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مجلس حقوق الإنسان  
الدورة الثامنة عشرة  
البند ٦ من جدول الأعمال  
الاستعراض الدوري الشامل

معلومات مقدمة من لجنة حقوق الإنسان في ماليزيا\*

مذكرة مقدمة من الأمانة

تحيل أمانة مجلس حقوق الإنسان طيه الرسالة المقدمة من لجنة حقوق الإنسان في ماليزيا\*\*، المستنسخة أدناه وفقاً للفقرة (ب) من المادة ٧ من النظام الداخلي الوارد في مرفق قرار مجلس الأمن ١/٥، وهي الفقرة التي تقضي بأن تتم مشاركة المؤسسات الوطنية لحقوق الإنسان استناداً إلى ترتيبات وممارسات وافقت عليها لجنة حقوق الإنسان، بما في ذلك القرار ٧٤/٢٠٠٥ المؤرخ ٢٠ نيسان/أبريل ٢٠٠٥.

\* مؤسسة وطنية لحقوق الإنسان اعتمدها لجنة التنسيق الدولية للمؤسسات الوطنية لتعزيز وحماية حقوق الإنسان ضمن الفئة "ألف".

\*\* مستنسخة في المرفق كما وردت، وباللغة التي قدمت بها فقط.

## Annex

### **SUHAKAM's interim report on the Universal Periodic Review (UPR) Implementation**

The Human Rights Commission of Malaysia (SUHAKAM) is a National Human Rights Institution (NHRI) accredited with 'A' status by the International Coordinating Committee for the Promotion and Protection of National Institutions (ICC). SUHAKAM is an independent statutory body established under an Act of Parliament namely, The Human Rights Commission of Malaysia Act 1999 to promote and protect human rights in Malaysia. It has the following four main functions:

- To promote awareness of and provide education relating to human rights;
- To advise and assist the Malaysian Government in formulating legislation and procedure and recommend the necessary measures to be taken;
- To recommend to the Malaysian Government with regard to the subscription or accession of treaties and other international instruments in the field of human rights; and
- To inquire into complaints regarding infringements of human rights.

Malaysia was reviewed by the UPR Working Group in February 2009 and accepted, among others, 62 recommendations on a broad range of human rights issues. Apart from its active participation at both the preparatory and review stages on Malaysia, the Commission also recognises the important role it plays in the post UPR stage as enshrined under Paragraph 33 of the HRC Resolution 5/1 which states that "the outcome of the UPR, as a cooperative mechanism, should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders".

Recognising its important role as a national human rights institution, the Commission has undertaken several steps to follow up and monitor the UPR recommendations. They include:

- Establishment of an Internal UPR Follow-up and Monitoring Committee comprising focal officers of various Working Groups/Divisions within the Commission;
- Awareness raising on the importance of UPR mechanism and Malaysia's obligations under the international human rights mechanism;
- Engagement with Government agencies and other stakeholders through consultation meetings and briefing sessions;
- Promotion of the integrated monitoring system by the Government
- Capacity building programmes;
- Sharing of best practices and contribution in UPR-related training materials; and
- Engagement with regional and international human rights bodies through information exchange and delivery of statements.

This report highlights the Commission's comments on the progress of the UPR recommendations' implementation in eight key areas as clustered below:

- Ratification of international human rights treaties
- Legislative reforms and judicial system

- Human rights of vulnerable groups
- Economic, social and cultural rights
- Trafficking in persons
- The right to education
- National strategies and policies on human rights
- Engagement with various stakeholders

**1.0 Ratification of international human rights treaties: Continue to undertake the appropriate steps and speed up its consideration in the ratification of the international human rights instruments**

1.1 The Commission welcomes the positive steps undertaken by the Government in respect of Malaysia's ratification to international human rights instruments. They include:

- Withdrawal of the reservations to Articles 1, 13 and 15 of the Convention on the Rights of the Child (CRC) in 2010.
- Ongoing studies on the remaining reservations to Articles 2, 7, 14, 28(1)(a) and 37 of the CRC
- Possibility of the ratification of the Optional Protocol (OP) to CRC on the involvement of children in armed conflict (OP-CRC-AC) and Optional Protocol to CRC on the sale of children, child prostitution and child pornography (OP-CRC-SC).
- Withdrawal of the reservations to Articles 5(a), 7(b) and 16(2) of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 2010.
- Further studies on the Optional Protocol to CEDAW (OP-CEDAW).
- Ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in 2010.

1.2 The Commission further welcomes the Government's initiative in establishing a Technical Sub-Committee to study four main international human rights treaties in its consideration to accede to the core human rights treaties. They include:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

1.3 Whilst the Commission welcomes these positive steps undertaken by the Government, it also hopes that the Government will speed up its effort towards the accession of all the core international human rights instruments and withdrawal of the remaining reservations it has made to CRC, CEDAW and CRPD.

1.4 The Commission refers to Paragraphs 21 and 22 of the CRC Committee report CRC/C/MYS/CO/1, which took cognizant of the independent monitoring role of the Commission in observing the implementation of the CRC at national and local levels.

1.5 The Commission, therefore, calls upon the Government to consider the justification papers it has submitted to the Government concerning the ratification of OP-CRC-SC and OP-CEDAW in 2010. The Commission looks forward to continue working closely with the Government in the implementation of international human rights standards at the domestic level.

**2.0 Rights of the vulnerable groups (women, children and persons with disabilities (PWDs): Continue to spearhead progress towards gender equality and development for women [...]; implement the comments and the recommendations of the CEDAW CRC Committees; actions and measures to promote the rights women, children and PWDs; implement necessary programmes and enhance status and participation of women [...]; improve protection of children victims of abuse and strengthen family institution [...]; prevent and combat disparities against children in the vulnerable groups [...]; and pay special attention to the issue of street children**

2.1 In addition to the Government's effort to ratify the OP to CRC and CEDAW, the Commission also notes the Government's measures in supporting women's participation in the work force through the following:

- Enforcement of Work Regulations (Part-time Workers) 2010 under the Employment Act 1955 to provide flexible working arrangements;
- Providing training to develop women entrepreneurs;
- Continued effort to mainstream the interests and concerns of women, children and PWDs at all levels through policy formulation and programme planning and legislation;
- Appointment of two female Sharia judges in May 2010;
- Establishment of a Special Committee chaired by the Minister of Women, Family and Community Development to implement gender sensitization programmes in the public sector towards enhancing women's representation in key decision-making positions within the parliament, state legislative assemblies, judiciary and ministries;
- Introduction of guidelines to address sexual harassment issues in the workplace and the possibility for the guideline to be made compulsory for employers' adoption and implementation;
- Increased maternity leave facility for female government servants with the flexibility to self-determined full-paid maternity leave, not exceeding 90 days from the previous 60 days;
- Continued measures to increase the female labour force participation rate.

2.2 The Commission welcomes the initiative by the Government to boost the appointment of women as members of board of directors in the private sector. In the recently launched New Corporate Governance Blueprint 2011, companies are recommended to put in place a policy that would ensure that women candidates are sought as board members, thus reflecting the Government's commitment in bridging the enormous gender gap in the composition of board members in Malaysia. Currently, women make up only 8.2% of all directors on boards of listed companies. In this regard, the Commission fully supports such measures and hopes that Government and relevant actors would take the necessary steps to ensure that the goal of reaching 30% women participation on boards by 2016 is achieved.

2.3 The Commission also echoes the proposal of the Government to enact a Gender Equality Act in Malaysia. The Commission deems it as another step forward to enhance women's rights and gender equality in the country following its amendment made to Article 8(2) of the Federal Constitution to include 'gender' as one of the prohibited grounds for discrimination in 2001. It is the Commission's hope that the proposed Gender Equality Act would be drafted based on broad consultation with relevant stakeholders and is in compliance with fundamental human rights principles, particularly CEDAW.

2.4 Noting the Government's initiative in addressing sexual harassment issues at the workplace, the Commission recommends the Government to:

- consider the enactment of an effective legislation on sexual harassment;
- review the Employment Act 1955, in particular, its scope of application and protective measures in tackling sexual harassment issues. The Act basically outlines the general conditions on employer/employee relationship but excludes a significant group of employees such as contract workers and domestic workers.
- implement effective training and rehabilitation programmes to prevent occurrence of sexual harassment in the workplace.

2.5 In respect of child rights, the Commission welcomes the Government for the positive moves it has made. They include:

- Formulation of the Child Protection Policy to ensure protection of the child from all forms of violence, abuse, neglect and exploitation.
- Introduction of an alert system namely "National Urgent Response (NUR) Alert (NUR 15999) and a dedicated line for children namely "Childline 15999" for the purpose of child abuse reporting;
- Establishment of shelter home which provides basic needs for the rescued street children in Menggatal, Sabah;
- Conduct of a study on street children in Sabah, particularly in the area of Kota Kinabalu.

2.6 The Commission further recommends the Government to strengthen its mechanisms to safeguard the basic rights of women and children in the vulnerable groups (eg. PWDs, Indigenous Peoples, migrant workers, refugees and asylum seekers as well as those placed in detention centres) by ensuring the realisation of their rights in social and health services, education and adequate legal protection measures.

2.7 The Commission records its appreciation to the Government particularly the Ministry of Women, Family and Community Development (MWFCD), for appointing the Commission as members to the National Advisory and Consultative Council for Children and National Advisory and Consultative Council for the Elderly. With these memberships, the Commission believes that it could play a greater role to ensure the rights and welfare of children and the elderly are safeguarded in the developmental agenda of the nation.

2.8 The Commission is further pleased with MWFCD's decision to appoint the Commission as a member that attends the meetings of the National Council for Persons with Disabilities (NCPWD), a national body responsible for monitoring the country's implementation of its obligations under the newly ratified Convention – CRPD. The Commission sees its participation in the NCPWD's meetings as a potential avenue contributing to its independent monitoring role as set forth in Article 33.2 of the CRPD. Nevertheless, in accepting the Ministry's invitation to the meetings, the Commission is also mindful of its role as an NHRI and will continue to maintain its independence as required by the Principles Relating to the Status of National Institutions (Paris Principles).

**3.0 Legislative reform and judicial system: Continue carrying out comprehensive reviews and studies on its existing legislation [...]; provide and improve programmes on human rights for the judiciary, law enforcers and lawyers; pursuing ongoing reforms aimed at restoring public confidants in the judiciary; strengthening the independence of the Bangalore Principles of Judicial Conduct; and establish an independent committee on the appointment of judges**

3.1 The Commission welcomes the announcement by the Government to review several pieces of legislation that are not in compliance with human rights principles, namely:

- Internal Security Act (ISA) 1960;
- Emergency (Public Order and Prevention of Crime) Ordinance 1969 (EO) ;
- Dangerous Drugs (Special Preventive Measures) Act 1985 (DDA);
- Restricted Residence Act 1933 (RRA).

3.2 The Commission hopes that the review is done in accordance with fundamental human rights principles, leading to a comprehensive change in the Government's measure in addressing security issues of the country while ensuring the detainees' rights to personal liberty, fair trial and 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).

3.3 Noting the Government is in the midst of revising the ISA, the Commission reiterates its call to the Government to ensure that the amendments are in line with and fully observe the following fundamental principles::

- Right to be informed of reasons for arrest and detention;
- Right to be brought promptly before a judicial authority;
- Right to challenge the lawfulness of the detention;
- Right to habeas corpus applications should not be limited to procedural matters only but challenges must reflect the original idea of such prerogative writs.

3.4 The freedom of assembly is an important component of a free and democratic society. The Commission has, over the years, called upon the Government to allow peaceful assembly to take place and to reiterate that people have the right to participate in a peaceful assembly, as guaranteed under Article 10 (1) (b) of the Federal Constitution and Article 20 (1) of the UDHR.

3.5 The Commission recommends that the Government repeal sub-sections (2), (2A)-(2D), (4), (4A), (5), (5A)-(5C), (7) and (8) of Section 27 and Section 27A of the Police Act 1967; and where the police find it necessary to control or disperse a crowd, the use of proportionate and non-violent methods should be employed.

3.6 The Commission welcomes the Prime Minister's announcement on the formation of a Parliamentary Select Committee on Electoral Reforms and a review of the existing media censorship laws. The Commission hopes that the Parliamentary Select Committee will be provided ample time to study the concerns of various groups and put forth recommendations which will ensure equal access to media, longer campaign period and automatic registration of all eligible voters as proposed by the Commission in its Annual Report 2007.

3.7 Over the years, the Commission has observed the arbitrary application of laws such as the Official Secrets Act 1972 (OSA), the Sedition Act 1948 and the Printing Presses and Publication Act 1984 (PPPA), leading to restrictions on the freedom of expression and information.

3.8 The Commission recommends that the government form an independent media council to self-regulate through mandatory industry code, enforced through a complaint bureau to arbitrate disputes or complaints and compliance monitoring.

3.9 The Commission welcomes several encouraging reforms and improvement in the judiciary. They include:

- Establishment of the Judicial Appointments Commission (JAC) in February 2009, to provide a more transparent mechanism in appointing judges.
- Establishment of a Special Committee to refine Shariah system ;
- Introduction of human rights subjects in the training programmes conducted by the Judicial and Legal Training Institute (ILKAP) for the judicial officers, public prosecutors, the Police and social workers involve in cases of children;
- Mechanisms to avoid delays in court cases, such as pro-forma judgments.

3.10 As follow-up to the Colloquium on Human Rights for the Judiciary it held in collaboration with the judiciary in 2009, the Commission looks forward to a closer engagement with the judiciary to promote integration of international human rights principles into judicial system.

3.11 The Commission is also in the midst of pursuing an amicus curiae role within the judicial process. It has, thus far, been granted leave to present its views in at least two cases in which issues pertaining to human rights were involved, with assistance from members of the Malaysian Bar.

**4.0 National strategies and policies on human rights: Further pursue national strategies and policies aimed at consolidating the human rights; continue to develop institutional framework with respect to the promotion and protection of human rights; continue positive effort to improve the human rights situation in the country**

4.1 The Commission commends the Government for agreeing to develop a National Human Rights Action (NHRAP) for Malaysia in 2010. The Commission also welcomes the appointment of the Legal Division of the Prime Minister's Department (BHEUU) as the focal agency to develop the plan.

4.2 The Commission deems it an important milestone as it signifies the important step undertaken by the Government to improve the promotion and protection of human rights in the country by placing human rights in the centre of public policy and goal setting. This will require the Government to ensure appropriate programmes, sufficient resources and necessary engagement with all stakeholders in reaching its goals.

4.3 The Commission is pleased to note the positive progress spearheaded by BHEUU in its preparatory stage of the NHRAP. The Commission had also attended two meetings organised by the latter to discuss the preparation of the plan.

4.4 The Commission reiterates the need for the Government to incorporate UPR recommendations into the NHRAP and to ensure broad participation by various stakeholders, towards ensuring a more comprehensive, realistic and effective national Plan.

4.5 The Commission also recommends the Government to consider establishing a Parliamentary Select Committee on Human Rights to look into human rights matters as an additional measure to uphold the rights of people in the furtherance of parliamentary democracy in the country.

**5.0 Economic, social and cultural rights: Continue to promote economic, social and cultural rights, particularly health, education and care for the disabled; continue to promote greater prosperity and improve the welfare of population, through education and health policies; share with international community good practices in matters of access to health [...]; share best practice and strategies in reduction of maternal mortality rates; continue and deepen current health plans [...]; further improve health care system and guarantee more extensive protection in this are [...]; continue to take effective policies to ensure adequate housing for all citizens [...]; continue set up policies and programmes to guarantee adequate housing at reasonable cost;**

**strengthen the monitoring mechanism at federal and district levels on poverty reduction [...]; reduce poverty and income limit disparities and share its experience with other countries**

**(A) Poverty Eradication**

5.1 The Commission commends the Government for its efforts and commitment to reducing poverty and eradicating hardcore poverty in Malaysia. The Commission supports the Government Transformation Programme, an effort by the current Prime Minister's administration, under which six National Key Result Areas (NKRA) have been identified, which include raising the living standards of low income households.

5.2 The Government, through various agencies has put in place a number of programmes which seek to address the issue of poverty. They include:

- 1 AZAM Programme which seeks to increase income generation of low income households;
- E-Kasih system, which is a registry system that keeps a database of poor households for the purpose of planning, implementing and monitoring programmes related to poverty reduction.

5.3 As of 31 December 2010, the Government has succeeded in reducing the number of registered hardcore poor households by 99.8 percent which is equivalent to 44,535 households. Conversely, the number of poor households has increased from approximately 210,000 households in 2007 to approximately 228,000 households in 2009. The increase is however, believed to be attributed to the global economic crisis.

5.4 The Commission hopes that the Government will continue prioritizing and eradicating hardcore poverty and poverty in the country and maintain its course in the implementation of effective programmes to ensure that such goals are met.

**(B) Healthcare**

5.5 The Commission acknowledges the positive developments that have taken place with regard to accessibility to healthcare in Malaysia in recent years. According to the Department of Statistics of Malaysia, over the period of 1990 to 2008, the infant mortality rate has reduced from 16 to 6 per 1000 live births. In addition, the average life expectancy at birth has increased from 69.2 years to 71.6 years for males, and from 73.7 years to 76.4 years for females between 1990 and 2008.

5.6 The Commission welcomes the Government's plan to transform healthcare to improve quality and provide universal access through various steps as highlighted in the Tenth Malaysia Plan 2011–2015.

5.7 Nevertheless, the Commission is concerned with a number of issues in relation to access to equitable healthcare in Malaysia as follows:

- that accessibility to health facilities and services is limited especially in the rural and remote villages. Indigenous communities are particularly affected by this predicament;
- that the efficacy of the implementation of outreach programmes such as mobile clinics and flying doctor service is impeded by several factors such as bad weather, floods, inadequate number of staff and vehicles.

5.8 The Commission welcomes the Government's introduction of the 1Malaysia Clinics, which are community clinics that are strategically placed throughout the country and cost a mere RM1 for citizens and RM15 for non-citizens for every treatment.



5.9 However, the Commission notes that services provided by the 1Malaysia clinics are only treatment for fever, cough, cold and other minor ailments and follow-up treatment for well controlled diabetes, hypertension and asthma. Treatment for other serious sicknesses is not provided. These clinics are managed only by assistant medical officers and trained nurses. In addition, although primary healthcare at public hospitals and clinics is provided at a minimal fee, some still cannot afford it because of extreme poverty. In addition, the cost of secondary and tertiary healthcare may not be affordable even to those with medium income.

5.10 The Commission commends the efforts made by the Ministry of Health to provide healthcare services to 13 immigration detention centres by assigning 14 hospitals and 17 clinics, which are in close vicinity to the detention centres, to assist in providing the healthcare services.

5.11 The Commission recommends that the Government assign medical personnel to be permanently based at the immigration detention centres. These personnel should conduct daily health checks and be on-call 24 hours in case of any medical emergencies.

**(C) Housing**

5.12 The Commission commends the Government for its commitment to improving rural basic infrastructure, which has been identified as one of the Government's six National Key Result Areas (NKRA) under Malaysia's Government Transformation Plan. Under this NKRA, an amount of RM1.32 billion has been allocated by the Government to provide 50,000 new and restored houses to the rural communities and to the hardcore poor by 2012. Approximately 33,333 of these houses will be constructed in the states of Sabah and Sarawak, where most of the poor and hardcore poor are located.

5.13 The Government has also introduced the Public Housing Programme (Program Perumahan Rakyat) and the Kuala Lumpur City Hall Public Housing Programme (Program Perumahan Awan DBKL), which seek to provide affordable housing for low-income households.

5.14 In the 2011 National Budget, the Government announced that RM568 million will be allocated to build 300 housing units under the Urban Housing Assistance Project, 79,000 units under the People's Housing Programme and 8,000 units under the Rental House Assistance Project. An additional allocation of RM50 million has also been set aside to assist estate workers to own a house under the Low Cost Housing Fund Scheme.

5.15 The Government also launched the "My First Home Scheme" in March 2011 providing an opportunity to those under the age of 35 earning not more than RM3,000 a month to own their first house.

5.16 The Commission views these efforts by the Government as positive steps in ensuring the right to housing for the population of Malaysia. The Commission hopes that the Government will continue with its policy that aims to provide adequate, affordable and safe houses to all Malaysians including the low-income groups.

5.17 In addressing issues concerning economic, social and cultural rights as a whole, the Commission strongly recommends that the Government ratify the International Covenant on Economic, Social and Cultural Rights.

**6.0 The right to education: Share with other developing countries its education development...to ensure that students, regardless of their location and background, have access to education; continue its positive path to support education; continue its effort to develop education as a great investment for the future; share experience in**

**strengthening education, in particular with multi-cultural and religious countries; continue providing educational facilities to students with special educational needs [...]**

6.1 The Commission appreciates the Government's commitment in improving and strengthening education, especially in terms of the amount of resources and financial allocation it continues to provide in the name of education over the years.

6.2 The Commission refers to the report "Malaysia: The Millennium Development Goals at 2010" which states that Malaysia is close and on track to achieving the second MDG - universal primary education by 2015. The report also states that gender gap in education participation has been eliminated at the primary and secondary levels. Nevertheless, for tertiary education, the level of women participation exceeds that of men by a ratio of approximately 3:2.

6.3 The Commission commends the joint initiative of the Ministry of Education and Prison Department for introducing the Integrity School Programme for juvenile offenders. The Commission hopes the relevant agencies will continue its efforts to assist the detainees in the rehabilitation and reintegration process.

6.4 Whilst the Commission acknowledges the encouraging strides that the Government has made in its education system, it hopes that the Government will intensify its effort to address the issues of non-schooling and learning problem of indigenous children.

6.5 The Commission also calls upon the Government to look into education needs of those children lacking Malaysian citizenship status such as children of refugees and asylum seekers, children of migrant workers, stateless children as well as street children, as highlighted in the Report of the Special Rapporteur on the Right to Education concerning his country mission to Malaysia in 2007. The report was presented to the 11th Session of the Human Rights Council in March 2009.

6.6 The Commission hopes that the Government will continue its efforts in promoting universal primary education and take necessary measures to address the issue of non-schooling children. To this end, the Commission recommends that the Government withdraw all its reservations with regard to the Convention on the Rights of the Child (CRC), including Article 28(1)(a), which calls upon state parties to make primary education compulsory and free to all.

6.7 In addition, the Commission is also concerned with the practice of caning in public schools as a measure to discipline students. The Commission reiterates the need for schools to look into more student-friendly alternatives in meting out punishment.

6.8 Since its inception in 1999, the Commission has been conducting various educational programmes to inculcate human rights culture among various stakeholders, particularly in schools. In 2009, the Commission, in collaboration with the Ministry of Education, have embarked on a pilot project namely "Human Rights Best Practices in Schools", to promote integration of human rights values and principles among the school community. Given the encouraging response from the participated schools, the Commission looks forward to working closely with the Ministry to promote good human rights practises to the entire educational system.

**7.0 Migrant workers and trafficking in persons: Continue positive engagement with neighbouring countries in combating trafficking in persons [...]; raising awareness of trafficking in persons [...]**

7.1 The Commission welcomes the Government's initiative in introducing the National Strategic Plan on Anti-Trafficking in Persons (2010-2015), which the Commission was involved in the drafting process, in its capacity as one of the members of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO). It is the

Commission's hope that the objectives of the Strategic Plan will be achieved within the timeline set.

7.2 The Commission appreciates the Government's continuous efforts to eliminate human trafficking and all forms of exploitation of both locals and foreigners, in particularly its extensive enforcement of the Anti-Trafficking in Persons Act 2007 (ATIP Act).

7.3 While the Commission welcomes the Government's amendments to the ATIP Act which entered into force on 15 November 2010, it is concerned with the inclusion of 'human smuggling' element in the amended ATIP Act. The Commission is of the view that trafficking in persons and smuggling of migrants should be treated as separate issues so as to avoid confusion and problem in identifying victims of human trafficking as smuggled migrants which could lead to human rights violations, since trafficked persons are victims of exploitation while smuggled persons are violators of immigration law.

7.4 The Commission took note of the Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, and the Government's response to the communication sent by Special Rapporteur concerning the amendments to the ATIP Act. The Government stated its full awareness of the difference between the crime of trafficking in persons and that of the smuggling of migrants. It also noted that crime of trafficking contains the element of exploitation; the non-requirement of illegal border crossing and the fact that victims of trafficking are treated as commodities. On the other hand, smuggling of migrants is identified mainly from the non-existence of the element of exploitation; the involvement of illegal border crossing and the fact that the smuggled migrants have paid for the illegal passage and are considered clients of the smugglers.

7.5 The Commission also welcomes various measures undertaken by the Government to avoid misidentification of trafficked persons as irregular migrants. They include: providing training courses for prosecutors and enforcement agencies as well as the development of a Standard Operating Procedures.

7.6 The Commission commends the Government for the protection it accords to the trafficked victims through providing shelter homes, counselling and medical treatment to the victims. In its response to the Commission's Annual Report 2010, the Government informed the Commission that, thus far, six shelter homes are operational while the Government is studying the possibility of gazetting trafficking shelters provided by NGOs.

**8.0 Engagement with various stakeholders: Continue cooperation with civil society in capacity-building and further improve people's lives; continue capacity programmes related to all aspects of human rights.**

8.1 HRC Resolution 5/1 has flagged the important need for the States to work, in a cooperative, with other stakeholders. The Council, in its adopted outcome of the review of HRC work and functioning, has further encouraged that States conduct broad consultation with all relevant stakeholders, in the UPR follow-up process .

8.2 The Commission welcomes the Government's initiative in conducting a Post-UPR Briefing Session for Civil Society Organisations (CSOs) in May 2010 to share the progress of UPR implementation by various Government agencies. The session had provided a platform for both the Government agencies and members of CSOs to exchange views and suggestions pertaining to the UPR follow-up.

8.3 The Commission also appreciates the Government's active participation in the Consultation Meeting on the UPR Follow-up held by the Commission on 20 December 2010 as well as a Briefing Session on the UPR Follow-up jointly facilitated by the Commission and the Office of the Commission for Human Rights (OHCHR) on 20 April 2011. A similar briefing session had also been conducted for members of CSOs on the same day.

8.4 Based on its discussion with various stakeholders on the UPR follow-up issues, the Commission observes that there is a need for the Government to enhance its engagement with the CSOs through more regular dialogue or briefing sessions in order to promote greater understanding among the civil society of the progress of UPR implementation as well as the possible role of various stakeholders could play in supporting the implementation of the UPR at both national and levels.

8.5 Given its unique position as an NHRI and the need for it to play a bridging role between the Government and other stakeholders, the Commission seeks to promote constructive engagement and collaboration effort among all key stakeholders in the advancement of human rights in the country. This will include sharing of best practices and expertise, capacity building and conduct of joint studies in human rights issues of common concerns.

## Conclusion

While the Commission welcomes the on-going efforts of the Government in following up on the UPR recommendations, it also hopes that the Government will take into consideration the core principles and objectives of the review in its follow-up process. They include:

- Focus on gender;
- Broad participation of all relevant stakeholders;
- Improvement of the human rights situation on the ground;
- Fulfillment of the State's human rights obligations and commitments;
- Assessment of positive developments and challenges faced by the State;
- Enhancement of the State's capacity and of technical assistance;
- Sharing of best practices among States and other stakeholders; and
- Encouragement of full cooperation and engagement with the HRC, other human rights mechanisms namely, Treaty Bodies and Special Procedures and the OHCHR.

The Commission applauds the significant changes derived from the outcome of the HRC review on the UPR mechanism, which allows NHRIs with 'A' accreditation to intervene immediately after the State under review during the adoption of the outcome report during the HRC plenary session as well as to have separate section for contribution of information. The Commission deems the decisions as significant recognition of the Council of the independent role of NHRI in improving the state of human rights in one's country.

Whilst the Commission strives to promote and protect human rights on the ground, it also recognises the importance of engaging international human rights mechanisms towards ensuring effective implementation of international human rights standards at the domestic level as enshrined in the Paris Principles adopted by the UN General Assembly under Resolution 48/134. In this regard, the Commission wishes to accord its appreciation to the OHCHR, the ICC and Asia Pacific Forum of NHRIs (APF) for their support and assistance rendered to the Commission in enhancing its engagement with regional and international human rights systems, particularly in the UPR process.

The Commission also registers its appreciation to the Government, civil society and various stakeholders for their valuable engagement and views which have enabled the Commission to discharge its mandate to promote and protect human rights in the country, with due respect of its independence.