



大会

Distr.
GENERAL

A/HRC/11/NI/3
29 May 2009

CHINESE
Original: ENGLISH

人权理事会
第十一届会议
议程项目 6

普遍定期审议

马来西亚国家人权委员会^{*}提交的资料

秘书处的说明

人权理事会秘书处按照理事会第 5/1 号决议附件所载议事规则第 7 条(b)项的规定，谨转交附在后面的马来西亚国家人权委员会来文^{**}。议事规则第 7 条(b)项规定，国家人权机构的参与须遵循人权委员会议定的安排和惯例，包括 2005 年 4 月 20 日第 2005/74 号决议。

^{*} 国家促进和保护人权机构国际协调委员会赋予“**A 类**”认可地位的国家人权机构。
^{**} 作为附件，仅以原文印发。

ANNEX

The Government of Malaysia to fully commit with the UPR mechanism

The Government of Malaysia has made important commitments to the promotion and protection of human rights in Malaysia in its UPR, but more needs to be done to be in accordance with the spirit of the Universal Declaration of Human Rights 1948.

Malaysia has presented its UPR well in February 2009. In its report, the Government seems to have avoided the core issues of civil and political rights and has no concrete commitment to improve the situation. SUHAKAM and the civil society will support the Government in constructive ways should the Government open the way for an examination of the human rights issues that trouble our home state.

SUHAKAM welcomes the Government's action to amend the Human Rights Commission of Malaysia Act to enable SUHAKAM to fully comply with the Paris Principles and thereby retaining its 'A' status. The Amendment Bill will be tabled in the Parliament Session in June. The passage of the Bill itself has stirred much interest among civil societies. We hope that the present re-amended Bill will answer the ICC observation for compliance with the Paris Principles.

SUHAKAM expresses its hope that the Government as stated in its report will continue to carry out comprehensive reviews and studies on existing preventive legislations and move towards accessions of international human rights instruments such as ICCPR, ICESCR and CAT.

SUHAKAM welcomes the release of 13 Internal Security Act (ISA) detainees recently, and the new Prime Minister's announcement in his inaugural speech that a comprehensive review of the ISA will be conducted. In this regard, we urge the Government to also examine and repeal provisions for detention without trials in other legislations such as the Emergency Ordinance Act and the Dangerous Drugs Act. We also urge the Government to release the remaining detainees under the ISA and undertake steps to abolish the ISA. SUHAKAM is aware that there will always be a necessity for the State to have legal means to protect national security in times of peace and national emergencies. It seeks only that new laws to meet with specific situations and which are compliant with human rights principles be enacted in place of those that were legislated for situations in the past which no longer are the same.

The recent arrest of some bloggers, lawyers and general civilians demonstrates the intolerance of the government for freedom of expression and peaceful assembly. Article 10 of the Federal Constitution says that every citizen has the right to freedom of speech and expression; all citizens have the right to assemble peaceably and without arms; and all citizens have the right to form associations. The Article also has a saving clause that allows restrictions on such freedom and rights as the Parliament deems necessary in the interest of the security of the Federation. The public perception is that the Government has too often availed of the saving clause in the name of national security.

In the multicultural society of Malaysia, religion is a sensitive topic. Freedom of religion is guaranteed under the Federal Constitution. In the matter of conversion, when one parent converts to another religion, a divorce may arise, as well as the question of which religion will then be

followed by the children. There is also the question of settling an estate among family members after the death of a spouse who had converted to a different religion before his/ her death. Much controversies have arisen with regard to which court has the jurisdiction to determine the issue of conversion and matters related thereto. The jurisdiction of Shariah and Civil Courts should therefore be clearly defined to avoid uncertainty and confusion.

The proposal for a National Human Rights Action Plan (NHRAP) has been made by SUHAKAM to the Government since 2002. The position of the Government however continues to be non-participatory to any NHRAP consultations which necessarily include civil society. Malaysia is the only country in Southeast Asia with a NHRI that has no NHRAP. The formation of a NHRAP is very timely for realizing the recommendations which result from the UPR. It will be a democratic asset and a vehicle of cooperation between the Government and the civil societies.

Malaysia is host to thousands of migrants, both legal and illegal. Included are refugees and asylum seekers who assume worker status when they have no means of livelihood while trapped in the country. In the current economic downturn, Malaysia finds many migrants trying all means to stay in Malaysia, perhaps permanently. The situation has gained a human rights dimension where migrants are not given the same rights as the local people. Besides not ratifying the Refugee Convention, the Government's approach in combating this problem has simply been to arrest and punish them. Punishment varies from fines, imprisonment, deportation, or whipping. A more humane treatment should be given to the migrants and their rights should be considered on the grounds of basic human rights, even though they are not Malaysian. The children of migrants or refugees are the ones who suffer most since they have no access of schooling and education. This denies them chances for a normal and successful life in the future. SUHAKAM urges the Government to fully utilize the provisions as laid down in CEDAW and CRC to protect the rights of these migrant children. Pending ratification of the Refugee Convention and relevant ILO Conventions, a fair and humane system of treatment of migrant workers must be established to prevent economic exploitation of their labour.

Regarding Special Rapporteurs, the Government is urged to consider granting every of their requests to visit Malaysia, unless all or any refusals are justified with a formal notification of cogent reasons to UN agencies concerned.

SUHAKAM sincerely hopes that the Malaysian Government will uphold the interest and rights of all persons in Malaysia in a fair and just manner. We recommend that the Government to establish a Working Group under its auspices which includes SUHAKAM and civil societies, to follow-up on the issues raised in the UPR.

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