

Well done, Malaysia!
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Malaysia was formally elected to the United Nations Human Rights Council after a vote by member states of the United Nations General Assembly in New York on May 13, 2010.

It was backed by 179 member states, well beyond the minimum 97 votes it required.

Malaysia will now take its place in the 47-member Human Rights Council (HRC) for the 2010-2013 term when it meets in June 2010.

As part of its candidature Malaysia issued "voluntary pledges and commitments", a statement of what it undertakes to do during its term as a member of the HRC.

Some mystery surrounds Malaysia's voluntary pledges and commitments as it was not uploaded on the HRC's website until very recently, notwithstanding it was officially given to the United Nations via a letter dated April 23, 2010.

In fact an earlier document dated March 9, 2010 was initially circulated to member states.

Wisma Putra officials claim that the document was only a draft, which was mistakenly released by the Permanent Mission of Malaysia to the United Nations in New York.

This document contained two glaring mistakes:

Firstly, it referred in paragraph 29.2 to the 'Committee on the Elimination of Discrimination against Women' instead of 'Convention on the Elimination of All Forms of Discrimination against Women'.

Ostensible commitment to human rights

Secondly, it said Malaysia would establish a "National Child Policy on Women".

Wisma Putra officials say these two mistakes prove that the March 9, 2010 document was a draft which had not been cleaned up of mistakes.

However, the April 23, 2010 document shows that the same mistakes remain uncorrected.

Be that as it may, the 12 voluntary pledges and commitments by Malaysia as they appear on the HRC website are:

- * Increasing support for the roles and functioning of Suhakam;
- * Continuing efforts to raise human rights awareness among all segments of the population including law-enforcement officials, members of the judiciary, government officials and other stakeholders;
- * Establishing a National Child Policy on Women as well as the National Plan Action for the Advancement of Women;
- * Continuing fostering meaningful and productive engagement between the government

machinery and civil society;

- * Strengthening capacities for implementation and enforcement measures for human rights conventions which Malaysia is party to, alongside reconsidering of instruments which it has yet to accede to;

- * Deepening and widening our cooperation with and support for the work of various UN actors and mechanisms involved in the promotion and protection of human rights such as the OHCHR, Special Procedures of the Human Rights Council, UNHCR, UNDP, UNFPA, UNIFEM, INSTRAW, UNICEF and UNEP including through, inter alia, voluntary financial contributions;

- * Upholding the principles of dialogue and cooperation among all stakeholders in furthering the promotion and protection of human rights for all peoples, without distinction and discrimination of any kind;

- * Furthering the UN development agenda, particularly in realising the right to development, including support for ongoing efforts aimed at its operationalisation and implementation;

- * Sharing best practices, experiences and achievements in economic, social and cultural rights including advancing women's and children's rights, poverty eradication and education with interested partners;

- * Engaging constructively with all our partners and stakeholders to ensure that the international community continues to create a supportive external environment towards the creation of economic stability, shared prosperity and equitable gains from globalization;

- * Engaging continuously with all our partners and stakeholders to assess and monitor the implementation of recommendations from the UPR process; and,

- * Working continuously at the regional level with our partners under the Asean framework, in particular, with the newly established Asean Intergovernmental Commission on Human Rights (AICHR) in the promotion of human rights in the region.

Suhakam commissioner-less

Going by recent events, Malaysia is off to a bad start just on the first two pledges.

NONEThe government has failed to appoint new commissioners for Suhakam, which has been left commissioner-less for almost one month now, after all the previous commissioners stepped down on April 23.

So much so that when the family of 14-year-old Aminulrasyid Amzah, shot dead by the Royal Malaysian Police (PDRM) while out joyriding in his sister's car in the early hours of one fateful morning in residential Shah Alam, wanted to submit a memorandum on the incident, they had to do so to a Suhakam staffer instead.

The names of nine potential new Suhakam commissioners were revealed by the press while the prime minister, who makes recommendations for appointment to the Yang DiPertuan Agong, was busy visiting the United States.

Since his return, the PM has apparently been too preoccupied with the by-election in Hulu

Selangor, and now the one in Sibul, to make any announcements.

So when the government was forced to scramble to respond to this tragedy and the resultant public relations disaster by hastily appointing a panel to investigate the shooting, it chose three former Suhakam commissioners who had only just stepped down, namely Muhammad Shafee Abdullah, Dr Michael Yeoh, and Dr Denison Jayasooria.

NONESecondly, the very fact of the killing of young Aminulrasyid (right)and the PDRM's refusal to make public its Inspector-General's Standing Orders (with respect to guidelines on the use of firearms) both show how backward the PDRM remains in terms of human rights awareness, despite having received human rights training by both Suhakam and the Commonwealth Secretariat Human Rights Unit based in London.

Glaring differences: Home and abroad

The UK, in contrast, posts its Guidelines on the Use of Firearms, issued by the Association of Chief Police Officers, on websites.

The London Metropolitan Police Service and police forces in Australia publish papers on guidelines on the use of firearms on their respective websites as required pursuant to freedom of information legislation that exist in both countries.

Even neighbouring Thailand, caught up as it is in a civil unrest, has made known to the public its general guidelines on the use of firearms by the military when dealing with any potential violence.

Thailand is one of four Asian countries, together with Malaysia, Maldives and Qatar, elected to the HRC.

Call it coincidence or irony, but the three former Suhakam commissioners on the Aminulrasyid killing investigation panel are the same ones who led a panel of inquiry into the arrest of five Kuala Lumpur Legal Aid Centre lawyers at Brickfields Police Station on the night of May 7, 2009.

lawyers at brickfields police station 220509 05They had responded to a call to provide legal advice to 14 people arrested earlier that night by Brickfields police for allegedly participating in an unlawful assembly of a candlelight vigil in front of Brickfields Police Station and wearing black clothes in support of arrested journalism lecturer and political scientist Wong Chin Huat, who had been detained two days earlier, only to find themselves arrested for allegedly having participated in the same unlawful assembly.

This Suhakam panel concluded on April 23, 2010 (the date of the letter to the United Nations) that 2 senior police officers at Brickfields Police Station, OCPD ACP Wan Abdul Bari and DSP Jude Pereira, were to blame for the false arrest and wrongful detention of the five lawyers and had acted in bad faith.

The panel concluded that both men had not told the truth about what happened that night and early the next morning, and further had transgressed the constitutional rights and violated their human rights.

It drew attention to the 'Basic Principles on the Role of Lawyers', adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba in 1990.

It was attracted particularly to Principle 18, which states that, "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

This very same congress also unanimously adopted the 'Basic Principles on the Use of Force and Firearms by Law Enforcement Officials', which are guidelines similar to the Inspector-General's Standing Orders.

NONEIn particular, Principle 9 states, "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."

Malaysia as a participant in the congress agreed to adopt both these basic principles. One of Malaysia's representatives at this congress was the then Inspector-General of Police, Haniff Omar.

Today, Haniff is also a member of the Aminulrasyid killing investigation panel.

He should therefore be fully conversant with both sets of basic principles. Had the PDRM been equally knowledgeable, both incidents might never have occurred.

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