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人权理事会
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议程项目 3
增进和保护所有人权——公民权利、政治权利、
经济、社会和文化权利，包括发展权

马来西亚人权委员会提交的资料*

秘书处的说明

人权理事会秘书处根据理事会第 5/1 号决议附件中的议事规则第 7 条(b)项的规定，谨此转交以下所附马来西亚人权委员会提交的来文，** 根据该条规定，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。

* 具有增进和保护人权国家机构国际协调委员会赋予的“A 类”认可地位的国家人权机构。

** 附件不译，原文照发。

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Annex

SUHAKAM concurs with the initial findings and recommendations of the UN Working Group on Arbitrary Detention

The UN Working Group on Arbitrary Detention conducted a country mission to Malaysia on 7-18 June 2010, following an invitation from the Government of Malaysia. During this mission, the Working Group also met with relevant government and non-government bodies including the Human Rights Commission of Malaysia (SUHAKAM). A statement was released by the Working Group upon conclusion of its mission to Malaysia, on 18 June 2010, which outlines its initial findings and recommendations.

SUHAKAM concurs with the Working Group's initial findings and recommendations, which among others recommended that the Government repeal the four preventive laws, namely the Internal Security Act 1960 (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance 1969 (EO), the Dangerous Drugs (Special Preventive Measures) Act 1985 (DDA), and the Restricted Residence Act 1933 (RRA).

SUHAKAM is against arbitrary detention and recommends that the Government repeal all preventive laws in Malaysia as they are inconsistent with human rights principles. In 2003, SUHAKAM released a report entitled "The Review of the Internal Security Act 1960" for the Government's consideration. The report identifies long and short term recommendations in relation to the ISA. SUHAKAM urges the Government to repeal the ISA and replace it with a new and comprehensive law that takes a tough stand on threats to national security and, at the same time, is in line with human rights standards.

SUHAKAM welcomes the announcements made by the Prime Minister and the Minister of Home Affairs, that a review would be undertaken on the ISA and related laws including EO, DDA and RRA, to ensure a comprehensive change in dealing with security issues in Malaysia. SUHAKAM hopes that the review will lead to amendments that will not only complement the existing laws but are also consistent with human rights principles especially with regard to the detainees' right to personal liberty, the right to a fair trial and the right to be presumed innocent until proven guilty as enshrined in Articles 3, 10 and 11(1) of the Universal Declaration of Human Rights 1948 (UDHR).

SUHAKAM also notes the Working Group's recommendation, during its meeting with SUHAKAM on 16 June 2010, that SUHAKAM request for participation in the deliberations of the Advisory Board.

In addition, SUHAKAM is of the view that the Government should incorporate measures towards the abolition of preventive laws, in the soon-to-be-developed National Human Rights Action Plan.

Through SUHAKAM's regular visits to places of detention including prisons and immigration detention centres, SUHAKAM verifies that the conditions in prisons have improved nationwide, especially in relation to overcrowding. The introduction of the Parole System and the operation of new prisons in Machang (in the state of Kelantan) and Bentong (in the state of Pahang) have helped ease overcrowding. SUHAKAM recommends that the

Government make bilateral arrangements to repatriate foreigners, so that they can serve their sentence in their home country.[1]

However, the same cannot be said about immigration detention centres. The poor conditions in immigration detention centres have led SUHAKAM to recommend that the Government upgrade facilities in the centres, prioritise hygiene and cleanliness to prevent the spread of diseases and assign medical staff to be permanently based at the centres. SUHAKAM also recommends that the Government develop measures to identify and separate trafficking in persons among migrant workers.

SUHAKAM also welcomes the Working Group's recommendation for the Government to strengthen the status, powers and functions of SUHAKAM, in line with the Paris Principles and to take necessary measures to ensure SUHAKAM's "A" status is maintained in the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

SUHAKAM is pleased to be informed that on 28 January 2011, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) confirmed SUHAKAM's 'A' status. SUHAKAM records its appreciation to the Government for the constructive steps taken in the retention of SUHAKAM's 'A' status.

SUHAKAM hopes that the Government will take cognizance of the report of the Working Group and take necessary measures towards the abolition of preventive laws or, pending the abolition, to ensure the amendments that the Government intends to undertake, are in compliance with human rights norms.

[1] SUHAKAM Annual Report 2009, p.33.