the repeal of sub-sections (2), (2A) to (2D), (4), (4A), (5), (5A) to (5C), (7) and (8) of Section 27, and also Section 27A of the Police Act, thereby removing the need to apply for any permit to hold a peaceful assembly.
 - In lieu of these provisions, the Panel recommends that any person or persons intending to organize a peaceful assembly or a peaceful procession shall notify the OCPD in writing, of the proposed assembly or procession. The Panel recommends that the Police and civil society co-operate to work out details with regard to a suitable timeframe for the notification and for the contents of the notice.
- (iii) The Panel also recommends that the notice includes such details as:
- The purpose of the assembly;
 - The time, duration and date;
 - If it is to be a procession, the form, exact route, place of assembly and concluding point, and types of vehicles to be used;

- The anticipated number of participants;
 - Contact details of the person or persons organizing the assembly; and
 - Names of marshals from within the organizer of the assembly.
- (iv) The Panel also recommends that the requirement of notification be followed by meetings between the organizers and relevant Police officers so as to confirm practical arrangements for the assembly or procession. This is to minimize disruption to traffic and inconvenience to the general public and prevent damage to property and injury to persons.
- (v) The Panel further recommends that any person whose rights may be affected by the assembly or any arrangement relating to the assembly should be allowed to make an urgent application to the High Court for intervention.
- (vi) The Panel recommends that the FRU and Police urgently implement international standards as guidelines for their personnel on the use of force and firearms, particularly in relation to assemblies.

A summary of the guidelines follows:

- Human life should be respected and preserved.
- Everyone is allowed to participate in peaceful assemblies.
- There should be no interference by the Police save for the protection of persons participating in the assembly or others.
- Police officers should exercise restraint in the use of force and minimize damage and injury.
- Law enforcement officials should 'minimize the risk of endangering uninvolved persons', and ensure that the use of weapons is carefully controlled.
- The progression of use of force should follow five stages: 'verbal persuasion; unarmed physical force; force using non-lethal weapons; force using impact weapons; and deadly force'.

- The use of firearms is only permissible in self-defence or in defence of others against imminent threat of death or serious injury or to arrest a person presenting such a threat and when less extreme means prove insufficient. There should also be rules and guidelines regulating the use, possession, storage and issuance of firearms.
 - Flashlights, radios and handguns are not designed as impact weapons and should not be used as such.
 - The Police should ensure that assistance and medical aid are rendered to any injured person, and should notify relatives or close friends at the earliest possible moment.
 - Any injury or death caused by the use of force by Police officers shall be reported promptly to superior officers. Upon receipt of these reports, there shall be an effective review process with the exercise of jurisdiction of independent administrative or prosecutorial authorities. The report shall be subjected to administrative review and judicial control.
 - The Police force should adopt and implement clear rules and regulations on the use of force by its personnel. Such rules and regulations should be based on ethical issues with regard to the use of force and firearms. Furthermore, there must be constant review of these rules and regulations.
- (vii) The Panel, in addition, recommends that regulations or guidelines be drawn up with regard to crowd control which should contain, *inter alia*, these features:
- Appointment of marshals (from the organizers) to ensure a peaceful assembly or procession and that practical arrangements of the assembly are satisfied. These are analogous to the provisions found in South Africa's regulations. The Panel is of the view that the appointment of marshals should be implemented in Malaysia as they provide a focal point for members of an assembly and the Police for the purpose of consultation and liaison.
 - Appointment of a liaison Police officer to communicate with the marshals with regard to any developments of the assembly or procession, including warnings to disperse.

- Requirement to display individual identification, especially on the outer part of the body armour of FRU and Police personnel. The Panel reiterates its recommendation that the Police and FRU should require all personnel to display names and badge numbers.
 - While the Panel acknowledges it is necessary for the Police and FRU to wear helmets and other protective apparel or items, these should bear clear identification.
 - All persons at an assembly are prohibited from inciting hatred or violence.
 - Peaceful assemblies should be allowed to proceed without a permit. If the Police wish to disperse the assembly for cogent reasons there should be a requirement to ensure that warnings are clear and audible and given at least three times at 10-minute intervals, with sufficient time for the crowd to disperse. Warnings should also be conveyed to the appointed marshals in person who, in turn, would be responsible to communicate these to members of the assembly.
 - Any assembly should not be intimidated by the presence of the Police either in great force or in heavy protective gear. The Police presence should be discreet. In cases of peaceful assembly which are to be dispersed for cogent reasons, there should be restraint on the part of the Police in the use of canes, batons, tear gas, water cannon and chemical irritants.
 - The practice of pursuing and arresting persons moving away or those who have moved away should be prohibited.
- (viii) The Panel recommends that these regulations or guidelines be adopted and made widely available to the general public and to Police and FRU personnel, to ensure that those likely to be affected are able to foresee whether or not a particular conduct is likely to be in breach of the regulations.
- (ix) The Panel states that helicopters should not be used to disturb any assembly and that any such use, if necessary, should be limited to monitoring purposes only.
- (x) The Panel strongly recommends that the Police conduct investigations to determine which of its personnel have used excessive force on individuals, and take disciplinary or legal action against those involved.

2. PUBLIC INQUIRY: USE OF 'LIVE' AMMUNITION IN THE BATU BURUK INCIDENT ON SEPT 8, 2007

SUHAKAM received complaints from civil society groups about the incident. The Commission takes a serious view of the use of 'live' ammunition at a public assembly. Although, it is noted that 16 people were charged under Section 27 of the Police Act for participating in an unlawful assembly, SUHAKAM's primary concern is on the use of 'live' ammunition by the Police.

While the use of 'live' ammunition may have been investigated as part of the investigation on illegal assembly, there was no specific inquiry into the issue. No court proceedings were pending on the issue either.

In the interest of human rights, SUHAKAM found it necessary to hold a public inquiry to ascertain whether the use of 'live' ammunition by Police personnel was justified. Hence at the 93rd Commission Meeting on Nov 12, SUHAKAM decided to conduct a public inquiry from Dec 13-16 at Bilik Gamelan III, Primula Beach Resort, Kuala Terengganu, Terengganu.

It was to be conducted by a panel of three Commissioners comprising Dato' Muhammad Shafee Abdullah (Chairperson), Tan Sri Dato' Asiah Abu Samah and Prof Dato' Dr Khoo Kay Kim.

The terms of reference were:

- (a) To inquire into the circumstances of the situation and the justifiability of the use and discharge of 'live' ammunition into the crowd by Police personnel, where person(s) were consequently injured, and whether it was a violation of human rights; and
- (b) If violation of human rights occurred, to determine:
 - (i) Which person(s) or agency was responsible;
 - (ii) How it came about and the nature of the violation;
 - (iii) What administrative directives and procedures or arrangements, if any, could have contributed to this; and
 - (iv) What measures should be taken to ensure this does not recur.

On Nov 14, the Panel of Inquiry formed a Secretariat which was tasked with conducting preliminary investigations and recording statements of relevant witnesses for purpose of the inquiry. The Secretariat conducted its preliminary investigations from Nov 21-24 and recorded statements of 10 Police officers and seven civilians, including the two victims of the shooting – Mr Suwandi Ab Ghani and Mr Muhammad Azman Aziz. In addition, the Secretariat obtained

all medical reports relevant to the inquiry and the chemistry report with regard to the shooting incident. Following the preliminary investigations, the Commission issued a subpoena to all material witnesses on Dec 4.

On Dec 10, SUHAKAM took cognizance of the fact that Mr Suwandi and Mr Muhammad Azman had been charged in the Kuala Terengganu Sessions Court on Dec 9. The Police officially informed SUHAKAM of the charge via a letter dated Dec 10. In it, the Police stated that Mr Muhammad Azman and Mr Suwandi had been charged under Section 149 of the Penal Code to be read together with Section 333 of the Penal Code. The Police also referred to Section 12(3) of the Human Rights Commission of Malaysia Act and stated that, in their opinion, SUHAKAM should not proceed with its inquiry because the issue had become the subject-matter of a court proceeding.

The Panel of Inquiry deliberated the matter and opined that clarification was required, as it was uncertain if the issue relating to the shooting incident would become the subject-matter of the court proceeding. Hence, the Panel agreed that it should convene the inquiry with the aim of ascertaining whether the subject-matter of the public inquiry – the use of ‘live’ ammunition – would become the subject-matter of the court proceeding.

On Dec 13, the inquiry was convened to consider and decide all questions pertaining to the threshold jurisdiction of the Commission. ASP Zainuddin Yatiman, the Investigation Officer of the case, was called as the first witness. ASP Zainuddin provided SUHAKAM with the charge sheet and a list of witnesses to be subpoenaed. He informed the Panel that the incident of shooting would form the substantial matter of the hearing, which was to commence on Dec 30. From his testimony, it is clear that the evidence to be adduced would encompass the incident of shooting and the use of ‘live’ ammunition.

The Panel then called a press conference to announce the cancellation of its public inquiry. Its decision was guided by Sections 12(2) and (3) of the Human Rights Commission of Malaysia Act which require the Panel to immediately cease its inquiry where an issue becomes the subject-matter of a court proceeding. Accordingly, the Panel announced the cancellation and the withdrawal of all subpoenas issued to witnesses.



(From left) Tan Sri Dato' Asiah Abu Samah, Dato' Muhammad Shafee Abdullah (Chairperson) and Prof Dato' Dr Khoo Kay Kim announcing the cancellation of the SUHAKAM Public Inquiry into the Batu Buruk Incident at a press conference in Kuala Terengganu on Dec 13

The fact that the persons who were shot have been charged in court and that the Police officer who allegedly shot them was not charged remains disturbing, more so when legal action was instituted just four days before SUHAKAM was to begin its inquiry. The Panel expressed the hope that such action was not an attempt by any party to frustrate the inquiry.

The Panel further decided that its team would hold a watching brief during the court case. On Dec 30, Dato' Muhammad Shafee Abdullah and two officers attended the hearing as observers. However, the hearing was postponed to allow for a joint trial with four other related cases. The court fixed the hearing to commence from Jan 20-25, 2008 and to continue from Jan 27-31. SUHAKAM will remain vigilant in monitoring the development of the case.



CHAPTER 4

REPORTS OF WORKING GROUPS



CHAPTER 4(I)

REPORT OF THE HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP

REPORT OF THE HUMAN RIGHTS EDUCATION AND PROMOTION WORKING GROUP

In discharging its duties, the Human Rights Education and Promotion Working Group (EWG) conducted workshops, talks, field visits, competitions and research over the year. These were targeted at education officers, teachers, students, enforcement officers, Indigenous Peoples and persons with disabilities. In addition, the human rights education programme was extended to include religious schools.

The activities continued to receive support and co-operation from the Ministry of Education and various law enforcement agencies. RELA sought additional human rights training, while the National Union of the Teaching Profession invited the Commission to talk on 'Teachers' Rights and Students' Rights' on World Teachers' Day on Oct 25.

1. HUMAN RIGHTS EDUCATION FOR SCHOOLS

The year's programme comprised workshops for senior officers in State Education Departments and for master trainers for school counsellors, as well as a 'Human Rights Best Practice' competition and an art exhibition.

(a) Human Rights Education for State Education Officers

Two regional workshops were organized in the Southern and Central Zone respectively. Dato' Alimuddin Mohd Dom, the Director-General of Education, officiated at the opening of the Central Zone workshop. These events also marked the completion of the training programme for

senior officers in State Education Departments, district education officers and senior teachers, principals and counsellors.

The 2½-day workshop was a highly participatory one, featuring only 1½ hours of lectures to cover the meaning of human rights, principles of the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child (CRC). Participants were then guided on analyzing education-related issues from the human rights perspective, and to identify instances of violation of child-rights in the school environment. The workshop ended with an Open Forum for participants to bring up human rights issues of concern to them.

Many participants came to the workshop with great reluctance and trepidation as they were under the impression that observing the child's human rights is tantamount to giving in to the wants of children. This misconception was quickly dispelled. More than 90% of the participants found the workshop to be highly beneficial. Among their suggestions were for workshops to be organized for the entire school community, including parents and students. They also requested that the duration of such workshops be extended, to enable participants to widen their understanding of human rights.

Issues and Recommendations

SUHAKAM offers observations and recommendations on issues raised by participants.

(i) Caning in school

Most of the participants were in favour of caning as they perceive this to be the most effective way of disciplining students.

Recommendations

- SUHAKAM does not condone caning. However, since it is permitted by the Ministry of Education, SUHAKAM urges that caning be carried out in accordance with the stipulated regulations and procedures.
- Caning should not be intended to inflict physical or mental harm and the child's human dignity should not be degraded in any way.
- School personnel shall not be discriminatory in administering caning.

(ii) Education for children with disabilities

While most of the participants have empathy for persons with disabilities, the majority were of the view that children with disabilities should be placed in special schools or classes.

Recommendations

- SUHAKAM acknowledges that great strides have been made in education for children with disabilities. However, it must be noted that the majority of schools are not disabled-friendly, both in terms of facilities and the attitude of students, staff and parents.
- The education system has to be made more flexible and inclusive to accommodate the needs of children with disabilities and to provide an environment as normal as possible for them to learn and develop.

(iii) Rising incidence of child abuse

There has been an escalation in incidents of child abuse, particularly sexual abuse in schools. Unfortunately, most teachers and school administrators are reluctant to report such incidents, as they may be required to testify in court.

Recommendations

- School authorities are urged to play a more active and proactive role in protecting children by raising awareness of their right to be protected from mistreatment and sexual exploitation.
- They should be more vigilant in monitoring the well being of children at risk and in reporting incidents of abuse.
- Integrating the rights of the child into the school curriculum may help to reduce such incidents, in particular incest, because children will be taught to assert their right to be protected from sexual exploitation and mistreatment.

(b) Human Rights Education for Master Counsellor Trainers

This programme was organized at the request of the School Division in the Ministry of Education. Forty master trainers of school counsellors selected from different parts of the country attended the 2½-day workshop. The programme was similar to that for State Education Department officers except that the second session involved role-play on situations pertaining to violation or protection of human rights.

The master counsellor trainers, too, initially felt that human rights had little relevance to their work. By the end of the workshop, though, they had become so highly motivated that they wanted to conduct a training session for those under their care as soon as possible.

Participants' Recommendations

- All teachers should be trained in interpersonal relations and communication skills to help children express views, communicate problems and negotiate solutions.
- The rising level of indiscipline – as seen in cases of assault, bullying and threatening of peers – requires teachers and parents to collaborate in providing children with better protection from physical and mental harm and improving their sense of security in the school environment.
- Counsellors have to be professional in ensuring confidentiality, in accordance with Article 16 of the CRC which states: 'Children have the right to protection from interference with privacy, family, home and correspondence, and from libel or slander'.
- All counsellors should have a good understanding of the CRC. SUHAKAM should conduct similar workshops to increase counsellors' understanding of the provisions of the treaty.

(c) Competition on 'Human Rights Best Practice'

The EWG replaced the annual human rights art contest with a competition based on 'best practice' in human rights in school. This was done in collaboration with the Ministry of Education

to implement the World Programme for Human Rights Education Plan of Action (Phase 1, 2005-2007), adopted by all Member-States of the UN General Assembly on July 14, 2005.

The Plan of Action states:

Human rights education is widely considered to be integral to every child's right to a quality education, one that not only teaches reading, writing and arithmetic, but also strengthens the child's capacity to enjoy the full range of human rights and promotes a culture which is infused by human rights values.

This competition was aimed at providing an opportunity for the school community to develop and practise skills in respecting human rights and, in the process, to improve understanding of the CRC. However, only 56 entries were received. This small number of entries and the quality of the submissions suggest that school administrators, teachers and students have yet to attain adequate understanding of human rights although this is one of seven topics in the secondary school moral education curriculum, and civics and citizenship have been taught in primary and secondary schools since 2005.

(d) Human Rights Art Exhibition

This was held at the National Art Gallery of Sabah in March and then at the Sarawak Museum in April, to promote human rights awareness to the public through art. SUHAKAM displayed 52 winning entries from its Human Rights Art Competition 2006, based on the theme 'Children's rights to basic needs'. The exhibition in Sarawak attracted 5,378 visitors while there were 2,836 visitors in Sabah.

2. RIGHTS OF THE CHILD

CRC Awareness Workshops for Religious Teachers

For the first time, SUHAKAM organized two CRC Awareness Workshops for teachers from religious schools in the East Coast and Northern Zone respectively. This was conducted because of incidents of violence recorded at State religious schools from 2005-2006. SUHAKAM's aim was to instil a culture of human rights that promotes respect and tolerance via understanding of the CRC, and to provide alternative approaches to dealing with violence in school. The workshops further exposed participants to the possibility of harmonizing human rights with Islamic principles, in light of the notion that these are often in conflict.



The facilitator and participants at a workshop session

Both workshops received encouraging participation, with 91 teachers from Terengganu (host State), Kelantan and Pahang in the East Coast session; and 57 from Kedah (host State), Perlis and Penang in the Northern session. The main components of the programme were group activities on human rights and CRC, a group discussion and an Open Forum. SUHAKAM Commissioner Dato' Monir Abdul Yaakob delivered a lecture on 'Human Rights and Islam'.

The group discussion, on whether human rights should be taught at religious schools, received mixed responses. Those not in favour of this said students are not mature enough to understand and exercise their rights, especially since 'human rights is a product of the West and is therefore incompatible with Islam'. Participants who took a positive stance said inclusion of human rights in the curriculum could lead to improvements in the conduct of teachers themselves, while reinforcing their understanding of children's issues at the school level.

In light of these responses, SUHAKAM hopes to improve the programme to address the issues and to strengthen understanding as well as widen discourse, so as to reconcile prevailing views of Islam and human rights. SUHAKAM also hopes that further engagement with teachers from religious schools will reduce apparent discomfort about discussing human rights and Islam.

3. HUMAN RIGHTS EDUCATION IN TERTIARY INSTITUTIONS

(a) Workshop for Faculty of Education

A human rights culture will be difficult to develop in school without teachers playing an active role. Teacher trainees need to have strong understanding of human rights in order to contribute to the process. SUHAKAM is well placed to assist by organizing workshops for lecturers and students in the Faculty of Education of universities. This has already been done at three premier universities – Universiti Malaya (UM), Universiti Kebangsaan Malaysia (UKM) and Universiti Sains Malaysia.

In 2007, a workshop for students and lecturers was conducted at Universiti Perguruan Sultan Idris from Jan 13-14. A second workshop was held from Dec 17-18 for lecturers from the Faculty of Cognitive Science and Education, Universiti Utara Malaysia (UUM). The latter event saw enthusiastic participation in the role-play component; the lecturers felt that this is an effective teaching-learning method that also facilitates bonding among lecturers from different departments to build team spirit. They shed scepticism as they grew in their knowledge of the CRC.



UUM lecturers participating in role-play

(b) Session on Human Rights during Orientation Week

After a meeting with the Minister of Higher Education and subsequently, with Vice-Chancellors/ Rectors in 2006, SUHAKAM attempted in 2007 to organize programmes in universities. After

follow-up discussions with Ministry officials, SUHAKAM was offered a session on human rights during Orientation Week in all public universities. The Commission made preparations, but the Ministry withdrew its offer citing time constraints during Orientation Week. Instead, the Ministry requested SUHAKAM to get in touch with the university authorities to organize the programmes.

For a start, SUHAKAM contacted three public universities – UKM, Universiti Islam Antarabangsa Malaysia (UIAM) and UM. The first two responded and meetings were held. As an outcome, UKM invited SUHAKAM to give lectures during courses on human rights, gender studies and ethnic relations and to provide materials on human rights to undergraduates.

UIAM, meanwhile, offered to work with SUHAKAM on training-of-trainers for its facilitators; in the delivery of human rights programmes to new students; and in implementing community work, such *Program Bakti Siswa* for the Orang Asli. About 1,300 new students attended SUHAKAM's introductory programme in November, which covered basic human rights principles and their application among university students.

4. HUMAN RIGHTS FOR THE DISADVANTAGED

(a) Right to Education for Vulnerable Children

Malaysia, like other signatories to the Declaration of Education for All, had to submit a Mid-Decade Assessment Report. The Declaration proclaims that every child has the right to primary education. The UN Committee on the Rights of the Child, in its comments on Malaysia's initial report on the CRC, expressed concern that certain groups of children suffer disparities in access to education (Item 31 of the Report). In addition, SUHAKAM has received complaints on access to education for children in these vulnerable groups.

As such, SUHAKAM conducted a study to ascertain needs among:

- Indigenous children, *inter alia*, Orang Asli, Penan, Bajau Laut
- Hardcore poor including plantation-based children
- Street children
- Children in detention centres
- Children without legal documents
- 'Refugees'/asylum seekers/stateless children

The objectives were to:

- (i) Identify groups without access to six years of primary school;
- (ii) Determine the reasons for the denial of such access to basic education;
- (iii) Obtain profiles of children involved; and
- (iv) Identify measures to provide them with access to basic education.



SUHAKAM Commissioner Dr Chiam Heng Keng interviewing Penan parents on access to education for their children

Questionnaires were designed to assist interviews with children, parents, teachers, administrators and/or community leaders among:

- Indigenous communities in 6 Penan villages in Sarawak and 9 Orang Asli villages in Peninsular Malaysia
- Hardcore poor groups in 6 villages in Sabah; 5 villages in Peninsular Malaysia; and 1 public housing project in Peninsular Malaysia
- Documented immigrants in 5 villages in Sabah
- Irregular immigrants in 6 villages in Sabah
- Migrant workers/Stateless persons based in 6 plantations
- Undocumented immigrants/'refugees'/asylum seekers in 3 centres in Klang Valley

The data is currently being analyzed, but some key trends have emerged.

(i) Orang Asli in Peninsular Malaysia

- Those living in the interior encounter problems with access to school due to lack of access roads for vehicles, unreliable transport or no transport at all.

- There is little incentive to attend school because parents and children perceive that education does not help to alleviate poverty, given that some children who have completed secondary school are unemployed. So, even when the school is in the village, attendance is still poor at about 50%.
- Quite often girls marry at a young age and in some cases, even before they complete primary school.
- School uniforms and shoes are of poor quality and are available in one or two sizes only.

(ii) Penan Community

- Parents are reluctant to send children aged 6-9 years to hostels as they want to nurture and bond with their children.
- Young children, especially girls, have problems in leaving their families and adapting to life in a hostel as the conditions are very different from those at home.
- Some children have difficulty in adapting to the food; the Penan do not add salt to food, while sago, not rice, is their staple food.
- Bullying is common as other indigenous groups in Sarawak look down on the Penan because they are poor; many children even wear the school uniform throughout the day and week.
- If children do not hold documents (such as a birth certificate) and if their parents do not have a Mykad (implying that they are not citizens), they are not eligible for financial assistance, free uniforms and textbooks.
- Since the school requires students to spend the weekend at home, many parents cannot afford the cost of transportation to pick them up. This is one reason why children fail to return to school after the holidays.
- Lack of job opportunities for youth who have completed secondary school reduces motivation to study. Being unemployed also creates social misfits as, after living in urban areas for five years, youths find it hard to readjust to life – and earning a livelihood – in their village.

- The Penan would like to have schools nearer their homes so that children, especially young ones, do not have to stay in hostels. If this is not possible, then they would like to have a pre-school in each village so that young children can learn to adapt to formal learning and school life.
- Most children do not have a birth certificate for reasons rooted in poverty and inaccessibility of registration offices.

(iii) Rural poor

- Especially in the interior, schools are often at a distance from villages. This requires children to stay in hostels. If schools are nearer the village or if parents do not want make use of hostel facilities, the children have to walk to school which may take an hour or more each way.
- Parents' attitudes and societal values have a significant influence on children's attitudes towards learning, as seen in two adjacent villages. In one, less than half of the children interviewed went to school while in the other, only about three children were not in school. In both villages, children have to walk for 1½ hours on average to get to school.
- In remote villages, many children are without birth certificates.

(iv) Urban poor

- Children are likely to drop out of primary school because of poverty, dysfunctional families and social problems.
- Children born out of wedlock or children whose parents are not cognizant of the importance of having proper documents, do not have birth certificates. Hence, they are not eligible to attend Government schools.

(v) Children of undocumented immigrants/'refugees'/asylum seekers

- Since they have no legal status, they are not entitled to any form of education.
- Non-governmental organizations (NGOs) such as HUMANA, Malaysian Care, ABIM and Korean Food for the Hungry International, provide basic literacy programmes

for children to learn elementary skills and to curtail social problems that could arise through boredom.

- In certain areas, the authorities are co-operative and consider NGOs as partners but in others, enforcement officers have harassed those operating learning centres.

(b) Persons with Disabilities

SUHAKAM has been advocating the rights of persons with disabilities since the First Malaysian Human Rights Day was observed on Sept 9, 2001, and a forum was held to discuss the rights of the disadvantaged. Persons with disabilities were identified as a disadvantaged group. Since then, SUHAKAM has been promoting such needs as a disabled-friendly environment, right to education, right to work and right to be fully integrated into society.

The Government's approval of the policy on persons with disabilities, the tabling of the Persons with Disabilities Bill in Parliament in 2007 and the plan to sign the UN Convention on the Rights of Persons with Disabilities in February 2008 indicate recognition of rights. These measures are just a start and much more ground will have to be covered before the group enjoys a full life of dignity and self-reliance.

One of the greatest obstacles to this is public attitude towards persons with disabilities. As such, SUHAKAM's focus during the year was on raising society's awareness of the rights of persons with disabilities. Still, several programmes failed to take off due to the lack of support and response.

Among the activities organized to raise awareness was a public forum on May 22, themed 'Understanding the disabled and the public role in ensuring a better future for them'. At the same time, the Rotary Club Malaysia launched a 'Governor Wheelchair Bank'. SUHAKAM produced brochures on the rights of persons with disabilities and a poster to remind the public that they have talents and capabilities, dreams and aspirations. The production of the poster was the outcome of collaboration between SUHAKAM and West Damansara Charter of the Rotary Club Malaysia.

(c) Rights of Indigenous Peoples

On Nov 3, SUHAKAM organized an Outreach Programme at Kampung Kuala Gandah, Lanchang, Pahang, targeting the Orang Asli Community. The objectives were to:

- (i) Create better understanding among parents on the right to education, especially for their children;
- (ii) Stress the importance of education and to minimize the number of dropouts among children;
- (iii) Seek feedback on effective teaching and learning strategies that are in line with their cultural background; and
- (iv) Identify the number of people without a birth certificate/Mykad and to assist them in the application process.

SUHAKAM worked with agencies like the Ministry of Education, Department of Orang Asli Affairs (JHEOA) and the National Registration Department (NRD) in this programme. The Department of Wildlife and National Parks assisted by arranging activities for the children.



Members of the Orang Asli Community at a briefing session

About 400 people from four settlements around Kampung Kuala Gandah attended the programme. The first section was a dialogue session with Orang Asli parents, who raised the following issues:

- Transportation provided for children is insufficient and not properly managed.
- There are delays in delivering support material such as school fees, school uniforms and books.
- The school environment and school community are not 'Orang Asli friendly'.
- Some parents and children have a lackadaisical attitude to schooling.

In the second section of the programme, SUHAKAM surveyed the number of children without birth certificates. Among the 26 families surveyed, 76 children did not hold the document. SUHAKAM has requested the NRD and JHEOA to follow-up on this.

SUHAKAM's Recommendations

- (i) The relevant authorities, especially JHEOA, should take steps to overcome the transportation problem in the four settlements and to deliver support materials to the children on time.
- (ii) The Ministry of Education should monitor the delivery of its programmes to the Orang Asli Community, to ensure these are being implemented effectively.
- (iii) The NRD and JHEOA should take the necessary steps to assist the 76 children identify by SUHAKAM and other children in their applications for a birth certificate and MyKad.

5. RIGHTS OF WOMEN

To demonstrate its commitment to women's rights, Malaysia had in 1995 ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). SUHAKAM has taken responsibility to promote the principles stated in CEDAW, for the full realization of women's rights. While the Government and women's NGOs have striven to protect and promote these rights, women are still being subjected to various forms of discrimination and inequality. This is especially seen among single mothers, women with disabilities, indigenous women and victims of sexual harassment or abuse.

SUHAKAM therefore organized a dialogue on women's rights as a preliminary step in identifying issues and problems, ahead of developing strategies. The dialogue served as an avenue to identify potential partners and to assess needs in educating society. Participants comprised representatives of the Ministry of Women, Family and Community Development, Welfare Department, the Police Force, Bar Council, universities, trade unions and women's NGOs.

The following issues were discussed:

- Low public awareness of CEDAW
- The need to strengthen national policies relating to women
- The need to mainstream gender awareness
- Religious and cultural perspectives of women's rights, for example Muslim women's rights in Syariah Law
- The rights of women who are marginalized due to disabilities or indigenous background

SUHAKAM received salient opinions and recommendations which will serve as an important reference for future planning. The main recommendation was for SUHAKAM to collaborate with civil society groups to raise public awareness of CEDAW. As the next step, SUHAKAM plans to organize workshops and publish materials on CEDAW for the public. The Commission hopes that improved understanding of women's rights will help eliminate discrimination and provide equal opportunities for women to advance in the political, economic and social arenas.

6. HUMAN RIGHTS PROGRAMME FOR ENFORCEMENT AGENCIES

(a) Training for the Police Force

SUHAKAM conducted a training workshop from Feb 4-7 for 40 heads of the District Crime Investigation Department from Peninsular Malaysia. The workshop was repeated from Nov 18-21 for 50 heads of District Crime Investigation Departments in Sabah and Sarawak. This was to help them address public complaints about human rights violations and abuse of power by the Police. This workshop added to the series that began in 2005 and continued in 2006.



Police officers at a workshop

As in previous workshops, the focus was on integrating human rights values into the scope of day-to-day work. Participants responded by expressing their needs.

(i) Domestic Violence

A unit should be set up in the Police headquarters in every district to cater to women and children in need of protection in cases of domestic violence. This is to reduce response time in obtaining an Interim Protection Order, which is currently only released by the State contingent headquarters. Co-operation between the Police and Welfare Department should be reinforced to provide protection to survivors of domestic violence and sexual assault who lodge complaints with the police.

(ii) Deaths in Custody

The Police usually refer such cases to the Coroner's Court for an inquest to ascertain if any criminal elements are involved. However, there have been delays in the initiation of inquests, which has led to negative perceptions of the Police.

SUHAKAM'S Recommendations

Police officers, in their investigative capacity, play a critical role in the judicial process, leading to the conviction and punishment of criminals. The right to a fair trial and the presumption of

innocence should form the basis for investigating every crime. A lawful and ethical investigation can protect the right to a fair trial, whereas an unlawful or unethical investigation would subvert that right even before the trial commences. There are also practical reasons for proper investigation – mainly to avoid the possibility of a conviction being lost because of procedural ‘short cuts’ by Police.

Because the public have the right to sanctuary and to be protected by the Police, SUHAKAM suggests that the Investigation Division should be strengthened, so that it can overcome the ever-increasing sophistication of criminal activity.

(b) Workshop for People’s Volunteer Corps (RELA)

RELA was set up on Jan 11, 1972 under the Emergency (Essential Powers) Act 1964, and is further governed by the Essential (Ikatan Relawan Rakyat) (Amendment) Regulations 2005. According to the Home Ministry, RELA’s establishment was based on the philosophy that the “responsibility of defending the country is in the hands of its own citizens with all citizens playing their respective roles”. Its mission is “to mobilize a voluntary force to assist the security agencies in the maintenance of peace and security in the country”.

Amendments in 2005 have conferred additional powers on RELA:

- Regulation 4A – power of competent authority which, among others, allows personnel to carry arms; stop any person suspected to be a terrorist, undesirable person, illegal immigrant or an occupier; and arrest without a warrant
- Regulation 4B – power to enter and search with or without a warrant where there is reasonable belief of the presence of terrorists and illegal immigrants

While the intention is to enable RELA to assist the authorities in performing their duties, there is a possibility of abuse of power because their operations are not subjected to Police and Immigration supervision. This has become a major problem because RELA personnel are untrained in detaining and handling people during raids.

Allegations of abuse of power by RELA personnel are already in the news – the *New Straits Times* reported on April 18 that RELA personnel had been detained in connection with a robbery in Ipoh, Perak; on March 6, the same newspaper reported that RELA members were being investigated for allegedly assaulting two Nepali factory workers in Jenjarom, when they had not been authorized to conduct any operation at the time. RELA once again made the headlines when the Indonesian Embassy expressed unhappiness over the harsh treatment

of a diplomat's wife and a university student who were detained during raids in Chow Kit and Kajang (*Star*, Oct 9).

In response to the incidents in April, RELA headquarters issued a circular stating that the leader of the raid team would be responsible for conducting body searches on personnel before and after such operations to ensure that they abide by the law. To make sure that volunteers do not steal or plant evidence, the team leader is instructed to check that volunteers are not carrying cell phones or weapons and only a limited sum of money. RELA officials have also responded to complaints by announcing new training procedures.

SUHAKAM first conducted training for RELA personnel in 2006, to educate them on relevant human rights issues and to highlight regulations and international guidelines such as the UDHR. In 2007, the Commission conducted three more human rights awareness workshops for RELA district officers covering the Central, North and Sabah/Sarawak Zones. The aim was to assist them to recognize and uphold human rights in procedures and operations. SUHAKAM continues to receive invitations to conduct human rights training at the RELA Training Centres in Malacca, Kedah and Terengganu. This is for new members who are required to attend the RELA foundation course.

Issues Raised at Workshops

Participants highlighted common situations encountered during their operations.

- The passports of migrant workers are usually kept by their employers. This makes it difficult for RELA personnel to conduct proper search and investigation during raids.
- Many employers have been found to abuse and exploit migrant workers by not renewing their work permits. This leaves the workers vulnerable during enforcement operations.
- Given the increasing number of illegal migrants and 'refugees' in Malaysia, more shelters are required to provide them with a safe place for temporary residence. The shelters should have suitable living conditions as the detained persons and refugees will need to stay there until they are accepted by and deported to their home country or to a third country.

- The role of agents in employing immigrants needs to be reviewed. There are often cases of fraud relating to wages and down-payments. This makes workers unhappy and leads to conflicts with employers. In turn, this leads to employers cancelling the work permit, forcing workers to look for other jobs without valid documentation in hand – again, this places them in jeopardy of being detained.

SUHAKAM's Recommendations

- (i) To ensure that RELA personnel fulfil their obligations to safeguard the nation's security, while respecting human rights and individual freedoms, proper training must be provided. This should aim at instilling understanding of human rights, knowing the importance of due process, and creating the realization that no one is above the law, including those in a position of authority.
- (ii) RELA must conduct thorough investigations prior to arrests and operations, or risk falling short of having a 'reasonable belief' as prescribed by legislation. Although RELA has the power to search and arrest without a warrant, it does not mean that they should exercise this without proper investigations.
- (iii) Employers should not be allowed to hold the passports of employees. They must be taken to court and punished if found guilty of hiring illegal immigrants or exploiting those with valid documents or forcing them into slavery.
- (iv) Illegal immigrants arrested by RELA must be given sufficient time to gather their belongings so that upon arrival at the detention centre, the issue of denial of right to property or basic necessities, including clothing, will not arise.
- (v) SUHAKAM hopes that the Government will take appropriate action in solving problems that involve 'refugees'. It should study and ratify the international covenant on refugees.

SUHAKAM further welcomes the Government's decision to abolish the RM80 fee for each undocumented migrant caught by RELA personnel. The findings of visits to Immigration depots across the country prove that RELA mainly arrests and detains migrants without visas or legal documents, or those who have committed other Immigration-related offences. Only a small number of detainees have not committed any offence. Nonetheless, SUHAKAM takes a serious view of this matter as it is a violation of human rights.

Based on the Government's announcement that RELA will take charge of security at all Immigration detention depots, SUHAKAM suggests that training on human rights and the law should be made compulsory for personnel. Such training should be further emphasized for RELA members who regularly participate in operations to arrest illegal immigrants or who join crime prevention operations conducted by the Police.

7. LIBRARY REPORT

SUHAKAM Library is responsible for building the collection of literature on human rights, and to encourage use of these resources. It has continued to expand the collection through purchase and receipt of gifts.

Two in-house activities were also organized during the year – a Book Donation campaign and a Movie Screening Session. These were aimed at encouraging the reading habit and to promote human rights awareness among staff-members.

MEMBERS OF HUMAN RIGHTS AND PROMOTION WORKING GROUP

Tan Sri Dato' Asiah Abu Samah (Chairperson)

Dr Chiam Heng Keng

Prof Emeritus Dato' Dr Khoo Kay Kim

Dato' N Siva Subramaniam

Prof Dato' Dr Abdul Monir Yaacob

Datuk Dr Denison Jayasooria

Dr Muhammad 'Uthman El-Muhammady



CHAPTER 4(II)

REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

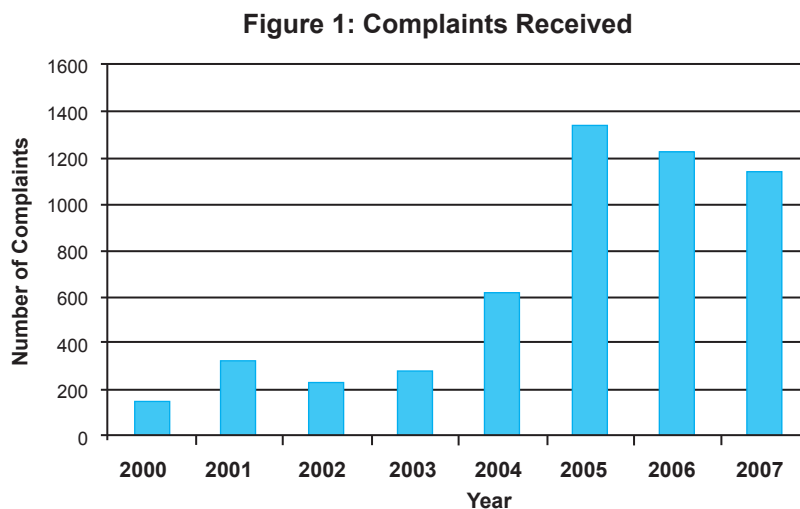
REPORT OF THE COMPLAINTS AND INQUIRIES WORKING GROUP

Increased awareness of human rights has led to more complaints being submitted to SUHAKAM. The Complaints and Inquiries Working Group (CIWG), in fulfilling its obligations as prescribed by the Human Rights of Malaysia Act 1999, gave its attention to complaints received over the year.

As a follow-up to visits to detention centres carried out in 2006, CIWG organized several meetings and a Roundtable Discussion to seek solutions to the problems observed. The visits in 2007 were extended to detention centres under the jurisdiction of National Drug Agency.

1. RESOLUTION OF COMPLAINTS

SUHAKAM received 1,145 complaints at its Kuala Lumpur, Kota Kinabalu and Kuching offices, of which 56 were in the form of memoranda.



SUHAKAM found that 733 complaints fell outside its jurisdiction and classified these as ‘Non-Human Rights Cases’ involving:

- Administrative inefficiency which should be addressed by the relevant agencies without delay;
- Complaints about crimes that would require criminal investigation and were therefore referred to the Police or other investigation agencies; and
- Complaints that were either pending trial or had been disposed of by the courts.

Of the 412 complaints accepted (Table 1), SUHAKAM has completed investigations into 100 cases, while the rest are still under investigation.

Table 1: Breakdown of Complaints, 2007

NO	COMPLAINTS	TOTAL
1.	Government Agencies	
	(i) Police Force	
	• Abuse of Power	47
	• Inaction	39
	• Brutality	20
	(ii) Immigration Department	24
	(iii) National Registration Department	20
	(iv) Prison Department	8
	(v) RELA	2
	(vi) Anti-Corruption Agency	1
2.	Land	94
3.	Emergency Ordinance	87
4.	Migrant Workers	16
5.	‘Refugees’	13
6.	Deaths in Custody	7
7.	Internal Security Act	4
8.	Freedom of Religion	3
9.	Others	27
	TOTAL	412

2. CORE ISSUES IN COMPLAINTS

(a) Detention under Internal Security Act 1960 (ISA) & Emergency (Public Order and Prevention of Crime) Ordinance 1969 or E(POPC)O

SUHAKAM received four complaints in the form of memoranda relating to the ISA and 87 complaints against detention under the E(POPC)O.

Although informed that 41 ISA detainees were released during the year, the Commission remains concerned by the continued detention of 10 detainees alleged to be members of *Jemaah Islamiah* who have been held since 2002. SUHAKAM also views with concern that 70¹ detainees are still being held under the ISA at the Kamunting Detention Centre.

SUHAKAM fully acknowledges the responsibility of the State to take measures that ensure the security and well being of citizens. However, in the context of anti-terrorism legislation, security laws should comply with international human rights standards, particularly the right to a fair trial. In this regard, SUHAKAM's recommendation to repeal the ISA as well as other laws that allow for preventive detention – and to replace these with a new security law – should achieve this very purpose. The proposed legislation contains a list of specific offences relating to threats to national security including terrorism, while providing safeguards from a human rights perspective. SUHAKAM reiterates its recommendations in its 'Report on the Review of the ISA'.

(b) Complaints against Law Enforcement Agencies/Officers

SUHAKAM received 103 complaints against the Police, including cases of alleged inaction. Reference is made to Section 107A of the Criminal Procedure Code (CPC). The Police should provide the investigation status report to the complainants within the timeframe stated in the CPC.

With regard to allegations of Police brutality, SUHAKAM requires the complainant to furnish a medical report to ensure that injuries are consistent with use of force. SUHAKAM then requests a response from the Police. SUHAKAM found that the complainants, in most cases, were

¹ Letter from the Prison Department dated Dec 26, 2007

unable to positively ascertain which officer(s) caused the injuries. In cases of identification of the assailant(s), SUHAKAM recommended that appropriate action be taken against the Police personnel.

Questions were raised about the powers and functions of RELA as a result of incidents involving demolition of illegal settlements and raids on undocumented immigrants. There were several reports and complaints especially about excessive use of force and misuse of power by RELA members during such operations.

SUHAKAM notes the circular issued by the RELA headquarters requiring a body search of its members prior to, and after, raids to ensure that they do not transgress the law. SUHAKAM, through its Human Rights Education and Promotion Working Group, continues to conduct training tailored to the needs of RELA volunteers, to heighten their awareness of human rights.

(c) Deaths in Custody

When the State takes away the liberty of an individual and places him or her in custody, it assumes full responsibility for protecting that person's safety and human rights — the most fundamental of which is the right to life. It must be recognized that, by taking people into custody, the State takes upon itself a particular duty of care because of their vulnerability.

Despite many improvements in the conditions of detention by the Prison Department and the Police, the number of custodial deaths is still high. In 2007, SUHAKAM received seven such complaints. Each was investigated by visiting the place of detention or requesting the Prison Department and the Police for a status report on their investigation into the deaths.

Four complaints were lodged by family-members who had doubts about the stated cause of death or who were dissatisfied with the medical treatment provided. In a case at the Sungai Buloh Prison, a detainee suffering from Tuberculosis was found dead. His sister, in a complaint to SUHAKAM, alleged that the Prison authority had failed to provide timely medical treatment. Following an investigation, SUHAKAM found no evidence of negligence, and was able to confirm that medical attention had in fact been given to the prisoner. Nonetheless, SUHAKAM recommends that the Prison Department remains vigilant and ensures that prisoners receive appropriate medical treatment whenever they require it.

SUHAKAM also received information on deaths in custody from non-governmental organizations (NGOs). One complaint involved a female detainee who was found dead at a Police lock-up in Johor. Ten months later, the Commission was informed that the Police are still waiting for the post-mortem report. Such delays could jeopardize the inquest.

At the time of writing, two cases had been closed, while responses were pending in five cases either from the Police or the Attorney-General's (AG's) Chambers. SUHAKAM has also taken note of other cases of custodial death that are posted on the website of the AG's Chambers, and will monitor the progress of the cases even though these have not been channelled to the Commission for action.

3. PLACES OF DETENTION

(a) Roundtable Discussion (RTD) on Conditions in Malaysian Prisons

SUHAKAM organized the RTD on March 19. It is acknowledged that the Prison Department has tried its best to improve conditions in correctional facilities. However, many aspects continue to warrant urgent attention.

The objectives of the RTD were therefore to:

- (i) Initiate collective action in reforming conditions to attain the international minimum standard on treatment of prisoners;
- (ii) Encourage transparent discussions on issues/conditions that may obstruct attainment of the minimum standard; and
- (iii) Identify practical solutions for removal of such obstacles.



Participants at the 'Roundtable Discussion on Conditions in Malaysian Prisons'

Among the participants were the Deputy Secretary-General of the Ministry of Internal Security, Deputy Inspector-General of Police, Deputy Director-General of the Prison Department, Directors of Prison and Detention Centres, and representatives of the Ministries of Health and Education, Public Service Department and NGOs.

(b) Visits to Places of Detention

Inspections were carried out at 48 places of detention (Table 2), including Immigration detention centres, prisons and Police lock-ups. The visits were conducted pursuant to Section 4(2)(d) of the Human Rights Commission of Malaysia 1999 Act which empowers SUHAKAM to visit any place of detention in order to ensure compliance with the Standard Minimum Rules for the Treatment of Prisoners, Lock-Up Rules 1953 and Prisons Regulations 2000.

The visits were made either in response to complaints lodged or on SUHAKAM's initiative. The Commission made recommendations on issues of concern.

Table 2: Visits to Places of Detention, 2007

NO.	DATE	PLACES OF DETENTION
1.	March 6	Immigration Detention Depot, Kota Kinabalu, Sabah
2.	March 6	Immigration Detention Depot, Menggatal, Sabah
3.	March 30	Immigration Detention Depot, KLIA, Sepang
4.	April 11	Immigration Detention Depot, Lenggeng, Negri Sembilan
5.	April 19	Simpang Renggam Rehabilitation Centre, Johor
6.	April 22	Immigration Detention Depot, Tanah Merah, Kelantan
7.	April 22	Pengkalan Chepa Prison, Kelantan
8.	May 10	Immigration Detention Depot, Ajil, Terengganu
9.	May 15	Immigration Detention Depot, Menggatal, Sabah
10.	June 18	Seremban Prison, Negri Sembilan
11.	July 6	Immigration Detention Depot, Lenggeng, Negri Sembilan
12.	July 19	Immigration Detention Depot, Pekan Nenas, Johor
13.	July 19	Immigration Detention Depot, Kluang, Johor
14.	July 20	Muar Rehabilitation Centre, Johor
15.	July 20	Lock-up, District Police Headquarters, Muar, Johor
16.	July 23	Kamunting Detention Centre, Taiping, Perak

NO.	DATE	PLACES OF DETENTION
17.	July 26	Lock-up, Central Police Station, Kuching, Sarawak
18.	July 26	Lock-up, Satok Police Station, Kuching, Sarawak
19.	July 26	Lock-up, Kota Padawan Police Station, Kuching, Sarawak
20.	Aug 10	Tapah Prison, Perak
21.	Aug 16	Kajang Prison, Selangor
22.	Aug 20	Penor Prison, Pahang
23.	Aug 20	Immigration Detention Depot, Kemayan, Pahang
24.	Aug 27	Immigration Detention Depot, Machap Umboo, Malacca
25.	Aug 29	Henry Gurney School, Telok Mas, Malacca
26.	Aug 30	Dusun Dato' Murad Pre-Release Prison, Ayer Keroh, Malacca
27.	Aug 30	Bandar Hilir Prison, Malacca
28.	Sept 4	Perlop Drug Rehabilitation Centre, Sungai Siput, Perak
29.	Sept 4	Immigration Detention Depot, Langkap, Perak
30.	Sept 9	Migrant Worker Processing Centre, KLIA, Sepang
31.	Sept 17	Lock-up, Semporna District Police Headquarters, Sabah
32.	Sept 25	Sungai Buloh Prison, Selangor
33.	Sept 25	Immigration Detention Depot, KLIA, Sepang
34.	Sept 25	Immigration Holding Room, KLIA, Sepang
35.	Sept 25	Migrant Worker Processing Centre, KLIA, Sepang
36.	Sept 26	Immigration Detention Depot, Semenyih, Selangor
37.	Sept 27	Drug Rehabilitation Institute, Jelebu, Negri Sembilan
38.	Oct 2	Immigration Detention Depot, Semenyih, Selangor
39.	Oct 3	Simpang Renggam Prison, Johor
40.	Oct 3	Immigration Detention Depot, Pekan Nenas, Johor
41.	Oct 10	Kajang Prison, Selangor
42.	Oct 17	Migrant Worker Processing Centre, KLIA, Sepang
43.	Oct 22	Immigration Detention Depot, Semenyih, Selangor
44.	Nov 1	Immigration Detention Depot, Juru, Penang
45.	Nov 2	Penang Prison, Penang
46.	Nov 14	Kluang Prison, Johor
47.	Dec 21	IPD Raub, Pahang
48.	Dec 29	Sungai Buloh Prison, Selangor

(c) Issues of Concern

(i) Overcrowding

Overcrowding in prisons is mainly due to the holding of persons under remand. For example, SUHAKAM's visit to the Penang Prison on Nov 2 revealed that the facility had 1,921 inmates, in excess of the gazetted capacity of 1,300.

In Immigration detention centres, overcrowding has resulted from the influx of immigrants without valid documents and delays in deportation. Contributing to this is the time taken by the country of origin to process documents on the legal status of the detainees. A visit on Sept 22 to the Semenyih Detention Depot revealed the presence of 1,545 inmates, against the gazetted capacity of 1,500.

Recommendations

- SUHAKAM welcomes the Government's effort to allocate more funds to the Prison Department, to build new prisons including those in Tapah, Pokok Sena and Kluang. It is hoped that this will alleviate overcrowding.
- The Commission is of the view that the parole system, to be implemented in 2008 under amendments to the Prison Act 1995, will help reduce both overcrowding and the cost of holding prisoners.
- To avoid further overcrowding, SUHAKAM recommends that the Government first considers whether there is enough room in prisons before amending any law to provide for increased and/or mandatory jail sentences for any offence.
- SUHAKAM also recommends that the Government considers alternative punishment, such as the Electronic Tagging System (ETS) for those charged with minor offences. The ETS allows offenders to be monitored instead of being held in prison. A detainee can be observed via a computer system set up at the prison, with the person's profile and personal information being registered in the system.
- In reducing the number of detainees at detention centres, SUHAKAM recommends that the Government reviews Immigration-related legislation to allow for the repatriation of undocumented immigrants caught in raids.

(ii) Accommodation

Basic standards must be satisfied in terms of accommodation, including adequate ventilation and natural light. It was observed that some of the older prisons, as in Penang, do not have adequate physical space for prisoners. Newer prisons appear to comply with the international standard, as there are spacious cells and good lighting and ventilation.

Recommendation

- The Government should review the living conditions at older prisons and, where necessary, implement measures to ensure compliance with minimum standards.

(iii) Clothing and Bedding

Pursuant to Regulation 16 of the Prisons Regulations, all prisoners (except those not convicted) are obliged to wear the uniform provided. During SUHAKAM's visits, it was found that the clothing is suitable for the climate and adequate for the needs of inmates.

In terms of bedding, the Prisons Regulations require that every prisoner be supplied with a blanket and a mattress which must be cleaned regularly to avoid diseases.

SUHAKAM's attention, however, was drawn to the scarcity of appropriate clothing provided at Police lock-ups. Some male detainees were found to be dressed in their underwear or in short pants. Detainees were also not given any bedding.

Recommendations

- The Lock-up Rules should be applied, particularly in relation to provision of bedding and clothes for detainees, who should also have the right to wear their own clothes.
- The Lock-up Rules should be reviewed and brought in line with relevant United Nations instruments (Standard Minimum Rules for the Treatment of Prisoners, Basic Principles for the Treatment of Prisoners and Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment). At very least, the Lock-up Rules should be amended in line with provisions of the Prisons Regulations that are applicable to those under remand.

(iv) Healthcare Services

In 2006, SUHAKAM had commented on the lack of qualified medical officers in places of detention. In 2007, the Government acted on this concern by introducing 'Panel Clinics'. With this, places of detention without qualified medical officers now have doctors from private practice placed on attachment. These doctors are assisted by medical assistants at the centres.

(v) Vocational Courses

SUHAKAM noted that a limited number of prisoners were able to participate in vocational courses introduced by the Prison Department. Due to overcrowding, though, most prisons were not able to accommodate the increasing number of detainees interested in such courses.

Recommendations

- More types of vocational courses should be introduced. The authorities should form a partnership with the private sector to come up with programmes that provide adequate skills training for detainees.
- The introduction of agricultural courses should be considered.

(vi) Young Prisoners

Youthful offenders should not be detained for too long while awaiting trial or sentencing because this would affect their mental and emotional development. Hence SUHAKAM welcomes the implementation of Section 293 of the CPC which introduces the implementation of community service for youthful offenders. It will serve as a deterrent punishment, while being rehabilitative and enabling character-building. The scheme should be extended to child offenders under the Child Act 2001.

Recommendations

- Additional suitable rehabilitation programmes must be conducted to prepare young prisoners to return to society.
- Education of young prisoners is important, including access to an adequate library. Education should be aimed at developing the whole person. It should include adequate access to books, classes and other cultural activities that could go further to encourage the prisoner to develop as a person.

- It is time to emphasize issues relating to education in prison. The Prison authority should ensure that education for young prisoners is integrated with the national education system so that they can continue their education after their release. Issues to address include allocating teachers and ensuring that young prisoners have access to sufficient reading materials. The authority should also encourage the prisoner to pursue education up to tertiary level if possible.



(From right) SUHAKAM Commissioners Dato' N Siva Subramaniam, Datin Paduka Zaitoon Dato' Othman and Dato' Haji Khalid Haji Ibrahim in a discussion with officers at the Immigration Detention Depot, KLLA, Sepang, on Sept 25

(vii) Shortage of Warders and Staff

A shortage of officers and staff is being encountered at almost all detention centres and prisons because their populations are growing. Officers are required to look after prisoners with humanity and respect regardless of wrongdoing, but the officers themselves work under extreme pressure. It is equally important to ensure acceptable working conditions for personnel, so that improvements are reflected in the quality of service.

Recommendation

- Additional personnel should be recruited. All warders should undergo stress tests and stress management courses, and receive psychology-related training on how to interact with and handle detainees.

4. MEETING WITH MINISTRY OF INTERNAL SECURITY

On Feb 9, the Commission met with the Secretary-General and heads of departments and agencies under the Ministry's jurisdiction. This was to discuss issues raised in various memoranda and complaints received by SUHAKAM, and to put forward the Commission's views on relevant matters related to human rights.

(i) Preventive detention laws

SUHAKAM re-emphasized its stand against the use of preventive detention laws and called for their repeal on the basis that they contravene human rights principles. SUHAKAM also said the Internal Security Act 1960 should be repealed and replaced with a proposed law that factors in human rights principles while taking into account the need for measures toward national security.

(ii) Conditions in prisons

SUHAKAM expressed concern over overcrowding in prisons. The Secretary-General acknowledged the problem and said the Ministry has made several recommendations to the Cabinet including the introduction of the parole system; implementation of the Community Service Order for minor offenders; and to gazette more facilities where detainees can be held. SUHAKAM noted that the parole system will be implemented by mid-2008.

The Commission also pointed out the shortage of medical personnel to attend to the health of detainees. The Director-General of the Prison Department said additional funds had been sought to enable measures to overcome the problem.

Visits conducted after the meeting revealed that most prisons and detention centres had received funds and had introduced a system of appointing 'panel doctors' – private medical practitioners – to provide treatment to detainees.

(iii) Police force

SUHAKAM has, in the past, encountered difficulty in obtaining information or responses from the Police especially in cases involving allegations of inaction and brutality. At the meeting, the Inspector-General of Police said he has instructed all State Police Chiefs to co-operate with SUHAKAM. Subsequent correspondence with the Police has yielded a higher percentage of replies. SUHAKAM welcomes the assurance of co-operation.

(iv) Freedom of expression and assembly

Another important issue raised was on freedom of expression, since SUHAKAM has received several allegations of restriction of this right. The Commission pointed out that the Police have also refused to allow many peaceful assemblies to be held.

In addition, the Ministry has prolonged a response to an opposition political party's application for a printing permit to publish its organ, Suara Keadilan. The application was submitted in May 2005. At the time of writing, the Ministry had yet to make a decision.

5. ISSUES ON ASYLUM SEEKERS, 'REFUGEES' AND MIGRANT WORKERS

(a) Asylum Seekers and 'Refugees'

SUHAKAM received 13 complaints about living conditions of 'refugees' and denial of their right to basic needs like healthcare, education and employment. The complaints condemned the increase in arrests, detention and deportation of 'refugees' and asylum seekers under Immigration laws, despite the fact that some were in possession of the UNHCR certificate/ card.

SUHAKAM also received complaints against the UNHCR office in Malaysia. A serious allegation by Muslim Myanmar peoples, including the Rohingya, was that they face discrimination on the ground of religion. Their allegations were based on:

- Prolonged process and difficulty in obtaining 'refugee' status from UNHCR compared to asylum seekers of a different religion; and
- Failure to process the resettlement of Muslim Myanmar peoples to a third country, on the basis that Malaysia would provide them with shelter.

In response to these complaints, SUHAKAM organized a series of discussions with Government agencies, NGOs and the UNHCR. Complaints against the UNHCR were forwarded to its office as these involved operational matters.

The discussions, conducted with the help of SUHAKAM's Economic, Social and Cultural Working Group, started with a dialogue with the UNHCR Representative on March 21.

On July 26, SUHAKAM held a meeting with Tan Sri Dato' Seri Aseh Che Mat, the Secretary-General of the Ministry of Internal Affairs, and representatives of the National Registration Department, Immigration Department and RELA.

On Oct 29, SUHAKAM organized a closed-door discussion on 'refugee'-related issues, attended by Government agencies, NGOs and the UNHCR. (*For details, refer to Chapter 4(iii) in this Annual Report*)

Although Malaysia has yet to accede to the Convention on Refugees 1951, the Government is obliged to meet its obligations to two international treaties that it has ratified: the Convention on the Rights of the Child (CRC) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Following a review of Malaysia's combined initial and periodic report, the UN Committee on the Elimination of Discrimination Against Women highlighted issues related to women refugees in its Concluding Remarks.

These contained positive comments and principal areas of concern. Among its recommendations were that the Government should adopt laws and regulations relating to the status of asylum seekers and 'refugees' in Malaysia, in line with international standards. SUHAKAM echoes this recommendation.

It is additionally noted that States are legally bound to adhere to principles that have been recognized as customary international law, such as that of *non-refoulement*. Under this principle, the State is prohibited from returning a refugee or asylum seeker to territories where there is risk that his/her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion.

(b) Migrant Workers

SUHAKAM received 16 complaints involving the rights of migrant workers. A series of discussions were held with relevant Government agencies, NGOs and Foreign Missions. This began with a closed-door discussion on Oct 24, followed by a Roundtable Discussion on Dec 18. Similar concerns were raised during both events.

(i) Absence of contract of service

The majority of migrant workers do not have a formal contract of service; where contracts are available, the terms and conditions are not only vague, but favour the employer.

(ii) Need to review the outsourcing policy on employment of Bangladeshi workers

As recruitment exceeds demand, Bangladeshi workers entering Malaysia endure severe difficulties. They are not given work and or the promised wages. It was claimed that that outsourcing of recruitment could, in extreme situations, be tantamount to trafficking in migrant labour.

(iii) Denial of right to unionize

(iv) Irregular payment or absence of wages and unreasonable deductions

(v) Long hours of work without compensation

(vi) Confinement and restriction of movement of workers

(vii) Physical and sexual abuse, particularly of domestic workers

(viii) Unacceptable living conditions

(ix) Limited access to healthcare services

(x) Retention of passport by the employer

SUHAKAM notes with concern that most migrant workers are detained under Immigration laws because they cannot produce their passport, as it is kept by their employer. Also, when workers buy a ticket to return home, the process is often delayed by their embassies which take time to issue the 'out pass'.

A passport is a sovereign document of a country and is to be respected. Instead it has become a tool to exploit migrant workers in Malaysia. Retention of one's passport by any other party violates the right to personal liberty as guaranteed under Article 5(1) of the Federal Constitution.¹ Despite this, the passports of migrant workers are taken away with impunity.

¹ *PP v Poh Ah Kwang* [2003] 2 CLJ 722; *Loh Wai Kong v Government of Malaysia & Ors* [1978] 1 LNS 106

(xi) Fake visas and deceitful agents

Some of those detained were found to be working when they had entered the country on a tourist visa. They disclaimed knowledge of the fact that this is prohibited, and said their agents had told them that the 30-day visa-on-arrival would be sufficient documentation for employment purposes.

Other complaints were that migrant workers, on arrival at KLIA, were cheated by individuals impersonating persons of authority such as security, Police and Immigration personnel. SUHAKAM recommends that the relevant authorities tighten procedures that permit agents and employment representatives to gain access to the KLIA terminals.

(xii) Migrant workers involved in court cases

In some cases, migrant workers have taken legal action against the employer. It was alleged that affected employers immediately terminate the work permit. Although the law allows the worker to remain in Malaysia for 90 days after such termination, it was deemed that this period is inadequate. Workers are barred from seeking employment, which makes it difficult for them to earn their livelihood while waiting for disposal of their case.

To address the foregoing issues, these recommendations were made:

- (i) That the Government considers ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- (ii) That the Government considers adopting principles of the ILO Declaration on Fundamental Rights and Principles at Work, including non-discrimination, freedom of association, and prohibition of forced labour; these standards are constituted by, *inter alia*, ILO Conventions 29, 98, 100, 138 and 182.
- (iii) That the promotion and protection of workers' rights be extended to migrant workers
- (iv) That the authorities review all policies and practices on recruitment and placement of migrant workers to ensure that these are transparent, effective and efficient; there must also be an economic means to match supply and demand of labour, to protect migrant workers from exploitation

- (v) That the Government imposes more stringent penalties against unscrupulous employers and labour outsourcing agents
- (vi) That provision is made to ensure the right to freedom of association of migrant workers, including allowing them to unionize based on job specifications; the Government, trade unions and employers should embark on dialogue on the issue
- (vii) That the Government regulates the process of recruitment, including mode of payment of wages, to ensure compliance with human rights principles
- (viii) That the authorities consider allowing migrant workers to seek employment while waiting for legal redress for labour disputes, and take necessary steps to ensure that court rulings are enforced

MEMBERS OF COMPLAINTS AND INQUIRIES WORKING GROUP

Dato' Choo Siew Kioh (Chairperson)
Tan Sri Datuk Seri Panglima Simon Sipaun
Dr Mohammad Hirman Ritom Abdullah
Dato' N Siva Subramaniam
Dato' Muhammad Shafee Abdullah
Dato' Dr Michael Yeoh Oon Kheng
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CHAPTER 4(III)

REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP

REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS WORKING GROUP

The Economic, Social and Cultural Rights Working Group (ECOSOC) worked closely with Government agencies, non-governmental organizations (NGOs) and other relevant groups and individuals over the year. The main activities were to carry out research on the right to land and socio-economic development among the Penan in Sarawak and on the Penan Benalih Blockade issue. Another study examined the application of the Millennium Development Goals (MDGs) to the urban poor in Kuala Lumpur.

ECOSOC furthered its initiative to address human trafficking by drafting an anti-human trafficking plan of action. Via dialogues, it also studied the plight of 'refugees' in Malaysia and the thematic issue of access to equitable healthcare in Sabah and Sarawak.

1. RESEARCH ON ISSUES RELATED TO THE PENAN COMMUNITY

In 2007, ECOSOC completed two research activities on issues related to the Penan Community in Sarawak. Although the affected groups live in different areas, the central issues concern their rights to land and socio-economic development. The first was carried out following complaints by the Penan residing in the interior of the Belaga District (Ulu Belaga), Sarawak, while the second was initiated following a request for advice from the Resident and District Office, Miri Division.

Conflict has arisen between the State and the Penan due to a gap in perception involving interpretation of Native Customary Rights (NCR) to 'ancestral land' and provisions of the

Sarawak Land Code 1958. This has, regrettably, triggered disputes between the two parties and, in some instances, led to blockades and arrests of members of the Community.

The United Nations (UN) has put great emphasis on the rights of indigenous communities. The UN Declaration on the Rights of Indigenous Peoples is a positive development, and Malaysia was among the 30 countries that voted to adopt it. Articles 10, 25, and 26 of the Declaration spell out the right of Indigenous Peoples to land. Article 26 emphasizes that they have a right to lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired.

While SUHAKAM recognizes the need for the State to utilize natural resources for development, it contends that the rights of Indigenous Peoples to ancestral land must be upheld as guaranteed by human rights international law.

Based on the research activities, two reports were published: 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development' and 'The Penan Benalih Blockade Issue'.

(a) 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development'

This Report was based on a fact-finding activity carried out jointly by ECOSOC and SUHAKAM's Sarawak Office.¹ The research, started in late 2006 and completed in early 2007, was initiated because of complaints by two Penan headmen from Long Singu and Long Jaik, Ulu Belaga. These were about logging and oil palm plantation activities by Shin Yang Forestry Sdn Bhd ('the Company') which had allegedly encroached on ancestral land. The complainants claimed that, since the start of deforestation, logging and oil palm plantation activities, their access to ancestral land and to forest produce had been denied. They alleged that they had not been consulted by the Company prior to the commencement of activities, and that the compensation was inadequate.

Other complaints touched on lack of access to basic human rights like adequate housing, healthcare, education, clean water, employment, right to valid documents and amenities like transportation.

¹ SUHAKAM's fact-finding activity consisted of dialogues with the communities concerned, Government agencies, the logging company, national and international researchers, NGOs and academicians, as well as literature review of various research reports and Government data. The details of the activity were reported in SUHAKAM's 2006 Annual Report, but this does not include the Commission's findings, observations and recommendations.

Table 1: Fact-finding on Right to Land and Socio-economic Development

Date	Programme
Sept 18, 2006	Field Visit and Dialogue at the Alung Ju Longhouse in Long Singu, Belaga, Sarawak Field Visit and Dialogue at the Matu Tugang Longhouse in Long Jaik, Belaga, Sarawak Meeting with the General Manager of Shin Yang's oil palm plantation, at Metannik Centre, Long Jaik, Belaga, Sarawak
Sept 19, 2006	Dialogue with representatives of district-level Government agencies, Sungai Asap, Belaga, Sarawak
Oct 12, 2006	Dialogue with the representatives of Shin Yang head office, Miri, Sarawak
Oct 13, 2006	Dialogue with representatives of state-level Government agencies, Kuching, Sarawak Dialogue with State Minister in charge of Penan Welfare, Dato' Sri Abang Haji Abdul Rahman Zohari, Kuching, Sarawak
Oct 14, 2006	Dialogue with representatives of NGOs, academicians and concerned individuals, Kuching, Sarawak
March 23, 2007	Briefing on the Penan in Ulu Belaga by Dr J Peter Brosius, ² Professor of Anthropology, University of Georgia, Athens, US

From dialogues conducted, SUHAKAM found that another six Penan villages located in Ulu Belaga were similarly affected. Their headmen also attended the dialogues held in Long Singu and Long Jaik. Based on the information provided, SUHAKAM made the following observations and recommendations.

(i) Right to land

The Sarawak Land Code has failed to recognize the Penan Community's traditions in establishing land ownership and stewardship. Consequently, claims on those lands often go unheeded by the authorities as well as plantation companies that are awarded logging licences in concession areas covering ancestral land.

² Dr J Peter Brosius conducted research on the Penan in the Belaga District. He stayed with the Penan villagers in Long Jaik from October 1984 to October 1987. He prepared a report, 'The Penan of the Belaga District: Considerations for Development'. The report, submitted to the Sarawak Planning Unit in 1987, describes the lives of some Penan Communities in Ulu Belaga, including those referred to in SUHAKAM's report.

In researching the issue, SUHAKAM found documented evidence of Penan pathways and burial grounds in the area awarded to Shing Yang, thereby proving the presence of the Penan Community well before the Sarawak Land Code was enacted. In addition, SUKAKAM found that Section 5(3) of the Code increases the vulnerability of all indigenous groups' ability to fully secure ownership of ancestral land, as it allows for NCR to land to be extinguished.

Recommendations

- That the Sarawak Land Code be amended to take into consideration this indigenous group's unique way of establishing land ownership and stewardship
- That land should be excluded from logging and oil palm plantation activities particularly when there is documented evidence of Penan burial sites and pathways, as these clearly reflect codified methods of establishing NCR to land as enshrined in Sections 5(2)(d) & (e) of the Sarawak Land Code
- That Section 5(3) of the Sarawak Land Code be reviewed to diminish the vulnerability of the already marginalized group

(ii) Environmental Impact Assessment (EIA) Report

SUHAKAM found contradictions between claims in the EIA and by the Penan in connection with the site of the proposed Shin Yang Forest Plantation. While the EIA states that there was no evidence of human settlement, the Penan insisted that that they were using the site at the time the EIA was conducted. The Penan claims were corroborated by literature review of local and international research, and was further substantiated by data that SUHAKAM obtained from the Belaga District Office.

Recommendations

- That the Natural Resources and Environmental Board – which is in charge of approving the EIA report – takes immediate action to re-verify the information provided
- That the Government takes prompt action to remedy losses in the event that inaccurate information was indeed given in the EIA report
- From a broader perspective, that only independent consultants are appointed to assess and prepare EIA reports; this will ensure greater objectivity and transparency, while negating allegations of bias

(iii) Issues on poverty

Visits to the affected villages revealed that the Penan have inadequate access to nutritious food, healthcare, education, housing and clean potable water. This shows that they are among the poorest of the poor in Malaysia.

Recommendations

- That urgent efforts should be made to meet the basic needs of the Penan in line with the Government's aspiration to address persistent socio-economic inequalities constructively and productively;³ specifically, SUHAKAM strongly recommends that poverty eradication and income-generation programmes be implemented; that the number of Service Centres in Ulu Belaga be increased; that the Sarawak Land Consolidation and Rehabilitation Authority Scheme be extended to the Penan Community; and that the programmes outlined in the First Malaysia Plan 1966-1970 (Green Book) on rural development be revived
- That, the Government undertakes regular visits and monitoring to ensure the effectiveness of poverty eradication programmes in Ulu Belaga

(iv) Issues on documentation

The majority of the Penan met did not hold Mkkad and birth certificates (BCs). Some hold temporary identification slips, the validity of which has been continually extended. These problems were traced to the absence of registration offices nearby; inability of applicants to pay the processing fee; cost and the time taken to travel to the nearest registration service in Bintulu; and a requirement for Penan parents to produce their MyKad and marriage certificate in registering births of children, when most do not have these documents.

Recommendations

- That the Government should ensure that registration services and facilities are within reach, in order for the Penan to enjoy their rights to vote, education, healthcare, welfare services, financial aid and poverty eradication programmes
- That the Penan be exempted from paying registration fees and late charges, given their isolated location and socio-economic status

³ Third Thrust of the Ninth Malaysia Plan, 2006-2010.

- That Penan parents be exempted from having to produce Mykad and the marriage certificate when applying for BCs and Mykad for their children; it must be noted that marriages in the Penan Community are merely solemnized by the headmen and not documented, so validation by the headmen should suffice

(v) Issues on education

SUHAKAM found that a majority of the Penan children residing in the longhouses in Long Singu and Long Jaik do not attend school. Among the reasons identified were lack of documentation; poor means of transportation to and from schools; poverty; and limited access to financial aid for education. Additionally, a dialogue with the relevant department found that limited resources have impeded the State's efforts in reaching out to the Penan villages in Ulu Belaga.

Recommendations

- That pre-schools, either run by the Government or NGOs, or operated jointly by them, be established in Penan villages to meet basic education needs; at the very least, children should be able to attend primary school up to Year Four
- That affirmative action be implemented to facilitate the enrolment of Penan children in secondary schools and at tertiary level, alongside measures to enhance access to financial aid
- That self-reliance education and training be made available, such as skills-related training based on knowledge of agriculture and blacksmithing, especially for those who have missed or dropped out of school-based education

(vi) Issues on health

There is limited access to Government clinics and emergency services and medical supplies, compounded by irregular visits by the Flying Doctor Service. The work of the relevant State department is hampered by limited resources.

Recommendations

- That the Government increases its allocation for rural health development, a portion of which should be channelled to improving access to healthcare for the Penan Community

- That the number of community health workers be increased to meet needs of the Penan, especially pregnant women and children who currently lack access to proper nutrition and clean water
- That the District Office plays a role in providing health education to the Penan
- That the Government ensures all components of the right to health – which includes maternal, child and reproductive health; prevention, treatment and control of diseases; and access to essential medicines and potable water – are easily available

(vii) State duty to protect the rights of the Penan

As the primary duty-bearer, the Government is obligated to ensure that its citizens enjoy human rights, including right to land and basic amenities. However, in the case of the Penan in Ulu Belaga, it appears that the task of resolving NCR land claims has been shifted to the Company. The Penan are therefore forced to turn to the Company for basic amenities when they cannot get the Government's attention.

Recommendation

- That the Government looks into the grievances of the Penan and protects their rights as guaranteed by international human rights law, in compliance with its human rights obligations

(b) Research on the Penan Benalih Blockade Issue

The second research activity was centred on land claims and efforts to bring development to indigenous groups in the interior of Baram, Sarawak. This was initiated at the request of the District and Resident Office (the 'Resident Office'), Miri Division, which sought SUHAKAM's advice on addressing the blockade ('the Blockade').

According to the Resident Office, the Blockade was set up by a group of Penan from Long Benalih, Baram ('Penan Benalih') to prevent the construction of a logging road into the area. This, however, simultaneously thwarted the Government's plan to ensure easier and efficient delivery of assistance and services to 287 families residing in Hulu Sungai Akah, Baram.

Table 2: Fact-finding on Penan Benalih Blockade Issue

Date	Programme
March 14, 2007	Meeting with representatives of Government agencies, Miri, Sarawak
	Meeting with representatives of affected Penan Communities and NGOs, Miri, Sarawak
March 26, 2007	Meeting with the Malaysian Timber Certification Council, Kuala Lumpur
May 4, 2007	Field Visit to the Blockade area in Long Benalih Dialogue with affected Penan villagers in Kampung Ba' Data Bila



SUHAKAM Commissioners in discussion with a Police officer on May 4, in the presence of Penan from Kampung Ba' Data Bila, at the site of a previous blockade

Apart from conducting field visits, the research team referred to literature on the historical migration and settlement of the Penan Community within the disputed area. SUHAKAM ascertained several main issues confronted by both the villagers and Government agencies.

(i) Claims on land ownership

Government representatives emphasized that the area involved was State land. Based on relevant local laws and other procedures, the area was leased to Samling Plywood (BARAMAS) Sdn Bhd in 1998 and gazetted as the Sela'an Suling Permanent Forest. The Company

subsequently applied for Sustainable Forest Management status from the Malaysian Timber Certification Council (MTCC). The proposed logging tract was located within the lease area, and therefore, permitted.

The Penan Benalih, meanwhile, maintained their right to the area. They said that their ownership to the land was established according to their historical and contemporary customs and argued that it should be legally recognized by the law. With respect to the logging track, they expressed fears that allowing this to be built would lead to further diminution and destruction of their ancestral land.

(ii) Consultations on the disputed area

Government representatives said that numerous consultations had been held with the Penan villagers over the disputed area. Only those residing in Long Benalih objected to the construction of the logging track.

The Penan Benalih countered that they were not adequately consulted over the logging track and related activities. As their numerous appeals to the Government had been ignored, they resorted to building the Blockade as a manifestation of their desire to engage the authorities in discussion over attempts to defend what they believe to be NCR land.

(iii) Causes and outcome of the Blockade

Representatives of the Government said the Blockade had obstructed their efforts to deliver services and assistance to other Penan and Kelabit villages within and near the area. They were concerned about the possible influence of local and international NGOs on the decision to erect the Blockade. They further believed that the main motive for the Blockade was to profit from a 'levy' that the Penan Benalih have illegally imposed on transportation of diesel to the interior.

The Penan Benalih contended that the Blockade had nothing to do with profiteering from fuel transportation. Rather, it was an attempt to save their already threatened NCR rights as well as sources of food and livelihood. On the issue of delivery of Government-related services and assistance, they said this could still be done via river transportation and other paths previously used. They highlighted the fact that their villages have limited access to adequate housing, healthcare services, education and basic amenities like electricity supply as well as clean and safe drinking water. SUHAKAM subsequently confirmed this from its field observations.

Recommendations

- As a long-term approach, SUHAKAM calls on the State Government to address the issue of Penan claims to NCR land within the licensed area. There should be political will to review the situation and make the necessary amendments to the Sarawak Land Code so that the legitimate rights of the Penan Community are incorporated. Such a review should take cognizance of the Penan concept of land and forest stewardship, as well as their past nomadic pattern of life. It should be noted that the Blockade set up by the Penan Benalih is among other blockades set up by several Sarawak indigenous communities including the Kayan and Kelabit since the 1980s for the same reasons.
- Immediate steps should be taken to address the Blockade Issue. Efforts should be continued to get the parties to continue negotiations to resolve the impasse and to examine the Community's underlying concerns. Ways should be sought to strengthen the on-going mediation process between the Company, Government agencies and Penan Benalih. Acceptable mediators who are perceived to be neutral to all sides should be sought out to facilitate this effort.
- Given the nature of lifestyle and flow of development of the Penan Community, the Government could consider giving land – fair in terms of quality and size – to the groups affected so that they are able to continue their lifestyle.
- SUHAKAM is also of the opinion that logging activities carried out in compliance with the MC&I guidelines of the MTCC would have minimal impact on the environment. Thus, there is no reason why extraction of logs by the licensee cannot co-exist with the interests of local Communities.
- NGOs and the Government agencies must work together to protect the rights of the Penan. In terms of the economic and social development of the Community, it is recommended that the existing affirmative action policy be reviewed and improved. Additionally, there is need for reactivation of the State Cabinet Committee on Penan Affairs. Furthermore, the Government has to ensure that poverty eradication programmes as outlined in the Ninth Malaysia Plan reach this marginalized group. The provision of much-needed infrastructure like roads and supply of water and electricity should be prioritized, alongside access to healthcare and education facilities.

- There is a need for training programmes to be tailored to the Community's needs, so that its members can cope with change. The programmes should build economic capacity based on traditional knowledge, and overcome their current lack of expertise. To ensure all economic and social development programmes are effective, sufficient funds must be made available, while Federal and State agencies should co-ordinate their efforts.

(c) Follow-up action on the Reports

SUHAKAM held a meeting with the relevant State Government agencies in Kuching on Nov 6. The objective was to present the findings, observations and recommendations from its Report on 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development'.

The outcome of the meeting was positive with the State Attorney-General and Natural Resource and Environmental Board agreeing to SUHAKAM's recommendation to verify information in the EIA report. SUHAKAM was led to believe that action would be taken, starting with a show-cause letter to Shin Yang Forestry Sdn Bhd. There was also broad agreement on the need for efforts to improve the socio-economic development of the Penan Community.

Copies of SUHAKAM's Report on 'The Penan Benalih Blockade Issue' were sent to the relevant Resident Office, as well as other agencies for consideration.

Given that issues on NCR land remain unresolved in Sarawak, SUHAKAM then decided to conduct an in-depth study to examine relevant native laws and customs, and laws and Constitutional provisions pertaining to these rights. It will discuss the State's responsibilities under international customary laws in the protection of indigenous land rights.

In addition, researchers will examine case laws and mechanisms through which other common law jurisdictions have affirmed indigenous land rights. A critique will be done of processes under international human rights law, with a view to establishing a basis for action and recommendations to deal with customary land issues from a human rights perspective.⁴ At the time of the writing, the research was underway.

⁴ Input from Professor Dr Ramy Bulan, Deputy Dean, Faculty of Law, Universiti Malaya

2. DEVELOPING AN ANTI-HUMAN TRAFFICKING PLAN OF ACTION FOR MALAYSIA

Building from its previous initiatives to address the burgeoning issue of human trafficking, SUHAKAM convened a Working Group to develop a Plan of Action against the practice. The Working Group consists of representatives of Government agencies, NGOs and other concerned groups, as well as individuals. It held its first meeting on Dec 20, 2006, and met again on June 26 and Sept 14, 2007.

The sessions resulted in the drafting of a national Plan of Action that generally aims to ensure that the issue is addressed in accordance with international standards which take into account the web, scale and nature of human trafficking. It also aims to emphasize the rights of victims in order to ensure their protection, care, rehabilitation and reintegration into society.



Meeting between SUHAKAM Commissioners and representatives of Government agencies, NGOs and other relevant groups and individuals, to draft the Anti-Human Trafficking Plan of Action for Malaysia

To ensure the effectiveness of the Plan of Action, it was developed on several principles that emphasize human rights, especially the rights of victims; the need for an international approach; the need for co-ordination of Government agencies and collaboration with other relevant groups and organizations; the need to understand the web and scale of trafficking; the need to acknowledge peculiarities of gender; and the need for a special approach and attention for child victims.

The four main components of the Plan of Action are Prevention and Creation of Awareness; Victim Protection, Care and Support; Legislative Framework and Policy Development; and Law Enforcement. Each component has its specific objectives, expanding to a matrix of proposed actions.

On Sept 14, the document was forwarded to the Ministry of Internal Security Malaysia (MISM) as a contribution to the national secretariat for the drafting of a comprehensive Plan of Action to combat human trafficking.

(a) Meetings on the Implementation of the ATIP 2007

In addition to developing the Plan of Action, SUHAKAM has actively participated in meetings organized by the MISM toward implementation of the recently gazetted Anti-Trafficking in Persons Act (ATIP) 2007 (Act 670).

At the second meeting from Sept 5-7, SUHAKAM was nominated and later appointed a member of the Council for Anti-Trafficking in Persons, which is chaired by the MISM Secretary-General. As a member, SUHAKAM will be able to highlight fundamental human rights issues that require the Council's attention, especially in relation to the rights of victims.

(b) Future Activities

With its experience and knowledge of issues in human trafficking, and based on its functions to promote and protect human rights, SUHAKAM could help expand public awareness of the dangers of human trafficking and the rights of victims.

SUHAKAM could strengthen its efforts via partnerships with international, regional, national and local organizations that have broad knowledge and experience. This process would be guided by the provisions of Act 670 as well as relevant international Conventions and Protocols. SUHAKAM also plans to conduct research to identify and address the factors behind human trafficking.

3. DIALOGUE ON HUMAN RIGHTS AND ACCESS TO EQUITABLE HEALTHCARE

Malaysia has made impressive progress in the area of public health and enhancement of access to healthcare services. However, there are still concerns about access to healthcare services for communities that are disadvantaged for economic, social and geographical reasons. The Penan in Ulu Belaga, Sarawak, for instance, are deprived of their right to health due to poverty and their isolated location.⁵

Building on its public forum on 'The Right to Health: Achieving Health MDGs', on Nov 5, ECOSOC held a dialogue in Kuching with the theme 'Human Rights and Access to Equitable Healthcare'.

The dialogue was to elicit public views on equitable healthcare for all and to ascertain what the Government should take into consideration when implementing programmes to reform the national healthcare system.

(a) Issues Raised

(i) Access to healthcare services among vulnerable groups

A main concern was that, while medical treatment is available to persons with disabilities and the elderly, most cannot afford the cost of services. This simultaneously raised the issue of access to funds, sourced from Government allocations for those living in poverty. Persons with serious or chronic illnesses also lack access to such funds.

(ii) Shortage of medical specialists in Government hospitals

Only 25-30% of medical specialists work in public hospitals and they handle 70-75% of the national caseload.

Treatment for some chronic illnesses is not offered in Government hospitals and can only be obtained from private facilities, which charge higher fees. This could affect sustainability and continuity of treatment. Some patients use all their savings for medical treatment and are caught in the poverty trap.

⁵ See SUHAKAM's report on 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development'

(iii) Lack of awareness of available services

There are sections of the population that are not sufficiently informed about healthcare services provided by the Government. As a result, illnesses are not detected early enough for treatment to be provided.

(iv) Perception of low quality

The quality of healthcare services in the public sector is seen as lower than that provided by the private sector. Patients have complained about long waiting time, inefficient delivery of services and even rude conduct at public hospitals. Facilities are inadequate in public healthcare centres, especially in rural areas, thereby affecting efficacy of treatment.

(v) Healthcare financing

The Government's plan to implement a National Healthcare Financing Scheme has caused anxiety in many quarters of civil society, especially in view of lack of details as to how this will be operated. There are serious questions as to whether the scheme will ensure the right to health, especially for those living in poverty. There is no information on how the fund will be managed in improving the public health sector.

(b) SUHAKAM's Recommendations

(i) Improvement of the public health sector

- That the Government ensures physical and economic access to healthcare services for all; consequently, it must ensure that members of vulnerable groups such as those living in poverty, the elderly and persons with disabilities, have access to services
- That public healthcare centres have adequate facilities and equipment, which should be upgraded to meet current health needs; this must be complemented by adequately trained health and medical personnel who are skilled in their professional capacity, human relations and communications

(ii) Additional funding

- That the Government increases the allocation for healthcare services
- That taxes imposed on the sale of cigarettes and alcohol be used to improve the public health sector, since tobacco and alcohol abuse are among main contributors to poor health

(iii) Widespread consultation

- That the Government widens public consultation before any plans are instituted toward healthcare reform; this would also improve transparency of, and trust in, the Government's actions

(iv) Public awareness

- That the Government intensifies public education and awareness programmes on healthcare services and facilities in the public health sector, and how these can be accessed

(c) Follow-up Action

At the time of writing, SUHAKAM was preparing for a second dialogue in Kota Kinabalu, Sabah, scheduled on Jan 8, 2008. It has the same objectives as the dialogue in Sarawak, but with a focus on Sabah.

4. RESEARCH ON APPLYING THE MDGs TO MICRO-COMMUNITIES/GROUPS

Continuing its focus on the human rights perspective of the MDGs, ECOSOC conducted research on applying these to micro-communities/groups, through several studies staggered over two years.

Each study focuses on specific communities/groups with respect to their economic, social cultural rights, based on values stated in the MDGs. It examines any deprivation of rights and the experiences of identified groups in relation to poverty, education, health and adequate

housing, among other aspects. Information is collected via questionnaires, dialogues with relevant groups and agencies, field visits and data held by Government agencies.

Several disadvantaged communities/groups were identified for the first study focusing on the urban poor in Kuala Lumpur, with the help of City Hall (DBKL). Residents of two public-housing projects – Seri Sabah 3B flats in Cheras and PPR Kampung Baru Air Panas in Setapak - were targeted. The sample was approximately 100 families for each facility and proportionately included Malay, Chinese and Indian families (Table 3).

Table 3: Data-gathering on Urban Poverty, Kuala Lumpur

Activity	Location	Seri Sabah 3B Flats, Cheras	PPR Kampung Baru Air Panas, Setapak
Pilot test with questionnaires		July 7, 2007	
Dialogue with residents		July 15, 2007	Nov 25, 2007
Full survey via questionnaires		July 14-15 & 21-22, 2007	Nov 3-4 & 10-11, 2007
Focus group meeting		July 29, 2007	Dec 6, 2007
Collection of secondary data		Throughout research period	

ECOSOC has completed data collection and information gathering at the Seri Sabah 3B flats. Information from PPR Kampung Baru Air Panas was being tabulated and analyzed at the time of writing. Therefore, the following issues and recommendations refer solely to the Seri Sabah sample.

(a) Issues Raised

Dialogues with residents and focus group meetings with representatives were held on July 15 and 29. This enabled the gathering of subjective information not addressed in the questionnaire, and several issues were raised.



Dialogue between SUHAKAM Commissioners and residents of the Seri Sabah 3B flats in Cheras

(i) Issues on poverty

SUHAKAM was told that the majority of single mothers living in the flats are low-income earners. This was supported by data obtained via the questionnaires, which showed that 47 of the households⁶ were headed by single mothers. About 47% of the households⁷ survive on a monthly income that is lower than the urban poverty line income (Urban PLI)⁸ for Peninsular Malaysia.

(ii) Issues on health

As a consequence of poverty, some residents, in particular those with chronic illnesses cannot afford to pay for healthcare services.

Some participants claimed that services provided by the public health sector are of low quality. Some felt that they face discrimination because they are poor.

⁶ SUHAKAM found that 51 households were headed by single parents, of whom 47 were single mothers.

⁷ 23 households earn less than the urban Poverty Line Income for Peninsular Malaysia, with 22 households being headed by single mothers.

⁸ The Poverty Line Income for the urban areas in the Peninsular Malaysia is RM663. See the Ninth Malaysia Plan 2006-2010, p328

(iii) Issues on education

Participants claimed that some families cannot send their children to school because they are poor. Poverty also forces some students to drop out of school or prevents them from pursuing studies at tertiary level.

(iv) Issues on housing

DBKL has introduced a policy of signing a two-year renewable contract with families who rent apartments. Residents expressed worry over the absence of security of tenure, fearing that they could be forced out and left homeless.

Each apartment only has one bedroom, and most units house more than five members, including members of the extended family.

Residents were also dissatisfied with the facilities, saying these pose a risk to safety. For instance, balcony railings are damaged, while the lifts break down frequently. Some complained that leaking pipes have yet to be repaired despite complaints being lodged with DBKL.

(b) SUHAKAM's Follow-up action

SUHAKAM held a meeting with the relevant Government agencies on Dec 4 to present its preliminary findings and obtain feedback. The agencies were asked to provide written responses on the issues raised. ECOSOC aims to publish the report in mid-2008.

(c) Second Survey

ECOSOC is preparing for the next survey, this time focusing on the rural poor. Villagers in Kampung Telaga, Pitas District, Sabah, have been selected as the target group. An introductory meeting with the residents and initiation of the full survey is scheduled for Jan 9, 2008.

5. ROUNDTABLE DISCUSSION (RTD) ON THE HUMAN RIGHTS APPROACH TO POVERTY REDUCTION

Poverty alleviation has been a key commitment of numerous countries. As societies progress, the definition of poverty has gradually expanded to take into account human capabilities that bridge poverty and human rights.⁹

In Malaysia, poverty eradication has been a key commitment of the Government since the First Malaya Plan 1956-1960 and subsequently, a constant thrust in the Outline Perspective Plans (OPPs). Poverty eradication is part of the Ninth Malaysia Plan under the 3rd Thrust, which aims to address persistent socio-economic inequalities constructively and productively.

Although it does not explicitly state it in policy, Malaysia has progressively included human rights values in its approaches to eradicate poverty. For instance, the 3rd Thrust of the Ninth Malaysia Plan clearly reflects the human rights principles of equality and non-discrimination.

There is emphasis on vulnerable groups such as the elderly, women as well as rural and urban poor households, while affirmative action is in place. This corresponds with the human rights approach in putting special measures in place so that disadvantaged groups can also attain fundamental rights. In addition, the PLI was reviewed in 2005 to take quality of life into account.

However, poverty eradication can be strengthened when human rights principles form the backbone of policies and programmes. Reports by Office of the United Nations High Commissioner for Human Rights (OHCHR) entitled 'Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies' and 'Human Rights and Poverty Reduction: A Conceptual Framework' explain this approach.

⁹ The OHCHR states that we need a definition of poverty that refers to the non-fulfilment of human rights, but without delinking it from the constraint of economic resources. It is argued below that Amartya Sen's "capability approach" provides a concept of poverty that satisfies these twin requirements. The capability approach has already inspired a significant broadening of the concept of poverty – replacing a narrow focus on low income with a multidimensional view of poverty. Most of the current discussions of poverty in academic circles, as well as in international organizations such as the World Bank and the United Nations agencies that deal with poverty, draw upon this approach either explicitly or implicitly. As a rule, these discussions do not use the language of rights. But a little reflection shows that there exists a natural transition from capabilities to rights. Most human rights are concerned with the human person's rights to certain fundamental freedoms, including the freedoms from hunger, disease and illiteracy. The capability approach requires that the goodness of social arrangements be judged in terms of the flourishing of human freedoms. The focus on human freedom is thus the common element that links the two approaches. Looking at poverty from the perspective of capability should, therefore, provide a bridge for crossing over from poverty to human rights. See the OHCHR 'Report on Human Rights and Poverty Reduction: A Conceptual Framework', found at <http://www.unhcr.ch/html/menu6/2/povertyE.pdf>

On Sept 13, ECOSOC organized a RTD to discuss a 'Human Rights Approach to Poverty Reduction in Malaysia', with a focus on application of the OHCHR approach. The RTD also brought out views on best practice from the Malaysian experience in utilizing the human rights approach to poverty eradication.

(a) Issued Raised

The half-day discussion proved constructive as participants from UNDP Regional Office in Malaysia and relevant Government agencies shared their views.

(i) Principle of equity

It was agreed that equity should be at the heart of Government policies and programmes to eradicate poverty. Participants acknowledged the weaknesses of current approaches at the micro-level. These can be improved in terms of participation, distribution of tasks as well as co-ordination among agencies.

(ii) Focus on urban poverty

This was launched as a new agenda in 2001. Previous poverty eradication programmes had focused on the needs of the rural poor. While the Government should spearhead the programmes, the approach should be tailored to meet situations and needs that differ from the rural scenario.

(iii) Poverty and chronic diseases

It was highlighted that some who suffer from chronic diseases are indirectly pushed into the poverty trap. While their income may be above the national PLI, the cost of medical treatment can be high for some, for instance persons with HIV/AIDS and cancer. Patients may utilize their life-savings to obtain treatment, thus falling into poverty.¹⁰

(iv) Challenges faced by the Government

The Government has to ensure access to healthcare for all including communities in isolated locations such as the Penan. It has to deal with a larger number of families categorized as

¹⁰ The same view was highlighted by participants at SUHAKAM's Dialogue on Human Rights and Access to Equitable Healthcare held in Kuching, Sarawak, on Nov 5. For details, refer to Chapter 4(iii) in this Annual Report.

living below the PLI following a review of the threshold. There is also a need to weed out those who falsely claim to be poor, for example, in order to be eligible for low-cost housing (they later rent out the units to make money).

(v) Self-help for the poor

The Government should ensure that every person has access to education, basic facilities and finance in order to escape poverty.

(b) Follow-up action

At the time of writing, SUHAKAM was preparing for a second dialogue on the same topic. While the objectives are the same, the dialogue will focus on the views and concerns of NGOs, foundations, academicians and other interested individuals.

6. ISSUES ON 'REFUGEES' IN MALAYSIA

The Government has fair concerns in not recognizing 'refugee' status and the UN Convention on the Status of Refugees. However, the situation has led to infringement of the human rights of 'refugees' who seek refuge in Malaysia.

While Malaysia is not a State Party to the Convention, it has ratified the Convention on the Rights of the Child (CRC) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), both of which have significant implications for 'refugees'. The CEDAW guarantees the rights of all women in the country, while Article 22 of the CRC specifically mentions the right of child refugees to education.

In addition, the Universal Declaration of Human Rights (UDHR) guarantees the rights and freedoms of all human beings without distinction, including social origin and other status.¹¹

¹¹The preamble states that the UDHR is a common standard for all peoples in all nations. Article 2 states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

In view of this, SUHAKAM held a series of meetings with representatives of the United Nations High Commissioner for Refugees, Malaysia Office (UNHCR) and the Ministry of Internal Security Malaysia (MISM).

The meetings started with a dialogue with UNHCR representatives on March 21. They briefed SUHAKAM on the current situation of ‘refugees’ in Malaysia, and their concerns about non-recognition of ‘refugee’ status.

SUHAKAM brought up their concerns with the MISM at a dialogue on July 26. A follow-up meeting with the UNHCR representatives was held on Oct 9 to inform them of the outcome.



SUHAKAM Commissioners at the UNHCR office in Kuala Lumpur for a meeting on Oct 9

(a) Issues and Feedback

The meeting saw several issues being raised and responses being provided.

(i) UNHCR access to detention centres

The UNCHR said it had been denied access to Immigration detention centres since September 2006. This impeded screening and identification of genuine ‘refugees’. SUHAKAM took up the matter with MISM and the Immigration Department, following which access was reinstated.

However, UNHCR personnel were initially required to obtain a visitor's pass issued by the Immigration Department. Subsequently, they were allowed access without any restriction.

(ii) Issuance of IMM13 cards

In August 2006, Malaysian authorities started a registration exercise for Rohingya 'refugees' via the issuance of the IMM13 cards. Each person was required to pay RM90 as the registration fee. Approximately 5,000 Rohingya 'refugees' paid this fee. However, the exercise was later suspended. Despite having paid the fee, none of the applicants have received their IMM13 card.

SUHAKAM was informed by the Immigration Department that the registration exercise was discontinued to restrict the influx of migrant workers into Malaysia.

(iii) Arrests of 'refugees'

An increasing number of 'refugees' are being detained. The UNHCR expressed frustration that this happens even when UNHCR cards are shown to the authorities including RELA personnel. The detainees often include women and child 'refugees' who are later placed at the Immigration detention centres.

In response, MISM maintained that most of the detained 'refugees' have been released on humanitarian grounds.

(iv) Fake UNHCR cards

The meeting with representatives from MISM also heard concerns about fake UNHCR cards in the possession of illegal immigrants. This could create difficulties for the authorities during operations to check on undocumented persons.

In response, UNHCR informed SUHAKAM that it is equally concerned about the circulation of fake cards. It has established a 'hotline' which the authorities can call to verify the authenticity of UNHCR cards.

(b) Recommendations

The following recommendations were offered during the meetings.

(i) Bring domestic laws in line with the international human rights law

The Government should ensure that domestic laws are in line with international laws. As a member of the UN, Malaysia should respect international laws and principles. Malaysia is a State Party to the CRC and CEDAW, and has a duty to respect the human rights of 'refugees'.

(ii) Resume issuance of IMM13 card

The authorities should resume issuing the IMM13 card, namely to those who have paid the fee.

(iii) Understand definition of 'refugees'

There is the need to understand the definition of 'refugees' and to differentiate these 'persons of concern' from illegal immigrants. The Convention on the Status of Refugees could be a source of definition.

(iv) Register 'refugees'

The Government should register 'refugees'. This would require close co-operation between the authorities and UNHCR to identify those who are genuinely seeking refuge, as well as to monitor and curb the circulation of fake UNHCR cards.

(v) Train RELA officials

The Government should provide training for RELA personnel to prevent infringement of the human rights of 'refugees', as recognized by the international human rights law. In addition, RELA should be equipped with facilities to enable them to refer to UNHCR when verifying the authenticity of 'refugee' status during raids.

(c) Follow-up action

Preparations are underway for a programme that will focus on the deprivation of economic, social and cultural rights among ‘refugees’, as a result of non-recognition of their status in Malaysia.

**MEMBERS OF ECONOMIC, SOCIAL AND
CULTURAL RIGHTS WORKING GROUP**

Datuk Dr Denison Jayasooria (Chairperson)

Tan Sri Datuk Seri Panglima Simon Sipaun

Dr Chiam Heng Keng

Dr Mohammad Hirman Ritom Abdullah

Datuk Dr Raj Abdul Karim

Tunku Datuk Nazihah Tunku Mohamed Rus

Prof Emeritus Dato’ Dr Khoo Kay Kim

Dr Muhammad ’Uthman El-Muhammady

Dato’ Dr Michael Yeoh Oon Kheng

Dato’ Haji Khalid Haji Ibrahim



CHAPTER 4(IV)

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

REPORT OF THE LAW REFORM AND INTERNATIONAL TREATIES WORKING GROUP

The Law Reform and International Treaties Working Group (LRITWG) responded to prevailing and emerging issues over the year. Key among these were the right to be tried without undue delay in the Syariah Court; the rights of an aggrieved party affected by the ouster clause in laws; women's rights; immunity of local authorities; right to form associations; amendment to Section 293(1)(e) of the Criminal Procedure Code (CPC) with regard to community services; issue of life imprisonment; and ratification of international human rights treaties.

1. RIGHT TO BE TRIED WITHOUT UNDUE DELAY (Syariah Court)

Following the overwhelming response to the forum on 'The Right to an Expeditious and Fair Trial' organized in 2005 and in 2006, which focused on the Civil Court, SUHAKAM organized a workshop on 'The Right to an Expeditious and Fair Trial Workshop: Syariah Court, Towards a Practical Solution' on April 12. Participants comprised judges from the Federal and State Syariah Court and Civil Court, advocates and solicitors, officers from State Religious Departments and the Mufti's Office, as well as academics, NGOs and interested individuals.

The objectives were to:

- (i) Hold an in-depth discussion on overcoming delays in disposal of cases;
- (ii) Identify practical solutions for increased efficiency in managing cases; and
- (iii) Offer recommendations for improved efficiency of the Syariah Court system.



YAA Dato' Haji Abdul Hamid Abdul Rahman, Chief Syarie Judge (2nd from right) moderating Workshop B – 'Discussion on Suggestions to Improve Delays at the Trial Stage'

(a) Issues at the Pre-Trial Stage

In identifying problems, participants also offered suggestions on overcoming them.

- (i) Inefficiency in serving summonses, warrants and/or orders
 - Expedite amendment of the State Administration Enactment.
 - Enable the *Syari'e* counsel to take over the court's responsibility in delivering summonses.
 - Eliminate the need for applications to be made through the State court in cases that involve delivery of summons outside the jurisdiction.
 - Review the Police Act 1967 to widen interpretation of 'court' to include the Syariah Court, particularly to cover serving the warrant of arrest and the act of arrest itself.

- (ii) Issues relating to Registrars, Assistant Registrars and *Syari'e* counsel
 - When Registrars are absent, delegate their power to Assistant Registrars to overcome *wakalah* and delays in the appointment of *Syari'e* counsel.
 - Increase the number of Legal Aid Bureau lawyers in line with the larger number of court cases.
 - Centralize management of legal fees and costs of Syariah cases.
 - Set up a *Syari'e* Bar Council for smoother running of the practice.

(iii) Customer service

Create the post of Officer-in-Charge of Customer Services, with duties to supply information to the public who deal with the Syariah Court; and provide expertise to help the public to understand Islamic family law.

(iv) Location of Syariah Courts

These should be located in strategic places which are easily accessible to the public.

(v) Discretionary powers

The court should use its discretionary powers to expedite the hearing of important cases and to decide on cases where the defendant is absent after the summons has been served.

(b) Issues at the Trial Stage

(i) Absence of judges

- Set a timeframe for judges to settle the case.
- Place case management under the court's attention to enable it to identify issues.
- Limit the judge's involvement in official functions if these only require the attendance of Chief Judges.
- Limit the number of judges attending courses at the same time.



Opening session of the forum

- (ii) Submission of cases and adjournment
- Lawyers should be made to file a certificate of time that binds them to the timeframe set by the court.
 - The court should provide an alternative date for hearings, to minimize lawyers' requests for adjournment.
 - Both lawyers and judges should keep to the timeframe.
 - Oral submissions should be accepted for ordinary cases as a written submission takes time to prepare.
 - The use of Information Technology facilities should be widened, for example, through video conferencing especially for those staying outside Malaysia.
 - A law like the Legal Profession Act 1976 should be enacted to govern *Syar'ie* lawyers.
- (iii) In settling dissolution of marriages, an alternative to *Sulh* (mediation) would be the use of *Hakam* (arbitration).

Participants' Recommendations

- (i) Administration and resources:
- *Syar'ie* Judicial Commissioners should be appointed to overcome shortage of judges.
 - The remuneration system for Syariah Court judges should be reviewed to bring it on par with that of Civil Court judges.
 - The remuneration scheme for both judges and lawyers should be reviewed to attract qualified and experienced applicants to fill posts.
 - Women's capability should be recognized and they should be appointed as judges.
 - Application of the 'binding precedent' doctrine should be reviewed, as *ijtihad* of several issues in Islam may change with situations.
 - Syariah judicial training should be periodically organized for the judges and court officials.
 - *Syar'ie* lawyers who have no experience (if they are Civil Court advocates and solicitors) should be given exposure to Syariah Court procedures.
 - *Syar'ie* lawyers should attend courses run by the Judicial and Legal Training Institute.
 - Civil Courts should not interfere in matters under the Syariah Court's jurisdiction.

- A Family Court (combining the Civil and Syariah Family Court) should be established to manage matters arising from conversion of a spouse to Islam.
- (ii) Management of maintenance cases:
- The Syariah Court should implement the ‘salary deduction’ order in maintenance cases.
 - Applications for salary deduction should be made under the maintenance application; if a court order is not obeyed, the wife should be able to apply for enforcement.
 - Parties who fail to comply with a court order for salary deduction should be charged with contempt of court, followed by an action for insolvency.
 - The Syariah Court should use its discretion to give simultaneous orders that are related to the main application, for example, maintenance of the child, school and medical expenses.



*Closing remarks by YAA Datuk Sheikh Ghazali Abdul Rahman,
Director of Syariah Judiciary Department and Chief Syarie Judge*

2. WOMEN'S RIGHTS

In reviewing the Government's reservations to the Convention on the Elimination of Discrimination Against Women (CEDAW), the LRITWG appointed an external researcher to examine matters under Article 16 of CEDAW. The Article covers the issue of marriage and asserts the equal rights and obligations of women and men with regard to parenthood, personal and property rights. However, the research was confined to specific sub-sections from a Syariah perspective.

Article 16(1)(a) stipulates the right of women to enter into marriage of their own choice and consent, without objection from their parents or any other person related or otherwise.

Muslim women are, however, required to first obtain consent of a *wali*¹ (guardian). In practice, the Imam will always ask the bride if she consents to the marriage. In principle, girls who have not attained puberty are not allowed to marry without their *wali*'s consent. However, they may do so without the consent of *wali* if special circumstances arise. Therefore there is no conflict over Article 16(1)(a).

SUHAKAM'S Observation and Recommendation

Article 16(1)(c) of CEDAW concerns the rights and obligations during the subsistence of the marriage and after its dissolution, including all types of ancillary claims arising thereafter. Muslim women are guaranteed additional rights and privileges during the subsistence of the marriage, compared to men.

The obligation to maintain the wife and family rests on the husband.² When the marriage is dissolved, women are entitled to maintenance from the husband, subject to certain types of dissolution. Islam does not oblige a woman to pay maintenance to her husband.³ Muslim women are guaranteed also rights in *hadhanah* (custody of children), *mutāh* (jointly acquired property) and dowry upon dissolution of the marriage.

Islamic law has specifically mentioned the privileges accorded to women in these situations. If these were equally applied to men, it would place an extra burden on women, negate their privileges and consequently, defeat the purpose of CEDAW. Islam observes the legal maxim of *tasāraful al-imam āala ra'yyati manūt bi al-maslahah* (any action by the authority/Government must take into account the *maslahah*⁴ of society).

Recommendation

SUHAKAM suggests that the Article reflects the legal maxim on *maslahah*⁵ and that the Government's reservations to Article 16(1)(c) and to Article 16(1)(f),(1)(g) and 16(2) should therefore be withdrawn.

¹ *Wali* is referred to as *wali mujbir* (father and paternal grandfather) who is a valid guardian of a girl who has not attained puberty. Refer to *Hasyiah l'annah al-Talibin*, Abu Bakr Othman Muhammad Syatta al-Dimyati al-Bikr, v3, 1415h-1990m, p518-521.

² *Surah Al-Baqarah* verse 233

³ *Surah Al-Talaq* verse 6

⁴ Public consideration

⁵ *ibid*

3. LIFE IMPRISONMENT

In 2005 and 2006, SUHAKAM conducted research on ‘life sentence’ imprisonment in Malaysia. SUHAKAM observes that life imprisonment in the context of the prisoner’s natural life (until his death) has a detrimental impact on his or her physical and mental health.

SUHAKAM suggests that, in line with human rights principles, the crime prevention policy must be based on principles of proportionality and necessity. “Keeping a prisoner for life even if he is no longer a danger to society is incompatible with modern principles on the treatment of prisoners and the idea of the reintegration of offenders into society.”⁶

The Commission has recommended amending relevant laws, and submitted other suggestions on protecting the rights of prisoners to the Attorney-General’s (AG’s) Chambers, Ministry of Women, Family and Community Development and the Ministry of Internal Security Malaysia. To date, there has been no feedback.

4. COMMUNITY SERVICE – AMENDMENT OF SECTION 293(1)(e) OF CPC

SUHAKAM carried out research on the amendment to Section 293(1)(e) of the CPC, introducing community service as an alternative sentence for youthful offenders⁷ aged between 18 and 21.

The amendment reads:

- (1) When any youthful offender is convicted before any Criminal Court of any offence punishable by fine or imprisonment, the Court may, instead of awarding any term of imprisonment in default of payment of the fine or passing a sentence of imprisonment:
- (a) order the offender to be discharged after due admonition if the Court shall think fit;
 - (b) order the offender to be delivered to his parent or to his guardian or nearest adult relative or to such other person as the Court shall designate on such parent, guardian, relative or other person executing a bond with or without a surety

⁶ John Anderson, *From Marble to Mud: the Punishment of Life Imprisonment* (University of Newcastle, NSW)

⁷ Under Section 2 of the Criminal Procedure Code, “youthful offender” means a person convicted of an offence punishable by fine or imprisonment who is of or above the age of 18 and below the age of 21.

or sureties, as the Court may require, that he will be responsible for the good behaviour of the offender for any period not exceeding 12 months or without requiring any person to enter into any bond make an order in respect of the offender ordering him to be of good behaviour for any period not exceeding two years and containing any directions to that offender in the nature of the conditions referred to in paragraphs 294A(a), (b) and (c) which the Court shall think fit to give;

- (c) order the offender, if a male, to be whipped with not more than 10 strokes of a light cane or rattan within the Court premises and in the presence, if he desires to be present, of the parent or guardian of that offender;

[Am. by Act A1274:s.27]

- (d) Deal with the offender in the manner provided by the Child Act 2001 [Act 611]; or

[Am. by Act A1274:s.27]

- (e) (i) to make an order requiring the offender to perform community service, not exceeding 240 hours in aggregate, of such nature and at such time and place and subject to such conditions as may be specified by the Court;

(ii) in this paragraph, 'community service' means any work, service or course of instruction for the betterment of the public at large and includes, any work performed which involves payment to the prison or local authority; and

(iii) the community service under this paragraph shall be under the Minister charged with the responsibility for women, family and community.

[Ins. by Act A1304:s.8]

SUHAKAM's Recommendations

The Commission offers the following suggestions in reference to the proposed amendment.

- (i) Stipulate minimum period of community service

There should be provisions stipulating a minimum period of 40 hours and that the sentence will be imposed only on weekends, to prevent the offender's studies being affected since most youthful offenders are still studying.

- (ii) Determine criteria for eligibility

Community service should cover only minor offences punishable by fine or imprisonment such as shoplifting, causing hurt, affray, mischief and public nuisance.

(iii) Specify nature of work and conditions attached

- Offenders should carry out unpaid work or, if payment is available, then it should go to the agency/organization responsible or in charge of the community work, or be donated to welfare organizations.
- Offenders should carry out community work such as caring for and befriending the elderly, disabled and orphans; the choice should be in line with the interests of the offender.
- Offenders should perform welfare work at public facilities such as schools, hospitals, bus stations and/or courts; the type of work should include cleaning, painting, gardening and clearing litter.
- Offenders should assist Government agencies in organizing Centreaigns; they should be stationed at the relevant ministries/agencies.
- It should be compulsory for offenders to attend religious or moral classes once during the period of community service. This may be ordered by the court as a condition attached to the community service order. This could help reinforce desirable social values.
- Offenders could be told to enrol for vocational training or basic life skills organized by the public or private sector, to acquire marketable skills in such fields as maintenance of air-conditioning units, cooking, sewing, and information technology. Such activities could be beneficial to their personal development.
- Offenders could be asked to undergo physical training, sports and be exposed to music, dance and martial arts.

(iv) State consequences of breach of community service

In situation where the offenders breach the community service order, they should be required to comply with an extended sentence by re-doing the hours completed. However, in cases of several such breaches, the court should be empowered to either impose the sentence for the offence for which community service was initially ordered, or any other sentence which the court thinks fit based on the offender's record during probation.

- (v) **Impose community service on children aged 14 and above**
Under Section 96(2) of the Child Act 2001, a child aged 14 years or above shall not be imprisoned if he or she can be suitably dealt with in any other way whether by probation, fine or otherwise. SUHAKAM is of the opinion that the court should order these offenders to perform community service suited to their ability.

- (vi) **Allocate resources for operational needs**
In implementing community service, the Government should ensure that resources are allocated. The relevant ministry should set up a special committee to co-ordinate, supervise and monitor implementation.

- (vii) **Train supervisors**
Persons appointed to supervise youthful offenders should have appropriate training and practical experience in dealing with community work, especially relating to young offenders.

- (viii) **Build public awareness**
Public understanding and co-operation in community service should be promoted by organizing conferences, seminars and other activities. Government agencies, private sectors and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

5. OUSTER CLAUSE

SUHAKAM is concerned that judicial review is ousted in quite a number of instances, including *habeas corpus* challenges. An ouster clause is contrary to the fundamental concept of human rights – an aggrieved person should have access to a court of law for his grievance to be decided.

Article 11(1) of the Universal Declaration on Human Rights clearly stipulates that anyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. Article 12 states that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

SUHAKAM reiterates that detention without trial must be subject to judicial review and that those who authorize detention should be held accountable. The current practice of adopting ouster clauses undermines the right to justice and the right to a fair trial. The ouster clause is now also being used increasingly in laws which deal with non-security matters. For example, the Water Services Industry Act 2006 states that any decision by the Minister shall be final and conclusive, and that such decisions shall not be challenged and appealed.

SUHAKAM proposes that the Government immediately repeals the arbitrary ouster clause, particularly that in the Internal Security Act 1960 and in other provisions generally.

6. RIGHT TO FORM ASSOCIATIONS: POWER OF THE REGISTRAR OF SOCIETIES (ROS)

The ROS deals with the registration, control, supervision and maintenance of records on registered societies. SUHAKAM is concerned about the wide powers given to the Registrar to approve or refuse an application for registration under Section 7 of the Societies Act 1966. Such power should not be treated as absolute.

SUHAKAM's Recommendations

- (i) That the Registrar exercises the powers in proportion to the purpose of the Societies Act, as referred to in Sections 3A, 6A, 7, 13, 3A, 38, 3A, 64 and 66
- (ii) That the Registrar should be transparent and accountable in exercising powers; in the event that registering a particular association is deemed to be a threat to national security or is not feasible for any of the reasons listed in Section 7, justiciable reasons should be furnished to the applicant
- (iii) That Section 7 should be reviewed, to integrate the principles of natural justice.
- (iv) That similar amendments be made to Section 5, which provides for the absolute discretion of the Minister to declare a society unlawful
- (v) That applicants be given a right to be heard; a reasonable timeline and other rules of procedure which affect the registration process should be stipulated in the Act

- (vi) That a decision must be made and communicated to the applicant within a stated timeframe; the Registrar could adopt the approach of the Charity Commission in the United Kingdom, which replies within 15 working days to a registration application

7. RATIFICATION OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

SUHAKAM continued to encourage Malaysia's ratification or accession to the International Convention on Civil and Political Rights; International Convention on Economic, Social, Cultural Rights; Convention Against Torture; the Optional Protocol to the Convention on the Rights of the Child (CRC) on the Involvement of Children in Armed Conflict; the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography and the Rome Statute of the International Criminal Court.

SUHAKAM as a matter of course ascertains the views of both the Government and NGOs before recommending a particular additional instrument for ratification or accession.

In 2007, the LRITWG dealt with three major Conventions – withdrawal of reservations to CEDAW; UN Convention Against Corruption; and Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography.

SUHAKAM referred the UN Convention against Corruption (UNCAC) to the Anti-Corruption Agency (ACA). In its response, the ACA stated that Malaysia has taken several steps in terms of administration, enforcement, legal and international co-operation in its efforts to eradicate corruption and misuse of power, in line with the principles provided under UNCAC.

Malaysia will have to take two more steps before ratification can be effected:

- (a) Introduce a Witness Protection Act
The AG's Chambers is in the process of drafting the Bill which aims to protect the safety of the witness and family. This is necessary to comply with the requirement of Article 32 of the UNCAC.
- (b) Amend the Anti-Corruption Act 1997
The amendment is to include the wrongful act of bribery by or towards public officer from a public international organization. This is necessary to comply with the requirement of Article 16 of the UNCAC.

The Anti-Corruption Act (Amendment 2007) Bill contains two other key changes:

- (a) Section 21(4) ACA 1997 is amended to include the Director-General of the ACA, to empower any other person to reveal the complaint regarding any wrongful act under ACA which is provided under Section 21(1) ACA 1997
- (b) An amendment to include the situation where it would be wrong for the media to expose any information regarding investigation of cases without authorization

8. HIGHLAND TOWERS CASE

The decision in *Majlis Perbandaran Ampang Jaya v Steven Phoa Cheng Loon [2006]2 CLJ 1* has raised several concerns with regard to the powers and immunity of a local authority. SUHAKAM has researched this and other cases with similar facts and the relevant laws, with particular regard to the protection afforded to the local authority from liability for negligence.

The liability of public authorities in negligence in Malaysia is closely influenced by interpretation of the English common law. Together with other available laws, the courts seem to restrict the liability of local authorities. The courts should develop the Malaysian common law in line with some of the Commonwealth cases.

The concern now is that local authorities appear to be free to approve any project they deem fit in their full discretion, and victims are left without remedy if the project fails. If the Malaysian courts are unwilling to extend the range of situations in which compensation is available in respect of careless or unlawful acts of public authorities, then it would be better to develop *ex-gratia* schemes and provision of remedies through ombudsmen.

**MEMBERS OF THE LAW REFORM AND INTERNATIONAL
TREATIES WORKING GROUP**

Dato' Karam Chand Vohrah (Chairperson)

Datuk Dr Raj Abdul Karim

Prof Dato' Dr Abdul Monir Yaacob

Tunku Datuk Nazihah Tunku Mohamed Rus

Dato' Muhammad Shafee Abdullah

Datin Paduka Zaitoon Dato' Othman



CHAPTER 4(v)

REPORT OF THE RESEARCH AND POLICY WORKING GROUP

REPORT OF THE RESEARCH AND POLICY WORKING GROUP

The Research and Policy Working Group (RPWG) has mainly been involved in developing international links. It has extended networking and co-operation with other National Human Rights Institutions (NHRIs), especially those within ASEAN, and engaged actively in the Asia Pacific Forum (APF). The RPWG also enhanced its activities and participation within the UN system especially with the Human Rights Council and International Co-ordinating Committee (ICC).

1. CO-OPERATION AMONG ASEAN NHRIs

Since 2004, the four NHRIs in ASEAN have strengthened co-operation on issues of mutual concern, in particular the:

- Implementation of economic, social and cultural rights and right to development;
- Enhancement of human rights education;
- Trafficking of persons, especially of women and children; and
- Protection of the rights of migrant workers.

At the 1st ASEAN NHRIs Consultation Meeting in Bangkok in 2005, SUHAKAM was tasked with conducting an in-depth study on 'Migrant Workers and Undocumented Persons'. At the 3rd Meeting from June 25-28, 2007 in Bali, Indonesia, SUHAKAM presented the draft report for discussion. Research is expected to be completed in April 2008 for deliberation by the ASEAN NHRIs, before recommendations are made to the respective Governments.



SUHAKAM Chairman YBhg Tan Sri Abu Talib Othman (2nd from left) signing the Declaration of Co-operation among ASEAN NHRIs in Bali

At the 3rd Meeting, the Declaration of Co-operation among ASEAN NHRIs was signed, signifying the commitment of the four bodies to work closely on human rights issues.

The Declaration reaffirms their role to advise their respective Governments on steps to establish an appropriate ASEAN human rights mechanism and/or any organs in the proposed ASEAN Charter. In addition, the Declaration also welcomes co-operation or joint efforts with like-minded organizations, whether governmental or non-governmental, or academic institutions, to pursue their commitment to promote respect for and protection of human rights in their respective countries, in the region and in the international community.



Signing of the Declaration of Co-operation among ASEAN NHRIs, held in Bali

2. ASEAN HUMAN RIGHTS MECHANISM

The ASEAN Charter was signed by Heads of Government at the 13th ASEAN Summit in Singapore on Nov 20. The Charter is an important milestone. The first such document in 40 years of regional co-operation, it sets out the key principles and purposes of ASEAN.

The ASEAN Charter is significant in that Article 14 provides for the establishment of a human rights body. The Terms of Reference will be determined by ASEAN Foreign Ministers. SUHAKAM hopes that they will institute an inclusive process of consultation with all stakeholders, including NHRIs and NGOs.

SUHAKAM has been actively involved in deliberations for the inclusion of a human rights mechanism in the ASEAN Charter. It engaged with the Malaysian Parliamentary Human Rights Caucus, Ministry of Foreign Affairs, relevant NGOs and academicians. The deliberations resulted in the development of recommendations to the Malaysian representative to the High Level Task Force (HLTF), for a practical strategy towards progressive establishment of an ASEAN regional mechanism on human rights.

SUHAKAM also participated in all Roundtable Discussions organized by the Working Group on the ASEAN Human Rights Mechanism. On June 27, the Commission – with the other NHRIs and the Working Group – met the HLTF in Bali to reiterate the importance of including an ASEAN human rights mechanism in the Charter.



(From left) SUHAKAM Commissioners Dato' Dr Michael Yeoh Oon Kheng and Tunku Datuk Nazihah Tunku Mohamed Rus chairing the 2nd Roundtable Discussion on 'Malaysia's Role in Establishing an ASEAN Human Rights Mechanism' on May 24

ASEAN leaders have reiterated that they want the regional bloc to be more people-centred. SUHAKAM hopes that the ASEAN Human Rights Mechanism will lay the foundation for a new spirit of regional co-operation to address violations with decisiveness and in accordance with the rule of law.



Participants at the 2nd Roundtable Discussion on 'Malaysia's Role in Establishing an ASEAN Human Rights Mechanism' on May 24

3. ASIA PACIFIC FORUM (APF)

SUHAKAM was admitted as a full member of the APF at its 7th Annual Meeting in New Delhi, India, in November 2002.

Established in 1996, the APF is an independent non-profit member-based organization that supports the establishment and strengthening of NHRIs and advances human rights in the Asia-Pacific region. The APF facilitates the formation and growth of NHRIs by providing training, networking and resources.

SUHAKAM participated in the 12th APF Annual Meeting in Sydney, Australia, from Sept 24-27. The APF Advisory Council of Jurists (ACJ) meeting was held simultaneously to discuss the 'Right to Environment'. Dato Mahadev Shankar relinquished his position as Malaysia's representative to the ACJ Meeting in May 2007. SUHAKAM appointed former Commissioner, Dato' Ranita Mohd Hussein, to fill the post. She facilitated discussions on the ACJ's report on the 'Right to Environment'.

The 12th APF Meeting offered SUHAKAM the opportunity to co-host the 13th Meeting in 2008. The Meeting also agreed to make a reference to the ACJ on ‘Human Rights, Corporate Accountability and Government Responsibility’ for the forthcoming meeting.

SUHAKAM Commissioners and officers participated in various training programmes organized by the APF in co-operation with other international donors and UN agencies.

4. COMMONWEALTH CONFERENCE OF NHRIS

SUHAKAM participated in the Commonwealth Conference of National Human Rights Institutions (CCNHRI) hosted by the Commonwealth Secretariat in London, United Kingdom, from Feb 26-28.

It was the first gathering of Commonwealth NHRIs since they last met in 2000 in Cambridge, United Kingdom. This was an opportunity for exchange of views on issues and challenges confronting NHRIs in fulfilling their mandate. The conference also examined ways to strengthen co-operation and collaboration among Commonwealth NHRIs.

A Steering Committee comprising representatives of four regions – Africa (Uganda), Americas (Canada), Asia (India) and Pacific (New Zealand) – was set up to define the objectives and modalities of establishing a Forum and stipulating its structure, mandate and scope of activity. SUHAKAM attended the first meeting of the CCNHRI in Kampala, Uganda, from Nov 19-20. This called for increased recognition of NHRIs and interaction with Commonwealth Heads of Government at their future meetings.

5. ICC AND HUMAN RIGHTS COUNCIL

The 19th Session of the Annual Meeting of the ICC of National Human Rights Institutions for the Promotion and Protection of Human Rights was held at the Palais des Nations in Geneva, Switzerland, from March 21-23. It coincided with the 4th Session of the UN Human Rights Council.

Since its establishment, the ICC has consolidated its position as the body promoting the role and position of NHRIs in the Human Rights Council. The ICC participated actively in discussions on the mandate of the Human Rights Council and succeeded in carving out a bigger role for itself.

SUHAKAM's participation in the ICC Annual Meeting provided important opportunities to reinforce ties with other NHRIs, and regional and international human rights organizations. The meeting was also an excellent platform to share best practice and exchange views on promoting and protecting human rights.

6. ICC RE-ACCREDITATION OF SUHAKAM

In 2002, SUHAKAM had been admitted as a member of the ICC with 'A' status. Every accredited NHRI has to undergo a process of review every five years. SUHAKAM submitted its re-accreditation requirement to the ICC Secretariat on Dec 7.

MEMBERS OF THE RESEARCH AND POLICY WORKING GROUP

Tunku Datuk Nazihah Tunku Mohamed Rus (Chairperson)
Dr Chiam Heng Keng
Dato' Karam Chand Vohrah
Dato' Dr Michael Yeoh Oon Kheng



CHAPTER 5(I)

ACTIVITIES OF SUHAKAM IN SABAH

ACTIVITIES OF SUHAKAM IN SABAH

Two new approaches were instituted by the SUHAKAM Sabah Office to widen outreach to the rural population and to resolve grievances. The first was to extend the 'Meet the People' sessions to cover *tamu* – these are rural markets held on a regular basis throughout the State, and are a popular focal-point for large numbers of local residents. The second was to invite the State Public Complaints Bureau (PCB) to attend these sessions, to widen the scope of official responses to complaints.

The Sabah Office continued with its regular Road Show programme of previous years, to make the rounds of districts. Feedback and complaints – both oral and written – from these meetings added to the memoranda and complaints received by the Office situated in Kota Kinabalu. Follow-up action was taken on unresolved complaints received earlier, as well as those received during the year.

In addition, the Sabah Office undertook additional field trips to check on situations on the ground and to interact with complainants. Other main activities comprised visits to detention centres and participation in talks.

1. ACTION ON COMPLAINTS

The Branch received 301 complaints compared to 501 in 2006. Cases associated with land issues alone accounted for 96 complaints, against 131 the previous year (Table 1). SUHAKAM resolved 16 cases, and is attending to 140 others. The remaining 145 cases were marked as requiring 'No Further Action'.

Table 1: Complaints Received by Sabah Office, 2007

No	Nature of Complaints	No. of Cases
1.	Land Matters	96
2.	Government Agencies:	
	(i) National Registration Department	38
	(ii) Police Force	11
3.	Basic Necessities	16
4.	Employment Matters	12
5.	Housing Matters	4
6.	Others	124
	TOTAL	301

2. 'MEET THE PEOPLE' SESSIONS

SUHAKAM in Sabah has noted over the years that it receives a similar variety of complaints as the State PCB. Indeed, each agency often forwards cases to the other for reasons of jurisdiction.

As such, the Sabah Office met with the PCB State Director on Feb 5 to discuss a proposal for closer co-operation in resolving issues. The Director expressed full support and the outcome was a joint programme – 'PCB/SUHAKAM Meet the People' sessions. This involves both agencies sharing a booth at *tamu*, which represents a win-win situation for all concerned. The agencies are able to take up issues connected to their functions, while the public have an additional channel for submission of complaints. This in particular benefits those who are less literate or who live in remote areas.

SUHAKAM has also invited PCB to join its Road Show at the district level. This will enable the PCB to respond to questions and complaints associated with administration.

The Sabah Office will collate all the complaints from such meetings and refer them to the relevant authorities. While SUHAKAM will handle complaints related to human rights violations, the PCB will take charge of cases involving the Government. In turn, the PCB will refer issues involving human rights to SUHAKAM.

Generally, the nine 'Meet the People' sessions were warmly received, with many users expressing appreciation to both agencies. However, there was scepticism among others who

viewed it as a gimmick by the Government ahead of a widely anticipated general election in 2008.

(i) Kuala Penyu

The inaugural session in the joint programme was held at the Kuala Penyu *tamu* on Feb 6. About 250 SUHAKAM folders containing information about the Commission and human rights were taken up. Many visitors to the booth had heard about the Commission, but were not familiar with its role and functions.

The majority of their grouses were related to poor infrastructure like roads and unsatisfactory utility supplies. Residents experience problems with water supply, which is said to be infrequent and of poor quality. One complainant said the problem has been so acute at times that she has been forced to buy bottled water to take a bath. The State Assemblyperson for Kuala Penyu, who visited the booth, confirmed the severity of the situation – in his case, it had affected a Christmas ‘open house’.

Another complainant brought a large rock with him to deliver a message. He explained that roads in his village were littered with rocks and stones similar to the one he showed.

SUHAKAM’s *tamu* initiative appeared as a news item on the front page of the *Borneo Post* on Feb 10.

(ii) Beaufort

The session on March 2 revealed these complaints:

- Failure by the relevant authority to respond to an application for permanent residence, especially when illegal immigrants are said to have been granted citizenship
- Failure to entertain applications for land, especially when the same plots are later alienated to other applicants
- Encroachment into forest reserves
- Practice of discrimination in the civil service based on race and religion
- Political interference in the civil service

(iii) Pulau Banggi

On March 27, a visit was conducted to Pulau Banggi, an hour's boat ride from Kudat in northern Sabah. Pulau Banggi is the biggest in a cluster of islands and has a population of 16,000. It is also one of the least-developed areas in the State – there are only gravel roads; electricity is available for just 12 hours daily from 6pm; water supply is poor; and the literacy rate is very low, with only three students having passed the 2006 SPM examination.

The main complaints were related to land matters, including rejection of applications. Many complainants are unable to read and write, and are not familiar with laws and procedures. Assistant District Officer (ADO) Yassin Nasir drew SUHAKAM's attention to the fact that all land matters are handled by the Assistant Collector of Land Revenue (ACLR) in Kudat. Since it is very inconvenient and costly for applicants to go to Kudat, SUHAKAM has proposed the stationing of at least a land clerk at the ADO's Office.

One complainant felt that there is unfairness in the allocation and distribution of aid. The general situation has led to perceptions of discrimination, marginalization and unfair treatment by the Federal and State Governments.

A complainant pointed out that teachers in the local school spend more time fishing than teaching. SUHAKAM conducted a spot check on the school, which has 60 pupils, seven teachers and four classrooms. One classroom was empty and some pupils were playing outside. There were pupils in two classrooms, but no teachers. One teacher was in the teachers' room, but the rest were not on the premises. According to the teacher who was present, the Principal and another teacher were attending a meeting in Kudat.

Another complaint was on the change in use of a 240-hectare plot of land that had originally been planned to accommodate settlers in 1963. However, the area was subsequently gazetted for an agricultural station, despite the fact that many people had settled there. They also felt that the site was too big for an agricultural station. SUHAKAM has recommended that the area should be shared equally between the agricultural station and the villagers.

About 180 folders with information on SUHAKAM were given to the ADO for distribution to residents.

(iv) Kudat

The *tamu* on March 28 enabled many shoppers to pick up information on SUHAKAM, going by the fact 220 folders were taken up. However, many visitors to the booth appeared apathetic because they have not had a response, let alone action, on their complaints. They also expressed dissatisfaction with political leaders who have not kept promises.

Land matters accounted for most of the complaints, with villagers claiming that their applications have not been entertained. Yet, they said, later applicants with apparent connections to influential figures have received favourable consideration.

Other complaints were on:

- Poor condition of roads
- Differences in the quantum of Government financial aid to students, at RM150, RM300 and RM350, without the rationale being explained to parents
- Federal and State Government delivery of services, generally viewed as ‘disappointing’
- A complainant who went to the National Registration Office in Kudat to apply for late registration of birth was told it could not be entertained, since a mobile registration unit had already gone out; due to the length of time taken to locate the unit, the complainant was unable to register the birth.

(v) Kota Belud

At the session on April 18, many took the opportunity to file complaints on land matters and incomplete public infrastructure projects. One complainant said he had yet to receive a reply to his land application submitted in 1997. Several complaints were about abandoned road construction projects in the district.

(vi) Menumbuk

The team received 74 complainants during the session on May 17, including:

- Unsatisfactory water supply and bad roads
- Vandalism of household water meters which are placed on the roadside
- Issuance of water bills when supply has not been provided

- Delays and lack of response from Government agencies over various applications, such as for financial aid

(vii) Tenom

The ADO was among visitors to the session held on July 25. Many were keen to find out more about SUHAKAM and human rights, as evidenced by the fact that 200 folders were taken up.

Several complaints were also registered, the majority of these related to land matters. A common complaint was about the absence of response to land applications, some submitted as far back as the 1960s. However, applications submitted later have been approved. Complainants claimed that they have already worked on the land by planting crops and fruit trees.

Another complaint was about illegal logging by commercial firms, which has resulted in damage to the environment and pollution of sources of water supply. The complainant claimed to have informed the relevant authority but said no action appears to have been taken.

Others were of the opinion that Federal and State Government programmes to assist the hardcore poor have missed their target. They alleged that ineligible applicants have received assistance, while those eligible have been left out.

(viii) Keningau

The delegation was at the *tamu* on Aug 9. Similar complaints and allegations were heard:

- Alleged favouritism and double-standards by the authorities in approving recent land applications, and failure to respond to those submitted many years ago
- Illegal logging in the area (confirmed when the Anti-Corruption Agency conducted an operation against loggers and sawmill operators the same month, according to news reports)
- Poor condition of rural schools
- Lack of qualified teachers for disadvantaged students, with those of different disabilities being placed together in the same class

In addition, several hawkers complained that the local authority has allowed illegal immigrants to carry out petty trade in front of their stalls. It was alleged that the illegal immigrants place goods on the ground and are therefore charged a minimal fee. The hawkers, however, have

to pay a higher fee for stalls allocated to them. Their resentment has been exacerbated by the competition for business.



SUHAKAM Commissioner Dato' N Siva Subramaniam and Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun (in front row, 3rd and 4th from right) at the 'Meet the People' Session in Keningau on Aug 9

(ix) Kota Marudu

Again, at this session on Sept 6, most of the complaints were on land matters. Others were about social welfare assistance and basic infrastructure. About 70 SUHAKAM folders were taken up by visitors to the booth.

3. FOLLOW-UP ACTION ON LAND MATTERS

On Feb 1, the Sabah Office met with the Secretary of Natural Resources in the Chief Minister's Department, and other senior officers. This was intended to identify what action, if any, had been taken with regard to the 10 recommendations in SUHAKAM's 2005 Annual Report concerning land issues in Sabah.

SUHAKAM was briefed on the State Government's land and forest policies. The officials admitted that there were shortcomings especially at implementation level, but said these were

being addressed. SUHAKAM made the point that it has received numerous complaints on land matters, and that the State Government should do more to explain its policies, rules and procedures to the public.

At a follow-up meeting on April 12, officials said SUHAKAM's recommendations were being considered – in fact, action on one proposal would see a major reshuffle of ACLRs throughout the State. Officials explained that many of the current problems were cumulative ones from earlier years. There are 24 districts in Sabah and only seven of the ACLRs are staff of the Lands and Surveys Department. In the remaining cases, District Officers perform such duties. Due to pressure of work, they often delegate work to junior officers. However, the situation is being addressed.

Meanwhile, the *Daily Express* reported on March 22 that the State Government would look into all long-standing land applications with a view to expediting approval. The Chief Minister was quoted as saying: "I have requested the Lands and Surveys Director and the Secretary of Natural Resources to expedite the approval process of land applications".

He had been asked to comment on SUHAKAM's report that land-related cases have topped the complaints recorded in Sabah. However, he also pointed out that locals who obtain land from the State Government must not sell it for quick monetary gains.

4. SUHAKAM ROAD SHOW

To date, SUHAKAM has held 20 Road Show sessions since July 2002. As at earlier sessions, the programme for 2007 saw participation from political and community leaders, district chiefs, native chiefs, village heads, civil servants, school principals, teachers, students and members of the public.

Following opening remarks by local dignitaries, the programme featured a briefing by the State PCB, which participated for the first time. Its representative, Haji Aliuddin Haji Mohd Onon, described the PCB's role and functions and procedures for submission of complaints.

SUHAKAM was represented by Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun, who spoke on the Commission and human rights. At different locations, Commissioners Tan Sri Dato' Asiah Abu Samah, Dato' N Siva Subramaniam and Dato' Haji Khalid Haji Ibrahim provided information on the experiences and functions of their respective Working Groups.

Participants whose questions could not be immediately answered to due to time constraints were advised to submit complaints in writing, using the forms provided.

(i) District of Tenom

Held at Dewan Antenom on March 5, the first session of the year drew about 400 participants. YB Raimie Unggie the Member of Parliament for Tenom, declared the session open, while District Officer Haji Faimin Kamin delivered the opening remarks.

During the question-and-answer session following briefings by the PCB and SUHAKAM, participants highlighted several issues and complaints:

- That the allowance paid to Sabah teachers posted to the peninsula is less than that paid to teachers posted to the state from the peninsula
- Unfairness in the promotion exercises of the State civil service
- No response to land applications
- That the National Parks agency has taken over customary land
- That the '20 points' containing safeguards for Sabah's position in Malaysia have not been honoured
- That the 5% oil royalty allocated to Sabah is too low and is therefore unfair
- That Sabah's use of Federal funds has not been equitable, with much of this being utilized to meet the needs of illegal immigrants
- That 'free education' is not quite as free in reality

(ii) District of Putatan

The session, held on May 15 at the Putatan Community Centre, was declared open by YB Edward Yong Oui Fah, the Assistant Minister in the Ministry of Local Government and Housing and State Assemblyperson for Tanjung Aru. Putatan ADO Awang Abdul Ghani Pengiran Yusuf delivered the welcome address. The audience of 350 included elderly participants who were hearing about SUHAKAM for the first time.

To everyone's surprise, there were no complaints about land matters, which have been a constant feature in the series to date. Participants had other concerns:

- That the State Government had yet to raise the monthly allowance of village heads, who were promised RM400 from the current RM210; their counterparts in the Federal Territory of Labuan are said to be receiving RM600 a month from the Federal Government

- A few days after the dialogue session, the village head who had raised the issue complained to SUHAKAM that he had received a show-cause letter for response within 14 days. The Vice-Chairman intervened and the letter was withdrawn.
- Rising cost of living
- Security of fishermen living in coastal areas
- Selective enforcement action against local residents and illegal immigrants, with enforcement personnel perceived as being more lenient with the latter

(iii) Sub-District of Matunggong

The Road Show was held on May 24 at the Dewan Serbaguna SMK Sikuati II. Encik Jealin Mozihim, the People's Development Leader for Matunggong, opened the proceedings, while ADO Luvita Koisun welcomed some 250 participants to the session.

Issues raised during the dialogue session covered:

- Long delays in the processing of land applications
- Rising cost of living following the increase in pay for civil servants in July; those worst hit are rural residents and people earning a fixed salary or who have no monthly income
- Poor condition of public infrastructure
- Need for increased financial aid for the hardcore poor
- Request for an alternative site for villagers whose land was compulsorily acquired by the State Government for construction of a dam
- Request for an increase in the monthly allowance, currently at RM100, for heads of Village Development and Security Committees

5. VISITS TO DETENTION CENTRES

SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Dato' N Siva Subramaniam, accompanied by officers of the Sabah Office, carried out visits to the following detention centres.

(i) Tenom Police Station Lock-up

On March 5, SUHAKAM visited the old lock-up at the Tenom Police Station, which was still in use pending the gazetting of the new facility. The current lock-up can hold four people, but

there were five detainees at the time of the visit. One was Malaysian and the others, illegal immigrants.

The team also inspected the section where a detainee had been found severely injured. He was admitted to hospital but died later. The cause of injury could not be properly established because the closed-circuit television camera was not in operation due to power failure at the time. According to the OCPD, the State Commissioner of Police has taken a very serious view of the incident and has personally inspected the scene of the incident. The OCPD further stated that an inquest would be conducted.

(ii) Kepyayan Prison

SUHAKAM was shown around the correctional facility on March 6 by the Director Mr Tan Tien Heng and senior officer Mr Jaikol Gubal. At the time of the visit, there were 1,450 prisoners of whom about half were foreigners. Generally the place appeared clean and well maintained.

(iii) Menggatal Temporary Detention Centre

This is where illegal immigrants arrested for Immigration-related offences are detained while awaiting deportation. According to the officer-in-charge, magistrates are stationed at the centre to expedite disposal of cases. At the time of the visit on March 6, there were about 1,200 detainees. The centre is under the jurisdiction of the Federal Task Force.

(iv) Semporna Police Station Lock-up

An unannounced visit was conducted on Sept 17, a public holiday in Sabah. OCPD DSP Mohd Azim Khan said the gazetted capacity of the lock-up is 75 detainees. At the time of the visit, there were 36 detainees. Most were alleged to be involved in drug-related offences. All the male detainees were either in their shorts or underwear, and were shirtless. Generally the lock-up appeared tidy and presentable.

(v) Sandakan Temporary Detention Centre

The centre is managed by the Federal Task Force. At the time of the visit on Nov 26, there were 629 detainees although the centre has a capacity of about 1,000. The deportation process ranges between 3 months and 1 year, with cases being heard by resident magistrates. Detainees were generally satisfied with the conditions.

(vi) Henry Gurney School, Keningau

The School, which is a rehabilitation centre for young offenders, is managed by the Prison Department. At the time of the visit on Nov 27, there were 94 inmates. The gazetted capacity is 104. Activities focus on corrective measures and vocational training. The inmates had no complaints about the conditions.

6. PARTICIPATION IN TALKS

SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun was invited to share his knowledge of different aspects of human rights at several events organized during the year.

(i) Briefing for Sabah Information Department, the Federal Territory of Labuan and RTM Malaysia

About 300 attended the Vice-Chairman's talk on April 4, on the 'Functions of SUHAKAM'. They received folders with information on human rights, while 31 copies of the 2006 Annual Report were distributed.

The Vice-Chairman fielded questions relating to:

- Human rights of street children, illegal immigrants, and undocumented and stateless people
- Relationship between the Government and SUHAKAM
- The Government's response to SUHAKAM's recommendations
- The Internal Security Act (ISA)
- Malaysia's stand on asylum seekers
- Right to freedom of expression

(ii) Seminar Organized by the Friedrich Naumann Stiftung and Parti Keadilan Rakyat

About 200 participants attended the seminar on April 7, during which the Vice-Chairman spoke on 'Human Rights and Land Issues in Sabah'. This was followed by a question-and-answer session at which land matters were the main concern. About 150 SUHAKAM folders were distributed.

(iii) State-level Seminar for Counsellors and Guidance Teachers

The seminar was held on Oct 22 in Kepayan, Kota Kinabalu, with the 200 participants mainly comprising teachers involved in guidance and counselling in primary and secondary schools around the State. The SUHAKAM Vice-Chairman spoke on 'Rights of the Child'.

During the hour-long dialogue session that followed, he responded to questions, comments and suggestions from the floor. These were specific to the topic, covering:

- Teachers' difficulties in dealing with 'difficult' parents
- The Government's reasons for its reservations to Articles 1, 2, 7, 13, 14, 15, 28 (1)(a) and 37 of the Convention on the Rights of the Child (CRC) and what SUHAKAM is doing about this
- Differences, if any, between the rights of the child in Malaysia and other countries such as the US
- Malaysia's level of compliance with the CRC
- Access to education nationwide for children, including those of illegal immigrants and undocumented persons
- Implementation of the Textbook Aid programme

Several participants showed an interest in other human rights issues:

- ISA and human rights
- Illegal immigrants and human rights and SUHAKAM's role
- The Commission's effectiveness in promoting and protecting human rights
- The independence of SUHAKAM

(iv) Human Rights Training Course for Police Officers

The Vice-Chairman's talk was entitled 'Human Rights and Law Enforcement'. The training programme, on Nov 19 in Kota Kinabalu, was for 50 police officers.

(v) Talk on 'Migrant Families in Sabah: Their Joys and Sorrows'

The Human Development Committee of the Diocese of Kota Kinabalu organized the talk as part of a workshop on 'Migrant Families in Asia: Reaching Out and Touching Them'. This was held from Dec 4-8 in Kinarut.

The SUHAKAM Vice-Chairman delivered a talk on Dec 5. The audience of about 60 participants included a Cardinal and two Archbishops, as well as Bishops, Priests, Nuns and lay people from all over Asia.

7. FIELD VISITS

(i) Kampung Koiboton, Beluran

On May 12, SUHAKAM visited a number of villages in the Koiboton cluster in Paitan, Beluran district. The team comprised Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioner Dato' N Siva Subramaniam, assisted by Sabah officers.

The visit was to follow up on complaints by villagers that their houses had been razed during an enforcement operation by the Forest Department in late 2006. They lost all personal effects in the fire. The villagers claimed that they had lodged a police report at the Beluran Police Station. They said they had settled in the area as early as 1982 and have never been told that their occupation of the site was unlawful. There is even a graveyard in the area.

As follow-up action, SUHAKAM decided to conduct a public inquiry into the incident. Preliminary steps were completed and the inquiry was scheduled for Aug 15-18. However, it was called off when the villagers instituted legal action against the relevant authorities.



SUHAKAM met several villagers on its field visit to Kampung Koiboton, Beluran, on May 12

(ii) Kampung Boluoh, Pitas

SUHAKAM held a meeting and dialogue on May 24 with about 60 villagers from Kampung Boluoh in the district of Pitas. The team comprised Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioner Dato' N Siva Subramaniam, who were accompanied by Sabah officers.

The villagers had earlier complained that their villages had been included in an area gazetted for the Sabah Forestry Development Authority (SAFODA). Some villagers claimed that they had settled in the area as early as the 1960s. According to the SAFODA officer-in-charge, the area was gazetted in 1982.

The area in dispute was originally the site of an agricultural settlement scheme that failed. Each settler was to have been allocated 6 hectares. However the area was subsequently handed over to SAFODA. The villagers were appreciative that the authority has not taken drastic action to evict them to date. They asked for consideration of these points:

- That the State Government should consider alienating land – not necessarily 6 hectares – to those who have settled in the area and who depend on the land for their livelihood; they pointed out that the State Government had allocated 4 hectares for a graveyard, and that the decision would not make sense if the villagers are now forced to leave the area
- That SAFODA was created to raise the standard of living especially of the rural people and not to create problems for them
- That, at very least, a large-enough village reserve be created to enable the villagers to live off the land



Dialogue on May 24 with villagers of Kampung Boluoh, Pitas, held in a hut

On June 1, the Sabah Office referred the case to the Secretary of Natural Resources in the Chief Minister's Department. A reply was received in a letter dated July 24, clarifying that the Government intends to develop 32,000 hectares to be planted with rubber trees. The project will be implemented by the Sabah Industry Board and selection of eligible settlers will be done by the Chairman of the District Development Committee. Affected villagers were therefore advised to submit their applications to him. In the meantime, all established villages will be gazetted as village reserves. The Secretary of Natural Resources further stated that the matter had been discussed by the State Cabinet in May.

(iii) Fact-finding Mission on Land Matters

SUHAKAM has received numerous memoranda on land matters from complainants in Sandakan, Tawau, Semporna and Keningau districts. A fact-finding mission to all the districts was conducted from Sept 14-18. Meetings and dialogues were held with complainants and visits conducted to the sites affected. The Commission was represented by Vice-Chairman Tan Sri Datuk Sri Panglima Simon Sipaun and Dato' N Siva Subramaniam, and assisted by Sabah officers.

At the time of writing, SUHAKAM was in the process of preparing a report on the field trips. The issues will be referred to the relevant authorities for their response. A final report incorporating the views and comments of all affected parties will then be prepared, together with SUHAKAM's recommendations.

- Sandakan District

On Sept 14, SUHAKAM held a meeting followed by a dialogue session with about 100 villagers of Kampung Sinar Baru, Gum Gum. They claimed that outsiders, believed to be illegal immigrants assisted by the village head and the chairman of the Village Development and Security Committee, had encroached into the settlement and destroyed property including fruit trees and other commercial crops.

Although the two persons named were invited to the meeting, they did not show up. The villagers have reported the matter to the relevant authorities including the Police but no action appears to have been taken. The complainants believe that this has emboldened the intruders, while they themselves feel insecure and threatened.

- Tawau District

About 300 settlers/villagers from Andrassy and Ulu Kalumpang gathered at the Tawau Teachers Training College for a meeting-cum-dialogue on Sept 15.

In Andrassy, about 220 families had received an eviction notice in June 2006 from the Forest Department. They were made to understand that the area they occupied had been gazetted as a Class I Forest Reserve in the mid-1990s. The settlers, however, claimed that they had settled in the area in the early 1970s when it was still State land. They alleged that about 58 homes were burnt by Forest Department enforcement personnel. Not only did they lose their homes, but also personal effects including documents like birth certificates and Mykad.

In Ulu Kalumpang, about 314 families are affected by the eviction notice issued in 2006 by the Forest Department. About 50 houses were subsequently destroyed in a fire. The settlers said the area was gazetted as a Class 3 Forest Reserve in 1984 and subsequently upgraded to Class I. They claimed to have settled in the area in 1979, when they had also applied for land and each family had been allocated 6 hectares.

- Semporna District

The meeting and dialogue with some 250 settlers from Tanjung Nagos and Mount Pock took place on Sept 16. They informed SUHAKAM that they were disappointed and unhappy with the State Government for treating them as trespassers when they have settled in the area for more than 20 years.

Although they have applied for land, there has been no response. In the meantime, they have planted oil palm among other commercial crops and fruit trees which are now mature. It is believed that the area was gazetted as Class I Forest Reserve in 1984, but the settlers said they have never been told that they are in breach of any law. Recently, they were told to vacate the area on the ground that they are squatting on forest reserve land.

It is puzzling to the settlers that a commercial firm has been granted permission by the State Government to enter the area. The firm has allegedly harvested the oil palm and cut down the fruit trees that the settlers planted, and has developed the area to be planted with oil palm. The settlers consider this to be double-standards and a mockery of the law. The Forest Department recently erected a signboard to indicate that the area is a Class 1 Forest Reserve, although a large part is now planted with oil palm. It is understood that a Class I Forest Reserve is only meant for trees to grow, to serve as a water catchment area.

The settlers claimed that to have lodged a Police report but said they are not aware of any action. However, they have been barred from entering the area to harvest oil palm fruit.

Upon checking with the OCPD Semporna, SUHAKAM was informed that the Police were in the process of finalizing their report, with two more statements pending. Asked why the settlers had been denied entry when the commercial firm was allowed to enter the site, he explained that it was based on an agreement between the State Government and the firm.

- Keningau District

The meeting and dialogue was held with about 300 villagers of Kampung Bonor and surrounding settlements on Sept 18 at the Kampung Bonor Community Hall. They claimed that their villages have been in existence since colonial times. In 1987, Kampung Bonor had a population of about 303. By 2007, this had increased to more than 500. The village has a place of worship, school, community hall, playing field, hanging bridges, wells and a graveyard.

However, the village was included in the 'Additional Mandalom Forest Reserve' gazetted on March 15, 1984. The residents of all the villages affected want the State Government to excise about 2,319 hectares from this site. They also claimed that the forest reserve has been logged over the years by operators with close connections with the State Government. There is little commercial timber left, but the area remains a gazetted forest reserve.

8. CELEBRATION OF INTERNATIONAL INDIGENOUS PEOPLES' DAY

SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun was invited to officiate at the event held at the Tun Fuad Hall, Penampang, on Aug 19. It was organized by the Partners of Community Organization and saw participation from about 500 leaders of indigenous communities from all over Sabah.



CHAPTER 5(II)

ACTIVITIES OF SUHAKAM IN SARAWAK

ACTIVITIES OF SUHAKAM IN SARAWAK

Together with the relevant Working Groups from the headquarters in Kuala Lumpur, the Sarawak Office organized a Road Show, dialogues and Roundtable Discussions to sustain focus on human rights education.

Field trips were conducted to look into specific human rights complaints involving land matters and identification documents, among others. Inspection visits were conducted at detention centres. The Office continues to receive walk-in complainants and general visitors interested in information on human rights.

1. ACTION ON COMPLAINTS

The Sarawak Office received 70 complaints (Table 1), not including those submitted during SUHAKAM's Road Show programme. Of the cases, 39 (55.7%) were on land matters, such as inadequate or non-payment of compensation for land, and encroachment into Native Customary Rights (NCR) land by logging and plantation companies. Other cases were on administrative problems caused by lack of identification documents, and allegations of physical abuse by enforcement personnel, and Police inaction or selective action.

Eleven (15.7%) files were closed during the year, while 23 (32.9%) complaints were found to be unrelated to human rights. The other 36 (51.4%) cases are being worked on with the relevant authorities, through clarification and appropriate action.

Complaints Received by Sarawak Office, 2007

No	Nature of Complaints	No. of Cases
1.	Native Customary Rights Land	39
2.	Labour	8
3.	Police	8
4.	Logging	4
5.	Identification Documents	5
6.	Wages	1
7.	Health	1
8.	Miscellaneous	4
	TOTAL	70

2. CORE ISSUES IN COMPLAINTS

Land matters and lack of access to basic infrastructure and amenities remained the main areas of concern.

(a) Encroachment into Native Customary Rights (NCR) Land

Development and exploitation of forest resources have in some cases resulted in conflicts between the indigenous population and the private or semi-government agencies involved. These conflicts have arisen primarily because of lack of official demarcation as to what constitutes NCR land and State land; non-compliance by the private enterprises; and inadequacies of relevant enforcement agencies.

In complaints about encroachment into NCR land, it was claimed:

- That enforcement authorities did not take such cases seriously and, at times, the complainants were targeted for action instead
- That the quantum of compensation is inadequate for land acquired or crops that are destroyed when a site is taken for development purposes
- That there is no meaningful participation in decision making or opportunities to be involved in the economic spin-offs from development projects
- That customary ownership of land has not been recognized by the Government, for example in cases involving the Penan Community

(b) Lack of Access to Education

Physical access to schools is a serious concern especially for the Penan Community. Schemes designed to address this, like the provision of transport under KUAM by the Ministry of Education, are beset with implementation problems. As a result, the majority of Penan children do not attend school.

More attention must therefore be given to improving the road transportation network. Arrangements are also needed to facilitate the application process for personal documents like birth certificates and MyKad, so that children can be admitted to school.

(c) Poor Access to Basic Amenities

Residents in rural parts of the State, especially the Penan Community, cannot be reached by paved roads. Walking is the only means available. Other forms of communication are also inadequate. Some communities do not have access to clean water, electricity and proper sanitation. Logging and plantation activities have led to pollution of rivers, and the rainy season plays a part in polluting water supply from rivers to longhouses, such as those in Ulu Belaga.

(d) Absence of Identification Documents

A small number of people in rural communities, such as the Penan of Ulu Belaga, still do not possess any form of identification documents. There is failure or delay to register births because many women still rely on traditional midwives to assist with delivering children. The National Registration Department (NRD) has added to procedural requirements that make it even more difficult for parents to apply for birth registration. The recent directive not to recognize marriages solemnized by community leaders is an example.

The absence of official personal documents will result in difficulty of access to basic needs like education, welfare and healthcare, while those concerned will also be deprived of their civil and political right to vote.

3. ROAD SHOW PROGRAMME

The Sarawak Office organized three dialogues over the year with the assistance of Sub-District offices in Bintangor, Engkilili and Bau. Three SUHAKAM Commissioners and a District Officer made up the panel of speakers at each session. Attendance was good, with participants

comprising civil servants, community leaders, students and members of political parties, and non-governmental organizations (NGOs).

These sessions began with a briefing on what constitutes human rights and SUHAKAM's role in protecting and promoting human rights. Participants were then given the opportunity to raise issues and complaints. A mini-exhibition on SUHAKAM's activities was mounted in conjunction with each dialogue.

At the three locations, participants raised similar issues or requests:

- Acquisition of NCR land by the State Government or its licensees
- Non-payment of compensation
- Lengthy delays in processing land applications
- Poor infrastructural facilities
- Polluted water catchment areas
- Rising cost of living
- Lack of awareness of human rights
- Location of Government offices, which are too far away for services such as renewal of driving licence
- Request for clarification of similarities and differences between SUHAKAM and the Public Complaints Bureau



Guests at SUHAKAM's Road Show in Bau, Kuching, on Sept 6

4. DIALOGUE ON HUMAN RIGHTS AND ACCESS TO EQUITABLE HEALTHCARE

Despite impressive progress in the health status of Malaysians and enhancement of healthcare services, some communities remain disadvantaged due to economic, social and geographical reasons. Among such groups are the Penan in Ulu Belaga.

A dialogue was held on Nov 5 in Kuching, with attendance from 70 participants from various Government departments and NGOs. Papers on health were presented by the speakers.

The objectives were:

- To ascertain concerns and views on improving the nation's capacity to provide and sustain an equitable quality healthcare to the population with emphasis on human rights; and
- To highlight areas which the Government can take into consideration when implementing programmes on equitable quality healthcare, with particular focus on the excluded groups in Malaysia.

Concerns were expressed about the:

- Access to healthcare services among vulnerable groups
- Shortage of medical specialists in Government hospitals
- Lack of awareness of available services
- Perception of poor quality of services in public hospitals
- Secrecy surrounding the National Healthcare Financing Scheme

5. DIALOGUE WITH SARAWAK PENAN ASSOCIATION

The Office received a visit from the Sarawak Penan Association led by Ajang Kiew on July 11. A dialogue was held on problems faced by the Penan Community in Bakun, Sungai Asap and Belaga, continuing discussion of issues first raised in 2001: right to land, personal documents, education, healthcare services, basic amenities and poor infrastructure.

6. FIELD VISITS

(a) Blockades at Long Benalih

On Feb 13, SUHAKAM received a letter from the District and Resident Office, Miri Division (the 'Resident Office'), seeking advice on addressing the issue of the Penan Blockade in Long Benalih, Baram.

According to the Resident Office, the blockade was set up by a group of Penan from Long Benalih (the 'Penan Benalih'). However, this curtailed the Government's efforts to provide assistance and services to 287 families in Hulu Sungai Akah, Baram.

The blockade was erected to prevent the construction of a logging road into the area and to prevent logging activities by Samling Plywood (Baramas) Sdn Bhd ('the Company').

In 1998, the State Government had issued a licence to the Company to log an area of 100,650 hectares in the Sela'an Suling Permanent Forest Estate. There are 11 Penan villages, including the Penan Benalih village, and two Kelabit villages within the licensed area.

SUHAKAM therefore conducted a field visit to Long Benalih from May 4-5 to investigate the allegations of the Penan Benalih. The Commission's findings and recommendations have been published in its report on 'The Penan Benalih Blockade Issue'.



Nomadic Penan in Long Benalih

(b) Relocation of Squatters

Issues affecting families in the squatter colonies at KM 2, Bintulu-Miri Road in Bintulu Division were brought to SUHAKAM's attention. The Land and Survey Department had written to notify those occupying State land to vacate such sites, based on Section 209B of the Sarawak Land Code 1958.

SUHAKAM's investigations revealed that some of these settlements date back about 20 years. Originally, there were 84 families in the area but 43 had been relocated to vacant land, although there were no proper services and facilities. It was also found that, while resettlement areas have been allocated, the families cannot afford to pay for foundation work and construction of the house. Some of the families own a house in their village of origin and, as such, are not eligible for units in low-cost housing schemes.

SUHAKAM was also informed that squatters are given adequate notification and transportation, if they need it, to relocate to the new area on humanitarian grounds. Squatter resettlement in Bintulu town is an on-going process under the supervision of Bintulu Development Authority and State Government.

(c) NCR Issue in Ulu Sebauh

On Aug 23, SUHAKAM conducted a field trip to investigate a complaint by the Iban Community of Rumah Nor Nyawai. They alleged that a private company had encroached into an area over which they exercise NCR. SUHAKAM was informed that several generations of the community had settled in the area and that a High Court decision in 2001 recognized their NCR status.

7. VISIT TO PLACES OF DETENTION**(a) Police Lock-ups**

Members of SUHAKAM's Complaints and Inquiries Working Group visited the lock-ups at three Police stations on July 26 – Central, Satok and Kota Padawan. The team comprised Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioners Dato' N Siva Subramaniam and Dr Mohammad Hirman Ritom Abdullah. Sarawak Officer Sophian Osman accompanied them.

Most of the detainees were being held on remand over charges involving drugs, physical violence such as fighting, offences under the Immigration Act and other social problems. The team observed that conditions at the lock-ups have improved since the last visit.



SUHAKAM Commissioners in discussion with the Commissioner of Police, Dato' Talib Jamal, in Kuching

(b) Kuching Central Prison

In September, SUHAKAM Vice-Chairman Tan Sri Datuk Seri Panglima Simon Sipaun and Commissioner Dato' Haji Khalid Haji Ibrahim, accompanied by a Sarawak Officer, visited the Kuching Central Prison. The care provided to detainees was found to be adequate. Prison officials also told SUHAKAM that a new facility is under construction.

8. ADDITIONAL ACTIVITIES

(a) Visit by International Youth Sakai

A courtesy call was paid on the Sarawak Office by a delegation from the Sakai City Government in Osaka, Japan, on Aug 27. The group was led by Mr Tadashi Shiramoto, who said the organization educates youth to develop consciousness of human rights from a cosmopolitan outlook. It provides young people with the opportunity to participate in society under the theme

'Attendance, Development, Peace and Human Rights'. SUHAKAM briefed the group on efforts being made to promote and protect human rights in Sarawak.

(b) Art Exhibition on Human Rights

The Human Rights Education and Promotion Working Group collaborated with the Sarawak Office in organizing an art exhibition at the State Museum. The month-long display was opened on March 15, featuring 52 paintings. YB Haji Hamden Haji Ahmad, Assistant Minister of Sarawak Tourism, officiated at the opening. Visitors included civil servants, members of NGOs, academicians, students and the public.



SUHAKAM Commissioner Dr Chiam Heng Keng (at rostrum) welcoming guests at the opening of the Art Exhibition at the Sarawak Museum on March 15



APPENDICES



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM: PROBE INTO CONDITIONS OF SIMPANG
RENGGAM REHABILITATION CENTER WELCOMED**

SUHAKAM welcomes the Cabinet's decision to appoint four Ministers to form a task force which is entrusted with the responsibilities to check on the treatment and conditions of Simpang Renggam Rehabilitation Center.

The task force is urged to ensure that the conditions of the Rehabilitation Center comply with the standards specified in the Prison Regulations 2000 which should meet with the international standards contained in the United Nations Standard Minimum Rules for Treatments of Prisoners, Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment and the Code of Conduct for Law Enforcement Officials.

Empowered by Section 4 (2) (d) of the Human Rights Commission of Malaysia Act 1999 SUHAKAM regularly conduct visits places of detention which include Simpang Renggam Rehabilitation Center where the center was visited four times in the year 2006 alone.

These visits clearly revealed over-crowding and deteriorating physical conditions of the Rehabilitation Center, lack of adequate medical facilities and treatment, and staff shortages. Although the purpose of the Rehabilitation Center is to provide rehabilitation through correctional activities, SUHAKAM was alarmed that the center is not able to provide such activities to due lack of resources. Hence, majority of inmates were not able to participate in any correctional activities, which defeat the purpose of the establishment of the center in the first place.

SUHAKAM supports the Cabinet's move in appointing the four ministers to form the task force and SUHAKAM would be prepared to provide its assistance especially to enhance the promotion of awareness of human rights based on international standards.

.....END.....

“HUMAN RIGHTS FOR ALL”



DATO' N. SIVA SUBRAMANIAM

Commissioner

Human Rights Commission of Malaysia (SUHAKAM)

26 January 2007

APPENDIX 1



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

SUHAKAM'S CONCERN OVER THE ISSUE OF CHILD BEGGARS

The Human Rights Commission of Malaysia (SUHAKAM) is deeply concerned with the report on child beggars roaming Kota Baru shopping malls which had gone on for a year and undetected by relevant authorities despite the call from the Minister of Women, Family and Community Development that officers work with local leaders to identify such groups.¹

Although SUHAKAM acknowledges Malaysia's progress in reducing the incidence of poverty in the country, the existence of beggars proves that there are severe gaps in Malaysia's general achievement, especially when those beggars include children.

SUHAKAM is of the stand that every child in Malaysia, without distinction, is entitled to enjoy their right to live with dignity and other rights enshrined in the Convention on the Rights of the Child (CRC) which include, among others, right to nutritious food, clothing, health care and education.

Although parents hold the primary responsibility to secure an adequate standard of living of their children, Malaysia, as a State Party to the CRC, and the Government, as the primary duty bearer to ensure the progress of the rights of the child, is responsible to take appropriate

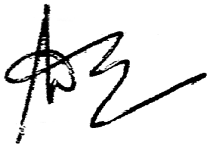
¹ News Straits Times *Child beggars roaming Kota Baru shopping malls*, 6 February 2007, Tuesday.

measures to assist parents when there is the need for material assistance and support programmes.²

In this light, SUHAKAM urges the responsible authorities and local leaders to proactively and expeditiously tackle the issue of child beggars in Malaysia. Consequently, there is the need for the Federal Government to ensure poverty eradication programmes reach members of the vulnerable as well as to monitor district level agencies and their officers to ensure their effectiveness in assisting members of the vulnerable groups within their jurisdiction.

...END...

“HUMAN RIGHTS FOR ALL”

A handwritten signature in black ink, appearing to be 'D. Jayasooria', written in a cursive style.

DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia
6 February 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**RELEASE OF REPORT OF SUHAKAM PUBLIC INQUIRY INTO
THE INCIDENT AT KLCC ON 28 MAY 2006**

This is a Report of SUHAKAM Public Inquiry Into the Incident at KLCC on 28 May 2006 (the Report). The Panel of Inquiry comprises Dato' K.C. Vohrah (Chairperson), Dato' Choo Siew Kioh, Dato' Dr. Michael Yeoh and Datin Paduka Zaitoon Dato' Othman.

The terms of reference of the Public Inquiry require the Panel of Inquiry to determine whether there was any violation of human rights of any person or party during the incident and if violations of human rights occurred, to determine which person or agency was responsible, how such violations came about, what administrative directives and procedures, or arrangements contributed to them and what measures should be recommended to be taken to ensure that such violations do not recur.

The Inquiry commenced on 5 October 2006 and concluded on 18 October 2006. In the course of the three weeks, proceedings took place on 6 October 2006, 11 to 13 October 2006 and 16 to 18 October 2006.

The Panel of Inquiry called 54 witnesses and received 52 exhibits including video recordings during the course of the proceedings. Amongst the witnesses who were called to testify before the Panel were the organisers of the assembly, Police and FRU officers who were on-duty, some members of the assembly and identified members of the assembly who sustained injuries on the day of the assembly.

Representatives of the Attorney-General's Chambers, the Police, the Malaysian Bar Council and the Kuala Lumpur Bar Committee (Legal Aid Centre) attended the proceedings. The Panel invited them, at the conclusion of the hearing, to submit observations on the law pertaining to

issues arising from the Inquiry. On 1 December 2006 the Panel received submissions from the Bar Council and the Legal Aid Centre.

The Report contains the findings of fact in relation to the issue on the requirement for a licence to hold an assembly, in relation to the questions of crowd control and the use of force to disperse crowd and the question of the necessity to arrest persons at any peaceful assembly. The Panel, in making its findings, examined exhaustively all evidence put forward during the proceedings.

The Panel observes that the right to the freedom of assembly is enshrined in Article 10 of the Federal Constitution and, consonant with international legal principles and practices, has been recognized and regarded as a “fundamental right in a democracy and is one of the foundations of such a society”. As such it is the considered view of the Panel that the persons who had participated in the 28 May 2006 assembly at Suria KLCC were deprived of their constitutional right to peaceably assemble because of the requirement of a licence to hold an assembly. The Panel further finds that the assembly at KLCC on 28 May 2006 was peaceful and orderly and accordingly the acts of the Police in dispersing the assembly on 28 May 2006 at KLCC had interfered with the right to the freedom of assembly of the members of the assembly. The Panel also finds that the allegations of the excessive use of force by some members of the police force were made out. The Panel was only able to identify one police officer who had inflicted injuries on a victim. The Panel strongly recommends that the Police, with their better powers and tools of investigations, conduct their own investigations to ascertain who the other errant members are with a view of taking disciplinary or other action against them. The summary of the Panel’s findings are at Chapter 6 of the Report (p.83).

The Report also incorporates the Panel’s recommendations on questions and issues discussed. In preparing its recommendations, the Panel had conducted cross-jurisdictional studies with regard to laws and practices of other countries in relation to the freedom of assembly. Reference was made to the laws and practices of Australia, Hong Kong, South Africa, the United Kingdom and the United States of America. The Panel found that the submissions made by the Bar Council and the Legal Aid Centre helpful. At the heart of the Panel’s recommendations is the decriminalising of peaceful assembly without a licence under section 27 of the Police Act 1967 and the call for the repeal of subsections (2), (2A) to (2D), (4), (4A), (5), (5A) to (5C), (7) and (8) of section 27, and also section 27A of the Police Act 1967. In lieu of the requirement for a licence, the Panel recommends that the organiser of a proposed peaceful assembly to notify the police of the said peaceful assembly and for the police and organizer to fruitfully discuss the practical arrangements of the peaceful assembly. The Panel also in the Report discusses extensively the need to have regulations or guidelines with regard to crowd control of any peaceful assembly. The summary of the Panel’s recommendations are at Chapter 6 of the Report (p.88).

The Panel urges the relevant authorities to consider the Report and urgently implement the recommendations contained therein.

.....END.....

“HUMAN RIGHTS FOR ALL”

A handwritten signature in black ink, appearing to read 'K.C. VOHRAH', is written over a light blue rectangular background. The signature is fluid and cursive, with a horizontal line underneath it.

K.C. VOHRAH

Chairperson

Public Inquiry into the Incident at KLCC on 28 May 2006

23 March 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM CALLS ON THE GOVERNMENT TO
RATIFY THE CONVENTION ON THE RIGHTS OF
PERSONS WITH DISABILITIES**

SUHAKAM welcomes the adoption of the Convention on the rights of Persons with Disabilities by the United Nations (UN) General Assembly on 13 December 2006. The Convention does not create new rights or new entitlements but ensures that persons with disabilities are not deprived of their inherent dignity and worth as a human being. The rights of persons with disabilities that are enshrined in the Convention are the rights accorded to a human being in the Universal Declaration of Human Rights. The rights in the Convention include equality before the law, prohibition from discrimination on the basis of disability, right to own and inherit property, right to education, right to health, right to work, access to information, right to movement, and freedom from exploitation, violence and abuse.

Since its inception, SUHAKAM had identified persons with disabilities (PWD) as one of the groups whose rights are vulnerable to violation by the State and society. Through a series of dialogues and roundtable discussions conducted throughout Malaysia from 2003-2005, SUHAKAM had identified physical and attitudinal barriers as the sources of PWD's limited access to education, information, services, work, and movement and hence persons with disabilities are denied of the dignity to lead an independent and useful life.

Malaysia has always projected itself as a caring society. The Government has heeded the needs of persons with disabilities in the Ninth Malaysia Plan. The Policy for Persons with Disabilities is being drawn up by the Ministry of Women, Family and Community Development. Malaysia is also a signatory to the Biwako Millennium Framework. In view of the Government's stand on the rights of persons with disabilities, SUHAKAM perceives the Government of

Malaysia will not encounter difficulties in ratifying the Convention on the Rights of Persons with Disabilities. More than 40 countries have indicated that they will be signing the Convention on 30 March 2007. SUHAKAM urges the Government to be a signatory to this Convention if not on 30 March 2007, as soon as possible to demonstrate that it upholds not only the rights of persons with disabilities but also those of a human being. Being a member of the United Nations Human Rights Council, Malaysia should take a lead in upholding human rights

... END...

'HUMAN RIGHTS FOR ALL'



DR CHIAM HENG KENG

Commissioner

Human Rights Commission of Malaysia (SUHAKAM)

28 March 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

PRESS STATEMENT

SUHAKAM: ISU BERHUBUNG KELUARGA PASANGAN WARGA MYANMAR ATAS DAKWAAN KES KEHILANGAN ADIK YIN

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) telah mengadakan satu lawatan ke sebuah Pusat Kebajikan Masyarakat di ibu negara pada 19 April 2007. Lawatan ini merupakan susulan daripada kebimbangan sesetengah pihak mengenai nasib kelima-lima anak pasangan suami isteri warga Myanmar tersebut. Rombongan SUHAKAM diketuai oleh Dato' N. Siva Subramaniam bersama beberapa pegawai SUHAKAM.

Hasil lawatan mendapati bahawa kanak-kanak tersebut berada dalam keadaan selamat. Mereka diberi pakaian dan makanan yang mencukupi selama mereka berada di sana. Pihak pusat kebajikan berkenaan memaklumkan bahawa kanak-kanak tersebut selesa berada di sana dan bercampur dengan kanak-kanak yang lain. Keadaan kesihatan mereka juga memuaskan.

Lawatan SUHAKAM ke Pusat Kebajikan Masyarakat ini adalah selaras dengan peruntukan Akta 597 Suruhanjaya Hak Asasi Manusia Malaysia tahun 1999 di bawah Perkara 4(1)(d). Ianya bagi memastikan bahawa tiada berlakunya sebarang pencabulan hak asasi manusia terhadap kanak-kanak warga Myanmar berkenaan. SUHAKAM berterima kasih kepada pihak Pusat Kebajikan Masyarakat tersebut kerana sedia menerima lawatan ini.

Seterusnya, SUHAKAM ingin melahirkan rasa kebimbangan tentang sesetengah laporan akhbar yang telah mendedahkan identiti serta menyiarkan gambar kanak-kanak tersebut secara berleluasa. Memandangkan Malaysia adalah ahli kepada "Convention of in the Rights of the Child", SUHAKAM percaya bahawa setiap kanak-kanak tanpa mengira jantina, agama,

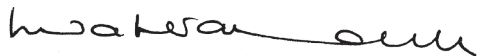
bangsa dan kewarganegaraan harus dilindungi dari sebarang pendedahan yang terlampau di media massa yang mana akan menjejaskan pembesaran mereka sebagai kanak-kanak khususnya dari segi perkembangan mental.

Di samping itu, SUHAKAM juga mengesyorkan agar setiap tahanan reman yang belum terbukti bersalah tidak harus didedahkan identiti serta wajah mereka oleh pihak media massa. Ini sejajar dengan Artikel 11 Perisytiharan Hak Asasi Manusia Sejagat yang menyatakan bahawa setiap orang berhak dianggap tidak bersalah sehingga dibuktikan oleh mahkamah. Meskipun media berhak memberi laporan dan maklumat kepada orang ramai, ia seharusnya dibuat dengan rasa tanggungjawab dan beretika.

Berhubung isu pembebasan pasangan suami isteri Myanmar itu pula, adalah dimaklumkan bahawa SUHAKAM tidak terlibat dengan pembebasan mereka secara ikat jamin. Ianya telah dilakukan oleh beberapa pihak luar dan bukannya SUHAKAM. Pasangan tersebut telah dibawa ke SUHAKAM dari Ibu Pejabat Polis Daerah Dang Wangi untuk menghadiri sidang akhbar semalam juga bukannya dengan kenderaan SUHAKAM sebaliknya kenderaan pihak berkenaan.

... end ...

“HAK ASASI UNTUK SEMUA”



—
DATO' N. SIVA SUBRAMANIAM
Pesuruhjaya
Suruhanjaya Hak Asasi Manusia Malaysia
20 April 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEW DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM: NEED FOR A COMPREHENSIVE
ANTI HUMAN TRAFFICKING PLAN OF ACTION**

The Human Rights Commission of Malaysia (SUHAKAM) welcomes the tabling of the Anti-Trafficking in Persons Bill by the Malaysian Cabinet, which is seen as a positive progress from the highest level of the Government to combat human trafficking and protection of human rights.

Trafficking of persons has no borders, and is an organised, trans-national crime and an increasingly global 'business'. Victims of trafficking, who are often forced into repressive, and exploitative situations including forced labour, prostitution, marriages, and other illicit employments as well as adoption. Trafficked victims are subject to all forms of exploitation and abuse – physical, sexual, mental, psychological which scars the victim through out his/her life.

The illicit movement of persons within and into Malaysia is a growing problem. It was reported that, in 2004, a total of 371 foreign women were rescued by the authorities. However, SUHAKAM believes that there are cases which have gone undetected.

Hence, the move to protect victims from criminal prosecution as well as protection to whistle-blowers would further encourage collective efforts from Government agencies and the civil society which would hopefully facilitate in exposing hidden syndicates.

Whilst commending the Government, SUHAKAM also calls for a comprehensive national plan of action. This would incorporate prevention and awareness programmes; mechanism for victim identification, protection, care and support; and training of enforcement groups.

Prevention and Awareness Programmes

There is the need for prevention and awareness programmes for the public, including 'refugees' and immigrants on the risks of accepting employment by unregistered 'agents' and 'companies', as well as the role of the public to assist in combating human trafficking by informing authorities of suspected victims of trafficking. This could be done through the media, travel agencies, and even embassies.

Victim identification, Protection, Care and Support Mechanism

There is a need for a mechanism to identify victims of human trafficking. This could be done through victim identification courses for enforcement officers and international cooperation from other human trafficking prone countries.

The protection, care and support of human trafficking victims must encompass not only shelters, but also adequate access to counseling and healthcare services as well as rehabilitation. Capacity building must be made available for victims to facilitate in their later transition to mainstream society.

Consequently, there is the need to ensure victims are protected from discriminative and prejudiced treatment.

Training of Enforcement Groups

Training on gender sensitivity in approaching victims of trafficking and when handling cases involving minors is important to ensure greater cooperation from victims.

As Malaysia often becomes a point of destination and transit of human trafficking syndicates with victims from almost all continents, facilities for interpretation or personnel trained with language skills be made available.

SUHAKAM further recommends the ratification of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

...END...

"HUMAN RIGHTS FOR ALL"



HAJI AHMAD YUSUF BIN HAJI NGAH
Secretary
Human Rights Commission of Malaysia
30 April 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEW DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**HUMAN RIGHTS CONCERNS ON THE
RESIDENTS OF THE TELIPOK RESETTLEMENT AREA**

The Human Rights Commission of Malaysia (SUHAKAM) is deeply concerned on wellbeing of the residents of the Telipok resettlement area in Sabah who are deprived of basic human rights. The dilemma of the residents was highlighted by the New Straits Times in its report on 3 May 2007 entitled 28 years on and still living like refugees.

The residents of the Telipok refugee resettlement area, which involves Malaysian citizens either by naturalisation or marriage, are left without access to adequate housing, healthcare, clean and safe drinking water as well as education and safe environment.

Whilst SUHAKAM recognises that Malaysia is not a signatory to the United Nations Convention Relating to the Status of the Refugees 1951 nor the Protocol Relating to the Status of Refugees 1967, SUHAKAM emphasises that the Universal Declaration of Human Rights (UDHR) is a common standard of achievement for all peoples and all nations, including Malaysia, even without ratification. Guided by the articles set forth by the UDHR, SUHAKAM stresses that every human being, without distinction, is entitled to enjoy their basic human rights, which are now less than reachable for the residents of the Telipok resettlement area.

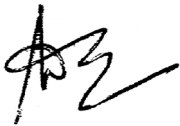
Additionally, Malaysia is a State Party to the Convention on the Rights of the Child (CRC) which article 22 highlights the State's responsibility to ensure refugee children are able to enjoy human rights.

Further, Malaysia is also a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which guarantees the rights of all women without distinction.

In this light, SUHAKAM urges the Government to ensure the human rights of the Telipok resettlement residents, as well as residents of other resettlement areas, especially the women and children, are considered as they are now living in poverty which may inhibit life with dignity. Ignorance to their wellbeing could take its toll not only to the residents but also to local residents who live side by side with this community.

...end...

“HUMAN RIGHTS FOR ALL”



DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia
3 May 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEW DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**PARLIAMENTARIANS SHOULD UPHOLD
HUMAN DIGNITY**

Human dignity is the core of a person's well-being and is therefore a fundamental right of any human being – be it man, woman or child. Any remark that strips a person of his/her human dignity is a violation of this fundamental right. Thus the crude, offensive and sexist remarks that the two Members of Parliament made recently in the House of Parliament against MP Fong Po Kuan attack her human dignity.

Freedom of speech is a human right but it also comes along with the responsibility that one does not abuse this right by using it to ridicule, defame, harm mental health and create public disorder. Even in the Convention on the Rights of the Child, the right of expression (Article 13) comes with the responsibility to respect the rights or reputation of others and to protect national security, public health, public order and morals.

Members of Parliament, as representatives of the people and leaders of the nation, should provide good examples by respecting the dignity of others.

The Human Rights Commission of Malaysia (SUHAKAM) notes that some Members of Parliament supported the derogatory, sexist remarks of the two MPs by cheering when the remarks were made or by rebutting that they were mere use of words.

MP Fong Po Kuan is a human being and has the right to human dignity. The Human Rights Commission of Malaysia therefore urges the MPs, who stripped fellow MP Fong Po Kuan of

her human dignity, and other MPs to uphold at all times the human dignity of others especially in the House of Parliament, when they exercise their freedom of expression.

...END...

'HUMAN RIGHTS FOR ALL'

A handwritten signature in black ink, appearing to read 'Dr. Chiam Heng Keng', written in a cursive style.

DR CHIAM HENG KENG

Commissioner

Human Rights Commission of Malaysia (SUHAKAM)

18 May 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, MEJA BERITA

UNTUK SIARAN SEGERA

PRESS STATEMENT

SUHAKAM: KENAIKAN GAJI KAKITANGAN SERTA PESARA KAKITANGAN AWAM DIALU-ALUKAN

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) dengan ini amat mengalu-alukan langkah kerajaan untuk menaikkan kadar gaji kakitangan dan pesara kakitangan awam yang telah diumumkan oleh Perdana Menteri, YAB Datuk Seri Abdullah Ahmad Badawi semalam. Dengan kenaikan ini maka pendapatan terendah kakitangan awam melebihi Pendapatan Garis Kemiskinan terkini RM691 sebulan bagi seisi keluarga lima orang. Ini merupakan suatu langkah yang perlu dan tepat masanya setimpal dengan kenaikan taraf kehidupan sekarang.

Perisytiharan Hak Asasi Manusia Sejagat dalam Artikel 25 juga menyatakan bahawa setiap orang mempunyai hak kepada suatu taraf hidup yang memadai bagi kesihatan dan kebajikan diri dan keluarganya, termasuklah makanan, pakaian, perumahan dan pengawasan perubatan serta perkhidmatan sosial yang perlu, dan berhak kepada perlindungan ketika berlakunya pengangguran, kesakitan, ketidakupayaan, diperjandaan, keuzuran atau lain-lain kekurangan kehidupan dalam keadaan di luar kawalannya. Dalam erti kata lain, dengan adanya kemampuan dari segi ekonomi seseorang atau sesebuah keluarga dan masyarakat itu, maka perkara ini dapat direalisasikan. Kenaikan gaji ini memungkinkan lagi kestabilan sesebuah masyarakat yang berhak kepada suatu taraf hidup yang stabil dan memadai.

Tambahan faedah persaraan yang melibatkan lebih daripada 550 ribu jumlah pesara kakitangan awam juga membuktikan keprihatinan kerajaan terhadap warga emas. Ini juga merupakan suatu langkah yang baik kerana warga emas juga mempunyai hak kepada kehidupan yang stabil tanpa membebankan orang lain. SUHAKAM merasakan langkah kerajaan untuk menaikkan

gaji kakitangan awam adalah perlu dan tepat masanya memandangkan kakitangan awam merupakan tunggak utama kerajaan.

... END ...

“HAK ASASI UNTUK SEMUA”



DATO' N. SIVA SUBRAMANIAM

Pesuruhjaya

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)

22 Mei 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, MEJA BERITA

UNTUK SIARAN SEGERA

PRESS STATEMENT

**SUHAKAM: PROTEST ON MALAYSIAN PLACEMENT
IN TRAFFICKING IN PERSONS REPORT**

The Human Rights Commission of Malaysia (SUHAKAM) disagrees on the placement of Malaysia in *Trafficking in Persons Report* by the U.S. Government. SUHAKAM disagrees with the allegation that there is a weakness in enforcement of the law of the country regarding this issue.

Malaysia has been placed in Tier 3 in the said report, which is released in June 2007 in which it categorized Malaysia as a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

It is stated that Malaysia has failed to show satisfactory progress in combating trafficking in persons, particularly in the areas of punishing acts of trafficking, providing adequate shelters and social services to victims, protecting its migrant workers from involuntary servitude, and for not prosecuting traffickers who were arrested and detained under preventive laws. It further states that the Malaysian government needs to demonstrate stronger political will to tackle Malaysia's significant forced labor and sex trafficking problems.

The tabling of the Anti-Trafficking in Persons recently shows the Government seriousness in combating human trafficking and protection of human rights. The Bill is to provide protection for the victims and make it easier for the Police, Immigration and the relevant authorities to pursue, prosecute and convict the traffickers. Victims will not be prosecuted for illegal entry or charge with entering the country with fraudulent documents provided by the trafficker. They will be placed in shelters whereas the traffickers and those who abet them faced lengthy jail sentences and huge fines.

SUHAKAM since 2004 has been addressing human trafficking issues in a concerted manner by holding workshops and seminars and have made recommendations through its Annual Report to the Government in addressing human trafficking. Hence, it is vital for SUHAKAM Annual Reports which are tabled in the Parliament annually be debated and its recommendations be given more weight by Parliaments, the Government and policy makers.

Thus with the Bill and other mechanism in place what is really needed for it to be a success is the cooperation from all NGOs, government agencies and other instruments / mechanism in the neighbouring countries to curb this organized, trans-national crime and increasingly global "business".

However it is crucial to identify the root contributing to the causes and rectify The Protocol To Prevent, Suppress And Punished Trafficking in Person as The Protocol supplemented the United Nation Convention Against Trans- National Organized Crime.

-end-

"HUMAN RIGHTS FOR ALL"



DATO' N. SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia
14 June 2007menaikkan



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM PUBLIC INQUIRY INTO THE INCIDENT AT
KAMPUNG KOIBOTON 1, BELURAN, SABAH
ON OCTOBER 3, 2006**

The Human Rights Commission of Malaysia (SUHAKAM) decided on June 11, 2007 that SUHAKAM will conduct a public inquiry into the allegation of the burning of the houses of the villagers at Kampung Koiboton 1, Beluran, Sabah on October 3, 2006. The Public Inquiry will be conducted by a panel of three Commissioners, comprising of Datin Paduka Zaitoon Dato' Othman (Chairperson), Datuk Dr. Denison Jayasooria and Dato' Haji Khalid Haji Ibrahim. The Panel of Inquiry met for its inaugural meeting on June 13, 2007. The inquiry is tentatively to be held from August 15 to 17, 2007 at Kota Kinabalu, Sabah.

The **terms of reference of the Public Inquiry** are as follows:

1. To inquire on the burning of houses at Kampung Koiboton 1, Beluran, Sabah;
2. To determine whether there was any violation of human rights of any person or party and their rights to the property during the incident;
3. If violations of human rights occurred, to determine:
 - a. Which person or persons or agency or agencies was or were responsible;
 - b. How did such violations come about;
 - c. What administrative directives and procedures or arrangements contributed to the violations; and
 - d. What measures should be recommended to be taken to ensure that such violations do not recur.

Members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents pertaining to any or all of the terms of reference set out herein above, are invited to contact SUHAKAM as soon as possible.

Kindly contact:

Encik Ameer Izyanif Hamzah/ Puan Rafidah Bt. Yahya

SUHAKAM

Level 29, Menara Tun Razak

Jalan Raja Laut

50350 Kuala Lumpur

Tel: 03-26125600/5628

Fax: 03-26125620/5694

humanrights@suhakam.org.my

... end ...

“HUMAN RIGHTS FOR ALL”



DATIN PADUKA ZAITOON DATO' OTHMAN

SUHAKAM Commissioner and Chairperson,

Public Inquiry Into The Incident At Kampung Koiboton 1, Beluran, Sabah

On October 3, 2006

21 June 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM'S REPORT ON PENAN IN ULU BELAGA:
RIGHT TO LAND AND SOCIO-ECONOMIC DEVELOPMENT**

The Human Rights Commission of Malaysia (SUHAKAM) had received complaints from two Penan headmen from Long Singu and Long Jaik, Ulu Belaga, Sarawak pertaining to logging, oil palm plantation and reforestation activities surrounding their area and how these activities had impacted on their right to land and the life of the community concerned.

As a response, the Economic, Social and Cultural Rights Working Group (ECOSOC) together with SUHAKAM Sarawak Office had conducted field visits and dialogues with the affected Penan members, representatives from Government agencies and the company involved in the abovementioned activities as well as NGOs, academicians and concerned individuals. SUHAKAM's delegation was led by Datuk Denison Jayasooria (the Chairperson of the ECOSOC Working Group), Dr. Chiam Heng Keng, Dr. Muhammad Hirman Ritom Abdullah and Tunku Datuk Nazihah Tunku Mohamed Rus.

The executive summary of the report is as per attached. Please be informed that the report can be collected from the Public Affairs Division or call En. Syarizal Bakar at 03-2612 5689 for further inquiry.

... end ...

“HUMAN RIGHTS FOR ALL”

26 July 2007

PENAN IN ULU BELAGA: RIGHT TO LAND AND SOCIO-ECONOMIC DEVELOPMENT

EXECUTIVE SUMMARY

The Penans are one of the indigenous communities of Sarawak. The Penan population to date is estimated to be 15,485 persons. A majority of this community have changed their lifestyle from a nomadic way of life to that of a settled community. The Penans in Ulu Belaga, Sarawak are among those who have established permanent settlements as early as the late 1950s and 1960s. It is estimated that today only 3% of the total Penan population remain nomadic.

The Penans, including those residing in Ulu Belaga, have a unique system of establishing ownership and stewardship of land. This practise of land ownership has been handed down from one generation to another up until today.

Despite having established permanent settlements and cultivating rice and vegetable on small farms, the Penans in Ulu Belaga remain dependent on jungle produce for food and other basic necessities, especially when their small farms yield insufficient food supplies.

In 2001, when logging and oil palm plantation activities were commenced by the company, Shin Yang Forestry Sdn. Bhd., in Ulu Belaga, the Penans, felt that their livelihood was threatened and that their land rights were infringed upon.

On 26 July 2006, the Penans raised their concerns, fears and apprehensions to the Human Rights Commission of Malaysia (SUHAKAM) via two Penan headmen, Chief Alung Ju of Long Singu, and Chief Matu Tugang of Long Jaik, both from Ulu Belaga, Sarawak.

SUHAKAM responded to these complaints by conducting fact-finding field visits to Long Singu and Long Jaik, Ulu Belaga and having a series of dialogues with representatives from the Penan community concerned, Government agencies, the Company concerned, as well as with Non-Governmental Organisations [NGOs], academicians and individuals who were concerned with the welfare of the Penans.

Six other Penan headmen, who alleged that their villages were similarly affected, attended the dialogues as well.

The Penan community's area of concern centred on the status of their claim on their ancestral land. They alleged that since the commencement of deforestation, logging and oil palm plantation activities, their access to their ancestral land and to forest produce was denied.

They further claimed that they were not consulted by the Company prior to the commencement of their activities. Some of them have even claimed that the compensation paid to them was inadequate.

Their complaints also touched on inaccessibility to basic human rights like adequate housing, health care, education, clean water, employment, right to valid documents and amenities like transportation.

SUHAKAM'S OBSERVATIONS AND RECOMMENDATIONS

From the visits made and the dialogues held, SUHAKAM makes the following observations and recommendations:

Right to Land

Observation:

SUHAKAM observed that the Penan's unique custom of establishing land ownership and stewardship is not recognised by the Sarawak Land Code 1958, despite being an indigenous community of Sarawak. As a result, claims made on ancestral land are often not considered by the relevant authorities and those who clear the forests areas and commence logging and oil palm plantation activities.

SUHAKAM's Recommendations:

The Sarawak Land Code 1958 has no provision for the protection of the Penan community's right to land ownership. This, despite the fact that there is documentation and evidence indicating the presence of Penan community in Sarawak well before the Sarawak Land Code 1958 was enacted.

As the Penans do not seem to have legal rights to land ownership, SUHAKAM recommends that the Sarawak land Code 1958 be amended to take into consideration the Penan's unique way of establishing land ownership and stewardship.

Section 5(2)d and 5(2)e of the Sarawak Land Code 1958 specifies that methods of establishing claims to NCR land includes the use of land for burial ground and of any class of right of way. SUHAKAM, therefore, recommends that where there is documentary evidence of the existence of Penan burial sites and paths, these evidences be taken into consideration when land is alienated for logging and oil palm plantation activities.

Additionally, SUHAKAM recommends that the terms of Section 5(3) of the Sarawak Land Code 1958 which extinguishes native customary land rights be reviewed accordingly, as the current provision increases the vulnerability of the indigenous communities' right to land ownership.

Environmental Impact Assessment (EIA) Report on the Existence of Penans in the Licenced Area

Observation:

SUHAKAM observes that there seems to be contradictions and inconsistencies between the findings of the Consultant of the EIA Report on the Proposed Shin Yang Forest Plantation and the claims made by the Penans. The EIA report which was prepared before the commencement of logging and oil palm plantation activities states that there is no evidence of any human settlement within the proposed forest plantation.

Corroborating to the claims made by the Penans, a literature review on local and international research, as well as data from the Belaga District Office provides evidence of Penan settlements in Ulu Belaga at the time when EIA report was prepared.

SUHAKAM's Recommendation:

SUHAKAM recommends that the Government takes necessary measures to ensure that only independent consultants are appointed to assess and prepare the EIA report. This is to ensure greater objectivity and transparency and to negate all allegations of biasness. It is also recommended that the Government review the procedures of the preparation and verification of the EIA report.

With regard to the EIA report for Shin Yang's Forest Plantation in the Ulu Belaga, it is recommended that the Natural Resources and Environmental Board (NREB), the agency in charge of approving the EIA report, verify and ascertain the accuracy of its findings. In the event that it is found the EIA report has misled the authorities concerned, it is recommended that immediate measures be taken to rectify the situation.

Issues on Poverty

Observation:

SUHAKAM found that the Penans in Long Singu and Long Jaik are among of the poorest groups in the country and live below the poverty level. They have inadequate access to nutritious food, health care, education, housing and clean potable water.

SUHAKAM's Recommendations:

In line with the Government's aspiration under the Third Thrust of the Country's Ninth Malaysia Plan to address persistent socio-economic inequalities constructively and productively, there is an urgent need for the Government to ensure the availability of basic necessities for the Penans to ensure that they do not continue to live in abject poverty. More specifically, SUHAKAM strongly recommends that poverty eradication and income generations be implemented; that the number of Service Centres in Ulu Belaga be increased; that the Sarawak Land Consolidation and Rehabilitation Authority (SALCRA) Scheme be extended to the Penan Community; that the programmes outlined in the First Malaysia Plan 1966-1970 (Green Book) on rural development be revived.

To ensure the effectiveness of poverty eradication and income generation programmes in the Ulu Belaga, there is the need for the Government to ensure regular visits and monitoring by relevant Government Officials.

Issue of Documentation

Observation:

SUHAKAM observed that the majority of the Penans met by SUHAKAM do not have Identification Cards [ICs] and Birth Certificates [BCs], while only a handful had temporary identification slips which validity were continually extended. Among the causes identified include unavailability of registration offices in the area; fees imposed; cost and the time taken to travel to the nearest registration service in Bintulu, Sarawak; and the requirement for the production of ICs and marriage certificates of Penan parents.

SUHAKAM's Recommendation:

SUHAKAM strongly recommends that the Government ensures that vital registration services and facilities are made available to the Penans. This would enhance their accessibility to basic rights namely, the right to vote; right to education, health care services, welfare services, financial assistance; as well as access to poverty eradication programmes.

Further it is recommended that the Government waive the late registration fees imposed on the Penans in Ulu Belaga considering the Penans are amongst the poorest community in Malaysia. The Penans could also be exempted from the condition of requiring parents' ICs and marriage certificates to be produced when procuring birth certificates since most of them do not have these documents. Validation by Penan headmen for this purpose should be sufficient.

Issues on Education

Observation:

SUHAKAM found that a majority of the Penan children residing in the longhouses in Long Singu and Long Jaik do not attend school. A number of reasons have been identified, such as the lack of proper documentation; the lack of proper transportation to and from schools; poverty and the limited financial assistance needed to ensure access to education.

It has to be acknowledged that whilst the Sarawak State Education Department plays a major role in ensuring that education is accessible to all, including the Penans, limited resources have impeded the Department's efforts in reaching out to the Penans in Ulu Belaga.

SUHAKAM's Recommendation:

SUHAKAM recommends that pre-schools, either run by the Government or NGOs, or run collectively by the Government and NGOs, be established in Penan villages to meet the basic education needs of the young Penan children.

It is further recommended that at the very least, primary school curriculum of up to standard four be made available and accessible in Penan villages.

In addition, affirmative action needs to be formulated and implemented to facilitate the enrolment of Penan children in secondary schools and at the tertiary level. Measures to enhance accessibility to financial assistance need to be implemented and made available as well.

It is also important to consider self reliance education or training for the Penans. Additionally, skill-related training - based on their current knowledge on agriculture and blacksmithing - could be provided, especially for those who have been unfortunate to miss formal school education or who have failed to complete primary and secondary education.

Issues on Health

Observation:

SUHAKAM observed that access to health care services is limited for the Penans in Ulu Belaga. These include limited access to Government clinics and to emergency services, limited medical supply and irregular visits by the Flying Doctor Service.

SUHAKAM found that as with the State Education Department, limited resources have hampered the Sarawak State Health Department's commitment to ensure access to health care for the Penan community.

SUHAKAM's Recommendation:

SUHAKAM recommends that the Government allocation for rural health development under the Ninth Malaysia Plan 2006-2010 be increased and a portion of it be channelled specifically to improve access to healthcare for the Penan community.

SUHAKAM further recommends that the number of community health workers be increased to meet the health needs of the Penan. Expectant Penan mothers and children, in particular, need to be given basic healthcare – like proper nutrition, vitamins and clean water.

The relevant District Office can play a vital role in educating and creating awareness on healthcare amongst the Penans.

It is further recommended that the Government ensures all components of the right to health are easily accessible and available to the Penans. These components include maternal, child and reproductive health; a healthy workplace in a natural environment; prevention, treatment and control of diseases, including access to essential medicines and access to safe potable water.

State's Duty to Protect the Rights of the Penans

Observation:

As primary duty bearer, the Government is obligated to ensure its citizens enjoy human rights, including right to land. However, in the case of the Penans in Ulu Belaga, it appears that the task to settle NCR claims was transferred to the Company by the Government.

In addition to right to land, the Penans are also deprived of their right to basic amenities. As the Penans found it hard to gain the Government's attention, they often turn to the Company operating in Ulu Belaga to provide them with those amenities.

SUHAKAM's Recommendation:

SUHAKAM recommends that in the spirit of ensuring compliance with Government's human rights obligations, the grievances and complaints of the Penans be looked into and protected – in particular their rights to native customary land, to education, employment, documentation and healthcare as well as other rights as enshrined in the Universal Declaration of Human Rights (UDHR).

CONCLUSION

A majority of the Penans remain one of the most deprived communities in Malaysia. The major issue of grievance and concern of the Penans pertains to the status of land claims based on their traditional system of ownership and stewardship of land. This fear is compounded by deforestation, logging and oil palm plantation activities carried out by certain companies.

Apart from land issues, the survival, livelihood and development of the Penans is further stunted as a majority of them live in abject poverty. Whilst the Government has formulated and implemented various poverty eradication programmes for the rural communities, it appears that the Penans have limited access to those programmes. They also have limited access to other vital facilities and services including education, healthcare, registration and transportation, as well as basic amenities such as electricity and clean water supply.

As the primary duty bearer, the Government is chiefly responsible to ensure the Penans' right to life and an adequate standard of living. The Government, therefore, has to ensure that the Penans have adequate access to their basic human rights as enjoyed by the mainstream society as ignorance will take its toll on the Penans.



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

DEMOLITION OF PLACES OF WORSHIP

The Human Rights Commission of Malaysia (SUHAKAM) views with concern over the trend of the demolition of places of worship in Malaysia with the recent one being the demolition of the Sri Periyachi Amman Temple in Tambak Paya Village, Malacca.

Between the years 2003 and 2006, SUHAKAM received a total of eleven memorandums and complaints pertaining to the demolition of places of worship, of which, 6 were Hindu Temples, 3 were Mosques, one each a Church and a Buddhist Temple.

SUHAKAM notes that the demolition of places of worship in Malaysia has been carried out mostly because some structures were built without the approval of the local authority, while others were built on government or private land without the owner's permission.

However, SUHAKAM strongly believes that addressing issues pertaining to the demolition of places of worship should be viewed from a wider perspective rather than limiting it to a matter of legitimacy of occupying a land as it is a fact that a place of worship is directly linked to one's religion and that it is regarded as sacred according to his faith.

Every person in this country is entitled to enjoy their right to religion as guaranteed by Article 11 of the Federal Constitution and Article 18 of the Universal Declaration of Human Rights (UDHR).

Section 295 of the Penal Code provides that whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons

is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

There is a need for more respect on the sensitivities of places of worship in Malaysia in order to maintain harmony and unity amongst Malaysian. SUHAKAM, therefore, reiterates its recommendations which were made to the Ministers of Housing and Local Government and the Federal Territories in August 2006:

i) Begin process with consultation

If it is found that a place of worship is built without approval or permission, it is imperative that relevant authorities consult with members of the affected group to make the members aware of the reasons that the place of worship is to be demolished. This consultation will also serve as a ground where a middle solution can be taken.

ii) Being sensitive to traditions or items held sacred

It is recommended that relevant authorities or persons instructed to carry out demolition work be more sensitive when dealing with the religious traditions of and when handling items that are held sacred by persons who profess a certain religion. For instance, it would be wise to pull back the demolition process while prayers are conducted. There should be respect for the sensitivities of affected groups as well as to the symbols of faith expression (idols) in places of worship. Instead of desecrating these symbols, they could be handed over to the affected group or other persons for transfer to another place of worship of the same faith, with permission.

iii) Preserve places of worship that contributes to historical background

It is also recommended that places of worship be preserved where they contribute to the historical background of Malaysia's multireligious society. This will at the same time affirm Malaysia's commitment to realise the society's freedom of religion which is in line with Article 11 of the Federal Constitution.

iv) Allow continued operation of certain places of worship


Places of worship which were allowed by various authorities before the new laws and codes relating to land on occupation and construction were made should, as far possible, be allowed to continue operation.

v) **Provide alternative sites**

It is recommended that, an alternative site be reserved for members of affected groups to enable them to build a place of worship to replace the old structure which was demolished by relevant authorities.

... end ...

“HUMAN RIGHTS FOR ALL”



DATUK DR. DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
1 August 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**CANCELLATION OF SUHAKAM PUBLIC INQUIRY INTO
THE INCIDENT AT KAMPUNG KOIBOTON 1, BELURAN,
SABAH ON 3 OCTOBER 2006**

On 21 June 2007 SUHAKAM announced that it would conduct a Public Inquiry into the incident of 3 October 2006 at Kampung Koiboton 1, Beluran, Sabah (‘the Public Inquiry’). The Public Inquiry was scheduled to take place in Kota Kinabalu, Sabah from 15–17 August 2007. Following the said announcement, members of the Secretariat of the Public Inquiry went to Kota Marudu, Sabah from 25-29 June 2007 to interview a total of 23 persons including the alleged victims, witnesses and government officials.

On 16 July 2007 SUHAKAM received information that a suit relating to the incident had been filed at the Sandakan High Court on 29 June 2007. SUHAKAM verified the said information by contacting the Deputy Registrar of the Sandakan High Court, Tuan Maris Agan who officially confirmed that a case has been filed by the alleged victims, Mr. Jaipin bin Mohigal and two Others against the Director of Forestry Department of Sabah and six Others via Suit No. S 21-28 of 2007 in the High Court of Sabah and Sarawak at Sandakan in the State of Sabah on 29 June 2007.

The Panel of Inquiry, chaired by Commissioner Datin Paduka Zaitoon Dato’ Othman and assisted by Commissioners Datuk Dr. Denison Jayasooria and Dato’ Khalid Ibrahim referred to Section 12(2)(a) of the Human Rights Commission of Malaysia Act 1999 (Act 597) which prohibits SUHAKAM from inquiring into any complaint relating to any allegation of the infringement of human rights which is the subject matter of any proceedings pending in any court. Accordingly

under Section 12(3) of the same Act, the Commission shall cease immediately to do an inquiry into any allegation forming the subject-matter of any proceedings in any court.

In view of the abovementioned provisions and the action taken by the alleged victims, the Panel of Inquiry has decided not to proceed with the proposed Public Inquiry.

The Panel of Inquiry expresses its appreciation to all parties who have assisted the Secretariat of the Public Inquiry during its preliminary investigations and sincerely regrets the inconveniences caused by this cancellation.

...end...

'HUMAN RIGHTS FOR ALL'

Yours sincerely,



DATIN PADUKA ZAITOON DATO' OTHMAN
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
3 August 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM' S CONCERN OVER THE PLIGHT OF
THE PENANS IN SARAWAK**

The Human Rights Commission of Malaysia (SUHAKAM) is extremely concerned over the plight of the Penan in Sarawak. The continuous disregard of the community's claim on their ancestral land will push this community further into marginalisation.

SUHAKAM was recently made to understand that the Penan community in Long Singu, Belaga, Sarawak, will witness further destruction of their natural environment and livelihood following Shin Yang Forestry Sdn Bhd move to clear forest areas in September and October 2007 on land claimed by the Penan communities in Long Singu

and Long Jaik. The areas affected form fractions of the total 155,930 hectares of land located between Batang Belaga and Sungai Murum in the Belaga District, Kapit Division, Sarawak, which was licensed by the Government to Shin Yang Forestry Sdn Bhd under the Licence for Planted Forest (LPF)/0018 commencing from 19 November 1999 until 18 November 2059.

SUHAKAM had recently published a report entitled "Penan in Ulu Belaga: Right to Land and Socio-Economic Development". The Report is based on SUHAKAM's investigative research which was carried out as a response to complaints received by SUHAKAM from the Penan Headmen from Long Singu and Long Jaik in 2006. Their complaints pertained to logging and forestation activities, which they claimed have encroached on their ancestral land.

SUHAKAM's investigation found that despite being an indigenous group of Sarawak, the Penan's historic custom of ownership and stewardship of land is not considered in the Sarawak

Land Code 1958. As a consequence, logging licences were issued and plantation activities were carried out with little consideration to the Penan's claim to land.

Further research found that through the Sarawak Land Code (amendment) Bill 2000 which was passed by the State Assembly on 9 May 2007, Section 5(2)f which provided 'any other lawful method' of establishing claim to land had been deleted. This provision was previously used constantly to argue for the Penan's claim to land. The deletion of the Section, however, has nullified their adat system from a legal perspective. It tacitly infringes on the indigenous group's right to exercise traditional claim over their territorial domain.

SUHAKAM also found that there is literature evidence on Penan paths and burial sites within the licenced area. These are in accordance to Section 5(2)d and 5(2)e of the Sarawak Land Code 1958. Reference should be made to this in weighing the Penan's right to land.

SUHAKAM, therefore, reiterates its recommendations in its report on "Penan in Ulu Belaga: Right to Land and Socio-Economic Development" which, among others, include the following:

- that the Government takes necessary action to amend the Sarawak Land Code 1958 to take into consideration the Penan's unique way of establishing land ownership and stewardship;
- that the Government alienate areas where there is evidence of Penan paths and burial sites which clearly reflects Section 5(2)d and 5(2)e of the Sarawak Land Code 1958;
- that sufficiently sized land be provided for the Penans who have lost their ancestral land following narrowly interpreted legislation and logging and plantation activities. Provision of land should take into consideration increasing family size and their dependence on jungle produce for food and daily necessities.

While the Government has repeatedly emphasised its commitment to protect its citizens, it seems that the inherent rights of the Penan in Sarawak are compromised. Besides the non-recognition of their traditional claims to land, SUHAKAM also found that the Penans live in abject poverty. This is partly contributed with the fact that the Penans are now living with depleting food source and polluted water.

SUHAKAM fears that continued disregard of the Penan's inherent rights would further displace the community and consequently, jeopardise their survival and livelihood.

... end ...

“HUMAN RIGHTS FOR ALL”



DATUK DR. DENISON JAYASOORIA
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
13 August 2007



DR. MOHAMMAD HIRMAN RITOM ABDULLAH
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
13 August 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM' S CONCERN OVER THE ISSUE
OF SQUATTERS IN BINTULU**

The Human Rights Commission of Malaysia (SUHAKAM) received a memorandum from a group of squatters from KM 2, Jalan Bintulu/Miri on 6th of August 2007. The matter has also been brought to the attention of SUHAKAM through *Malaysiakini*.

SUHAKAM was made to understand that the squatters have been staying at the area for more than 20 years. However, in May the squatters received an eviction notice from the owner, Power Domain Sdn. Bhd. to clear the area.

SUHAKAM visited the said area on 22nd of August 2007 and interviewed the squatters. SUHAKAM observed that out of 82 families that had stayed at that area, only 21 families remained. SUHAKAM further observed that those who have remained belong to lower income group.

SUHAKAM also held a dialogue with the relevant authorities, namely the Bintulu Development Authority (BDA), Department of Land and Survey and also the legal representative of Power Domain Sdn. Bhd. where SUHAKAM was briefed on the current situation of the said area.

The focus of the dialogue was to find ways to resolve this issue with special reference given to the housing needs of the squatters. After extensive discussion, Power Domain Sdn. Bhd. agreed to extend the grace period to 6 months from today.

SUHAKAM would like to make several recommendations to alleviate the problems faced by the squatters at KM 2, Jln. Bintulu/Miri, include the following:

- that the local authorities, namely BDA and Resident's Office should look for temporary solution, in this instance to provide interim accommodation so as not to interrupt the livelihood of the squatters;
- that in the long term, the local authorities, namely BDA and Resident's Office should work with social agencies to make available alternative accommodation to squatters in Bintulu through resettlement and the 'rumah rakyat' schemes.

... end ...

"HUMAN RIGHTS FOR ALL"



DR. MOHAMMAD HIRMAN RITOM ABDULLAH
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
23 August 2007



DATO' SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
23 August 2007



DATO' HJ. KHALID HJ. IBRAHIM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
23 August 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

KENYATAAN MEDIA

SUHAKAM: INSIDEN JURI KARATE INDONESIA DAKWA DIBELASAH POLIS

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) berasa kesal di atas insiden yang berlaku kepada Ketua Juri Karate dari Indonesia, Donald Pieter Luther Kolopita, yang didakwa telah dipukul oleh empat anggota polis berpakaian awam di Nilai pada awal pagi Jumaat lalu. Disebabkan kejadian itu, mangsa dilaporkan mengalami beberapa kecederaan dibadannya termasuk patah tulang rusuk, bengkak dan lebam di muka.

Menurut laporan media, dalam kejadian kira-kira jam 2 pagi itu, Donald yang terpaksa berjalan ke hotelnya kerana sukar mendapatkan teksi telah ditahan oleh sebuah kereta yang dinaiki empat lelaki yang bertindak memukulnya tanpa usul periksa. Keempat-empat lelaki terbabit kemudiannya dikenalpasti sebagai anggota polis.

SUHAKAM berpendapat bahawa kejadian ini tidak sepatutnya berlaku dan akan menjalankan siasatan ke atas insiden ini. Insiden ini sepatutnya tidak berlaku kerana boleh menjejaskan imej Polis DiRaja Malaysia. Selain itu, insiden ini juga tidak mencerminkan kewibawaan anggota polis apabila mengendalikan kes berhubung dengan orang awam serta menggunakan kekerasan di dalam menjalankan tugas mereka.

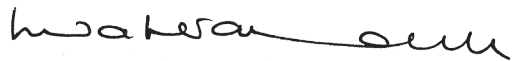
SUHAKAM memandang serius mengenai kejadian ini kerana ianya merupakan satu pelanggaran terhadap hak asasi manusia dan juga bercanggah dengan moto "Mesra, Cepat, Betul" Polis Diraja Malaysia dan bersikap tidak profesional di dalam menjalankan tugas.

Oleh itu, SUHAKAM dijangka akan mengadakan satu lawatan ke Balai Polis Nilai tempat di mana mangsa ditahan pada hari kejadian (pagi Jumaat lalu) pada Khamis, 29 Ogos 2007

(esok) serta akan menemui Ketua Polis Negeri Sembilan, Datuk Mohd Noh Kandah untuk mendapatkan maklumat lanjut berhubung kejadian ini.

...end...

“HAK ASASI UNTUK SEMUA”



DATO' N. SIVA SUBRAMANIAM

Pesuruhjaya

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)

28 Ogos 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

KENYATAAN MEDIA

SUHAKAM MENGGESA SUBJEK HAK ASASI MANUSIA DIAJAR DI SEKOLAH

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) turut bersimpati atas kejadian yang menimpa adik Nurin Jazlin Jazimin. SUHAKAM mengecam segala bentuk penganiyaan dan pengeksploitasian seks terhadap kanak-kanak.

SUHAKAM berpendapat salah satu cara untuk membendung masalah seumpama ini adalah dengan mendidik kanak-kanak mengenai hak asasi manusia. Pendidikan hak asasi ini adalah penting dalam meningkatkan kesedaran ibu bapa dan juga kanak-kanak agar lebih berhati-hati terhadap keadaan sekeliling.

Kerajaan Malaysia telah menandatangani dan meratifikasi 'Konvensyen Mengenai Hak Kanak-Kanak' (*Convention on the Rights of the Child*) atau singkatannya CRC pada tahun 1995. CRC dengan jelas telah menggariskan hak seseorang kanak-kanak serta tanggungjawab orang dewasa dan sesebuah Negara. Misalnya, Perkara 34 CRC menyatakan bahawa sesebuah Negara hendaklah melindungi kanak-kanak daripada segala bentuk pengeksploitasian seks dan penderaan seksual. Pihak yang sewajarnya harus mengambil langkah proaktif bagi mencegah pengeksploitasian seks ini daripada terus berleluasa.

Oleh itu, SUHAKAM mengesyorkan supaya CRC dijadikan sebahagian daripada kurikulum sekolah dan ianya wajib disertakan di dalam pengajaran dan pembelajaran di sekolah. Ini akan memberi peluang kepada para guru untuk mendidik kanak-kanak mengenai hak mereka dan tindakan yang boleh diambil sekiranya berlaku pencabulan. SUHAKAM bersedia bekerjasama dengan Kementerian Pelajaran Malaysia untuk mencapai matlamat ini.

Pada masa ini, SUHAKAM turut mengadakan kerjasama dengan Kementerian Pelajaran Malaysia dalam melatih Jurulatih Utama Pendidikan Sivik dan Kewarganegaraan dan juga

Pendidikan Moral. Namun, hak asasi manusia hanya disisipkan secara tidak langsung di dalam kedua-dua matapelajaran tersebut. SUHAKAM berharap dengan mewajibkan pengajaran CRC di sekolah, ia boleh memberi impak yang lebih berkesan kepada murid.

...end...

“HAK ASASI UNTUK SEMUA”



DATO' N. SIVA SUBRAMANIAM

Pesuruhjaya

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)

24 September 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

KENYATAAN MEDIA

SUHAKAM: SIASATAN INSIDEN RUSUHAN DI BATU BUROK TERENGGANU

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) memandang serius insiden rusuhan di Batu Burok, Terengganu yang menyebabkan kejadian keganasan oleh orang awam serta penggunaan peluru hidup oleh pihak Polis.

SUHAKAM melalui Kumpulan Kerja Aduan dan Siasatan telah menjalankan siasatan terhadap insiden tersebut pada 19-20 September yang lalu diketuai oleh Pesuruhjaya Dato' N Siva Subramaniam. Siasatan ini dibuat berdasarkan kuasa yang diperuntukan melalui Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999 (Akta 597), Seksyen 12 (1) yang memberi kuasa kepada SUHAKAM, menyiasat sebarang kes pelanggaran hak asasi.

Aduan terhadap insiden ini telah dibuat melalui penghantaran memorandum oleh Gabungan Pilihanraya Bersih dan Adil (Bersih) ke pejabat SUHAKAM pada 13 September yang lalu. Hasil siasatan mendapati berlakunya keganasan Polis terhadap orang awam semasa perhimpunan berkenaan menjadi tidak terkawal sehingga berlakunya rusuhan.

SUHAKAM ingin menegaskan semula beberapa cadangan dan pengesyoran yang telah dibuat melalui beberapa laporan yang telah dikeluarkan sebelum ini, iaitu;

- (i) Berkenaan dengan permit – Seksyen 27 Akta Polis 1997 dipinda untuk menjadikan perhimpunan dan perarakan aman yang dibuat tanpa lesen sebagai bukan perbuatan jenayah.
- (ii) Berkenaan dengan lesen - Tiada permohonan lesen diperlukan bagi mengadakan perhimpunan atau perarakan aman. Walaubagaimanapun, sesiapa yang hendak

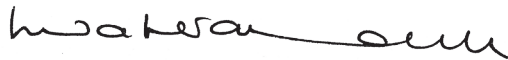
menganjurkan perhimpunan atau perarakan aman perlu memberitahu secara bertulis Ketua Ibupejabat Polis Daerah (OCPD) tentang perhimpunan atau perarakan tersebut, serta satu jangka masa pemberitahuan (time frame) dan kandungan notis pemberitahuan perlu ditetapkan oleh semua pihak.

- (iii) Pihak polis dan pengajur perhimpunan atau perarakan perlu mengadakan perbincangan tentang perhimpunan atau perarakan yang bakal diadakan itu, untuk mencapai persetujuan dan membuat persediaan untuk sebarang keadaan yang berlaku.
- (iv) Namun, sesiapa yang hendak membantah perhimpunan atau perarakan tersebut daripada berlangsung boleh membuat permohonan kepada Mahkamah Tinggi bagi membantah penganjuran perhimpunan atau perarakan tersebut.

SUHAKAM menggesa supaya cadangan dan syor berkenaan dapat diterima dan dijadikan garis panduan untuk digunapakai bagi memastikan Kebebasan Berhimpun di Negara ini tetap terjamin.

...end...

“HAK ASASI UNTUK SEMUA”



DATO' N. SIVA SUBRAMANIAM

Pesuruhjaya

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)

9 Oktober 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM'S CONCERN OVER THE POLICE
SUMMONING BAR COUNCIL OFFICIALS**

1. The Human Rights Commission of Malaysia (SUHAKAM) is deeply concerned with Media reports that the Police have summoned some Bar Council Officials in connection with the September 26, "Walk For Justice" involving more than two thousand lawyers and supporters from the Palace of Justice to the Prime Minister's office. It was reported that the Police are making investigations into the walk on the ground that the organizers did not have a valid police permit for the walk.
2. The right to freedom of peaceful assembly is enshrined in Article 10 of the Federal Constitution. This right is also contained in the United Nation Declaration of Human Rights (UDHR) and other international human rights treaties.
3. SUHAKAM further states that section 27(2) Police Act 1967 which gives the OCPD discretion to approve the application for a license to convene an assembly is unjustified and against human rights principles. The Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police in its report has also expressed its concern with regard to section 27 of the Police Act 1967 and has stated that section might be challenged as unconstitutional.
4. In particular the report of the SUHAKAM Public Inquiry into the Incident at KLCC on 28 May 2006 was also of the view that the requirement for a license by s 27 of the Police Act 1967 and the lack of definition of the phrase "prejudice to the interest of the security of Malaysia" effectively negates the right to the freedom of assembly enshrined in Article 10 of the Constitution.

5. There have been cases where some political parties have, without hindrance, been allowed to hold assemblies without a permit. The police should in fact allow all public assemblies without the need to apply for a license under s27 of the Police Act and the Police should adopt the guidelines issued in the SUHAKAM Report which “accommodate the exercise of the right to protest within a framework of public order which enables ordinary citizens, who are not protesting, to go about their business and pleasure without obstruction or inconvenience”.

6. SUHAKAM is strongly of the view that as the subject matter of the Bar Council march was in regard to the formation of a Royal Commission of Inquiry to inquire into allegations of the brokering of judicial positions, it is a topic of great public interest and would not have posed any threat to the security of the Federation or public order; it was properly held in consonance with human rights principles which Malaysia subscribes to.

...end...

“HUMAN RIGHTS FOR ALL”



DATO' KARAM CHAND VOHRAH
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
10 October 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM'S CONCERN ON THE INCIDENT OF
BATU BUROK, TERENGGANU**

The Human Rights Commission of Malaysia (SUHAKAM) received a memorandum from BERSIH on 13 September 2007 regarding the incident at Batu Burok, Terengganu. SUHAKAM through the Complaints and Inquiries Working Group (CIWG) conducted an investigation of the incident and after deliberation, SUHAKAM decided that although the complaint does have its merits but due to operation of law, a panel of enquiry could not be convened to investigate the complaint.

SUHAKAM has been consistent in our stand that individuals have the right to freedom of peaceful assembly as enshrined in Article 10 of the Federal Constitution. This right is also contained in the United Nation Declaration of Human Rights (UDHR) and other international human rights treaties.

In particular, the report of the SUHAKAM Public Inquiry into the Incident at KLCC on 28 May 2006 was also of the view that the requirement for a license by Section 27 of the Police Act 1967 and the lack of definition of the phrase "prejudice to the interest of the security of Malaysia" effectively negates the right to the freedom of assembly enshrined in Article 10 of the Constitution.

SUHAKAM would like to stress that in order to prevent untoward incidents from occurring, several previous recommendations made by SUHAKAM should be implemented;

- (i) Decriminalising peaceful assembly without a licence under section 27 of the Police Act 1967 and as such peaceful assemblies should be allowed to proceed without a license.

- (ii) The repeal of subsections (2), (2A) to (2D), (4), (4A), (5), (5A) to (5C), (7) and (8) of section 27, and also section 27A of the Police Act 1967, thereby removing the need to apply for any licence to hold a peaceful assembly.
- (iii) Persons intending to organise a peaceful assembly or a peaceful procession shall notify in writing to the OCPD of the proposed assembly or procession. The police and civil society should co-operate to work out details with regard to a suitable time frame for the notification and the contents of the notice. Meetings between the organisers of the proposed assembly and relevant police officers so as to confirm the practical arrangements for the assembly or procession.
- (iv) Any person whose rights may be affected by the assembly or any arrangement relating to the assembly should be allowed to make an urgent application to the High Court for intervention.

There have been cases where some political parties have, without hindrance, been allowed to hold assemblies without a permit. The police should in fact allow all peaceful public assemblies without the need to apply for a license under Section 27 of the Police Act and the Police should adopt the guidelines issued in the SUHAKAM Report which “accommodate the exercise of the right to protest within a framework of public order which enables ordinary citizens, who are not protesting, to go about their business and pleasure without obstruction or inconvenience”.

In view of this protest note, SUHAKAM would discuss it again in the Commission meeting to reevaluate the merits and nature of the complaint.

...END...

“HUMAN RIGHTS FOR ALL”



DATO' N. SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
12 October 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS MEDIA

**SUHAKAM'S REPORT ON PENAN BENALIH
BLOCKADE ISSUE**

The Human Rights Commission of Malaysia (SUHAKAM) is concern over the issue of land rights of the Penan Community in Sarawak. In relations to the efforts in obtaining legal recognition of their 'customary rights' claims over ancestral and contemporary foraging areas, SUHAKAM responded to the concerns by carrying out an investigation via dialogues with the groups involved and visits to the site of the Blockade and relevant village.

The investigation provided SUHAKAM with the opportunity to ascertain the issues confronted by both the villagers and Government agencies. The Community resorted to building the Blockade as a manifestation of their desire to engage the authorities in discussion over attempts to defend what they believe to be their NCR land.

The executive summary of the report is as per attached. Please be informed that the report can be collected from the Public Affairs Division or call En. Syarizal Bakar at 03-2612 5689 or Ms. Parames at 03-2612 5684 for further inquiry.

... end ...

"HUMAN RIGHTS FOR ALL"
29 October 2007

SUHAKAM'S REPORT ON PENAN BENALIH ISSUE

EXECUTIVE SUMMARY

INTRODUCTION

Indigenous groups including the Penan, Kayan and Kelabit Communities in the interior of Sarawak have periodically set up blockades since the 1980s. This has generated national and international concern over the Communities' rights to ancestral land, which has come under increasing threat from logging and plantation activities.

Among these groups, it is the issue of land rights of the Penan Community that surfaces more frequently. The current framework of the Sarawak Land Code makes it virtually impossible for this Community to obtain legal recognition of their 'customary rights' claims over ancestral and contemporary foraging areas. This is because the Community has traditionally led a nomadic lifestyle.

In spite of the provisions of the legislation, the Penan Community maintains that its claims to the land are valid. Those living in Long Benalih village, located in the Baram District, share this stance. They contend that their native customary rights (NCR) to land were violated when the Government issued a logging licence, covering parts of their ancestral land, to a private company. Since then, they have tried to defend their land through measures ranging from subtle approaches such as dialogues and appeals to the Government, to more extreme steps such as erecting a series of blockades on the logging track in Long Benalih. They have seen no results to date.

The State Government has emphasised that the area involved was gazetted as the Sela'an Suling Permanent Forest Estate in accordance with provisions of relevant laws, including the Sarawak Land Code 1958, as well as administrative procedures. This area was leased to Samling Plywood (BARAMAS) Sdn Bhd in 1998. The Company subsequently applied for Forest Management Certification status from the Malaysian Timber Certification Council (MTCC).

Representatives of the Government have maintained that the logging track, where the Penan Benalih Blockade ('the Blockade') has been erected, also facilitates delivery of Government-related services and assistance to other Penan and Kelabit villages within and near the area. This concern was brought to SUHAKAM's attention by the Resident and District Office, Miri Division.

Without discounting the Penan claims to NCR land, SUHAKAM responded to the concerns by carrying out an investigation via dialogues with the groups involved and visits to the site of

the Blockade and relevant village. Reference was made to available literature on the historical migration and settlement of the Penan Community within the disputed area. The investigation provided SUHAKAM with the opportunity to ascertain the issues confronted by both the villagers and Government agencies.

Representatives of Government agencies were also concerned about the possible influence of local and international non-governmental organisations (NGOs) on the Community's decision to erect the Blockade. They said they had conducted numerous consultations with the Penan Community and that only those residing in Long Benalih objected to the construction of the logging track. The Government representatives said they believe that the main motive for the Blockade is to profit from a 'levy' that the Long Benalih Community has illegally imposed on transportation of diesel to the interior.

The Penan of Long Benalih, meanwhile, expressed fears that allowing the construction of the logging track would lead to further diminution and destruction of their ancestral land. They maintained that they have rights to the land and are of the opinion that their historical and contemporary customs should be legally recognised by the law. They also insisted that they were not adequately consulted over the logging track and related activities. As their numerous appeals to the Government have been ignored, they resorted to building the Blockade as a manifestation of their desire to engage the authorities in discussion over attempts to defend what they believe to be their NCR land.

The Community contended that the Blockade had nothing to do with profiteering from fuel transportation. It further highlighted other issues that were subsequently confirmed via SUHAKAM's field observations – that the villagers have limited access to adequate housing, healthcare services, education and basic amenities like electricity supply as well as clean and safe drinking water.

SUHAKAM'S RECOMMENDATIONS

Based on the deliberations and dialogue sessions with parties concerned, as well as on the findings of a field visit to the site of the Blockade, SUHAKAM makes the following recommendations:

1. As a long-term approach, SUHAKAM calls on the State Government to address the issue of Penan claims to NCR land within the licensed area. There should be political will to review the situation and make the necessary amendments to the State Land Code so that the legitimate rights of the Penan Community are incorporated. Such a review should take cognizance of the Penan concept of land and forest stewardship, as well as their past nomadic pattern of life.

2. Steps should be taken immediately to address the Blockade Issue. Efforts should be continued to get the parties to continue negotiations to resolve the impasse and to examine the Community's underlying concerns. Ways should be sought to strengthen the on-going mediation process between the logging Company, Government agencies and the Communities concerned. External, influential and acceptable mediators should be sought out to facilitate this effort.
3. As an intermediate approach, it is recommended that sufficient land be allocated to affected Penan families, taking into consideration their dependency on forest produce for food, medicine and other basic necessities.
4. SUHAKAM is of the opinion that logging activities carried out in compliance with the MC&I guidelines of the MTCC would have minimal impact on the environment. Thus, there is no reason why extraction of logs by the licensee cannot co-exist with the interests of local Communities. NGOs and the Government agencies must work together to protect the rights of the Penan.
5. In terms of the economic and social development of the Penan Community, it is recommended that the existing affirmative action policy be reviewed and improved upon. Additionally, there is need for reactivation of the State Cabinet Committee for Penan Affairs. Furthermore, the Government has to ensure that poverty eradication programmes as outlined in the Ninth Malaysia Plan reach this marginalised group. The provision of much-needed infrastructure like roads and supply of water and electricity should be prioritised, alongside access to healthcare and education facilities. There is a need for training programmes to be tailored to the Community's needs, so that its members can cope with change. The programmes should build economic capacity based on their traditional knowledge, and overcome their current lack of expertise. To ensure all economic and social development programmes are effective, sufficient funds must be made available, while Federal and State agencies should co-ordinate their efforts.

CONCLUSION

The series of blockades erected by the Penan has triggered national and international concern that the Community is being dispossessed of native customary land. The Blockade, reflects the Community's dire need to be heard. Despite efforts by numerous organisations and continuous recommendations to the Government, the Community seems nowhere near to achieving its perceived rights to ancestral land, or to economic and social development. Urgent steps have to be taken to ensure that State laws do not deprive the Penan of inherent rights without adequate compensation and alternative resettlement areas.

While emphasis is given to the need to respect and protect the rights of the Penan, SUHAKAM acknowledges the concurrent need for social and mindset change within the Community. This is to ensure that its members enjoy socio-economic parity to mainstream society. The Penan Community in the Sela'an Linau FMU must also respect that the State has the right to sustainable utilisation of forest resources and development within the area. Still, it is the State's duty to ensure that such activities do not further compromise an already marginalised Community.

There is, thus, a need for the Government to balance the country's economic development and exploitation of resources with the promotion and protection of basic human rights of its citizens, especially, those as vulnerable as the Penan.



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM'S RECOMMENDATIONS REGARDING
THE RIGHT TO HOLD A PUBLIC ASSEMBLY**

The Human Rights Commission of Malaysia (SUHAKAM) believes that the right to freedom of peaceful assembly is an important human right that should be allowed as enshrined in Article 10 of the Federal Constitution and Article 20 of the United Nation Declaration of Human Rights (UDHR). The practice of such right should not encroach or has negative effect on other people's rights and has no intention to create violence.

SUHAKAM's stand on freedom of peaceful assembly has been highlighted in the Report of SUHAKAM Public Inquiry Into the Incident at KLCC on 28 May 2006 where several recommendations were made by the Panel of Inquiry. These recommendations were not only for the benefit of the police and government to follow but also for any person or persons who intend to organize a peaceful assembly or a peaceful procession:

1. To notify in writing to the OCPD of the proposed assembly or procession. The Panel of Inquiry also recommends that the police and civil-society co-operate to work out details with regard to a suitable time frame for the notification and the contents of the notice.
2. The Panel of Inquiry recommends that the notice could include:
 - i) the purpose of the assembly;
 - ii) the time, duration and the date of the assembly;
 - iii) if it is to be a procession, the form, exact route of the procession, place of assembly and conclusion of the procession, the types of vehicles that will be used in the procession;
 - iv) the anticipated number of participants;

- v) contact details of the person or persons organizing the assembly; and
 - vi) names of marshals from within the organizer of the assembly.
3. In order to ensure minimal disruption of traffic, inconvenience to the general public, damage to property and prevention of injury to persons, a notification be followed by meetings between the organizers of the assembly and the relevant police officers so as to confirm the practical arrangements for the assembly or procession.
4. Any person whose rights may be affected by the assembly or any arrangement relating to the assembly should be allowed to make an urgent application to the court for intervention.
5. The organizers should also make arrangements with regard to crowd control. The Panel of Inquiry recommends that the organizers should:
- i) Appoint marshals to ensure a peaceful assembly or procession and that the practical arrangements of the assembly are met. These are analogous to the provisions found in South Africa's regulations. The appointment of marshals should be implemented in Malaysia as they provide a focal point for members of an assembly and police for the purpose of consultation and liaison. The marshals can communicate with a liaison police officer on any developments of the assembly or procession, including warnings to disperse; and
 - ii) Prohibit any person at the assembly to incite hatred or violence.

Though, these recommendations had been submitted to the relevant authorities, SUHAKAM asserts that the general public and organizers of any planned peaceful assembly ought to abide to the existing law and order, and exercise the right within the framework of public order to uphold the security of the Federation or public order.

... end ...

“HUMAN RIGHTS FOR ALL”



DATO' N. SIVA SUBRAMANIAM
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
2 November 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

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PRESS STATEMENT

**SUHAKAM PUBLIC INQUIRY INTO THE ALLEGATION
OF THE USAGE OF LIVE AMMUNITION IN THE INCIDENT
AT BATU BURUK, KUALA TERENGGANU, TERENGGANU
ON 8 SEPTEMBER 2007**

SUHAKAM views that the usage of live ammunition at public assembly with great concern. While SUHAKAM notes that 16 people were charged under Section 27 of the Police Act 1967, SUHAKAM's primary concern remains on the usage of live ammunition by the police during the incident at Batu Buruk, Terengganu on 8 September 2007. SUHAKAM further notes that, while the issue of usage of live ammunition may have been investigated as part of the investigation on illegal assembly, there has not been an inquiry on the issue to this date. There is also no other court proceedings pending on this issue.

In the interest of human rights, SUHAKAM therefore found the necessity for a public inquiry to ascertain whether the use of live ammunition by police personnel during the incident is justified. Hence at the 93rd Commission Meeting on 12 November 2007, SUHAKAM decided to conduct a public inquiry into the allegation of the usage of live ammunition in the incident at Batu Buruk, Terengganu on 8 September 2007.

The public inquiry will be conducted by a panel of three Commissioners, comprising, Dato' Muhammad Shafee Abdullah (Chairperson), Tan Sri Asiah Abu Samah and Prof. Dato' Dr. Khoo Kay Kim.

The **terms of reference of the Public Inquiry** are as follows:

1. To inquire on the circumstances of the situation and the justifiability of the usage and

discharge of live ammunition into the crowd by police personnel where person or persons were consequently injured and whether it is a violation of human rights;

2. If violation of human rights occurred, to determine:
 - a. Which person or persons or agency was or were responsible;
 - b. How did such violation come about and the nature of the violation;
 - c. What administrative directives and procedures or arrangements , if any, could have contributed to the violation; and
 - d. What measures should be recommended to be taken to ensure that such violation does not recur in the future.

Members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents and other evidence pertaining to any or all of the terms of reference set out above, are invited to contact SUHAKAM as soon as possible. Kindly contact:

Puan Nurul Hasanah Ahamed or Encik Shahizad Sulaiman
SUHAKAM
Level 29, Menara Tun Razak
Jalan Raja Laut
50350 Kuala Lumpur
Tel: 03-2612 5669 / 5623
Fax: 03-26125620 / 5694
humanrights@suhakam.org.my

...end...

By authority of SUHAKAM,



(DATO' MUHAMMAD SHAFEE ABDULLAH)
Commissioner
Human Rights Commission of Malaysia (SUHAKAM)
14 November 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

PRESS MEDIA

**SUHAKAM: HUKUMAN ROTAN TERHADAP MURID-MURID
SEKOLAH HARUS DIPERTIMBANGKAN SEMULA**

Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) mengalu-alukan usaha Kementerian Pelajaran Malaysia dalam menganjurkan Seminar Peraturan-Peraturan Pendidikan (Disiplin Murid) Peringkat Kebangsaan 2007.

SUHAKAM kurang bersetuju dengan saranan pihak Kementerian untuk mengenakan hukuman rotan terhadap pelajar perempuan kerana ini tidak selaras dengan Perkara 37 Konvensyen Mengenai Hak Kanak-Kanak. Malah SUHAKAM berpendapat penggunaan rotan terhadap pelajar lelaki juga harus dikaji semula. Tindakan merotan ini juga bercanggah dengan hasrat kerajaan mewujudkan Akta Kanak-kanak 2001 yang bertujuan untuk memberi pemeliharaan dan perlindungan kepada kanak-kanak.

Oleh itu, SUHAKAM menyeru agar Kementerian mempertimbangkan semula saranan hukuman rotan terhadap semua murid sekolah (bukan sahaja terhadap murid perempuan). SUHAKAM juga berharap agar Kementerian dapat menggunakan pendekatan alternatif yang lebih bersifat kemanusiaan dan tidak membawa implikasi terhadap aspek psikologi seseorang individu.

... END ...

“HAK ASASI UNTUK SEMUA”

PROF DATO' DR KHOO KAY KIM
Pesuruhjaya
Suruhanjaya Hak Asasi Manusia Malaysia
30 November 2007



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

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PRESS MEDIA

**SUHAKAM PUBLIC INQUIRY INTO THE ALLEGATION OF
THE USAGE OF LIVE AMMUNITION IN THE INCIDENT
AT BATU BURUK, KUALA TERENGGANU, TERENGGANU
ON 8 SEPTEMBER 2007**

The Panel of Inquiry (see Annex A for members of the Panel) will commence a public inquiry into the allegation of the usage of live ammunition in the 8th September 2007 incident at Batu Buruk, Terengganu on 13 December 2007 at 9.00 a.m. at Bilik Gamelan III, Primula Beach Resort, Jalan Persinggahan, 20400 Kuala Terengganu, Terengganu. The subsequent sittings of the Inquiry will be as follows:

- 14 – 16 December 2007; and
- Such other dates thereafter as the Panel of Inquiry shall determine.

The sittings of the Inquiry will begin at 9.00 a.m. and conclude at 6.00 p.m. daily during the course of the inquiry.

The Inquiry will be open to members of the public and the press. It is to be noted that video or audio recording of the Inquiry by members of the public or the press will not be allowed. The Panel of Inquiry will also not give any media interview during the course of the Inquiry (See Annex B for a fuller version of the Rules of Procedure and Practice).

To reiterate, the terms of reference of the Public Inquiry require the Panel of Inquiry to inquire on the circumstances of the situation and the justifiability of the usage and discharge of live ammunition into the crowd by police personnel where person or persons were consequently injured and whether it is a violation of human rights; and if violation of human rights had occurred, to determine which person or persons or agency was or were responsible, how did such violation come about and the nature of the violation, what administrative directives

and procedures or arrangements , if any, could have contributed to the violation and what measures should be recommended to be taken to ensure that such violation does not recur in the future. (See Annex C for the Terms of Reference).

Since the announcement of the Public Inquiry on 14 November 2007, the Inquiry's Secretariat has conducted investigation. Thus far, the response has been encouraging and in the course of the past two weeks, 17 witnesses have been interviewed including police personnel, the victims of the shooting and members of the public who claim to have witnessed the incident.

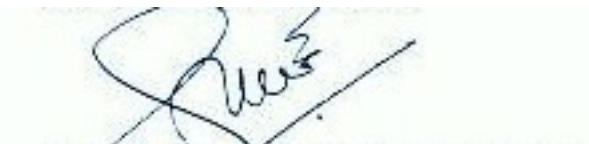
As investigation is still on-going, the number of witnesses testifying during the Inquiry has yet to be determined. Subpoenas, in due course, will be issued to relevant witnesses, including members of the public and the Police. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999, which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine.

At this juncture, it is reiterated that **members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents pertaining to any or all of the terms of reference set out above, are invited to contact SUHAKAM as soon as possible.** Kindly contact:

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humanrights@suhakam.org.my

... end ...

“HUMAN RIGHTS FOR ALL”



(DATO' MUHAMMAD SHAFEE ABDULLAH)

Chairperson,

Panel of Inquiry into the Allegation of the Usage of Live Ammunition in the Incident at Batu Buruk, Kuala Terengganu, Terengganu on 8 September 2007

30 November 2007

ANNEX A

MEMBERS OF THE PANEL

- Dato' Muhammad Shafee Abdullah (Chairperson)
- Tan Sri Asiah Abu Samah
- Professor Dato' Dr. Khoo Kay Kim

ANNEX B

RULES OF PROCEDURE AND PRACTICE

I. CONDUCT OF THE INQUIRY

- a. The Panel of Inquiry is committed to a process of public hearing. However, the Panel of Inquiry, pursuant to section 14(1)(e) of the Human Rights Commission of Malaysia Act 1999 [Act 597] (the “1999 Act”), may at its discretion admit or exclude the public from the Inquiry or any part thereof.
- b. Pursuant to section 14(1)(a) of the 1999 Act, the Panel of Inquiry shall have the power to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Panel of Inquiry thinks necessary or desirable to procure or examine.
- c. Persons wishing to give evidence at the Inquiry may approach the Panel of Inquiry. The Panel of Inquiry shall have the discretion to call such persons to give evidence.
- d. Pursuant to section 14(1)(b) of the 1999 Act, the Panel of Inquiry may require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorised in that behalf by the Panel of Inquiry an oath or affirmation to every such witness.
- e. Pursuant to section 14(1)(d) of the 1999 Act, the Panel of Inquiry has the power to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings.
- f. Pursuant to section 15(1) of the 1999 Act, a person who gives evidence before the Panel of Inquiry shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.
- g. Pursuant to section 15(2) of the 1999 Act, no person shall, in respect of any evidence written or oral given by that person to or before the Panel of Inquiry, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

ANNEX B

- h. No video or audio recording of the Inquiry shall be made throughout the Inquiry unless otherwise authorised by the Panel of Inquiry.
- i. All persons present at the Inquiry must keep silent during the proceedings. Any unruly behaviour will not be tolerated and the person will be asked to leave the Inquiry.
- j. Persons wishing to address the Panel of Inquiry or persons wishing to pose question(s) to any witness shall write down their question(s), which shall be passed to the Panel of Inquiry. The Panel of Inquiry shall decide the relevancy of the question(s) and whether to pose the said question(s).
- k. The Panel of Inquiry may at its discretion call upon observers and interested parties for their opinion. Unless otherwise called upon, question(s) by observers and interested parties shall be forwarded to the Panel of Inquiry in the manner provided in paragraph (j) above.
- l. The Panel of Inquiry may amend or dispense with these rules as the Panel sees fit to ensure fairness and respect for human rights.
- m. All persons present during the Inquiry shall be deemed to undertake to adhere to these rules. A breach of these rules by any person shall be dealt with by the Panel of Inquiry, as it sees fit.

II. CRITERIA FOR OBSERVER STATUS AND INTERESTED PARTIES

- a. In deciding application for observer status and as interested parties to the Inquiry, the Panel of Inquiry shall be guided by the following criteria:
 - The applicant is directly and substantially affected by the Inquiry;
 - The applicant represents interests and perspectives essential to the successful conduct of the Inquiry; or
 - The applicant has special experience or expertise with respect to matters within the Panel of Inquiry's terms of reference.

ANNEX C

TERMS OF REFERENCE

1. To inquire on the circumstances of the situation and the justifiability of the usage and discharge of live ammunition into the crowd by police personnel where person or persons were consequently injured and whether it is a violation of human rights;
2. If violation of human rights occurred, to determine:
 - a. Which person or persons or agency was or were responsible;
 - b. How did such violation come about and the nature of the violation;
 - c. What administrative directives and procedures or arrangements , if any, could have contributed to the violation; and
 - d. What measures should be recommended to be taken to ensure that such violation does not recur in the future.



**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

**SUHAKAM PUBLIC INQUIRY INTO THE ALLEGATION OF
THE USAGE OF LIVE AMMUNITION IN THE INCIDENT
AT BATU BURUK, KUALA TERENGGANU, TERENGGANU
ON 8 SEPTEMBER 2007**

Due to some misconstruction of the dates of the above Inquiry, the Malaysian Human Rights Commission of Malaysia (SUHAKAM) would like to reaffirm that the Panel of Inquiry (see Annex A for members of the Panel) will commence a public inquiry into the allegation of the usage of live ammunition in the 8th September 2007 incident at Batu Buruk, Terengganu next week in Kuala Terengganu. The details of the sittings of the Inquiry are as follows:

- Dates : **13 - 16 December 2007**; such other dates thereafter as the Panel of Inquiry shall determine.
- Time : **9.00 a.m. – 6.00 p.m.**
- Venue : **Bilik Gamelan III, Primula Beach Resort, Jalan Persinggahan, 20400 Kuala Terengganu, Terengganu.**

The Inquiry will be open to members of the public and the press. It is to be noted that video or audio recording of the Inquiry by members of the public or the press will not be allowed. The Panel of Inquiry will also not give any media interview during the course of the Inquiry (See Annex B for a fuller version of the Rules of Procedure and Practice).

To reiterate, the terms of reference of the Public Inquiry require the Panel of Inquiry to inquire on the circumstances of the situation and the justifiability of the usage and discharge of live ammunition into the crowd by police personnel where person or persons were consequently injured and whether it is a violation of human rights; and if violation of human rights had occurred, to determine which person or persons or agency was or were responsible, how

did such violation come about and the nature of the violation, what administrative directives and procedures or arrangements , if any, could have contributed to the violation and what measures should be recommended to be taken to ensure that such violation does not recur in the future. (See Annex C for the Terms of Reference).

Since the announcement of the Public Inquiry on 14 November 2007, the Inquiry's Secretariat has conducted investigation. Thus far, the response has been encouraging and in the course of the past two weeks, 17 witnesses have been interviewed including police personnel, the victims of the shooting and members of the public who claim to have witnessed the incident.

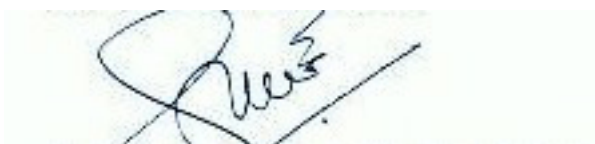
As investigation is still on-going, the number of witnesses testifying during the Inquiry has yet to be determined. Subpoenas, in due course, will be issued to relevant witnesses, including members of the public and the Police. This power will be exercised pursuant to section 14(1)(a) of the Human Rights Commission of Malaysia Act 1999, which empowers the Commission to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine.

At this juncture, it is reiterated that **members of the public who witnessed the incident, persons who believe that they may be able to give relevant information and/or documents pertaining to any or all of the terms of reference set out above, are invited to contact SUHAKAM as soon as possible.** Kindly contact:

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Fax: 03-26125620/5694
humanrights@suhakam.org.my

... end ...

“HUMAN RIGHTS FOR ALL”



(DATO' MUHAMMAD SHAFEE ABDULLAH)

Chairperson,

Panel of Inquiry into the Allegation of the Usage of Live Ammunition in the Incident at Batu Buruk, Kuala Terengganu, Terengganu on 8 September 2007

6 December 2007

ANNEX A

MEMBERS OF THE PANEL

- Dato' Muhammad Shafee Abdullah (Chairperson)
- Tan Sri Asiah Abu Samah
- Professor Dato' Dr. Khoo Kay Kim

ANNEX B

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- f. Pursuant to section 15(1) of the 1999 Act, a person who gives evidence before the Panel of Inquiry shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.
- g. Pursuant to section 15(2) of the 1999 Act, no person shall, in respect of any evidence written or oral given by that person to or before the Panel of Inquiry, be liable to any action or proceeding, civil or criminal in any court except when the person is charged with giving or fabricating false evidence.

ANNEX B

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- k. The Panel of Inquiry may at its discretion call upon observers and interested parties for their opinion. Unless otherwise called upon, question(s) by observers and interested parties shall be forwarded to the Panel of Inquiry in the manner provided in paragraph (j) above.
- l. The Panel of Inquiry may amend or dispense with these rules as the Panel sees fit to ensure fairness and respect for human rights.
- m. All persons present during the Inquiry shall be deemed to undertake to adhere to these rules. A breach of these rules by any person shall be dealt with by the Panel of Inquiry, as it sees fit.

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 - The applicant represents interests and perspectives essential to the successful conduct of the Inquiry; or
 - The applicant has special experience or expertise with respect to matters within the Panel of Inquiry's terms of reference.

ANNEX C

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**SURUHANJAYA HAK ASASI MANUSIA
HUMAN RIGHTS COMMISSION OF MALAYSIA**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

WORLD HUMAN RIGHTS DAY

1. SUHAKAM's 94th monthly meeting being held in Kuching on 10th December 2007 coincides with World Human Rights Day. On this auspicious day SUHAKAM joins with other National Human Rights Institutions and Human Rights Defenders worldwide to affirm Malaysia's commitment to protect and promote human rights universally.
2. An interview of Tun Musa Hitam, a former Chairman of SUHAKAM, with the New Sunday Times on 9 December 2007 to commemorate World Human Rights Day, lamented that SUHAKAM had not addressed certain sensitive issues in our society. Tun Musa did not specify what those sensitive issues are; but he stated at length his concern on the lack of freedom of expression and the lack of any system of regulation to allow for peaceful assembly.
3. Very likely Tun Musa Hitam is unaware of the many recommendations that have been made by SUHAKAM to improve the level of human rights in Malaysia, since his own tenure which ended in year 2002.
4. Pertinent to the point made by Tun Musa with regard to the freedom of assembly, SUHAKAM has made recommendation to regulate peaceful assemblies. In the report of the Public Inquiry into the incident at KLCC on 28 May 2006, SUHAKAM recommended that Section 27 of the Police Act 1967 be repealed and also made recommendations on guidelines for the conduct of peaceful assemblies.
5. Closely linked to the issue of freedom of assembly is the use of force by the law enforcement officials in crowd control. SUHAKAM urges the relevant authorities to review all existing

regulations and guidelines with regard to crowd control of any peaceful assembly to ensure that the use of force should only be employed where it is strictly necessary for the enforcement of the law and the maintaining of public order. It is also relevant to state here that the report on the SUHAKAM Public Inquiry into the Incident at KLCC on 28 May 2006 has recommended practical measures for crowd control to avoid any violence during assemblies.

6. Currently it appears that arrests and prosecutions are selective and seemingly biased. SUHAKAM calls on the authorities to respect and uphold the law and to implement the law equally as guaranteed by Article 8 of the Federal Constitution.
7. SUHAKAM regrets that many of its recommendations to the authorities remain unheeded. This has not enhanced our national human rights status.
8. On this World Human Rights Day, SUHAKAM expresses a hope that Malaysia could one day take a place of pride in the frontline of human rights promotion and protection.

...end...

“HUMAN RIGHTS FOR ALL”

By the authority of SUHAKAM



(HAJI AHMAD YUSUF HAJI NGAH)

Secretary

Human Rights Commission of Malaysia (SUHAKAM)

10th December 2007



SURUHANJAYA HAK ASASI MANUSIA HUMAN RIGHTS COMMISSION OF MALAYSIA

EDITOR, BILIK BERITA

UNTUK SIARAN SEGERA

KENYATAAN MEDIA

PEMBATALAN SIASATAN AWAM TERHADAP DAKWAAN PENGGUNAAN PELURU HIDUP SEMASA INSIDEN 8 SEPTEMBER 2007 DI BATU BURUK, KUALA TERENGGANU, TERENGGANU, PADA 13-16 DISEMBER 2007, BILIK GAMELAN III, PRIMULA BEACH RESORT, KUALA TERENGGANU, TERENGGANU

1. Berdasarkan keterangan lisan dan dokumentasi Pegawai Penyiasat ASP Zainuddin Yatiman dan perkembangan terkini, Siasatan Awam SUHAKAM terhadap dakwaan penggunaan peluru hidup semasa insiden pada 8 September 2007 di Batu Buruk, Kuala Terengganu, Terengganu, dengan ini dibatalkan. Panel Siasatan Awam ini telah memutuskan berdasarkan fakta bahawa pada 9 Disember 2007 jam 11.00 pagi dua orang awam iaitu Muhammad Azman bin Aziz, K/P: 861010-46-5157 dan Suwandi bin Abdul Ghani, K/P: 691220-11-5201 telah dituduh di Mahkamah Sesyen Kuala Terengganu dengan, diantara lain, bahawa mereka menjadi anggota satu perhimpunan yang menyalahi undang-undang telah dengan sengaja cuba menyebabkan cedera parah kepada Wan Abdul Aziz bin Wan Omar (RF 143706) seorang penjawat awam di bawah seksyen 149 dibaca bersama seksyen 333 Kanun Keseksaan. Mereka juga dituduh di bawah tuduhan pilihan di bawah seksyen 149 dibaca bersama seksyen 332 Kanun Keseksaan iaitu semasa menjadi anggota satu perhimpunan yang menyalahi undang-undang telah dengan sengajanya menyebabkan cedera kepada orang yang sama.
2. Di bawah peruntukan seksyen 12 (2) dan (3) Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999 - Akta 597 (Human Rights Commission of Malaysia Act 1999) yang berbunyi –

- 12(2) *Suruhanjaya tidak bolehlah menyiasat apa-apa aduan yang berhubungan dengan apa-apa pengataan pelanggaran hak asasi manusia yang –*
- (a) *merupakan hal perkara apa-apa prosiding yang belum selesai di mana-mana mahkamah, termasuklah apa-apa rayuan; atau*
 - (b) *telah diputuskan secara muktamad oleh mana-mana mahkamah.*
- 12(3) *Jika Suruhanjaya menyiasat suatu pengataan dibawah subseksyen 12(1) dan sementara menunggu penyelesaian siasatan itu, pengataan itu menjadi hal perkara mana-mana prosiding di mana-mana mahkamah, Suruhanjaya hendaklah berhenti dengan serta-merta daripada melakukan siasatan itu.*

dan dalam versi Inggeris yang berbunyi –

- 12(2) *The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which –*
- (a) *is the subject matter of any proceedings pending in any court, including any appeals; or*
 - (b) *has been finally determined by any court.*
- 12(3) *If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.*
3. Amatlah nyata sekali keterangan-keterangan yang akan diberikan dalam kes di Mahkamah Sesyen akan merangkumi kejadian tembakan atau penggunaan peluru hidup kerana fakta-fakta tersebut akan bercantum dalam satu transaksi yang tidak dapat dipisahkan (*in the course of the same transaction*) dengan hal perkara pertuduhan-pertuduhan yang dikenakan di Mahkamah Sesyen tersebut. Dengan itu SUHAKAM sedia maklum bahawa dibawah seksyen 12(2) dan (3) Akta SUHAKAM, dan memandangkan keterangan yang telah diberikan oleh ASP Zainuddin Yatiman, penyiasatan ini terpaksa diberhentikan.
4. Pembatalan ini amat mengecewakan SUHAKAM. Untuk rekod, SUHAKAM telah menjalankan siasatan awalnya daripada 21-24 November 2007 dan telah merekodkan keterangan sepuluh pegawai polis dan tujuh orang awam termasuklah Encik Suwandi Ab Ghani dan Encik Muhammad Azman (kedua-dua orang yang kena tuduh di dalam Mahkamah Sesyen tersebut). Tambahan, SUHAKAM telah mendapatkan semua laporan perubatan serta laporan kimia yang berkaitan dengan Siasatan Awam ini. Sapina juga telah dikeluarkan kepada semua yang dikenalpasti akan dapat membantu Panel dalam Siasatan Awam ini. Tindakan SUHAKAM untuk membuat Siasatan Awam ini berdasarkan semata-mata akan fakta bahawa selepas hampir tiga bulan daripada kejadian 8 September tersebut, tidak ada mana-mana pihak pun termasuk Polis dan Peguam Negara yang mengambil tindakan mahkamah terhadap insiden tersebut. Pada 14 November 2007, SUHAKAM telah membuat satu sidang akhbar mengumumkan keputusan yang dibuat semasa Mesyuarat Suruhanjaya ke-93 pada 12 November 2007,

bahawa satu Panel yang terdiri daripada tiga Pesuruhjaya akan membuat satu siasatan berkenaan dengan insiden tembakan tersebut. Malangnya dari tarikh tersebut hingga 9 Disember 2007 (hampir sebulan) Pihak Pendakwaan tidak langsung memberi gambaran yang insiden tersebut akan menjadi satu tindakan dalam mahkamah.

5. Pendakwaan terhadap dua orang awam ini, hanya empat hari sebelum Siasatan Awam SUHAKAM, amat mengecewakan. Panel Siasatan berharap bahawa tindakan ini bukanlah percubaan mana-mana pihak untuk menggagalkan Siasatan Awam SUHAKAM. Daripada keterangan yang telah diberikan oleh ASP Zainuddin Yatiman, SUHAKAM mengambil maklum bahawa pihak Polis telah memulakan siasatan terhadap insiden ini dengan kadar yang seberapa segera selepas insiden tembakan ini berlaku iaitu bermula daripada 9 September 2007 (satu hari dari hari kejadian), tetapi tindakan pihak Pendakwaan yang telah mendakwa kedua-dua tertuduh di saat-saat akhir telah menghalang SUHAKAM untuk meneruskan Siasatan Awam seperti yang telah dirancangan.
6. SUHAKAM akan memantau perjalanan perbicaraan yang akan diadakan pada 30 dan 31 Disember 2007 untuk memastikan perbicaraan tersebut adalah berlandaskan kepada hak-hak asasi manusia. Sehubungan itu, SUHAKAM akan menghantar pegawainya sebagai pemerhati bagi perbicaraan tersebut.
7. Panel Siasatan Awam dengan ini mengumumkan secara rasmi pembatalan Siasatan Awam ini dan semua sapina yang telah dikeluarkan juga dengan ini adalah dibatalkan. SUHAKAM merakamkan penghargaan kepada semua pihak yang telah membantu Urus Setia Siasatan Awam semasa siasatan awal dan berasa amat kesal atas segala kesulitan yang dihadapi oleh mana-mana pihak atas pembatalan ini.

...end...

'HAK ASASI UNTUK SEMUA'



(DATO' MUHAMMAD SHAFEE ABDULLAH)

Pengerusi,

Panel Siasatan Awam Terhadap Dakwaan Penggunaan Peluru Hidup Semasa Insiden

8 September 2007 Di Batu Burok, Kuala Terengganu, Terengganu

13 Disember 2007

APPENDIX II

ACTIVITIES OF SUHAKAM IN 2007

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
1.	Jan 13-14	Human Rights Awareness Workshop for Students and Lecturers, Universiti Perguruan Sultan Idris	Perak	Human Rights Education and Promotion Working Group
2.	Jan 31	Attendance at Inquest into the Death in Custody of Ravindran Alagiry at Magistrate's Court, Georgetown	Penang	Complaints and Inquiries Working Group
3.	Feb 2	Meeting to Discuss Methodologies of Applying the Millennium Development Goals to Micro-Communities in Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
4.	Feb 4-7	Human Rights Training Workshop for Police Officers of District Crime Investigation Departments	Perak	Human Rights Education and Promotion Working Group
5.	Feb 5-8	Research on Access to Education for Children in the Penan Community	Sarawak	Human Rights Education and Promotion Working Group
6.	Feb 9	Discussion with Ministry of Internal Security	Putrajaya	Complaints and Inquiries Working Group
7.	Feb 15	Meeting with SIME UEP Sdn Bhd	SUHAKAM, Kuala Lumpur	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
8.	Feb 27	Meeting for Comments on Report on 'The Plight of Penans: SUHAKAM's Field Visits and Dialogues in Long Singu and Long Jaik, Belaga'	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
9.	March 5	Monitoring of RELA during Demolition of Illegal Houses, Kampung Berembang, Ampang	Selangor	Complaints and Inquiries Working Group
10.	March 5	Visit to Tenom Police Station in Relation to Death in Police Custody of Baalon Lumbis	Sabah	Complaints and Inquiries Working Group
11.	March 6	Monitoring of FRU during Demolition of Illegal Houses, Kampung Rimba Jaya, Klang	Selangor	Complaints and Inquiries Working Group
12.	March 12	Roundtable Discussion on Malaysia's Role in Establishing an ASEAN Human Rights Mechanism	Kuala Lumpur	Research and Policy Working Group
13.	March 14	Meeting on the Penan Benalish Blockade Issue	Sarawak	Economic, Social and Cultural Rights Working Group
14.	March 15	Opening of Human Rights Arts Exhibition 2007	Sarawak	SUHAKAM Sarawak & Human Rights Education and Promotion Working Group
15.	March 19	Opening of Human Rights Arts Exhibition 2007	Sabah	SUHAKAM Sabah & Human Rights Education and Promotion Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
16.	March 19	Meeting on Five-Year Plan of Action on National Unity and National Integrity (2006-2010)	Putrajaya	Human Rights Education and Promotion Working Group
17.	March 19-23	Visit to Miri to Ascertain Problems Faced by the Penan of Long Benalih, Ulu Belaga	Sarawak	Complaints and Inquiries Working Group
18.	March 21	Meeting with Dr Volker Turk, Representative of UNHCR on 'Refugee' Issues in Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
19.	March 23	Briefing By Prof Dr J Peter Brosius, Professor of Anthropology, University of Georgia, Athens, Georgia, US	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
20.	March 23	Roundtable Discussion on Conditions in Prisons and Detention Centres	Kuala Lumpur	Complaints and Inquiries Working Group
21.	March 23	Visit to Killinghall Tin Housing Estate, Dengkil, Sepang	Selangor	Complaints and Inquiries Working Group
22.	March 25-27	Human Rights Awareness Workshop for RELA Officers (Central Zone)	Kuala Lumpur	Human Rights Education and Promotion Working Group
23.	March 26	Discussion with Malaysian Timber Certification Council on the Certification Criteria for the Logging Company at Long Benalih, Ulu Belaga	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
24.	March 26	Meeting to Discuss SUHAKAM Report on 'Penan in Ulu Belaga: Rights to Land and Socio-Economic Development' and on Methodologies of Applying the Millennium Development Goals to Micro-communities in Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
25.	March 30	Visit to KLIA Detention Centre	Selangor	Complaints and Inquiries Working Group
26.	March 30	Meeting with Interested Parties at Killinghall Tin Housing Estate, Dengkil, Sepang	Selangor	Complaints and Inquiries Working Group
27.	April 6	Visit to Kota Kinabalu Prison and Menggatal Detention Centre	Sabah	Complaints and Inquiries Working Group
28.	April 11	Visit to Lenggeng Detention Centre	Negri Sembilan	Complaints and Inquiries Working Group
29.	April 12	Meeting with Secretary of Natural Resources, Sabah	Sabah	Complaints and Inquiries Working Group
30.	April 12	Workshop on The Right to an Expeditious and Fair Trial – Syariah Court: Towards A Practical Solution	Kuala Lumpur	Law Reform and International Treaties Working Group
31.	April 16-17	Human Rights Education Workshop for State Education Officers (Southern Zone)	Malacca	Human Rights Education and Promotion Working GroupH

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
32.	April 18-21	Research on Access to Education for Hardcore Poor Communities	Sabah	Human Rights Education and Promotion Working Group
33.	April 19	Visit to Simpang Renggam Rehabilitation Centre	Johor	Complaints and Inquiries Working Group
34.	April 19	Visit to Rumah Kanak-kanak Tengku Budriah, Cheras	Kuala Lumpur	Complaints and Inquiries Working Group
35.	April 19- June 30	Competition for Schools on 'Human Rights Best Practice'	Kuala Lumpur	Human Rights Education and Promotion Working Group
36.	May 3	Information-gathering on Complaints by Penan of Long Benalih, Ulu Belaga, on behalf of ECOSOC	Sarawak	Complaints and Inquiries Working Group
37.	May 4	Movie Screening Session for Staff of SUHAKAM	SUHAKAM, Kuala Lumpur	Human Rights Education and Promotion Working Group
38.	May 4-5	Field Visit and Dialogue on the Penan Benalih Blockade Issue	Sarawak	Economic, Social and Cultural Rights Working Group
39.	May 10	Visit to Ajil Detention Centre	Terengganu	Complaints and Inquiries Working Group
40.	May 12	Visit to Kampung Koiboton 1, Beluran	Sabah	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
41.	May 22	Public Forum on Understanding the Rights of Persons with Disabilities and Society's Role	Selangor	Human Rights Education and Promotion Working Group
42.	May 24	Visit to Kampung Baluah, Pitas	Sabah	Complaints and Inquiries Working Group
43.	May 24	2nd Roundtable Discussion on Malaysia's Role In Establishing an ASEAN Human Rights Mechanism	Kuala Lumpur	Research and Policy Working Group
44.	May 30	Dialogue on Women's Rights	Kuala Lumpur	Human Rights Education and Promotion Working Group
45.	May 30- June 1	Special Meeting on National Health Policy	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
46.	June 5	Meeting on ILO Proposal with the Secretary-General, Ministry of Human Resources	Putrajaya	Complaints and Inquiries Working Group
47.	June 5	Research on Access to Education for Children in Hardcore Poor Communities	Perak	Human Rights Education and Promotion Working Group
48.	June 6-8	Human Rights Awareness Workshop for RELA Officers (Northern Zone)	Perak	Human Rights Education and Promotion Working Group
49.	June 18	Visit to Seremban Prison	Negeri Sembilan	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
50.	June 20	'Meet the People' Session	Sarawak	SUHAKAM Sarawak
51.	June 22	Stakeholder Consultation on Malaysia-European Commission for Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade	Sabah	Economic, Social and Cultural Rights Working Group
52.	June 25	Inquiry into Incident on Burning of 20 Houses at Kampung Koiboton 1, Beluran	Sabah	Economic, Social and Cultural Rights Working Group
53.	June 25	Meeting with Mr Derek Fernandez of Messrs Fernandez and Selvarajah, for Research on the Case of <i>Majlis Perbandaran Ampang Jaya v Steven Phoa Cheng Loon</i> (Highland Towers Case)	SUHAKAM, Kuala Lumpur	Law Reform and International Treaties Working Group
54.	June 25-28	Interviews with Witnesses for Public Inquiry at Kota Marudu and Beluran	Sabah	Complaints and Inquiries Working Group
55.	June 26	Roundtable Discussion to Develop the Anti-Human Trafficking Plan of Action for Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
56.	June 26	Meeting with Prof Dr Ramy Bulan, Deputy Dean, Faculty of Law, Universiti Malaya, for Research on Native Customary Rights Land Issues	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
57.	June 27	Pre-launch of Campaign and Handing-over of 'Anti-Gam' Banner 2007	Kuala Lumpur	Economic, Social and Cultural Rights Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
58.	July 6	Visit to Women's Detention Centre, Kajang	Selangor	Economic, Social and Cultural Rights Working Group
59.	July 6	Visit to Lenggeng Detention Depot	Negri Sembilan	Complaints and Inquiries Working Group
60.	July 11	Dialogue with Sarawak Penan Association	Sarawak	SUHAKAM Sarawak
61.	July 15-16	Visit to Kampung Jias, Gua Musang	Kelantan	Complaints and Inquiries Working Group
62.	July 16-19	Research on Access to Education for Children in Hardcore Poor Communities	Kelantan and Terengganu	Human Rights Education and Promotion Working Group
63.	July 19	Visit to Pekan Nenas Detention Centre and Kluang Prison	Johor	Complaints and Inquiries Working Group
64.	July 20	Visit to Muar Rehabilitation Centre and Muar Police District Headquarters	Johor	Complaints and Inquiries Working Group
65.	July 23	Visit to Kamunting Detention Centre, Taiping	Perak	Complaints and Inquiries Working Group
66.	July 25	'Meet the People' Session	Sarawak	SUHAKAM Sarawak
67.	July 26	Visit to Police Lock-up, Kuching	Sarawak	SUHAKAM Sarawak

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
68.	July 26	Press Conference on SUHAKAM Road Show in Sarawak	SUHAKAM, Sarawak	SUHAKAM, Sarawak
69.	July 26	Meeting on 'Refugees' and Management Issues/ Illegal Immigrants	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
70.	July 26	Third Informal Consultation on 'Birth Registration in the Indian Community in Malaysia'	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
71.	July 29	Dialogue with Public Housing Residents, Seri Sabah 3B, Cheras	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
72.	Aug 2	Meeting on Implementation of the Anti-Trafficking in Persons Act 2007	Kuala Lumpur	Human Rights Education and Promotion Working Group & Economic, Social and Cultural Rights Working Group
73.	Aug 2-3	Research on Access to Education for Children in Orang Asli Communities	Pahang	Human Rights Education and Promotion Working Group
74.	Aug 3	Meeting with Prof Dr J Peter Brosius, Professor of Anthropology, University of Georgia, Athens, US, for Research on Penan Issues	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
75.	Aug 6	Launch of Handypop	Kuala Lumpur	Economic, Social and Cultural Rights Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
76.	Aug 9	Meeting with Prof Dr Ramy Bulan, Deputy Dean, Faculty of Law, Universiti Malaya, for Research on Native Customary Rights Land Issues	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
77.	Aug 9	Visit to Tapah Prison, Tapah Hospital and Tapah District Police Headquarters	Perak	Complaints and Inquiries Working Group
78.	Aug 13	Launch of SUHAKAM Report on 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development'	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
79.	Aug 16	Visit to Kajang Prison, Selangor	Selangor	Complaints and Inquiries Working Group
80.	Aug 16-17	Research on Access to Education for Children of 'Refugees'	Selangor	Human Rights Education and Promotion Working Group
81.	Aug 20	Visit to Penor Prison and Kemayan Detention Centre	Pahang	Complaints and Inquiries Working Group
82.	Aug 21-23	Meeting with Squatters at Km 2 Jalan Bintulu/Miri and Visit to Rumah Nor Nyawai, Ulu Sebauh	Sarawak	SUHAKAM, Sarawak
83.	Aug 22-23	Dialogue on Squatter Issues at Km 2, Jalan Bintulu, Miri; Visit to Iban Settlement, Ulu Sebauh	Sarawak	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
84.	Aug 22-24	Workshop on Human Rights Education for State Education Officers (Central Zone)	Kuala Lumpur	Human Rights Education and Promotion Working Group
85.	Aug 24-25	Workshop on Convention on the Rights of the Child for Teachers in Religious Schools	Pahang	Human Rights Education and Promotion Working Group
86.	Aug 25	Workshop on Convention on the Rights of the Child for Teachers in Religious Schools	Terengganu	Human Rights Education and Promotion Working Group
87.	Aug 26-28	Workshop on Human Rights Education for Master Counsellor Trainers	Pahang	Human Rights Education and Promotion Working Group
88.	Aug 27	Visit to Machap Umboo Detention Centre	Malacca	Complaints and Inquiries Working Group
89.	Aug 27	Visit from International Youth Sakai, Osaka, Japan	Sarawak	SUHAKAM, Sarawak
90.	Aug 29	Visit to Negri Sembilan Contingent Police Headquarters and Henry Gurney School, Telok Mas	Negri Sembilan and Malacca	Complaints and Inquiries Working Group
91.	Aug 30	Visit to Bandar Hilir Prison and Dusun Dato' Murad, Malacca	Malacca	Complaints and Inquiries Working Group
92.	Sept 4	Visit to Pusat Serenti Perlop	Perak	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
93.	Sept 5	Discussion with Dato' Fu Ah Kio, Deputy Minister of Internal Security	Selangor	Complaints and Inquiries Working Group
94.	Sept 6	SUHAKAM Road Show	Sarawak	SUHAKAM, Sarawak
95.	Sept 7	Meeting with Indonesian Embassy	Kuala Lumpur	Complaints and Inquiries Working Group
96.	Sept 7	Visit to Teluk Intan District Police Headquarters	Perak	Complaints and Inquiries Working Group
97.	Sept 7	Meeting with Indian High Commission	Kuala Lumpur	Complaints and Inquiries Working Group
98.	Sept 7	Visit to Kuching Prison	Sarawak	SUHAKAM, Sarawak
99.	Sept 9	Visit to Migrant Workers Processing Centre, KLIA	Selangor	Complaints and Inquiries Working Group
100.	Sept 9	Malaysian Human Rights Day	Kuala Lumpur	SUHAKAM
101.	Sept 12	Meeting with Public Housing Residents, Seri Sabah 3B, Cheras	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
102.	Sept 13	Pre-Roundtable Discussion on A Human Rights Approach to Poverty Reduction in Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
103.	Sept 14	3 rd Working Group Meeting on the Anti-Human Trafficking Plan of Action for Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
104.	Sept 14-18	Visit to Sandakan, Tawau, Semporna and Keningau	Sabah	Complaints and Inquiries Working Group
105.	Sept 17	Visit to Semporna District Police Headquarters	Sabah	Complaints and Inquiries Working Group
106.	Sept 19-20	Visit to Kuala Terengganu to Inquire into the Shooting Incident on Sept 8 at Batu Buruk	Terengganu Pahang	Complaints and Inquiries Working Group
107.	Sept 20-23	Research on Access to Education for Children of Orang Asli and Plantation Workers	SUHAKAM, Kuala Lumpur	Human Rights Education and Promotion Working Group
108.	Sept 21	Meeting with UNHCR	Kuala Lumpur	Complaints and Inquiries Working Group
109.	Sept 21	Meeting with OCPD Sentul	Selangor	Complaints and Inquiries Working Group
110.	Sept 25	Visit to Sungai Buloh Prison, KLIA Detention Centre and KLIA Immigration Office	Kuala Lumpur	Complaints and Inquiries Working Group
111.	Sept 26	Meeting with OCPD Brickfields; Visit to Semenyih Detention Centre	Selangor	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
112.	Sept 27	Visit to Jelebu Drug Rehabilitation Institute	Negri Sembilan	Complaints and Inquiries Working Group
113.	Oct 2	Visit to Semenyih Detention Centre	Selangor	Complaints and Inquiries Working Group
114.	Oct 3	Visit to Simpang Renggam Prison	Johor	Complaints and Inquiries Working Group
115.	Oct 3	Visit to Pekan Nenas Detention Centre to Hand Over Items for Infants	Johor	Complaints and Inquiries Working Group
116.	Oct 4	Meeting at Contingent Police Headquarters	Johor	Complaints and Inquiries Working Group
117.	Oct 4	Meeting on 'Refugee' Issues	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
118.	Oct 6-7	Research on Access to Education for Children in Hardcore Poor Communities	Perak	Human Rights Education and Promotion Working Group
119.	Oct 9	Visit to UNHCR Office	Kuala Lumpur	Complaints and Inquiries Working Group
120.	Oct 10	Visit to Kajang Prison	Selangor	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
121.	Oct 16-19	Research on Access to Education for Vulnerable Children	Sarawak	Human Rights Education and Promotion Working Group
122.	Oct 18	Visit to Migrant Workers Processing Centre at KLIA	Selangor	Complaints and Inquiries Working Group
123.	Oct 22	Meeting with Department of Trade Union Affairs	Putrajaya	Complaints and Inquiries Working Group
124.	Oct 22	Visit to Semenyih Detention Centre	Selangor	Complaints and Inquiries Working Group
125.	Oct 24	Closed-door Discussion on Issues of Indian Nationals Held at Detention Centres in Malaysia	SUHAKAM, Kuala Lumpur	Complaints and Inquiries Working Group
126.	Oct 24	Meeting on Development of System to Manage Information on Street Children	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
127.	Oct 26	Visit to MAS Headquarters, Subang	Selangor	Complaints and Inquiries Working Group
128.	Oct 29	Closed-door Discussion on Issues of 'Refugees'	SUHAKAM, Kuala Lumpur	Complaints and Inquiries Working Group
129.	Oct 29	Visit to Semenyih Detention Centre	Selangor	Complaints and Inquiries Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
130.	Oct 31	Closed-door Dialogue on Issues of Security at KLIA	Selangor	Complaints and Inquiries Working Group
131.	Oct 31	Visit to Kirby Estate, Nilai	Negeri Sembilan	Complaints and Inquiries Working Group
132.	Nov 1	Visit to Juru Detention Depot	Penang	Complaints and Inquiries Working Group
133.	Nov 1	Meeting with Norsk Hydro	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
134.	Nov 2	Visit to Penang Prison	Penang	Complaints and Inquiries Working Group
135.	Nov 2	Meeting with Orang Asli	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
136.	Nov 3	Human Rights Awareness and Motivational Programme for Orang Asli Parents	Pahang	Human Rights Education and Promotion Working Group
137.	Nov 5	Dialogue on Human Rights and Access to Equitable Healthcare	Sarawak	Economic, Social and Cultural Rights Working Group
138.	Nov 6	Follow-up Dialogue to SUHAKAM Report on 'Penan in Ulu Belaga: Right to Land and Socio-Economic Development'	Sarawak	Economic, Social and Cultural Rights Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
139.	Nov 6	Launch of SUHAKAM Report on 'The Penan Benalih Blockade Issue'	Sarawak	Economic, Social and Cultural Rights Working Group
140.	Nov 7	Meeting with Delegates from Afghanistan Human Rights Commission	SUHAKAM, Kuala Lumpur	Law Reform and International Treaties Working Group
141.	Nov 9-11	Workshop on Convention on the Rights of the Child for Teachers in Religious Schools (Northern Zone)	Kedah	Human Rights Education and Promotion Working Group
142.	Nov 11	SUHAKAM 'Meet The People Session'	Kelantan	Public Affairs Division
143.	Nov 14	Visit to Kluang Prison	Johor	Complaints and Inquiries Working Group
144.	Nov 14	Visit to JCY HDD Technology, Kulai	Johor	Complaints and Inquiries Working Group
145.	Nov 15	Meeting with Public Housing Residents on Issues of Health, Air Panas, Setapak	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
146.	Nov 18-21	Human Rights Training Workshop for Police Officers of District Crime Investigation Departments (Sabah/ Sarawak Zone)	Sabah	Human Rights Education and Promotion Working Group
147.	Nov 20	Dialogue with NGOs	Kuala Lumpur	Research and Policy Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
148.	Nov 20	Dialogue on Complaints from Former Workers of Kirby Estate	SUHAKAM, Kuala Lumpur	Complaints and Inquiries Working Group
149.	Nov 21-24	Preliminary Investigation in Kuala Terengganu for the Public Inquiry on the Batu Buruk Shooting Incident	Terengganu	Complaints and Inquiries Working Group
150.	Nov 21-25	Research on Access to Education for Children of Indigenous Peoples, Plantation Workers and 'Refugees'	Sabah	Human Rights Education and Promotion Working Group
151.	Nov 23	Meeting with UNHCR	Kuala Lumpur	Complaints and Inquiries Working Group
152.	Nov 24	Visit to Feida Sungai Klah, Perak	Perak	Complaints and Inquiries Working Group
153.	Nov 25	Dialogue with Public Housing Residents, Air Panas, Setapak	Kuala Lumpur	Economic, Social and Cultural Rights Working Group
154.	Nov 28	Visit to Pudu Police Lock-up, Jalan Hang Tuah Police Station	Kuala Lumpur	Complaints and Inquiries Working Group
155.	Nov 28	Introductory Session on Human Rights for Undergraduates of Universiti Islam Antarabangsa Malaysia	Kuala Lumpur	Human Rights Education and Promotion Working Group

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
156.	Nov 30	Visit from Prof Abdul Salim Al-Mokhtadi, Director, Human Rights of Mecca and Dr Abdul Rahman Chik, Dean, Faculty of Arabic, Universiti Islam Antarabangsa Malaysia	SUHAKAM, Kuala Lumpur	Law Reform and International Treaties Working Group
157.	Dec 4	Roundtable Discussion on a Human Rights Approach to Poverty Reduction in Malaysia	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
158.	Dec 6	Meeting with Public Housing Residents, Air Panas, Setapak	SUHAKAM, Kuala Lumpur	Economic, Social and Cultural Rights Working Group
159.	Dec 16-18	Human Rights Training for RELA Officers (Sabah/Sarawak Zone)	SUHAKAM, Kuala Lumpur	Human Rights Education and Promotion Working Group
160.	Dec 17-18	Human Rights Workshop for Lecturers, Universiti Utara Malaysia	Kedah	Human Rights Education and Promotion Working Group

APPENDIX III

TALKS, SEMINARS AND CONFERENCES - NATIONAL 2007

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
1.	Jan 12	Talk on Role and Functions of SUHAKAM	Selangor	Dato' N Siva Subramaniam, Commissioner; Abdul Rahman Abdullah, Officer
2.	Jan 13-14	Workshop on Human Rights Education for Higher Learning Institutions	Perak	Dr Chiam Heng Keng, Commissioner; Simon Karunagaram, Officer; Nor Syaharazad Mohd Yusof, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer; Azizah Hussin, Administrative Assistant; Noor Maslina Mahdan, Administrative Assistant
3.	Jan 22-25	Workshop on Handling Victims of Human Trafficking	Malacca	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner; Dr Chiam Heng Keng, Commissioner
4.	Jan 23-24	Attendance at Workshop on Working with NGOs to Strengthen Special Education	Putrajaya	Lee Pei Hsi, Officer
5.	Jan 25-26	Attendance at Law Conference themed 'Criminal Justice – Malaysia & International Perspective' in University Malaya	Kuala Lumpur	Mohd Azizi Azmi, Officer; Shahzad Sulaiman, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
6.	Feb 4-7	Talk on SUHAKAM and Human Rights	Kuala Lumpur	Abdul Rahman Abdullah, Officer
7.	Feb 5	Briefing on Preparation of Budget 2008/09	Putrajaya	Lee Pei Hsi, Officer
8.	Feb 7	Talk on SUHAKAM and Human Rights	Kuala Lumpur	Noor Azizah Atdenan, Officer
9.	Feb 8	Talk on SUHAKAM and Human Rights	Kuala Berang, Terengganu	Abdul Rahman Abdullah, Officer
10.	Feb 8	Talk on SUHAKAM and Human Rights	Marang Prison, Terengganu	Abdul Rahman Abdullah, Officer
11.	Feb 14	Talk on SUHAKAM and Human Rights	Malacca	Abdul Rahman Abdullah, Officer
12.	Feb 15	Talk on Human Rights Education	Bangi, Selangor	Simon Karunagaram, Officer
13.	Feb 22	Talk on SUHAKAM and Human Rights	Kedah	Dato' N Siva Subramaniam, Commissioner; Abdul Rahman Abdullah, Officer
14.	March 3	Seminar on Handling Domestic Violence	Kuala Lumpur	Rohaimi Ali, Officer
15.	March 19	Talk at Crime Prevention Course	Terengganu	Simon Karunagaram, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
16.	March 21	Lecture on 'Transnational Environmental Politics and Claims to Nature in Sarawak' by Prof Dr J Peter Brosius, Professor of Anthropology, University of Georgia, Athens, Georgia, US	Kuala Lumpur	Rafidah Yahya, Officer
17.	March 25-27	Workshop on Human Rights for RELA Officers	Kuala Lumpur	Dato' N Siva Subramaniam, Commissioner; Simon Karunagaram, Officer; Abdul Rahman Abdullah, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer
18.	March 28	Talk at Crime Prevention Course	Terengganu	Abdul Rahman Abdullah, Officer
19.	March 29	Talk at Crime Prevention Course	Cheras, Selangor	Dato' N Siva Subramaniam, Commissioner
20.	April 3	Attendance at Seminar on Council for Co-Curriculum Activities	Putrajaya	Nor Syaharazad Mohd Yusof, Officer
21.	April 4	Talk at Crime Prevention Course	Malacca	Simon Karunagaram, Officer
22.	April 4	Talk at Crime Prevention Course	Kedah	Abdul Rahman Abdullah, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
23.	April 8	Talk at Crime Prevention Course	Malacca	Dato' N Siva Subramaniam, Commissioner
24.	April 12	Talk at Crime Prevention Course	Malacca	Simon Karunagaram, Officer
25.	April 12	Talk at Crime Prevention Course	Kedah	Abdul Rahman Abdullah, Officer
26.	April 16-17	Workshop on Human Rights Education for State Education Officers (Southern Zone)	Malacca	Dr Chiam Heng Keng, Commissioner; Nor Syaharazad Mohd Yusof, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer
27.	April 18	Perdana Discourse Series on 'Media and National Development'	Putraya	Noor Azizah Atdenan, Officer
28.	April 25	Briefing on Child Rights for Counsellors in Negri Sembilan	Negri Sembilan	Nor Syaharazad Mohd Yusof, Officer
29.	April 25	Lecture at Course for Enforcement Officer of National Anti-Drug Agency	Perak	Abdul Rahman Abdullah, Officer
30.	May 6	Talk on SUHAKAM and Human Rights	Kedah	Abdul Rahman Abdullah, Officer
31.	May 7	Attended course by MAMPU	Selangor	Jasliza Jamil, Officer
32.	May 7-11	Intensive Aditing Course	Selangor	Noor Azizah Atdenan, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
33.	May 9-11	Seminar on Research on Current Social Issues	Sabah	Rafidah Yahya, Officer
34.	May 10	Talk on SUHAKAM and Human Rights	Terengganu	Abdul Rahman Abdullah, Officer
35.	May 12	National Seminar on 'Healthy Longevity: Advancing Health and Well Being of Older Persons in Malaysia'	Kuala Lumpur	Siti Rahayu M Noor, Officer; Kamarulariffin Haji Ayub, Officer
36.	May 12	Talk on SUHAKAM and Human Rights	Negri Sembilan	Simon Karunagaram, Officer
37.	May 14-17	Desktop Productivity Course: Database	INTENGAH, Petaling Jaya	Ahmad Firdaus Abd Shukor, Assistant Officer
38.	May 23	Dialogue on Human Rights	Negri Sembilan	Simon Karunagaram, Officer
39.	May 30	Dialogue on Women's Rights	Kuala Lumpur	Tan Sri Dato' Asiah Abu Samah, Commissioner; Dr Chiam Heng Keng, Commissioner; Nuraini Idris, Officer Shazeera Ahmad Zawawi, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer; Noor Maslina Mahdan, Administrative Assistant; Azizah Hussin, Administrative Assistant

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
40.	June 6-8	Workshop on Human Rights for RELA Officers, Northern Zone	Perak	Dato' N Siva Subramaniam, Commissioner; Simon Karunagaram, Officer; Abdul Rahman Abdullah, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer
41.	June 11-15	Basic Course on Library Management	Kuala Lumpur	Syarim Irwani Ibrahim, Officer
42.	June 14	Roundtable Discussion on 'Towards A People-Centred ASEAN'	Selangor	Dr Chiam Heng Keng, Commissioner; Tunku Datuk Nazihah Tunku Mohd Rus, Commissioner; Khoo Ying Hooi, Officer; Sharina Md Deris Officer
43.	June 18	Brown-bag Talk on the 'Human Rights Dimension and International Humanitarian Law in ASEAN'	Kuala Lumpur	Siti Rahayu M Noor, Officer
44.	June 18-20	Course on Public Relation at Intan INTAN	Kuala Lumpur	Jasliza Jamil, Officer
45.	June 22-25	Focus Group Discussion on Restructuring Plan of Action for Women and Economic Sectors/Poverty among Women	Kuala Lumpur	Rafidah Yahya, Officer; Siti Rahayu M Noor, Officer; Nuraini Idris, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
46.	June 26-27	Mid-term Workshop: Joint Project between the Malaysian Timber Certification Council and Free and Hanseatic City of Hamburg	Kuala Lumpur	Dr Mohammad Hirman Ritom Abdullah, Commissioner; Paremeswari Subramaniam, Officer
47.	June 28-29	Media Conference KKDN 2007	Selangor	Noor Azizah Atdenan, Officer
48.	July 10	Forum on 'Urban Poverty in Malaysia: Emerging Concerns and Solutions'	Kuala Lumpur	Kamarulariffin Haji Ayub, Officer
49.	July 13	Talk on SUHAKAM and Human Rights	Kuala Lumpur	Kamarulariffin Haji Ayub, Officer Dato' N Siva Subramaniam, Commissioner; Simon Karunagaram, Officer
50.	July 13	Talk on SUHAKAM and Human Rights	Perak	Abdul Rahman Abdullah, Officer
51.	Aug 2	Talk on SUHAKAM and Human Rights	Sarawak	Dr Mohammad Hirman Ritom Abdullah, Commissioner
52.	Aug 9	Forum on 'Vision and Voices: Toward Achieving the Millennium Development Goals among Indigenous Peoples'	Kuala Lumpur	Dr Mohammad Hirman Ritom Abdullah, Commissioner; Dato' Haji Khalid Haji Ibrahim, Commissioner; Dr Chiam Heng Keng, Commissioner; Rafidah Yahya, Officer; Paremeswari Subramaniam, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
53.	Aug 9	Forum in Conjunction with International Day of Indigenous Peoples	Selangor	Dr Mohammad Hirman Ritom Abdullah, Commissioner
54.	Aug 16	Seminar-cum-Luncheon Talk	Kuala Lumpur	Siti Rahayu M Noor, Officer; Kamarul Ariffin Haji Ayub, Officer
55.	Aug 22-24	Workshop on Human Rights Education for State Education Officers, Central Zone	Kuala Lumpur	Dr Chiam Heng Keng, Commissioner; Jasliza Jamil, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer; Azizah Hussin, Administrative Assistant; Noor Maslina Mahdan, Administrative Assistant
56.	Aug 24-25	Workshop on Human Rights Awareness for Teachers in Religious Schools	Pahang	Simon Karunagaram, Officer; Abdul Rahman Abdullah, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer
57.	Aug 27	Seminar on Management of Sexuality Issues among Teenagers	Kuala Lumpur	Rafidah Yahya, Officer; Siti Rahayu M Noor, Officer
58.	Sept 14	Workshop on Land Rights	Kuala Lumpur	Dr Chiam Heng Keng, Commissioner; Paremeswari Subramaniam, Officer
59.	Oct 8-9	Talk on International Law for New Diplomatic Officers	Kuala Lumpur	Hakimah Haji Yaacob, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
60.	Oct 21-23	Workshop on Human Rights for RELA Officers, East Coast	Pahang	Dato' N Siva Subramaniam, Commissioner; Simon Karunagaram, Officer; Abdul Rahman Abdullah, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer
61.	Oct 22-23	Dialogue on Malaysian Forests	Kuala Lumpur	Datuk Dr Denison Jayasooria, Commissioner; Paremeswari Subramaniam, Officer
62.	Oct 31	Discussion on 'Programme and Project for Rural Poverty Alleviation in Malaysia: Relevance, Effectiveness and Sustainability'	Kuala Lumpur	Siti Rahayu M Noor, Officer
63.	Nov 2-3	Seminar on Public-Private Partnership in Combating Corruption and Safeguarding Integrity	Kuala Lumpur	Hakimah Haji Yaacob, Officer
64.	Nov 3	Programme on Human Rights and Motivation for Orang Asli Parents	Pahang	Tan Sri Dato' Asiah Abu Samah, Commissioner; Simon Karunagaram, Officer; Lee Pei Hsi, Officer; Shazeera Abd Zawawi, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer; Noor Maslina Mahdan, Administrative Assistant; Azizah Hussin, Administrative Assistant; Muhd Helmy Dazman, Administrative Assistant

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
65.	Nov 9-11	Workshop on Convention on the Rights of the Child for Religious Schools, Northern Zone	Kedah	Tan Sri Dato' Asiah Abu Samah, Commissioner; Dato' Dr Abdul Monir Yaacob, Commissioner; Shazeera Abd Zawawi, Officer; Noor Maslina Mahdan, Administrative Assistant Azizah Hussin, Administrative Assistant; Mohd Razif Abd Aziz, Administrative Assistant
66.	Nov 11	SUHAKAM 'Meet The People Session'	Kelantan	Tan Sri Datuk Seri Panglima Simon Sipaun, Commissioner; Dato' N Siva Subramaniam, Commissioner; Ustaz Muhammad 'Uthman El-Muhammady, Commissioner Noor Azizah Atdenan, Officer Neeza Mohd Alias, Officer Eda Mazuin Abdul Rahman, Officer
67.	Nov 13	Talk on Human Rights in Police Investigation and SUHAKAM's Role	Sarawak	Hakimah Haji Yaacob, Officer Dato' N Siva Subramaniam, Commissioner; Tan Sri Datuk Seri Panglima Simon Sipaun, Vice-Chairman; Abdul Rahman Abdullah, Officer; Ahmad Firdaus Abd Shukor, Assistant Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
68.	Nov 18-21	Course on Human Rights for Police Investigation Officers	Sabah	Hakimah Haji Yaacob, Officer
69.	Nov 20	Attendance at Seminar on Rights to Inheritance in Islam	Kuala Lumpur	Hakimah Haji Yaacob, Officer
70.	Nov 23	Attendance at Roundtable Discussion on Economic, Social and Cultural Rights	Kuala Lumpur	Hakimah Haji Yaacob, Officer
71.	Nov 28	Talk on SUHAKAM and Human Rights	Selangor	Prof Dato' Khoo Kay Kim, Commissioner; Jasliza Jamil, Officer
72.	Nov 28-29	Workshop on Media Relation	Kuala Lumpur	Neeza Mohd Alias, Officer
73.	Dec 3-4	Colloquium on 'Good Governance, Rule of Law and Human Rights: The Way Forward For ASEAN'	Kuala Lumpur	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner; Datin Paduka Zaitoon Dato Othman, Commissioner; Khoo Ying Hooi, Officer
74.	Dec 4	Attendance at Workshop on Gender Mainstreaming	Kuala Lumpur	Ayu Norlizawati Mohd Ghazali, Officer
75.	Dec 4	Attendance at 3 rd International Conference on Harmonization of Civil and Syariah Law	Kuala Lumpur	Hakimah Haji Yaacob, Officer
76.	Dec 5	Attendance at Dialogue on <i>Wacana Ilmiah Komuniti Syariah</i>	Selangor	Hakimah Haji Yaacob, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
77.	Dec 10	Attendance at Conference on Asylum and Islam	Kuala Lumpur	Hakimah Haji Yaacob, Officer
78.	Dec 17-18	Human Rights Programme for Public Higher Learning Institutions – Universiti Utara Malaysia	Kedah	Dr Chiam Heng Keng, Commissioner; Hasmah Manaf, Officer; Shazeera Abd Zawawi, Officer; Azizah Hussin, Administrative Assistant; Roslan Mohd Ali, Administrative Assistant;
79.	Dec 18-21	Workshop on Human Rights for RELA Officers, Sabah and Sarawak Zone	Sarawak	Dato' N Siva Subramaniam, Commissioner; Abdul Rahman Abdullah, Officer; Mohd Azizi Azmi, Officer
80.	Dec 26	Workshop on Planning and Implementation of Council on Anti-Trafficking in Persons	Kuala Lumpur	Datuk Dr Raj Abdul Karim, Commissioner; Rafidah Yahya, Officer

APPENDIX IV

TALKS, SEMINARS AND CONFERENCES – INTERNATIONAL 2007

NO	DATE	ACTIVITY	VENUE	WORKING GROUP/ DIVISION/BRANCH
1.	Jan 8– March 30	Chevening Fellowship 2006-07: Government Relations With NGOs & Civil Society	University of Glasgow, United Kingdom	Shazeera Ahmad Zawawi, Officer
2.	Jan 28–30	10th ASEF 'Talks on the Hill' entitled '(In)Secure Societies: Redefining Civil Liberties in Changing Security Environment'	Singapore	Dato' Haji Khalid Haji Ibrahim, Commissioner
3.	Feb 19-23	Sub-Regional Training Workshop For Southeast Asian National Human Rights Institutions on 'National Human Rights Institutions and Human Rights Defenders'	Geneva, Switzerland	Dato' Haji Khalid Haji Ibrahim, Commissioner; Simon Karunagaram, Officer; Nur Amir Abdullah, Officer; Nurul Hassanah Ahamed Hassain Malim, Officer; Rafidah Yahya, Officer; Khoo Ying Hooi, Officer
4.	Feb 19-23	National Human Rights Institutions and Human Rights Defenders Training	Bangkok, Thailand	Simon Karunagaram, Officer
5.	Feb 26-28	Commonwealth Conference of National Human Rights Institutions	London	Dato' Karam Chand Vohrah, Commissioner; Sharina Md Deris, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
6.	March 21-23	19th Session of the Annual Meeting of the International Co-ordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights	Kuala Lumpur, Malaysia	Tan Sri Abu Talib Othman, Chairman; Tunku Datuk Nazihah Tunku Mohamed Rus; Commissioner; Khoo Ying Hooi, Officer
7.	June 25-28	Third Meeting of ASEAN National Human Rights Institutions Consultation Mechanism	Bali, Indonesia	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner; Dato' Haji Khalid Haji Ibrahim, Commissioner; Khoo Ying Hooi, Officer
8.	July 15-18	6th Workshop on the ASEAN Regional Mechanism on Human Rights	Manila, Philippines	Tan Sri Abu Talib Othman, Chairman; Dato' Haji Khalid Haji Ibrahim, Commissioner; Dato' Choo Siew Kioh, Commissioner; Nur Amir Abdullah, Officer
9.	July 26-28	Workshop on Using Indicators to Promote and Monitor the Implementation of Human Rights	New Delhi, India	Sharina Md Deris, Officer
10.	Sept 24-27	12th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions	Sydney, Australia	Tan Sri Datuk Seri Panglima Simon Sipaun, Vice Chairman; Dr Chiam Heng Keng, Commissioner; Tunku Datuk Nazihah Tunku Mohd Rus, Commissioner; Haji Ahmad Yusuf Haji Ngah, Secretary; Khoo Ying Hooi, Officer; Sharina Md Deris, Officer; Hah Youn Kuan, Administrative Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
11.	Oct 15-18	Regional Workshop on the Establishment of National Human Rights Institutions in Asia	Manila, The Philippines	Paremeswari Subramaniam, Officer
12.	Oct 15-19	Capacity Building on Human Rights and Migrant Workers in the Asia Pacific Region	Phnom Penh, Cambodia	Lee Pei Hsi, Officer
13.	Oct 30 -31	Commonwealth Asia Colloquium on Gender, Culture and Law	Dhaka, Bangladesh	Datin Paduka Zaitoon Dato' Othman, Commissioner; Nurul Hasanah Ahamed Hassain Malim, Officer
14.	Nov 14-15	Meeting with NHRIs in the ASEAN Region: Informal Working Group on Human Rights in Laos PDR	Bangkok, Thailand	Dato' Khalid Ibrahim, Commissioner; Nur Amir Abdullah, Officer
15.	Nov 19-28	Regional Training Programme on Human Rights for Representatives from National Human Rights Institutions in the Asia Pacific	Bangkok, Thailand	Kamarulariffin Haji Ayub, Officer; Ayu Norlizawati Mohd Ghazali, Officer
16.	Nov 19-20	Commonwealth Forum of National Human Rights Institutions	Kampala, Uganda	Dato' Karam Chand Vohrah, Commissioner; Simon Karunagaram, Officer
17.	Dec 2-8	Meeting with National Human Rights Institutions and Other Related Organizations in Australia and New Zealand	Australia and New Zealand	Datuk Michael Yeoh Oon Kheng, Commissioner; Tan Sri Asiah Abu Samah, Commissioner; Lee Pei Hsi, Officer; Simon Karunagaram, Officer; Siti Rahayu M Noor, Officer

NO	DATE	EVENTS	VENUE	REPRESENTATIVE
18.	Dec 2-9	Field Visit to National Human Rights Institutions and Other Related Organizations in Australia and New Zealand	Sydney, Australia and Auckland, New Zealand	Tan Sri Dato' Asiah Abu Samah, Commissioner; Simon Karunagaram, Officer; Lee Pei Hsi, Officer
19.	Dec 10 - 14	The 6th Session of Human Rights Council	Geneva, Switzerland	Dato' Haji Khalid Haji Ibrahim, Commissioner; Datuk Dr Denison Jayasooria, Commissioner; Rafidah Yahya, Officer
20.	Dec 17-18	Third Roundtable Discussion on Human Rights in ASEAN: Building Human Rights in an ASEAN Community	Manila, Philippines	Tunku Datuk Nazihah Tunku Mohamed Rus, Commissioner; Khoo Ying Hooi, Officer

APPENDIX V

MONTHLY MEETINGS 2007 – COMMISSIONERS' ATTENDANCE

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
1.	83 rd Meeting	Jan 15	<p>Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah</p>			

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
2.	84th Meeting	Feb 12	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah	Dato' Dr Michael Yeoh Oon Kheng	✓	
3.	85th Meeting	March 7	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Dato' Dr Abdul Monir Yaacob	Dato' Choo Siew Kioh	✓	

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
4.	86th Meeting	April 9	<p>Dato' Karam Chand Vohrah Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah</p>	<p>Prof Dato' Dr Khoo Kay Kim Datin Paduka Zaitoon Dato' Othman</p>	✓ ✓	

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
5.	87 th Meeting	May 14	Dato' Dr Michael Yeoh Oon Kheng Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Dato' Asiah Abu Samah Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramaniam a/l Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah	Datuk Dr Raj Abdul Karim	✓	
6.	88 th Meeting	June 11	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon	Dato' Karam Chand Vohrah	✓	

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
			<p>Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah</p>	Dato' Dr Michael Yeoh Oon Kheng	✓	
7.	89th Meeting	July 9	<p>Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Prof Dato' Dr Khoo Kay Kim</p>	<p>Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Dr Michael Yeoh Oon Kheng Ustaz Muhammad 'Uthman El-Muhammady</p>	<p>✓ ✓ ✓</p>	

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
8.	90 th Meeting	Aug 13	Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Datin Paduka Zaitoon Dato' Othman Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah	Prof Dato' Dr Khoo Kay Kim	✓	

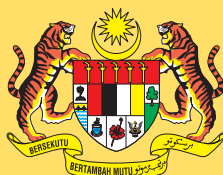
No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
9.	91 st Meeting	Sept 10	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Prof Dato' Dr Khoo Kay Kim Tunku Datuk Nazihah Tunku Mohamed Rus Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Datin Paduka Zaitoon Dato' Othman Ustaz Muhammad 'Uthman El-Muhammady Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah	Datuk Dr Raj Abdul Karim Dato' Dr Michael Yeoh Oon Kheng	✓ ✓	
10.	92 nd Meeting	Oct 9	Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah	Dato' Muhammad Shafee Abdullah	✓	

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
11.	93 rd Meeting	Nov 12	<p>Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Datuk Dr Denison Jayasooria Datin Paduka Zaitoon Dato' Othman Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah</p>			
			<p>Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Datuk Dr Denison Jayasooria Datin Paduka Zaitoon Dato' Othman</p>			

No.	Serial No. of Meeting	Date of Meeting	Commissioners Present	Commissioners Absent	With Leave	Without Leave
12.	94 th Meeting	Dec 10	<p>Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Dato' Haji Khalid Haji Ibrahim Haji Ahmad Yusuf Haji Ngah</p> <p>Tan Sri Abu Talib Othman Tan Sri Datuk Seri Panglima Simon Sipaun Dr Chiam Heng Keng Dr Mohammad Hirman Ritom Abdullah Tan Sri Dato' Asiah Abu Samah Datuk Dr Raj Abdul Karim Prof Dato' Dr Abdul Monir Yaacob Dato' Karam Chand Vohrah Dato' Choo Siew Kioh Tunku Datuk Nazihah Tunku Mohamed Rus Prof Dato' Dr Khoo Kay Kim Dato' Siva Subramanian Nagaratnam Dato' Muhammad Shafee Abdullah Ustaz Muhammad 'Uthman El-Muhammady Dato' Dr Michael Yeoh Oon Kheng Datin Paduka Zaitoon Dato' Othman Haji Ahmad Yusuf Haji Ngah</p>	<p>Datuk Dr Denison Jayasooria</p> <p>Dato' Haji Khalid Haji Ibrahim</p>	<p>✓</p> <p>✓</p>	



**APPENDIX VI
CERTIFICATE OF THE
AUDITOR GENERAL
ON THE FINANCIAL
STATEMENTS OF
HUMAN RIGHTS
COMMISSION OF
MALAYSIA
FOR THE YEAR ENDED
31 DECEMBER 2007**



**SIJIL KETUA AUDIT NEGARA
MENGENAI PENYATA KEWANGAN
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
BAGI TAHUN BERAKHIR 31 DISEMBER 2007**

Penyata kewangan Suruhanjaya Hak Asasi Manusia Malaysia bagi tahun berakhir 31 Disember 2007 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 2007, hasil operasi dan aliran tunai untuk tahun tersebut berdasarkan piawaian perakaunan yang diluluskan.

(KHALID KHAN BIN ABDULLAH KHAN)
b.p. KETUA AUDIT NEGARA
MALAYSIA

PUTRAJAYA
12 Mac 2008



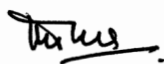
SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

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 2007, 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 2007 dan hasil kendaliannya serta aliran tunainya bagi tahun berakhir pada tarikh tersebut.

Bagi pihak Suruhanjaya,

Bagi pihak Suruhanjaya,



TAN SRI ABU TALIB BIN OTHMAN

Pengerusi

Kuala Lumpur

Tarikh:

29 JAN 2008



TAN SRI DATUK SERI PANGLIMA

SIMON SIPAUN

Naib Pengerusi

Kuala Lumpur

Tarikh:

29 JAN 2008

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 2007, 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)

Allen Ahmad

29 JAN 2008

Di hadapan saya,



Tingkat bawah Wisma P.K.N.S.
Jalan Raja Laut,
50653 KUALA LUMPUR.

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA
LEMBARAN IMBANGAN PADA 31 DISEMBER 2007

	<u>Nota</u>	<u>2007</u> RM	<u>2006</u> RM
ASET BUKAN SEMASA			
Loji dan peralatan	3	772,894	1,191,807
ASET SEMASA			
Penghutang, deposit dan prabayar	4	337,091	305,301
Simpanan tetap	5	1,000,000	-
Tunai dan baki di bank	6	843,031	1,362,460
		<u>2,180,122</u>	<u>1,667,761</u>
LIABILITI SEMASA			
Pelbagai pemiutang dan akruan	7	382,672	364,529
		<u>382,672</u>	<u>364,529</u>
ASET SEMASA BERSIH		1,797,450	1,303,232
		<u>2,570,344</u>	<u>2,495,039</u>
Dibiayai oleh:			
Dana Terkumpul		521,995	514,914
LIABILITI BUKAN SEMASA			
Geran Kerajaan Tertunda	8	2,048,349	1,980,125
		<u>2,570,344</u>	<u>2,495,039</u>

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA PENDAPATAN
BAGI TAHUN BERAKHIR 31 DISEMBER 2007

	<u>Nota</u>	<u>2007</u> RM	<u>2006</u> RM
PENDAPATAN			
Geran Kerajaan	9	9,481,776	8,349,073
PENDAPATAN LAIN			
Hibah		2,774	4,327
Faedah ke atas simpanan tetap		4,182	5,691
Mudharabah-Insurans		125	906
Lain-lain		0	1,089
		7,081	12,013
Jumlah Pendapatan		9,488,857	8,361,086
PERBELANJAAN			
Emolumen	10	2,248,653	1,656,394
Perjalanan dan sara-hidup		990,808	362,772
Pengangkutan		0	40
Perhubungan dan utiliti		302,072	210,620
Sewaan		1,282,512	1,172,268
Bekalan makanan dan minuman		6,153	5,301
Alat ganti dan pembaikan		153,994	157,176
Bekalan dan bahan-bahan lain		126,768	164,392
Penyelenggaraan dan pembaikan kecil		368,447	354,745
Perkhidmatan ikhtisas dan hospitaliti	11	3,276,993	3,325,192
Susut Nilai		709,687	824,296
Ganjaran		15,689	107,525
Perbelanjaan lain		0	8,352
		9,481,776	8,349,073
Lebihan bagi tahun		7,081	12,013

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 2007

	<u>Nota</u>	<u>Dana</u> <u>terkumpul</u> <u>RM</u>
Pada 1 Januari 2006		
Penyataan sebelumnya		3,211,499
Pelarasan tahun lepas selepas penggunaan MASB 31	14	<u>(2,708,598)</u>
Penyataan semula		502,901
Lebihan bagi tahun		12,013
Pada 31 Disember 2006		<u>514,914</u>
Pada 1 Januari 2007		
Penyataan sebelumnya		2,495,039
Pelarasan tahun lepas selepas penggunaan MASB 31	14	<u>(1,980,125)</u>
Penyataan semula		514,914
Lebihan bagi tahun		7,081
Pada 31 Disember 2007		<u>521,995</u>

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

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

PENYATA ALIRAN TUNAI
BAGI TAHUN BERAKHIR 31 DISEMBER 2007

	<u>2007</u>	<u>2006</u>
	RM	RM
ALIRAN TUNAI DARI AKTIVITI OPERASI		
Penerimaan	9,550,000	7,620,600
Pembayaran untuk perbelanjaan	<u>(8,788,241)</u>	<u>(7,443,315)</u>
Tunai bersih (digunakan untuk)/dari aktiviti operasi	<u>761,759</u>	<u>177,285</u>
ALIRAN TUNAI DARI AKTIVITI PELABURAN		
Hibah	2,774	4,327
Keuntungan diterima dari simpanan tetap	4,182	5,691
Mudharabah	125	906
Belian loji dan peralatan	<u>(288,269)</u>	<u>(266,763)</u>
Tunai bersih digunakan untuk aktiviti pelaburan	<u>(281,188)</u>	<u>(255,839)</u>
ALIRAN TUNAI DARI AKTIVITI PEMBIAYAAN		
Akaun amanah	<u>-</u>	<u>(87,605)</u>
Tunai bersih dari aktiviti pembiayaan	<u>-</u>	<u>(87,605)</u>
(Penurunan)/peningkatan bersih dalam tunai dan bersamaan tunai		
Tunai dan bersamaan tunai pada awal tahun	1,362,460	1,528,619
Tunai dan bersamaan tunai pada akhir tahun	<u>480,571</u>	<u>(166,159)</u>
	<u>1,843,031</u>	<u>1,362,460</u>
ANALISA TUNAI DAN BERSAMAAN TUNAI		
Simpanan tetap	1,000,000	-
Wang tunai dan baki di bank	<u>843,031</u>	<u>1,362,460</u>
	<u>1,843,031</u>	<u>1,362,460</u>

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

SURUHANJAYA HAK ASASI MANUSIA MALAYSIA

NOTA-NOTA KEPADA PENYATA KEWANGAN - 31 DISEMBER 2007

1: OBJEKTIF-OBJEKTIF/FUNGSI-FUNGSI UTAMA

- 1.1 Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM) ditubuhkan oleh Parlimen Malaysia di bawah Akta Suruhanjaya Hak Asasi Manusia Malaysia 1999, (Akta 597) dengan objektif untuk melindungi dan memajukan hak asasi manusia di Malaysia. Akta ini diwartakan pada 9 September 1999.
- 1.2 Fungsi utama SUHAKAM adalah untuk:
- 1.2.1 memupuk kesedaran dan menyediakan pendidikan yang berhubungan dengan hak asasi manusia.
 - 1.2.2 menasihati dan membantu Kerajaan dalam merumuskan perundangan dan arahan dan tatacara pentadbiran dan mengesyorkan langkah-langkah yang perlu diambil.
 - 1.2.3 mengesyorkan kepada Kerajaan berkenaan dengan penandatanganan atau penyertaan dalam perjanjian triti dan surat cara antarabangsa yang lain dalam bidang hak asasi manusia; dan
 - 1.2.4 menyiasat aduan berkenaan dengan pelanggaran hak asasi manusia.

2: DASAR PERAKAUNAN PENTING

2.1 Asas Perakaunan

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

2.2 Loji dan Peralatan Dan Susut Nilai

Loji dan peralatan dinyatakan pada kos ditolak susut nilai terkumpul.

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

Kadar susut nilai 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.

Pelan Caruman Tetap

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

2.5 Peruntukan

Peruntukan dibuat bila pihak Suruhanjaya mempunyai obligasi sah atau konstruktif pada masa kini berikutan peristiwa lepas, di mana kemungkinan aliran keluar sumber akan diiktiraf untuk menjelaskan obligasi, dan bila anggaran yang boleh diyakini boleh dibuat bagi amaun tersebut.

2.6 Geran Kerajaan

Geran daripada Kerajaan diiktiraf pada nilai saksamanya di mana terdapat jaminan munasabah bahawa geran akan diterima dan Suruhanjaya akan mematuhi semua syarat yang ada padanya.

Geran kerajaan berkaitan dengan pembelian Loji dan Peralatan dimasukkan dalam liabiliti bukan semasa sebagai pendapatan tertunda dan dikreditkan kepada penyata pendapatan sepanjang hayat dijangka ke atas Loji dan Peralatan berkaitan, asas-asas yang seimbang dengan susut nilai Loji dan Peralatan yang berkaitan.

(Samb.)

2.7 Pengiktirafan Pendapatan Hibah, Faedah Simpanan Tetap Dan Mudharabah- Insurans

Pendapatan Hibah, Faedah Simpanan Tetap Dan Mudharabah- Insurans diiktiraf berdasar asas tunai.

(Samb.)

3: LOJI DAN PERALATAN

2007	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng- ubahsuaian	Jumlah
	RM	RM	RM	RM	RM
Kos					
Pada 1 Januari	806,841	230,782	2,610,965	564,817	4,213,405
Tambahan	48,023	146,233	84,208	12,310	290,774
Pada 31 Disember	854,864	377,015	2,695,173	577,127	4,504,179
Susut Nilai Terkumpul					
Pada 1 Januari	516,715	130,034	2,014,510	360,339	3,021,598
Caj untuk tahun	120,145	55,828	455,938	77,776	709,687
Pada 31 Disember	636,860	185,862	2,470,448	438,115	3,731,285
Nilai Buku Bersih					
Pada 31 Disember	218,004	191,153	224,725	139,012	772,894

2006	Buku, peralatan dan kelengkapan	Komputer	Kenderaan	Peng- ubahsuaian	Jumlah
	RM	RM	RM	RM	RM
Kos					
Pada 1 Januari	718,491	214,067	2,610,965	385,570	3,929,093
Tambahan	89,701	16,715	0	179,247	285,663
Pelarasan	(1,351)				(1,351)
Pada 31 Disember	806,841	230,782	2,610,965	564,817	4,213,405
Susut Nilai Terkumpul					
Pada 1 Januari	365,298	85,657	1,493,829	252,542	2,197,326
Caj untuk tahun	151,733	44,377	520,681	107,797	824,588
Pelarasan	(316)				(316)
Pada 31 Disember	516,715	130,034	2,014,510	360,339	3,021,598
Nilai Buku Bersih					
Pada 31 Disember	290,126	100,748	596,455	204,478	1,191,807

(Samb.)

8: **GERAN KERAJAAN TERTUNDA**

	<u>2007</u>	<u>2006</u>
	RM	RM
Baki pada 1 Januari	1,980,125	2,708,598
Terimaan tahun semasa	9,550,000	7,620,600
Tolak: Pelunasan tahun semasa		
Perbelanjaan operasi	8,772,089	7,524,777
Susut nilai	709,687	824,296
	9,481,776	8,349,073
Baki pada 31 Disember	2,048,349	1,980,125

9: **GERAN KERAJAAN**

	<u>2007</u>	<u>2006</u>
	RM	RM
Geran mengurus digunakan	8,772,089	7,524,777
Geran pembangunan dilunaskan	709,687	824,296
	9,481,776	8,349,073

10: **EMOLUMEN**

Pembayaran emolument bagi 60 (2006: 41) jawatan pegawai dan Kakitangan Tetap adalah seperti berikut:

	<u>2007</u>	<u>2006</u>
	RM	RM
Gaji	1,290,042	939,512
Imbuhan Khidmat Awam	96,138	56,727
Elaun Perumahan	174,238	133,690
Elaun Keraian	74,550	66,341
Lain- lain Elaun	278,444	187,160
Sumbangan Badan Berkanun	226,950	165,261
Faedah Kewangan Lain/Imbuhan Tahunan	108,291	107,703
	2,248,653	1,656,394

(Samb.)

4. **PELBAGAI PENGHUTANG, DEPOSIT DAN PRABAYAR**

	<u>2007</u> RM	<u>2006</u> RM
Pelbagai penghutang	109	3,554
Deposit	298,516	294,555
Prabayar	<u>38,466</u>	<u>7,192</u>
	<u>337,091</u>	<u>305,301</u>

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 2.0% hingga 2.5 % (2006: 2.3% hingga 3.0%) setahun. Tempoh matang simpanan tetap ialah antara 30 hari hingga 1 tahun.

6: **WANG TUNAI DAN BAKI DI BANK**

	<u>2007</u> RM	<u>2006</u> RM
Tunai di tangan	3,815	4,825
Tunai di bank	<u>839,216</u>	<u>1,357,635</u>
	<u>843,031</u>	<u>1,362,460</u>

7: **PELBAGAI PEMIUTANG DAN AKRUAN**

	<u>2007</u> RM	<u>2006</u> RM
Pelbagai pemiutang	190,751	54,575
Akruan	<u>191,921</u>	<u>309,954</u>
	<u>382,672</u>	<u>364,529</u>

(Samb.)

11: **PERKHIDMATAN IKHTISAS DAN HOSPITALITI**

Termasuk di dalam perbelanjaan ini adalah pembayaran emolumen kepada Pesuruhjaya, Pegawai dan Kakitangan kontrak sebanyak RM2,018,443

12: **MAKLUMAT KAKITANGAN**

Jumlah kakitangan SUHAKAM pada akhir tahun adalah 73 (2006: 64).

13: **INSTRUMEN KEWANGAN**

Objektif dan Polisi Pengurusan Risiko Kewangan

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

(a) Risiko Mudah Tunai

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

(b) Nilai Saksama

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

(Samb.)

14: PERUBAHAN DI DALAM POLISI PERAKAUNAN DAN PELARASAN TAHUN LEPAS**Perubahan polisi perakaunan**

Pada tahun kewangan 2007, Suruhanjaya telah menggunakan MASB 31- Geran Kerajaan dan Bantuan Kerajaan. Penggunaan polisi perakaunan ini telah menghasilkan penambahan di dalam pendapatan tertunda.

Perubahan di dalam polisi perakaunan, secara retrospektifnya menunjukkan kesan pengiraan seperti berikut:-

	<u>2007</u>	<u>2006</u>
	RM	RM
Kesan ke atas dana terkumpul:		
Pada 1 Januari, pernyataan sebelumnya	2,495,039	3,211,499
Kesan penggunaan MASB 31	(1,980,125)	(2,708,598)
Pada 1 Januari, pernyataan semula	514,914	502,901

Perubahan dalam polisi perakaunan merujuk kepada penggunaan MASB 31 telah dinilai dengan mengambil kira perbandingan dan pelarasan untuk baki permulaan dana terkumpul pada 1 Januari 2006 seperti yang ditunjukkan di dalam Nota 15 penyata kewangan dan Penyata Perubahan Dalam Dana Terkumpul.

(Samb.)

15: **ANGKA PERBANDINGAN**

Angka perbandingan berikut telah dinyatakan semula bagi menunjukkan kesan dalam perubahan polisi perakaunan seperti yang diterangkan di dalam Nota 14 penyata kewangan.

	Penyataan sebelumnya <u>2006</u> RM	Pelarasan <u>2006</u> RM	Penyataan semula <u>2006</u> RM
Kunci Kira-Kira			
Dana Terkumpul	2,495,039	(1,980,125)	514,914
Geran kerajaan	-	1,980,125	1,980,125
<hr/>			
Penyata Pendapatan			
Geran Kerajaan	7,620,600	728,473	8,349,073
Jumlah pendapatan	7,632,613	728,473	8,361,086
Lebihan/(Kurangan) pada tahun	(716,460)	728,473	12,013
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