

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
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**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 8/2013

16 August 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 the situation of Ms. **Cynthia Gabriel**, Secretariat Member of Suara Rakyat Malaysia (SUARAM), which works for the promotion and protection of human rights in Malaysia, and whose work has resonated positively at the regional and international levels.

SUARAM was the subject of several communications sent to your Excellency's Government by a number of Special Procedures mandate holders, including on 5 October 2012 and 12 February 2013. We acknowledge receipt of your Government's reply of 6 February 2013 to the former.

According to the information received:

On 19 July 2013, SUARAM organized a dinner with a view to raising funds to support litigation on a corruption case it has been pursuing before a French court, which allegedly involves Malaysian officials.

On 7 August 2013, Ms. Cynthia Gabriel reportedly went to the Petaling Jaya police station after being informed that a police report had been filed against SUARAM under Section 4(1) of the Sedition Act 1948 in relation to the aforementioned dinner. During the investigation, the Investigating Officer, who did not share the content of the police report, asked questions on SUARAM and its work and policies, including whether SUARAM was a company. Identical

questions were asked to SUARAM representatives by the Company Commission of Malaysia and the Registrar of Society from July 2012 to March 2013, before both entities withdrew all notices against the organization.

Serious concerns are expressed that the investigation of Ms. Cynthia Gabriel under the Sedition Act 1948 may be linked to her legitimate human rights activities, in the exercise of her right to freedom of association within SUARAM.. Further concerns are reiterated about the continuous harassment by authorities against SUARAM, which appears to be in retaliation for exposing the aforementioned corruption case.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer to article 19 of the Universal Declaration of Human Rights (UDHR), which provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Similarly, we would like to refer to article 20 of the UDHR 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.”

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 also 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 the following provisions of the Declaration:

- 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.
- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

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 summary of the case accurate?
2. Please confirm the legal basis of the investigation against Ms. Cynthia Gabriel, and how such measure is compatible with the abovementioned international human rights norms and standards.
3. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work without fear of threats or acts of intimidation and harassment of any sort.

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

person 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.

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