

Sun, 6th Sept 2009 - That's the message NGOs have for Suhakam, whose powers are limited.

THERE were lofty expectations when Suhakam was formed on Sept 9, 1999. A decade on, many human rights advocates feel the commission has not lived up to them.

Last year's notice by the International Coordinating Committee of National Human Rights Institutions (ICC) to Suhakam over its failure to comply with the Paris Principles (which set international standards for independent national human rights institutions) and the threat of a possible downgrading in its rating bring various concerns into focus.

If downgraded, Suhakam will, among other things, lose its right to speak at the United Nations Human Rights Council.

Edmund Bon, chairperson of the Bar Council's Constitutional Law Committee, says: "Suhakam's numerous fact-finding reports on issues such as police brutality, freedom of assembly, education, children, women, the indigenous community and poverty have very progressive recommendations that are in line with international human rights norms."

But the government has consistently refused to adopt the recommendations. Thus, while more abuses and violations have come to the fore through Suhakam's reports, the authorities have not been active in solving the problems.

However, Bon notes people are aware that Suhakam continuously gives civil society and victims of rights abuses a platform to air their grouses. It has also been able to make human rights a normative subject in our society.

Human rights is no longer seen as a dirty word. More Malaysians understand its demands now and there is less fear and more acceptance of its principles.

Still Bon thinks "Suhakam lacks bite" and most observe that although it has potential, its efforts appear to be consistently thwarted.

Says K. Shan, the campaigns co-ordinator for Amnesty International Malaysia: "Suhakam has played a good responsive role in visiting detention centres, which helps prevent torture, and some of its commissioners are very committed. But in the larger picture, it has failed."

Inquiries are often done selectively and there are times when Suhakam adopts a defensive role. It also behaves like a civil service and can be bureaucratic when it comes to registering complaints.

Shan adds that the commission needs to be bolder, considering how the government has chosen to ignore it from the start. "It doesn't really seem to engage the public actively or push the human rights agenda."

He thinks Suhakam was more visible during (Tun) Musa Hitam's tenure, especially for condemning police action during the KESAS highway protests in 2000.

Most agree that the federal government's failure to debate the commission's annual reports in Parliament shows a lack of genuine respect for the commission.

That's the least the government should do if it's sincere about improving Malaysia's human rights record," says Dr Chandra Muzaffar, president of the International Movement for a Just World (JUST).

Thanks to the cybermedia, many issues have come to the forefront. However, the state's response to human rights activists leave a lot to be desired.

The right to peaceful assembly is a clearly established human right, yet the state tends to restrict this in accordance with its political needs. Now the government has promised to review restrictive laws such as the ISA; we shall see how far it goes. How much Suhakam has contributed is debatable, but it had a role to play.

It is unfortunate that some of Suhakam's excellent reports on human rights violations have not been given proper attention by the authorities. If the government is serious about listening to the will of the people, voices like Suhakam's cannot be ignored," Dr

Chandra adds.

Indeed, many civil society organisations have called for amendments to the Human Rights Commission of Malaysia Act 1999 (Act 597), under which Suhakam was established. Suara Rakyat Malaysia (Suaram) was among 44 NGOs that petitioned the government last year, calling for wider powers and mandates to be accorded Suhakam to promote and protect human rights in the country.

John Liu, Suaram's documentation and monitoring coordinator, elaborates: "Among other things, we asked for Suhakam's structural autonomy from the government and that it should report to Parliament, instead of the Prime Minister's Department."

The selection of Suhakam's commissioners should be transparent, consultative, free and fair, with public participation. The candidates should be credible, independent and competent in the field of human rights.

Commissioners should serve full-time like those in national human rights institutions in the Asean region and focus exclusively on human rights work, Liu adds. Their tenure should be extended to five years and the practice of re-appointment should immediately be dispensed with to ensure autonomy.

The groups also called for specific amendments to Act 597.

The definition of human rights under Section 2 of Act 597 should be amended so that Suhakam's jurisdiction can be widened to cover rights relating to life, liberty, equality and dignity of the individual as embodied in the Universal Declaration of Human Rights and other international human rights laws, Liu says.

Section 12(2) should be amended to prevent the limitation of Suhakam's power of inquiry by the simple means of taking matters to court. The commission should have the power to prosecute human rights violators.

Women's Aid Organisation (WAO) executive director Ivy Josiah says: "Suhakam raised the bar for human rights in the country but its mandate is limited. I would like to see individual commissioners embracing their roles and thinking out of the box to improve its effectiveness."

Suhakam must be seen to respond promptly and publicly. For instance, sentencing model Kartika Sari Dewi Shukarnor to be whipped for drinking beer is an act of violence by the state. Suhakam should be very visible in leading opposition to this.

Liu is critical of the commission's cautious stand on religious freedom. "Despite acknowledging freedom of religion as embodied in the Universal Declaration of Human Rights, Suhakam has maintained a rather safe position."

In its reports, it has not taken a clear position on several cases that have caused disputes over religious freedom (e.g. that of Lina Joy, M. R. evathi, S. Kaliammal and R. Subashini).

Its 2008 annual report has a response to the Bar Council's forum on the issue of conversion (which was forcibly disrupted by a mob of protestors) that says, "Suhakam supports the right to freedom of speech and expression. However, it is mindful that, when dealing with a sensitive subject like religion in a plural society, there is a need to respect the rights of everyone involved."

Liu says that instead of assessing individual commissioners, he is more inclined to look at Suhakam as an institution.

Several well-respected commissioners have opted not to continue because of the limitations they face in their work. Without a strong foundation based on international standards and best practices, it is very difficult for an institution to perform commendably, even with the best people serving it.

In recent years, perhaps Suhakam has had the most input in policy/legislative reforms. From its engagement in a series of dialogues with the government, NGOs and embassies, it published reports and a plan of action on the Anti-Trafficking in Persons Act, which definitely underlined the urgency of the issue and eventually led to the Act being enacted in 2007.

But as long as

the current scenario prevails, it looks like Suhakam will continue to be pressured by NGOs and the public to stand up to the government.

Bon says: It is absolutely necessary in any country to have independent NGOs, such as Suaram, WAO and AWAM. They set the benchmarks and provide the checks and balances. They are also able to highlight human rights abuses and respond more efficiently because that is their primary task.

Josiah concludes: Having been an activist for over 20 years, I can safely say that the human rights situation is one in which we take three steps forward and two steps back.

We may laud democratic elections results and greater freedom of expression through the Internet, but issues like peaceful public assembly and deaths in custody are still unresolved.

Suhakam needs to be bold. Its commissioners can no longer be civil servants but must function as the voice for those whose voices cannot be heard.