Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, 22/20, and 16/5.

In this connection, we would like to bring to your Excellency’s Government’s attention information we have received concerning numerous incidents of public harassment against COMANGO, a coalition of Malaysian non-governmental organisations (NGOs) engaging in the Universal Periodic Review (UPR) process, as well as the banning of COMANGO.

COMANGO comprises 54 NGOs and was the largest coalition to submit a stakeholders report for Malaysia’s UPR in both 2009 and 2013. The NGOs Suara Rakyat Malaysia (SUARAM) and Persatuan Kesedaran Komuniti Selangor (EMPOWER) act as co-secretariats.

Under section 7 of the Societies Act 1966, every organisation that wishes to carry out activities legally in the country must be registered with the Registrar of Societies (ROS). Any organisation that does not meet the requirements of section 7 constitutes an unregistered organisation, is therefore illegal, and may be subject to legal action under section 41(1)(b) Societies Act 1966.
According to sources, fifteen organisations in COMANGO have registered under the Societies Act 1966. These organisations are: Persatuan Kesedaran Komuniti Selangor (EMPOWER); Education and Research Association for Consumers Malaysia (ERA CONSUMER); All Petaling Jaya, Selangor Residents Association (APAC); All Women’s Action Society Kuala Lumpur and Selangor (AWAM); Association of Women with Disabilities Malaysia; Coalition to Abolish Modern Day Slavery in Asia (CAMSA); Society for Rights of Indigenous People of Sarawak (SCRIPS); Good Shepherd Welfare Centre; Malaysian Physicians for Social Responsibility; Persatuan Masyarakat Selangor Dan Kuala Lumpur (PERMAS); Perak Women for Women Society; Sahabat Wanita Selangor; Sabah Women’s Action-Resource Group (SAWO); Women’s Aid Organisation Malaysia (WAO); Kuala Lumpur and Selangor Chinese Assembly Hall.

According to sources, the following 38 member organisations of COMANGO are not registered under Societies Act 1966: Amnesty International Malaysia; Asean Institute for Early Childhood Development, Association of Women Lawyer’s (AWL); Centre for Independent Journalism (CIJ); Childline Malaysia; Christian Federation Malaysia; Community Action Network (CAN); Dignity International; Foreign Spouses Support Group; Health Equity Initiatives; Jaringan Kampung Orang Asli Semenanjung Malaysia (JKOASM); Jaringan Rakyat Tertindas (JERIT); Justice for Sisters; Pusat Komunikasi Selangor (KOMAS); Knowledge and Rights with Young People Through Safer Spaces (KRYSS); KLSCAH Civil Rights Committee; Land Empowerment Animals People (LEAP); Malaysians Against Death Penalty and Torture (MADPET); Malaysia Child Resource Institute (MCRI); Malaysia Youth and Student Democratic Movement (DEMA); Migration Working Group (MWG); PANGGAU; PS The Children; PI Foundation; People’s Service Organisation (PSO); Seksualiti Merdeka; Persatuan Guru-Guru Tadika Semenanjung Malaysia (PGGT); Persatuan Komuniti Prihatin Selangor Dan Kuala Lumpur; Rainbow Genders Society; Southeast Asian Centre for E-Media (SEACem); Sinui Pai Nanek Sengik (SPNS); SIS Forum (Malaysia) BHD (SIS); Tenaganita; Voice of the Children (VOC); Writers’ Alliance for Media Independence (WAMI); Women Centre for Change, Penang (WCC); Yayasan Chow Kit; Young Buddhist Association Youth Section; Child Right Coalition Malaysia (CRCM).

According to our sources, SUARAM belongs to the Coalition for Fair and Free Elections (BERSIH) and advocates for the reform of the electoral process in Malaysia. SUARAM is registered under the Companies Act 1965.

SUARAM has been the subject of communications dated 14 December 2006 (MYS 9/2006), 28 July 2011 (MYS 7/2011), 5 October 2012 (MYS 12/2012), 16 August 2013 (MYS 8/2013) and 18 November 2013 (MYS 12/2013). Furthermore, KOMAS has been the object of previous communications dated 12 July 2013 (MYS 6/2013) and 26 September 2013 (MYS 10/2013). We acknowledge receipt of the response of your Excellency’s Government to the communication dated 28 July 2011.

According to the information received:
On 2 October 2013, a forum entitled “Facing the threat of liberalism and Shi’ites” was allegedly launched. One of its reported aims, as described by the Coalition of Muslim NGOs in the UPR process (MUPRO), is to inform the public on the “threat of COMANGO’s demands”.

On 12 October 2013, the President of the Muslim Lawyers Association of Malaysia allegedly claimed that COMANGO is making demands at the UPR that threaten the position of Islam in Malaysia and warned that “Islam will come under the threat of apostasy and secularism if Putrajaya caves to COMANGO”.

On 13 October 2013, an editorial was allegedly issued in newspaper *Utusan Malaysia* claiming that COMANGO’s demands in the UPR are the “biggest threat” to Malaysia’s sovereignty and urged authorities to “act immediately including exposing the identity of the national traitors”.

On 16 November 2013, a Minister in the Prime Minister’s Department allegedly issued a statement urging Malaysian Muslims “to offer special prayers for the Malaysian government as it heads off to Switzerland to defend its human rights record before selected members of the United Nations,” and that “no party should raise issues that can challenge Islam as Malaysia’s official religion.”

On 18 October 2013, a nationwide sermon was issued by the Department of Islamic Development Malaysia (JAKIM). The sermon allegedly called on the authorities to “effectively deal” with COMANGO by taking action against them, and claimed that COMANGO wants “to take the opportunity to confuse and threaten the special rights of Islam”.

On 19 October 2013, a seminar entitled “The threat of liberalism by human rights organisations at the United Nations” was allegedly hosted by Islamic organisation Ikatan Mulimin Malaysia (ISMA) and the Islamic Da’wah Foundation Malaysia (YADIM). An official from the Department of Islamic Development Malaysia (JAKIM) reportedly delivered a special address at the seminar.

On 20 October 2013, MUPRO allegedly submitted a memorandum to the government protesting COMANGO’s UPR report and claimed that COMANGO intends to “threaten Islam and promote unnatural sex”.

On 22 October 2013, MUPRO allegedly accused COMANGO of “not respecting the position of Islam in Malaysia” and causing “confusion as if Malaysia is a secular country which treats all religions equally”.

On 23 October 2013, all 54 NGOs comprising COMANGO were allegedly listed in a two-page spread in the *Sinar Harian* newspaper under the headline,
“Demands can threaten harmony” and “They worship reason”, listing all of the 54 NGOs that comprise COMANGO.

On the same day, a Minister in the State of Pahang allegedly said of COMANGO that the Pahang government is willing to facilitate a “gathering of Islamic scholars from across the country to educate Muslims about the threat of these liberals”.

COMANGO was also allegedly accused by a member of Parliament of “insulting the federal constitution and trying to undermine Islam” and allegedly adding “we cannot support Lesbian, Gay, Bisexual and Transgenders (LGBT) persons as it is against the Islamic principle … Even cows without any grains knows how to choose its correct mate.”

On 24 October 2013, COMANGO was allegedly accused in Parliament of “interfering in religious affairs and threatens the dignity of Muslims when they urge unnatural lifestyles like LGBT to be allowed”.

On 28 October 2013, the President of the Muslim Lawyers Association described COMANGO’s human rights agenda was allegedly as “extreme threaten Islam’s sovereignty and position of Islam in the country”.

On 31 October 2013, a Member of Parliament allegedly urged the Registrar of Societies to “investigate the status” of the 54 NGOs comprising COMANGO and stated that “immediate action should be taken against any efforts to undermine the country’s laws and Islam”.

On 7 November 2013, a member of the NGO Ikatan Muslimin Malaysia (ISMA) allegedly attacked COMANGO on ISMA’s website and stated that Liberal Muslims were “‘extremists’ similar to those resorting to violence”.

On 8 November 2013, ISMA allegedly distributed 70,000 leaflets where they published information of the “masterminds” behind COMANGO, including their pictures. The leaflets allegedly stated that COMANGO is “anti-Islam” and will “continue their evil efforts”.

On 10 November 2013, COMANGO was allegedly accused of “treachery” and “attempts to help foreign powers colonise the country” in an editorial of the Utusan Malaysia newspaper. It also wrote that “some Muslims may react in an extreme manner and jeopardise the nation’s harmony”.

On 11 November 2013, the Minister of Islamic Affairs allegedly urged COMANGO to “respect the constitution and Islamic teaching and not hurl [baseless] accusations”, reminding that “the government would not hesitate to
take action against groups that spread beliefs that do not conform to the Islamic teachings”.

On 12 November 2013, a member of ISMA stated that COMANGO “has caused a stir among Muslim society in Malaysia” and that COMANGO’s “ridiculous demands” are “clearly based on the western views of human rights, and it’s against Islamic teachings.”

On 13 November 2013, a news report in Utusan Malaysia allegedly stated that if COMANGO “clearly goes against Islamic law… we must oppose it”.

On the same day, the President of Pertubhan Muafakat Sejahtera Masyarakat Malaysia (Muafakat) allegedly said the government “must take strict action against COMANGO following their extreme demands that are against the principles of Islam” and that this “this immediate action is to avoid them from daring to act and make other extreme demands”.

Furthermore, the president of the National Muslim Youth Association (Pembina) described COMANGO’s demands as “clearly threatening Islam as the official religion of the federation”.

On 14 November 2013, ISMA stated that “these liberals have no place in the hearts of Muslims in Malaysia”.

On 16 November 2013, ISMA allegedly announced a plan to launch “a nationwide campaign against COMANGO” in the form of plans for the “Save the People Campaign” (Kempen Selamatkan Umat), which will include fora on “the threat of liberalism to Islam” and “Christian threat to Malay survival”.

On the same day, the president of the NGO Jalur Tiga Malaysia (Jati) allegedly stated that COMANGO members “are out to turn Malaysia into an immoral state,” and that “these people in COMANGO should not be treated as Malaysians because they are a bunch of traitors. Malaysia should not have these people”.

On 18 November 2013, after a UPR briefing at the Institute of Islamic Understanding (IKIM) organised by MUPRO and the Islamic Da’wah Foundation Malaysia (YADIM), the head of MUPRO allegedly urged the government to create a “special ambassador to the Organisation of the Islamic Conference (OIC) as a long-term measure to combat COMANGO’s demands which are dangerous to Islam and the country”.

On 20 November 2013, the Minister for Islamic Affairs stated in an opening speech at the Forum on Universal Fundamental Rights that “human rights as
espoused by the Universal Declaration of Human Rights may cause discordance in the society”.

On 21 November 2013, the Chief of Information of Pribumi Perkasa Malaysia (Perkasa) allegedly published a statement saying that COMANGO’s demand on free sex aims to obtain public support so that a bisexual can become Prime Minister” and that he was “sure COMANGO was sponsored by those with a political interest in the country”.

On the same day, the chief of the Ulama Council of the political party PAS allegedly stated at the party’s Ulama Council Conference that COMANGO is “simply fighting for the right of the vice of unnatural sex” and that if left unchecked would “retard moral society”. He further allegedly urged Malaysians to “rise against this evil effort”. He also allegedly asked if COMANGO “has forgotten that it has exceeded the limits of the human rights of other communities” and that “Islam places the rights of society ahead of individual human rights”.

On 24 November 2013, a Member of Parliament allegedly stated that he would “bring the motion to Parliament so that all Muslim Members of Parliament… unite to oppose COMANGO’s demands… which include legalising LGBT, removing the special rights of Malays and forcing a Western secular liberal understanding of race”.

On 27 November 2013, Parliament allegedly rejected a motion to condemn COMANGO stating that it had “interfered and challenged the sanctity of Islam” and called upon the Registrar of Societies to investigate COMANGO. The motion was allegedly rejected.

On the same date, a Sengalor State Assembly member put forward a motion condemning COMANGO and stating that its “demands could undermine the faith of the people in Selangor”. This motion was allegedly rejected.

On 8 January 2014, the Ministry of Home Affairs issued a press statement declaring COMANGO to be illegal. The statement, issued by the Secretary General of the Ministry of Home Affairs, accused COMANGO of “among others, promoting rights which are not aligned with Islam such as... the rights of the LGBTIQ community”.

On 13 January 2014, COMANGO released a press statement responding to the decision of the Ministry of Home Affairs. In the statement, COMANGO reiterated that it is comprised of organisations registered under the Societies Act 1966, the Companies Act 1965, unincorporated associations, and civil society coalitions. COMANGO strongly urged the Government to rescind the statement of 8 January
2014, to approach engagement with all civil society in a meaningful and constructive manner, and to accept and implement recommendations made by member states of the United Nations Human Rights Council that will fulfil and equally enhance human rights for all peoples in Malaysia.

Grave concern is expressed at the mounting gravity of the opposition to the peaceful and legitimate work of the organisations comprising COMANGO. In light of the aforementioned public incidents of harassment against COMANGO, similar concern is expressed about the physical and psychological integrity of its members. Further concerns are expressed that the recent banning of COMANGO may be an act or reprisal for its engagement in the UPR process. In this connection, on 10 January 2014, on behalf of the United Nations High Commissioner for Human Rights, Ms. Navi Pillay, her spokesperson publicly expressed her grave concerns regarding what she believes appears to be an act of reprisal against COMANGO for its engagement with international human rights mechanisms. Concern is also expressed that members of COMANGO are being targeted on religious grounds.

Without expressing at this stage an opinion on the facts of the case, we would like to refer your Excellency’s Government to article 19 of the Universal Declaration of Human Rights which provides that “[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Similarly, we would like to refer to article 20 of the Universal Declaration of Human Rights which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

In this connection, we would like to further refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We also wish to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty
to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 13 which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the declaration.

With regard to article 7 of the Declaration on human rights defenders, the Special Rapporteur on the situation of human rights defenders has stated that the right to develop and discuss new human rights ideas is enshrined in the Declaration on Human Rights Defenders as an important provision for the on-going development and articulation of human rights. Article 7 provides for the right to discuss and advocate for human rights ideas and principles that, in some contexts, are perceived as new or unpopular because they address human rights issues that might challenge tradition and culture. In this connection, the Special Rapporteur has encouraged States to do the necessary to guarantee the principle of pluralism and recognize the right of defenders to promote and advocate for new human rights ideas or ideas that are perceived as new. She has further encouraged States to take additional measures to ensure the protection of defenders who are at greater risk of facing certain forms of violence and discrimination because they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes, including about sexual orientation and gender identity.

We would also like to recall resolution 17/19 of the Human Rights Council, where the Council expressed grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity.
Regarding the right to access and communicate with international bodies, we would draw the attention of your Excellency's Government article 5, paragraph c) of the Declaration which states that in order to promote and defend human rights and freedoms fundamental everyone has the right, individually or collectively, both nationally and internationally, "c) to communicate with non-governmental or intergovernmental organizations." Similarly, article 9, paragraph 4, states that "(a) (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms."

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, “condemns all acts of intimidation on reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (OP 2) and “calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (…)” (OP 3).

We would like to appeal to your Excellency’s Government to ensure the right to freedom of religion or belief is protected in Malaysia in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the UDHR and the ICCPR.

We would further like to recall article 2 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which stresses that “(1) No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief. (2) For the purposes of the present declaration, the expression “intolerance and discrimination based on religion or belief” means any distinction, exclusion, restriction or preference based on religion or belief and having the as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis”

With regards to the campaign against COMANGO for allegedly representing a “threat of liberalism to Islam” and a “Christian threat to Malay survival”, we would like to express our concern that such a campaign could lead to incitement of religious violence against members of COMANGO. We would therefore like to draw your Government's attention to paragraph 11 (k) of the General Assembly's Resolution 64/164 (A/RES/64/164) on religious intolerance and discrimination in which the General Assembly urges states "To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and
acts of violence, intimidation and coercion motivated by intolerance based in religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all part of the world."

Concerning the allegation that “the Government would not hesitate to take action against groups that spread beliefs that do not conform to the Islamic teachings”, we would like to recall that article 6 (i) of the Declaration sets out the freedom to “establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels”.

In this respect, we would also like to recall that in its General Comment 34 (on freedom of opinion and expression), the Human Rights Committee stressed that “[p]rohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26 of the ICCPR. Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.”

Furthermore, the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4, annex, appendix), makes clear that the related “Article 20 ICCPR requires a high threshold because, as a matter of fundamental principle, limitation of speech must remain an exception. Such a threshold needs to be read in consonance with article 19 of the ICCPR. Indeed the three part test for restrictions (legality, proportionality and necessity) also applies to incitement cases, i.e. such restrictions must be provided by law, be narrowly defined to serve a legitimate interest, and be necessary in a democratic society to protect that interest. This implies, among other things, that restrictions: are clearly and narrowly defined and respond to a pressing social need; are the least intrusive measures available; are not overly broad, in that they do not restrict speech in a wide or untargeted way; and are proportionate in the sense that the benefit to the protected interest outweighs the harm to freedom of expression, including in respect to the sanctions they authorise.”

With respect to allegations that COMANGO has been accused in Parliament of “insulting the federal constitution and trying to undermine Islam”, and the declarations of the chief of the Ulama Council of the political party PAS that “Islam places the rights of society ahead of individual human rights”, we would like to recall that the right to freedom of religion does not include the right to have a religion or a belief that is free from criticism or ridicule. Similarly, this right protects primarily the individual and, to some extent, the collective rights of the community concerned, but it does not protect the
religions or beliefs per se. In this regard paragraph 59 of the interim report of the Special Rapporteur of freedom or religion or belief presented to the General Assembly’s 68th session (A/68/290) stresses that “freedom of religion or belief is a right of human beings, […] not a right of the State.”

Moreover, we would like to call your Excellency’s Government’s attention to UN Human Rights Committee General Comment 22, paragraph 9, which observes that “The fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents to other religions or non-believers.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of COMANGO members in compliance with the above international instruments.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?

2. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please indicate the legal basis of the banning of COMANGO, and how this measure is compatible with the aforementioned international human rights norms and standards governing the right to freedom of association.

4. Please indicate what measures have been taken to ensure that all human rights defenders in Malaysia, in particular those working on the UPR process, and including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

5. Please indicate what measures have been taken by your Excellency’s Government to ensure that freedom of religion or belief are protected in Malaysia

We undertake to ensure that your Excellency’s Government’s response will be available in the report we will submit to the Human Rights Council for its consideration.
While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of COMANGO members are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

Given the seriousness of the allegations, we would like to inform your Excellency's Government that we are considering issuing a press release on the issues contained herein in the near future.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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