

**A PERSPECTIVE OF HUMAN RIGHTS AND
FUNDAMENTAL LIBERTIES IN PART II OF THE
FEDERAL CONSTITUTION IN THE CONTEXT OF
THE HUMAN RIGHTS COMMISSION OF MALAYSIA
(SUHAKAM)**

**Dato' K.C Vohrah LLB (Hons) Singapore, LLM (Brussels)
Former, Judge of the Court of Appeal, Malaysia and Currently
Legal Consultant,
Messrs Lee & Hishamuddin, Advocates & Solicitors Kuala
Lumpur.**

**Adjunct Professor
UUM College of Law, Government and International Studies
Universiti Utara Malaysia**

The topic of Human Rights is hardly a subject that is taught in our Universities. I think it should be. And that, in fact, the principles of Human Rights explained in simple form should be taught, first and foremost, in schools.

It can be a complex subject and it is not static. Already commentators are talking about “generations” of Human Rights as it becomes more and more refined as the concept of Human Rights becomes entrenched in the system on international law and domestic law as well.

The “first generation” rights refer to those civil and political rights that are at the core of most human rights regime. Some of those rights are found in Part II of the Federal Constitution relating to fundamental liberties and also in other provisions of the Constitution.

The “second generation” Human Rights relate, generally, to matters of social and economic matters like the right to work, the right to social security, the right to education etc.

And then there is the “third generation” rights which you read more and more today - rights of development , right to a protected environment, right to peace and right to self determination.

Obviously we have to restrict ourselves today to some basic stuff, the parameters of which are shown in the title of this talk.

What I propose to do is to divide my talk into bite size subtopics or otherwise the amount of data can be overwhelming.

The sub topics are-

1. The Nature and Beginnings of Human Rights
Under this heading I will briefly trace the history on the development of Human Rights under International law which led to the Universal Declaration of Human Rights.
2. The Effect of the Universal Declaration of Human Rights
Under this heading I will examine what the Declaration means legally and whether it has the force of law in international law and under domestic law and the fact that many countries have adopted the principles from the Declaration.
3. The Principles under the Declaration
Under this heading some of the important principles will be looked into.
4. The Declaration and the Human Rights Commission of Malaysia (SUHAKAM) and Fundamental Liberties under Part II of the Constitution
Under this heading I will briefly examine the history leading to the law setting up the Human Rights Commission of Malaysia (SUHAKAM) with the incorporation of the Universal Declaration of Human Rights as a key feature of the law and its relation to the Fundamental Rights under Part II of the Constitution.
5. Role of SUHAKAM in Malaysia
Under this topic I will briefly examine the structure and competence of SUHAKAM and what it has done in the field of Human Rights in Malaysia.

The Nature and Beginning of Human Rights

Human Rights relate to the simple concepts of recognizing the inherent dignity of members of the human race. To adopt the plain

language of the United Nations in its publication, “*ABC teaching Human Rights*”, when children are born, they are free and each should be treated in the same way. They have reason and should act towards each in a friendly manner and there are rights everyone can claim despite being of a different sex, a different skin colour, speaking a different language, thinking different things, believing in another religion, owing more or less, being born in another social group or coming from another country.

To most right thinking people, the human rights which have been just stated are basic and indeed as human beings, in our family environment and the bigger community we live in, morals and values constantly impact on us and we actually become aware how each human should not treat another human and more importantly how states should not treat its citizens and those who live in their territory.

Basic human rights are not new. The morals and values of human rights can actually be traced through the history of religious beliefs and cultures throughout the world. Theories of natural law over the centuries that influenced the adoption of documents such as the Bill of Rights of England, the Bill of Rights in the United States, and the Declaration of the Rights of Man and of the Citizen on France were developed.

But these various Bills did not prevent atrocities from being committed by states against human beings because of race, religion, language and beliefs. During wars the atrocities become worse especially during the 1st and 2nd World Wars.

The 2nd World War saw large scale crimes perpetrated by Germany and its Axis Partners and Japan.

It was also during the 2nd World War that the Allies adopted the Four Freedoms: freedom of speech, freedom of assembly, freedom from fear and freedom from want, as their basic war aims. The United Nation Charter “reaffirmed faith in fundamental human rights, and dignity and worth of the human person” and committed all member states to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion”.

When the atrocities committed by Nazi Germany became apparent after the World War II, the consensus within the world community was that the United Nations Charter did not sufficiently define the rights it referred to. A universal declaration that specified the rights of individuals was necessary to give effect to the Charter's provisions on human rights and this was to give rise eventually to the Universal Declaration of Human Rights.

UN Charter

When we talk about the Universal Declaration Human Rights, a befitting start is the Charter of the United Nations of 1945. The opening words to the Charter state that the people to the United Nations have reaffirmed their "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small," and their determination "to promote social progress and better standards of life in larger freedom."

Article 1 of the Charter lists among the main purposes of the United Nations the achievement of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Similarly, in accordance with Article 55 of the Charter, the United Nations shall promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". In Article 56, all Members of the United Nations "pledge themselves to take joint and separate action in cooperation with the Organisation for the achievement of the purposes set forth in Article 55."

Human Rights Commission and the Universal Declaration of Human Rights

The Human Rights Commission, formed by the United Nations, under the stewardship of Eleanor Roosevelt, was charged with the responsibility of giving content to the human rights provisions of the United Nations Charter.

The General Assembly, at its 55th plenary meeting, on 11 December 1946, decided to refer the draft declaration submitted by Panama to the Economic and Social Council "for reference to the Commission

on Human Rights in its preparation of an international bill of rights". Considerable preparatory work was done by the Commission and the Economic and Social Council of the UN and a completed draft of the Declaration was presented to the plenary General Assembly, which adopted and proclaimed it as the Universal Declaration of Human Rights on 10 December 1948, a little more than three years after the entry into force of the Charter of the United Nations on 24 October 1945.

It was adopted and proclaimed as a common standard of all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The Universal Declaration was adopted by the General Assembly on 10 December 1948 by a vote of 48 in favor, 0 against, with 8 abstentions (all the Soviet Bloc states, Byelorussia, Czechoslovakia, Poland, Ukraine, USSR, as well as Yugoslavia, South Africa and Saudi Arabia).

The following countries voted in favor of the Declaration: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the Dominic Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Thailand, Sweden, Syria, Turkey, United Kingdom, United States of America, Uruguay and Venezuela.

The Effect of the Declaration

Since its adoption, the Declaration has exercised a powerful influence throughout the world, both internationally and nationally. Its provisions have been cited as the jurisdiction for various actions taken by the United Nations, and have inspired a number of international conventions both within and outside the United Nations. They have also exercised a significant influence on national

constitutions (for example India, Malaysia and other countries with modern constitutions) and on municipal legislation and, in several cases, on court decisions. In some instances, the text of provisions of the Declaration has been used in international instruments or national legislation, and there are many instances of the use of the Declaration as a code of conduct and as a yardstick to measure the degree of respect for and compliance with the international standards of human rights.

What is the effect of UDHR on municipal law? In *Merdeka University Bhd v Government of Malaysia* [1981] 2 MLJ 356 the High Court described the Declaration as a non binding instrument. The Court held that the Declaration is merely a statement of principles devoid of any obligatory character and is not part of the municipal law of the country. But this decision was well before the Human Rights Commission of Malaysia Act 1999 was enacted establishing the Human Rights Commission of Malaysia known by its Malay acronym (Suruhanjaya Hak Asasi Malaysia)(SUHAKAM). More about this aspect later in connection with the Fundamental Liberties under our Federal Constitution.

It has to be noted that since the Declaration in 1948, two other important documents came into the human rights regime in 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In 1976 another document, the Optional Protocol to the International Covenant on Civil and Political Rights was added to it. Unfortunately Malaysia is not a party to any of them though I know that SUHAKAM has started a study of these documents to find out if any of the provisions conflict with any of the provisions of our Federal Constitution.

The Principles Under the Universal Declaration of Human Rights

It will not be possible to go through the rights set out in the Universal Declaration of Human Rights in detail. In brief, Article 1 lays down the philosophical postulates upon which the Declaration is based: all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

The article thus defines the basic assumptions of the Declaration: that the right to liberty and equality is man's birthright and cannot be alienated, and that because man is a rational and moral being he is different from other creatures on earth and therefore entitled to certain rights and freedoms which other creatures do not enjoy.

Article 2 sets out the basic principle of equality and non-discrimination as regards the enjoyment of human rights and fundamental freedoms, elaborating the Charter provision that the United Nations should promote the observance of those rights and freedoms "for all without distinction as to race, sex, language, or religion". In paragraph 2 it expressly states that the Declaration is applicable to all countries and territories regardless of their status.

Article 3 proclaims three fundamental and interrelated rights: the right to life, the right to liberty and the right to the security of person. These rights are essential to the enjoyment of all the other rights. Article 3 thus serves as a cornerstone of the Declaration, introducing the series of articles (Arts. 4-21) in which the rights of every person as an individual are elaborated further.

The civil and political rights recognised in article 3 to 21 of the Declaration include the right to life, liberty and security of person; freedom from slavery and servitude; freedom from torture and cruel, inhuman or degrading treatment or punishment; the right to recognition everywhere as a person before the law; the right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair trial and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty; freedom from arbitrary interference with privacy, family, home or correspondence; freedom of movement; the right of asylum; the right to a nationality; the right to marry and to found a family; the right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; the right of association and of assembly; the right to take part in government; and the right of equal access to public service.

Article 22 introduces articles 23 to 27 in which economic, social and cultural rights - the rights to which everyone is entitled "as a member of society" - are set out. The article characterises these rights as indispensable for human dignity and the free development

of personality, and indicates that they are to be realised “through national effort and international cooperation”. At the same time, it points out the limitations of the realisation of these rights, the extent of which depends upon the resources of each State and of the international community.

The economic, social and cultural rights recognised in articles 22 to 27 include the right to social security; the right to work; the right to rest and leisure; the right to a standard of living adequate for health and well-being; the right to education; and the right to participate in the cultural life of the community.

The concluding articles-articles 28 to 30 recognize that everyone is entitled to a social and international order in which all human rights and fundamental freedoms can be fully realised, and stress the duties and responsibilities which each individual owes to the community. Article 29 states that in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society, and adds that in no case may human rights and fundamental freedoms be exercised contrary to the purposes and principles of the United Nations. Article 30 warns that no State, group or person may claim any right, under the Declaration, “to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth” in the Declaration.

The Declaration, the Human Rights Commission of Malaysia (SUHAKAM) and Fundamental Liberties under Part II of the Constitution

It is now time to turn to SUHAKAM (Suruhanjaya Hak Asasi Manusia Malaysia). After about 5 years of gestation SUHAKAM was established by the Human Rights Commission of Malaysia Act 1999. It came into operation on Sept 9, 1999. But the Commissioners were appointed only in 2000.

The late Tan Sri Harun Hashim, Vice Chairman of SUHAKAM till 2004, recalls how SUHAKAM was established,

... in 1993 Malaysia become a member of the United Nations Commission on Human Rights (UNCHR). Tan Sri Musa Hitam was appointed by the Malaysian government to represent the country on that Commission in 1993 and in 1995 he was elected to be the Chairman for the 1995 session. Ever since he began representing Malaysia on the UNCHR, Musa had to go around the world to speak about human rights, to tell countries that their record was not very good and to suggest that they established a National Commission. He then realised that we do not have much a commission ourselves in Malaysia. It took him six years to convince the government that we should establish a Human Rights Commission .. Finally it became law in 1999, and even then it took a long time to actually get the Commission appointed and functioning.

It has to be added that the Ministry of Foreign Affairs with diplomats who had been exposed to international meetings on human rights played a major role in spearheading the move to adopt the law setting up SUHAKAM.

The Declaration to Apply to Extent not Inconsistent With Part II of Federal Constitution

How far does the Act promote the rights contained in the Universal Declaration of Human Rights and other United Nations documents on those rights? What the Act says is that unless the context otherwise requires “human rights refers to (the) fundamental liberties as enshrined in Part II of the Federal Constitution”. Nothing is mentioned in the interpretation section about the Universal Declaration of Human Rights or the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights or the Optional Protocol or any other UN instrument. However, and importantly so, it will be seen that under s 4 (4), it has been expressly stated that for “(the) purpose of this Act, regard shall be had to the Universal Declaration of Human Rights to the extent it is not inconsistent with the Federal Constitution.” (*emphasis added*)

As observed earlier, years before the Act come into force, the High Court in *Merdeka University Bhd v Government of Malaysia* [1981]

2 MLJ 356 had described the Declaration as a non legally binding instrument. The Court held that the Declaration is merely a statement of principles devoid of any obligatory character and is not part of the municipal law. More recently in *Mohamed Ezam bin Mohd Noor v Ketua Polis Negara* [2002] 4 MLJ 449 the Federal Court stated that notwithstanding s 4(4) of Act 597 reference to international standards set by the Declaration and other UN documents on the right of access to counsel cannot be accepted as such declaration and documents are not legally binding on Malaysian Courts. This statement has been considered by many legal luminaries as being a statement that was not necessary for the disposal of the issue before the Court as the Court, in fact, did make a finding that the access to counsel that was provided after expiry of detention was unreasonable conduct and a violation of Article 5. Article 5(3) states that where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice. On the other hand, it has to be pointed out that the Act says regard shall be had to the Universal Declaration of Human Rights and the right of access to counsel in the Declaration is not inconsistent with the Constitution as the right of access to counsel is expressly provided in the Constitution.

The Declaration and Fundamental Liberties Constitution

Under the Constitution, fundamental liberties have been set out in Part II but there is nothing to prevent our Courts from using common law, going back to rights which in the words of *Lord Cooke of Thorndon in R v Secretary of State for the Home Department ex p. Daly* [2001] 3 All ER 433 are “inherent and fundamental to democratic civilised society. Conventions, Constitutions, bill of rights and the like respond by recognising rather than creating them.”

Some of the rights earlier sketched out briefly have their parallel in Part II of the Federal Constitution.

- (a) Article 5 - Liberty of a person (Declaration, Articles 3, 8, 9);
- (b) Article 6 - Prohibition of slavery and forced labour (Declaration, Article 4);
- (c) Article 7 - Protection against retrospective criminal laws and repeated trials (Declaration, Article 11(2));

- (d) Article 8 - Equality (Declaration, Articles 1, 2, & 7);
- (e) Article 9 - Prohibition of banishment and freedom of movement (Declaration, Article 13);
- (f) Article 10 - Freedom of Speech, (Declaration, Article 19) assembly and association (Declaration, Article 20);
- (g) Article 11 - Freedom of religion (Declaration, Article 18);
- (h) Article 12 - Rights in respect of education (Declaration, Article 26);
- (i) Article 13 - Rights to property (Declaration, Article 17).

A comparative study between the Declaration Articles and the Constitutional provisions would show that the two instruments are compatible with one another. And with the extrapolation of judicial wisdom following common law traditions and principles most of the principles will be found to be compatible. To be noted, too, is that other parts of the Malaysian Federal Constitution also confer important rights espoused by the Universal Declaration of Human Rights. Examples include:

- Part III : Citizenship rights (Articles 14-31) (Declaration, Article 15);
- Part IV : Right to Parliamentary democracy (Articles 32-72) (Declaration, Article 21);
- Part VIII : Right to a fair election and the right to participate in elections (Articles 113-120) (Declaration, Article 21 (3));
- Part X : Right to participate in the public service of the country. (Declaration, Article 21).

Paris Principles and SUHAKAM

The Malaysia Human Rights Commission is one of the many that have established by countries which have heeded the United Nation's call for the establishment of Human Rights Commissions in accordance with the *Paris Principles*.

Within the Commonwealth itself there are full commissions in 17 countries, amongst them Australia (established by the Human Rights and Equal Opportunity Commission Act 1986), Cameroon (established by the National Commission on Human Rights and

Freedoms of Cameroon Act in 1990), Canada (established by the Human Rights Act S.C. 1976-1977), Fiji (established by the Constitution of the Republic of Fiji Islands, 1997 and the Fiji Human Rights Commission Act 1999), Ghana (Constitution of Ghana 1992 and the Commission of Human Rights and Administrative Justice Act 1999) and India (established by the Protection of Human Rights Act 1993).

As for non-Commonwealth countries nearer home there are human rights commission in Thailand (established in 2001), the Philippines (established by the Constitution in 1987 with the Paris Principles being adopted in 1994), Indonesia (established in 1993 by Presidential Decree). Outside ASEAN, Mongolia and South Korea have their own Commissions.

The original concern of the United Nations with such institutions dates back to 1946 when the issues was first addressed by the Economic and Social Council. The Council asked Member States to consider “the desirability of establishing information groups or local human rights committees within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights”.

In 1960 the Economic and Social Council, in a resolution which recognized the unique role national institutions could play in the protection and promotion of human rights, invited Governments to encourage the formation and continuation of such bodies as well as to communicate their ideas and information on the subject to the Secretary-General.

From the 1960s to the 1970s, discussions on national institutions become increasingly focused on the ways in which these bodies could assist in the effective implementation of these international standards. In 1978, the Commission on Human Rights decided to organise a seminar on national and local institutions to draft guidelines for the structure and functioning of such bodies. A Seminar on National and Local Institutions for the Promotion and Protection of Human Rights was held in Geneva from 18 to 29 September 1978 during which a series of guidelines were approved.

The guidelines were endorsed by the Commission on Human Rights and by the General Assembly.

In October, 1991, the Center for Human Rights convened an international workshop to review and update information on existing human rights institutions. Participants included representatives of national institutions, States, the United Nations, its specialised agencies, intergovernmental and non-governmental organisations.

In addition to exchanging views on existing arrangements, the workshop participants drew up a comprehensive series of recommendation on the role, composition, status and functions of national human rights instruments. These recommendations, which were endorsed by the Commission on Human Rights in March 1992 (resolution 1992/54) and by the General Assembly in its resolution A/RES/48/134 of 20 December 1993, are commonly known as the Paris Principles and they are summarised as an annex in Fact Sheet 19 of the Office of the High Commission and they read as follows-

A. *Competence and responsibilities*

1. *A national institution shall be vested with competence to protect and promote human rights.*
2. *A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.*
3. *A national institution shall, inter alia, have the following responsibilities:*
 - (a) *To submit to the government, parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights. The national institution may decide to publicise them. These opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:*
 - (i) *Any legislative or administrative provisions, as well as provisions in relation to judicial*

organisation, intended to preserve and extend the protection of human rights. In that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights. It shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

- (ii) Any situation of violation of human rights which it decides to take up;*
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;*
 - (iv) Drawing the attention of the government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the government;*
- (b) To promote and ensure the harmonisation of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;*
 - (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;*
 - (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;*
 - (e) To cooperate with the United Nations and any other agency in the United Nations system, the regional institutions and the institutions of other countries which are competent in the areas of the protection and promotion of human rights;*

- (f) *To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;*
- (g) *To publicise human rights and efforts to combat all forms of discriminations, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs;*

B. *Composition and Guarantees of Independence and Pluralism*

1. *The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representative of:*

Non-governmental organisations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists;

Trends in philosophical or religious thought;

Universities and qualified experts;

Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. *The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the government and not be subject to financial control which might affect this independence.*

3. *In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall established the specific duration of the mandate. The mandate may be renewable, provided that the pluralism of the institution's membership is ensured.*

C. *Methods of Operation*

Within the framework of its operation, the national institution shall:

1. *Freely consider any questions falling within its competence, whether they are submitted by the government or taken up by it without referral to a higher authority, in the proposal of its members or of any petitioner,*
2. *Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;*
3. *Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations;*
4. *Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly consulted;*
5. *Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;*
6. *Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the protection and promotion of human rights (in particular, ombudsmen, mediators and similar institutions);*
7. *In view of the fundamental role played by the non-governmental organisation in expending the work of the national institutions, develop relations with the non-governmental organisations devoted to protecting and promoting human rights, to economics and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.*

Structure and Competence of SUHAKAM

While Act 597 establishing SUHAKAM came into operation on September 9, 1999 it was not, as stated earlier, until April 2000 that Commissioners were appointed.

When SUHAKAM was established it took about 6 years of gestation before it come into being. I have mentioned the observation of late Tan Sri Harun Hashim, the Vice-Chairman of SUHAKAM, on the big role then Tan Sri Musa played in the establishment of SUHAKAM.

It is also interesting to note another bit of insight, this time by Dato' Param Cumarasamy, Special Rapporteur, UN (see Proceedings of the National Consultation on SUHAKAM After One Year, May 5, Era Consumer at 43),

“(a) Param:

Let me tell you the history of SUHAKAM. Tan Sri Harun Hashim has mentioned, and it is also in the report, that SUHAKAM was first thought of by the government when Tan Sri Musa Hitam was leading the Malaysia delegation in the UN Human Rights Commission and then become the chairman of the Commission in 1995. It was during this period when Tan Sri Musa was chairing the session that I made my first presentation to the Human rights Commission. As soon as I come down from the platform, Tan Sri Razali Ismail happened to be there as he was then the Permanent Representative to the United Nations. In New York we had a discussion together and that's the time when Tan Sri Razali told me that the Malaysian government was interested in forming such a Commission. I welcomed that and I will give my moral support as long as it is a genuine Commission. Now, no doubt, there is truth to the fact that this was thought of way back before, but then something happened, We do not know what exactly happened. It was supposed to be brought into force much earlier. There was a delay for one reason or another and there were also some obstacles. Hence it was put on hold. Hence the rumour of the talk that it was actually just a PR exercise as the result of the Anwar Ibrahim and the “Black Eye Saga” and thereafter. However, it took five long years to actually form the Commission and that is why it was held up till 2000.

Nevertheless, when it was formed, I was one of the first to support it. In fact, I had a meeting with Tan Sri Musa

and had a long discussion with him. He told me exactly how it was going to happen. The same afternoon, I sent a note to Mary Robinson in Geneva to give all the support from her office to see that the HRC works in line with the Paris Principles”.

May be one day Tan Sri Musa, the (reluctant) to include or other wise? First Chairman of the Commission, will throw further insight into how the idea was mooted with the Government, the tribulations and the matter of the first appointment of Commissioners.

With this background the set up of the body can be dealt with.

So back to the legislation, Act 597, The Human Rights Commission of Malaysia Act 1999.

It is a short Act with 23 sections and it is not necessary to deal with all of them.

But before proceeding further it is necessary to see how “human rights” are interpreted in the Act. In the Act, unless the context otherwise requires the term “human rights” refers to “(the) fundamental liberties as enshrined in Part II of the Federal Constitution” (see s 2 of Act). Nothing is mentioned in the interpretation section about the Universal Declaration of Human Rights or the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol or any other UN instrument. However as has been noted under s 4 (4), it has been expressly stated that for “(the) purpose of this Act, regard shall be had to the Universal Declaration of Human Rights to the extent it is not inconsistent with the Federal Constitution.”

The avowed purpose for the establishment of SUHAKAM is for it to have powers for the protection and promotion of human rights. This is one of the purposes spelt out in the long title.

The functions of SUHAKAM are spelt out in s 4 (1) of the Act and they shall be –

- a) to promote awareness of and provide education in relation to human rights;
- b) to advise and assist the Government in formulating legislation and administrative directives and procedures and recommend the necessary measures to be taken;

- c) to recommend to the Government with regard to the subscription or accession of treaties and other international instruments in the field of human rights: and
- d) to inquire into complaints regarding infringements of human rights referred to in section 12.

It can be seen that the spelling out of the four broad functions in fairly wide language does take into account the responsibilities which appear in paragraph 3 of the summary of the Paris Principles which are in some ways overlapping.

It has to be pointed out that one of the first things that SUHAKAM did was to set up four working groups reflecting the functions set out earlier in paragraphs (a), (b), (c) and (d), i.e. the Education Working Group, the Law Reform Working Group, the Treaties and International Instrument Working Group and the Complaints and Inquiries Working Group. This is in conformity with B para 5 of the Paris Principles. Another working group was created later, the Economic and Cultural Working Group. Each working group has some Commissioners serving as members.

It has to be noted that SUHAKAM has a branch office each in Sabah and Sarawak, each office having a local Commissioner in charge. This is in conformity with B para 5 of the Paris Principles.

Powers of SUHAKAM

For SUHAKAM to function, protect and promote human rights it may exercise any or all of these powers under s4(2)-

- a) to promote awareness of human rights and to undertake research by conducting programmes, seminars and workshops and to disseminate and distribute the results of such research;
- b) to advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or authorities appropriate measures to be taken;
- c) to study and verify and infringement of human rights in accordance with the provisions of this Act;
- d) to visit places of detention in accordance with procedures as prescribed by the laws relating to the places of detention and to make necessary recommendations;

- e) to issue public statements on human rights as and when necessary; and
- f) to undertake any other appropriate activities as are necessary in accordance with the written laws in force, if any, in relation to such activities.

It has already been mentioned that for the purpose of the Act, regard shall be had to the Universal Declaration of Human Rights 1948 to the extent that it is not inconsistent with the Federal Constitution. (see s 4 (4) of the Act).

It will be noted that most of the powers spelt out in s 4(2), s 12, s 13 are broadly based, again, on the Paris Principles.

Inquiries

In regard to inquiries s 14 gives fairly extensive and useful powers to conduct a proper inquiry.

One of the most active areas where SUHAKAM seems always to be engaged in is the Complaints and Inquiries Working Group. Anyone who has had his human rights infringed can lodge a complaint to the Human Rights Commission. A number of complaints from individuals are normally received but quite a few have nothing to do with human rights infringement. There have complaints relating to in house disciplinary matters, inadequate compensation on land acquisition and other matters which really are matters for the courts and the Public Complaints Bureau and SUHAKAM accordingly writes to such aggrieved parties indicating that no human rights issues are involved and advising them to seek remedies elsewhere.

Sometimes before SUHAKAM can take steps to investigate or hold an inquiry on what appears *ex facie* to be infringement of human rights the matter gets into the hands of the court and SUHAKAM is then disallowed by law from proceeding further.

Complaints can be made by a group of persons facing a common problem or by NGOs.

In 2000 SUHAKAM on its own motion held its first public inquiry into an incident in the Kesas Highway on 5 November 2000 when

the police prevented a rally from taking place. After the inquiry the Panel made certain recommendations (see the Annual Reports 2001, SUHAKAM, 13-16).

In 2001 SUHAKAM through its Complaints and Inquiry Group made visits to Kamunting on complaints made on behalf of ISA detainees and again SUHAKAM made recommendations (see the Annual Report 2001, SUHAKAM 17 – 19).

In 2002 as a result of complaints by ISA detainees, relatives of these detainees, NGOs and as a result of extensive literature on the ISA and case law SUHAKAM did a review of the detention powers of the police (under s 73 of the ISA Act) and of the Minister (under s8 thereof) and came out with recommendations for the eventual repeal of the ISA, its replacement by a comprehensive legislation combating all conceivable areas of subversion and terrorism and for better conditions of detention at detention centers pending the comprehensive legislation.

Now, to the matter of the independence of SUHAKAM, criticisms point to three areas which they say show that the body is not independent, the selection and tenure of the Commissioners, the funding of SUHAKAM and the rule making power of the Minister of Foreign Affairs.

Independence of SUHAKAM

Membership of Commissioner

Under s 5(1), the Commission shall consist of not more than twenty members. Under s 5 (2), the Commissioners shall be appointed by the Yang di-Pertuan Agong, on the recommendation of the Prime Minister. This has attracted the criticism that the Government will pack the Commission with members who are sympathetic to the Government. Under s 4 (3) members shall be appointed from amongst prominent personalities including those from various religious and racial backgrounds. The objection of some critics is to the use of the words “prominent personalities”. Every Commissioners under s 5(4) shall hold office for a period of two years and is eligible for re-appointed. The criticism is that the tenure is too short for a Commissioner to learn anything about human rights in depth and be effective.

At the moment the Commissioners have been officers of the Public Service as either civil servants or medical doctors and some are serving professors from the universities. There is a surgeon from the private sector. Many of the members are women. Minority interests are served by members from Sabah and Sarawak. The present Chairman is legally trained, having been Attorney General of Malaysia at one time. Two other members are practising lawyers. There is a new section 5 (which has yet to come into force) replacing the existing section 5 (see Act A1353) which seeks to remedy the perceptions that the Government picks the Commissioner with Commissioners who are sympathetic to it. It also addresses the criticism that the tenure of an appointee at 2 years is too short. The provision reads-

5. (1) *The Commission shall consist of not more than twenty members.*
- (2) *The members of the Commission shall be appointed by the Yang di-Pertuan Agong on the recommendation of the Prime Minister who shall, before tendering his advice, consult the committee referred to in Section 11A.*
- (3) *The members of the Commission shall be appointed from amongst men and women of various religious, political and racial backgrounds who have knowledge of, or practical experience in, human rights matters.*
- (4) *A member of the Commission shall hold office for a period of three years and is eligible for reappointment once for another period of three years.*
- (5) *The Prime Minister may determine suitable mechanisms, including appropriate key performance indicators, to assess the performance of the members of the Commission in carrying out their functions and duties under this Act.*
- (6) *Such assessment shall be taken into consideration –*
 - (a) *by the Prime Minister before tendering his advice to the Yang di - Pertuan Agong for the reappointment of any member of the Commission under subsection (4); and*
 - (b) *for the removal of any member of the Commission under section 10. (emphasis added)*

There is a new section 11A, referable to new section 5(2) on the matter of consultation of a committee on who the members should be (see A1353 and A1357) which reads –

- 11A. (1) For the purpose of subsection 5(2), there is established a committee consisting of the following persons-
- (a) *the Chief Secretary to the Government who shall be the Chairman,*
 - (b) *the Chairman of the Commission; and three other members, of civil society who have knowledge of a practical experience in human rights matters to be appointed by the Prime Minister.*
- (2) *The member of the committees referred to in subsection (1) shall serve the committee for such period and on such terms and conditions as may be specified in the instrument of appointment.*
- (3) *The members of the committee referred to in paragraph (1) (c) may include former judges and former members of the commission.*
- (4) *The following person shall not be appointed as members of the committee under paragraph (1) (c)-*
- (a) *any person who is actively involved in politics and registered with any political party; and*
 - (b) *any person who is or was an enforcement officer.*
- (5) *The committee may determine the conduct of its own proceedings.*
- (6) *For the purpose of this section, "enforcement officer" means an officer of-*
- (a) *any Ministry, Department, Agency or any other body set up by the Federal Government, including a unit, section, division, department or agency of such Ministry, Department, Agency or body, conferred with enforcement functions by any written law or having enforcement powers;*
 - (b) *a body established by a Federal Law which is conferred with enforcement functions by that Federal law or any other written law;*

- (c) *a unit, section, division, department or agency of a body established by Federal law having enforcement functions; or*
- (d) *the joint service established under Article 133 of the Federal Constitution who is performing enforcement functions. (emphasis added)*

Funding

On the matter of funding what the Paris Principles seek is adequate funding to be provided by the Government. So far as SUHAKAM is concerned under s 19 (1) the Government shall provide the Commission with adequate funds annually to enable the Commission to discharge its functions under the Act. It is not suggested that the NGOs provide funding for the body nor is it not suggested that SUHAKAM should receive foreign funds and rightly that is prohibited. So far SUHAKAM has had no problems on its funding and I understand SUHAKAM does not envisage any.

Minister Makes Regulations

Lastly there is criticism that the power is given to the Minister to make regulations under s 22 of the Act. It would be more germane for the rule making power to be vested in the Commission it is argued but at the moment the regulations that may be made will be “for the purpose of carrying out or giving effect to the provisions of this Act, including for prescribing the procedure to be followed in the conduct of inquiries under the Act.” Any regulation that tries to whittle down the functions or powers of SUHAKAM can be challenged as being *ultra vires* that Act and hopefully there will be no such need for the challenge.

Some Issues of Human Rights

Corruption

We are well aware of how corruption may affect the political stability of a country. In this regard, the events that occurred in the Philippines during the reign of Marcos, in South Korea during the rule of President Kim Dae Jung and in Indonesia during the rule of

Suharto spring to mind. We are also well aware of how corruption can paralyse the economic system of a country. Corruption may lead to, for example, the decrease in the efficiency of public spending, the decrease in budget revenues, the rise in budget deficits and the hindrance of Foreign Direct Investment into a country.

However, perhaps many of us may not be aware that corruption can also have adverse consequences on the status of human rights of a particular nation. Corrupt political systems deny the fundamental right to democratic participation. Corrupt legal systems not only violate the basic right to equality before the law but also deny a person access to justice, thereby denying the person the right to a fair trial.

In addition, there are also actual alarming stories of how corruption has led the common people of a particular nation to suffer undue hardships. For example, at a conference that I attended, a speaker at SUHAKAM's Conference on Human Rights and Education, narrated a story of a country where in order to attain education for their children, parents must bribe teachers. The failure to do so would result in their children being denied their right to education, although the government of that country has in fact, apparently, allocated sufficient funds for the education of the young.

Similarly, there were reports in the media of horrifying stories of the loss of many innocent lives with many more injured because of the collapse of buildings in certain countries due to instability in their foundation; public officials approved the buildings illegal design changes and inherently unsafe construction in exchange for bribes. Thus, in these cases, the right to life of innocent people was put at risk as a result of a corrupt acts. Further, the right to a family life of the people who are left behind to pick up the pieces was also been infringed with the demise of their loved ones. No prosecution or conviction can reduce their sorrow. Once the right to life is lost, the damage is irreparable.

The examples that have just been mentioned are merely the tip of the iceberg as to how acts of corruption may infringe upon the fundamental human rights of the people. Corruption is arguably one of the greatest obstacles in fulfilling a nation's obligations to protect and promote human rights.

Police Investigations and Rights of an Arrested Person

Investigations have to be conducted in accordance with the law and human rights principles.

When a person is first arrested, it is fundamental that he or she be informed of the grounds of his or her arrest. Article 5(3) of the Constitution guarantees this right and it is absolutely crucial that the police and other enforcement officers adhere to the supreme law of the nation. From the point of view of the person who is arrested, it would be important for him to know why he is being denied his right to move around freely, as his right to personal liberty is enshrined in Article 5(1) of the Constitution. It would be important for him to know why he is being arrested to enable him to defend himself. SUHAKAM has in the past recommended that the constitutional right in Article 5(3) be strictly applied at all times and that the arrested person be given information as to the procedure in relation to the right to counsel, remand proceedings, interrogation while in custody, being charged in Court and the right to bail (see SUHAKAM : Report on the Rights of Remand Prisoners, 2002). That appears now to be the law.

Similarly, when a person is arrested, he or she should be conferred the right to consult counsel of his or her choice and this right ought to be exercisable immediately. An arrested person's right to counsel is guaranteed by Article 5(3) of the Constitution. Therefore to deny him or her, this right would inevitably mean acting in contravention of the Constitution. Equally, SUHAKAM views this right as a fundamental human right, a right which should be unfettered and exercisable immediately upon arrest. That apparently is now law.

Further, if a person is to be detained beyond 24 hours because investigations cannot be completed within that period, then he or she must be produced before a Magistrate. Article 5(4) of the Constitution imposes this solemn obligation, SUHAKAM has paid significant attention to the abuse of the remand procedure. It has constantly recommended strict compliance with s. 117 of the CPC, that persons arrested are brought before the Magistrate within 24 hours regardless of whether it is a Saturday, Sunday or a public holiday and that the police bail is employed for persons accused of or charged with a bailable or non-bailable offence.

Further, the arrested person should be allowed to speak during his or her production before the Magistrate. This is important because this is the first instance in which an arrested person is given the opportunity to be heard before an impartial officer body and it is also the first instance in which an official and impartial officer body may enquire as to the treatment of the arrested person by an enforcement officer during his or her arrest and detention.

Treatment of Detainees

There is also the matter of the treatment of detainees by law enforcement officials which is a major human rights problem around the world. Investigations, in particularly interrogations of detainees and witnesses, must be conducted in a humane manner. The dignity of detainees and witnesses must be respected at all times. This means, amongst others, that there must be no torture or other cruel, inhuman or degrading treatment when extracting confessions or statements. In any event, it must be remembered that confessions and evidence obtained through torture or other cruel, inhuman or degrading treatment will not be admissible in a court of law. SUHAKAM has urged the relevant authorities to issue guidelines and rules regulating arrests, interrogation and treatment of persons in police custody, to introduce a programme of education and training for police officers comprising standards prohibiting torture or any cruel, inhuman or degrading treatment and to adopt a professional and ethical code of ethics for the police force.

Freedom of assembly

One of the first public inquiries conducted by SUHAKAM was a public inquiry into the Kemas Highway incident on 5 November 2000 regarding, amongst others, the right to assemble peacefully and the improper and excessive use of force by the police and other authorities in crowd dispersal. Freedom of assembly is the right to gather to exchange ideas and to hold peaceful protests. This right is an important avenue for citizens to publicly express their views to the wider community. The right to assemble peaceably and without arms is guaranteed in Article 10(1) (b) of the Federal Constitution. The right to peaceful assembly was affirmed by the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police and its finding is that this right should not be restrictively interpreted. As this finding is very important reproduced below are

paragraphs 2.3.2 and 2.3.3. of the Report of the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police, at 306-307 :

The Commission's finding are as follows –

- i. Whereas Article 10(2) and (3) of the Federal Constitution only allows for restrictions on certain grounds, s27 of the Police Act allows the police to prohibit altogether the exercise of the fundamental right to hold assemblies, meetings and procession. This right is one of the most basic and indispensable of the fundamental freedoms necessary for the functioning of a democratic society and is provided for in the Federal Constitution. Section 27 therefore may be challenged as unconstitutional. Under s27(7) of the Act, the decision of the Chief Police and the Police Officer is final. This decision can be subject to review by the court but because it is often made at the last hour and the police often put blanket defence of “prejudicial to the interest of the security of Malaysia”, it is too late for the applicant to seek recourse in a court of law and get a satisfactory hearing.*
- ii. In practice, the police appear to wrongly apply a reversal of onus of proof in s27(2) of the Police Act in that when applying for a permit the organizers will have to satisfy the OCPD that the assembly, meeting or procession that is the subject of the application will not be prejudicial to the interest of the security of the country or excite a disturbance of the peace.*
- iii. The ground of “prejudicial to the interest of the security of Malaysia” in s27 is not defined anywhere, and it is, in practice, not open for the court to examine. The law has left open for the police to conceive what “security” is. It is thus easy for the police to shelter behind the term “security” when refusing a grant a permit under this restrictive or prohibitive as s27 of the Police Act.*
- iv. The addition of new s27A, S27B and S27C in the Police Act which allow the police to prohibit “any activity” in a private place, if it is directed or intended*

to be heard or participated by persons outside such private premises, has further eroded this fundamental freedom. The new provisions were introduced in order to enable the police to act against those who attempted to circumvent the requirement to obtain permits for meetings in public premises. Nevertheless the import of the new provisions is that even assemblies and meetings held in private places can be prohibited. This, in effect, spells the end of the freedom of assembly, speech and association provided by the Federal Constitution.

In view of the above, the Commission recommends that s 27 of the Police Act 1967 be amended and s27A, S27B and S27C be repealed ...

Not all assemblies are unlawful. An assembly is unlawful only if it is intended to overawe the Government by criminal force, to resist the execution of law or legal process, to commit an offence, forcible possession or dispossession or to compel any person to do an illegal act. Because it is often misconceived as a threat to national security and a cause of public disturbance, perhaps there is a need to differentiate between peaceful assembly and rioting, the latter clearly not in conformity with democracy and human rights. The right is one of peaceful assembly. For that reason, SUHAKAM has recommended that there should be restraint on the part of the police in the use of canes, batons, tear gas, water cannons and chemical irritants. Orders to disperse should be clearly audible, with sufficient time given to allow the crowd to disperse. Once the crowd disperses, the police should not chase and arrest those moving away or those who have moved away. Use of force (if required) should be in accordance to the principles of necessity and proportionality. Speeches and shouting do not render a gathering not peaceful and the presence of the police and riot police should be discreet. In 2006 SUHAKAM held a Public Inquiry called by the Media the Bloody Sunday Inquiry found that the Police used excessive force on the crowd and made several recommendation including the aspect of subsections (2), (2A) to (D), (4), (4A), (5A) to (5C), (7) and (8) of s27 to be repealed.

The Right to a Fair Trial

Every person should be conferred the right to a fair trial. Only where an accused person has access to a fair trial may the risk of arbitrary

detention be minimised. The respect for this right assumes greater importance today where it is at risk of erosion where the world is witnessing the very real threat of terrorism. In the wake of the bombings in London, Bali, Madrid and the September 11 attack in New York, vague and imprecise anti-terrorism laws mushroomed around the world, with the denial of due process, the right to fair trial and arbitrary detention as common features of these laws. At home, the Internal Security Act 1960 (ISA) has been used as a tool to counter alleged terrorist activities; there is no trial to find guilt before a person is detained. SUHAKAM has called for the repeal of the ISA and in its place a new comprehensive law be enacted that takes a tough stand on threats to national security and terrorism and provides a trial by a court of law before a person is locked up. The government has said the ISA is under study that there will be a number of changes to it. Hopefully the repressive aspects will be left out though there really is no substitute for detention only after trial on a charge.

The right to a fair trial is also relevant in the context of the right to be tried without undue delay. Articles 9(3) and 14(3) (c) of the ICCPR contain an explicit guarantee of the right to be tried without undue delay. At the domestic level, the Courts have read in a guarantee of the right to a fair hearing within a reasonable time as part of the right to life and personal liberty in article 5(1) of the Malaysian Federal Constitution in the case of *PP v Choo Chuan Wang* [1992] 3 CLJ (Rep) 329.

Conclusion

This article has briefly touched on some aspects of Human Rights law in Malaysia. The role of SUHAKAM on the development of Human Rights cannot be underestimated. One should also laud the concurrent activities of NGOs in that direction. And there are many other aspects which SUHAKAM has dealt with especially in regard to what are called the second generation rights i.e. economic, social and cultural rights and it is not possible to deal with them here.

Whilst the state of human rights in Malaysia leaves ample room for improvement, the task of ensuring the respect of human rights falls upon all of us - the government, the judiciary, the legislature, SUHAKAM, NGOs and of course the people of Malaysia who must remain vigilant to monitor breaches of human rights. Although the

State has the primary responsibility to promote and protect human rights, the onus to create a culture of rights is upon each one of us for the very basal fact that we are human beings. As Mr. Pino Arlacchi said at the 50th anniversary of the Declaration - it takes the dedication of the people to ensure that basic human rights are respected. We would have to realise that respect for human rights is not only relevant to post-conflict countries, but a precondition to peace and development in Malaysia. On its part, SUHAKAM, I think, will pursue rigorously its role under the Act to promote and protect human rights and it is hoped that the government and the courts will formulate and develop the law in an enlightened way.

Bibliography

- | | |
|---|--|
| Anderson, Sir Norman (1978) | Human Rights and Justice, Lecture 2, The Hamlyn Lectures (30 th Series) London, Stevens. |
| Bailey, SH, Harris, DJ; and Jones BC: | Civil Liberties Cases and Materials (2 ed)), Landon Butterworth. |
| Burdekin, Brian (2007) | National Human Rights Institutions on the Asia Pacific Region, Martinus Nijhoff Publications. |
| Dixon, Martin (2000) | Text book on International Law (4 ed)), London Blackstone Press Ltd. |
| Neyroud, Peter and Beckley, Alan (2001) | Policing, Ethics and Human Rights Wilan Publication. |
| SUHAKAM (2003) | Review of the International Security Act 1960. |
| SUHAKAM (2001) | Annual Reports 2001-2008, Kuala Lumpur. |
| SUHAKAM (2006) | Report of SUHAKAM Public Inquiry into the Incident on May 28, 2006 (a.k.a the Bloody Sunday Incident), Kuala Kuala Lumpur. |
| Sohn and Buergenthal (1993) | International Protection of Human Rights, Bobbs – Merrill Company Inc. |

- United Nations (April 1993) Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights, Geneva.
- Vohrah, KC (2003) “Human Rights and the Anti Corruptions Agency” paper presented at Penceramah Dalam Taklimat Perundangan Bahagian Siasatan BPR Bil 1/2003.
- Vohrah, KC (2003) The Universal Declaration of Human Rights 1948, 1st paper presented at Bar Council’s Human Rights Training Programme organized by Bar Council – 22-25 May.
- Vohrah, KC (2003) SUHAKAM - Human Rights Commission of Malaysia, 2nd paper presented at Bar Council’s Human Rights Training Programme organized by Bar Council, 22 – 25 May.
- Vohrah, KC (2003) Malaysia Human Rights Day Conference 2003 Conference, Opening Speech as Chairperson of Theme “The Judiciary and the Universal Declaration of Human Rights (9th September).
- Vohrah, KC (2003) Ratification of the Convention Against Torture, paper presented at Conference on Torture organized by Amnesty International, November.
- Vohrah, KC (2003) Human rights Commission of Malaysia (SUHAKAM) – Human Rights Activities and Issues, Speeches and Discussion Gwanju Forum For Asian Human Rights (Dec, 7 to 9, 2005) .
- Vohrah, KC (2006) The Independence of the Judiciary: Its Principles Within the Ambit of the Universal Declaration of Human Rights, paper presented at IKIM’s

Multaqa Sultan Azlan Shah dan Seminar “Kebebasan Kehakiman dalam Sistem Kehakiman & Bukan Islam”, 11 June, Kuala Lumpur.

Vohrah, KC (2006)

Perspectives in Modern Public Order Policing, Lecture at Seminar Ketua Polis Daerah held at Seminar Police Officers’ College, Cheras, 26 Nov. 2006; also published – Malaysian Journal on Human Rights, Vol 1.

Vohrah, KC (2007)

The Human Rights of Malaysia: Fulfilling its National Mandate, paper presented at Commonwealth National Human Rights Institutions, Marlborough House, London, 26-28 February.

Federal Constitution of Malaysia

Merdeka Universiti Bhd v Government of Malaysia (1981) 2MLJ 356

Public Prosecutor v Choo Chuan Wang (1991)3 LLJ (Rep) 329

Mohamed Ezam Bin Mohd Noor v Ketua Polis Negara(2002) 4 MLJ 449

R v Secretary of State for Home Department ex.p Daly (2001) 3 AU LR 433