

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
MYS 2/2013

12 February 2013

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 15/21, and 16/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **on-going investigations against staff and secretariat members of the non-governmental organization Suara Rakyat Malaysia (SUARAM)**, under the Peaceful Assembly Act 2012.

SUARAM was the subject of a communication sent on 5 October 2012 by the Special Rapporteur on the right to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders. We regret that no response to this letter has been received as of today.

According to the information received:

On 30 November 2012, the police visited the premises of SUARAM with a view of informing the organization that an investigation under Section 9 of the Peaceful Assembly Act ("Notification of assembly") had been launched, in relation to an unauthorized peaceful assembly organized by SUARAM at the Companies Commission of Malaysia (CCM) on 18 September 2012.

On 5 December 2012, **Wong Kar Fai** and **Sarah Devaraj**, staff members of SUARAM, together with **Fadhiah Nadwa Fikri**, **Cynthia Gabriel**, and **K. Arumugam**, secretariat members of SUARAM, were issued notices under Section 111 of the Criminal Procedure Code ("Police officer's power to require

attendance of witnesses”), in which they were ordered to appear before the Brickfield police station on 7 December with a view to recording statements under Section 112 of the Criminal Procedure Code (“Examination of witnesses by police”). The five individuals requested the postponement of the recording to 7 January 2013.

On 7 January 2013, the five individuals went to the Brickfield police station as ordered, but they reportedly remained silent as permitted under Section 112 of the Criminal Procedure Code.

Concerns are reiterated that the latest investigations launched against the aforementioned staff and secretariat members of SUARAM under the Peaceful Assembly Act may be linked to their legitimate human rights activities, in relation to the exercise of their rights to freedom of peaceful assembly and of expression.

While we do not wish to prejudge the accuracy of these allegations, we wish to refer your Excellency's Government to article 20(1) of the Universal Declaration of Human Rights which provides that “[e]veryone has the right to freedom of peaceful assembly and association”.

We would like to further refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 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.”

In this connection, we would like 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 article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually

and in association with others, at the national and international levels, to meet or assemble peacefully.

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 observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please confirm the legal basis of the latest investigations launched against SUARAM. Please indicate how such measures are compatible with the aforementioned international human rights norms and standards.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report 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 the above mentioned persons are respected.

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders