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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Aliran Kesedaran Negara National Consciousness Movement, a non- governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human rights abuses affecting the Indigenous Peoples of Malaysia*

The Indigenous Peoples of Malaysia represent around 12 per cent of the country's 28.6m population and are collectively known as Orang Asal.¹ Orang Asal have a close relationship to their lands, territories and resources which are significant not only as a means of livelihood but also as key to spiritual and cultural life, the core to the Orang Asal identity as Indigenous Peoples.

Malaysia is signatory to the basic principles outlined by internationally agreed conventions and declarations, for example the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), but the government has still not ratified ILO Convention 169.

In December 2013, the UN special rapporteur on the right to food, Olivier De Schutter, visited Malaysia and met with communities from nine indigenous villages. In his end of mission statement², De Schutter commented that *'At the heart of the recognition of the rights of indigenous peoples in international law, is the idea that indigenous peoples have a right to make decisions about their future as a people and should not face forced assimilation: they have a right to make decisions regarding their development path. It is this dimension, closely linked to the right of indigenous peoples to give their free, prior and informed consent to any change to their lands and territories that has proven the most contentious in Malaysia.'*

In March 2014, Malaysia completed its second cycle of the UN Universal Periodic Review (UPR)³ where many states including Bolivia, Denmark, Finland, New Zealand, Norway, Switzerland, Sweden and Venezuela made recommendations on the rights of Malaysia's Indigenous Peoples. Recommendations included allowing visits from the UN Special Rapporteur on the rights of Indigenous Peoples, taking measures with the full and effective participation of Indigenous Peoples and implementing plans and strategies that enhance the economic and social welfare of Indigenous Peoples.

Unfortunately the Malaysian government rejected seven of these recommendations stating that a task force has been set up to investigate the report of the National Human Rights Commission of Malaysia's (Suhakam's) National Inquiry into the Land Rights of Indigenous Peoples.

The report⁴ to which the Government refers was belatedly released in July 2013 and was prevented at Federal cabinet level from being tabled in parliament.⁵ The report concluded that among other issues, the Indigenous Peoples of Malaysia have been "forced to become Coolies in their own lands".

1 The Indigenous World 2014 – International Work Group for Indigenous Affairs - http://www.iwgia.org/iwgia_files_publications_files/0671_I2014eb.pdf

2 End of Mission statement by the Special Rapporteur on Right to Food Mission to Malaysia, 18 December 2013 - <http://www.ohchr.org/ch/NewsEvents/Pages/DisplayNews.aspx?NewsID=14113&LangID=E>

3 Universal Periodic Review Second Cycle – Malaysia <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MYSession17.aspx>

4 Report of the National Inquiry into the Land Rights of Indigenous Peoples – Human Rights Commission of Malaysia (Suhakam) -

<http://nhri.ohchr.org/EN/Themes/BusinessHR/Business%20Womens%20and%20Childrens%20Rights/SUHAKAM%20BI%20FINA.L.CD.pdf>

5 Free Malaysia Today – SUHAKAM Finding Sufficient, Task Force Unnecessary, 26 August 2013 -

<http://www.freemalaysiatoday.com/category/nation/2013/08/26/suhakam-finding-sufficient-task-force-unnecessary/>

Government development plans

Indigenous NGOs in Malaysia have expressed concern that Orang Asal representatives are not being consulted in the drafting of the government's latest development plan, also known as the Eleventh Malaysia Plan. The Eleventh Malaysia Plan will directly affect indigenous communities including their right to land.

The Sarawak State Government is now strongly pursuing the multi-billion dollar 'Sarawak Corridor of Renewable Energy' (Score), an immense industrialisation project comprising plans for a potential of up to 50 hydroelectric dams, vast palm oil plantations, smelter and mining projects.⁶ Despite the threat of irreparable harm to the lands and survival of the Orang Asal as a people, the government has failed to gain their free, prior and informed consent. The true scale of Score is unknown due to a lack of government transparency and affected communities have not been allowed to participate effectively in the decision-making process.⁷

On 3 October 2013, some 30 police officers went to break up a peaceful blockade set up by around 300 indigenous Penan on the road to the Murum Dam construction site. The Penan communities had raised a number of serious concerns regarding how the dam was planned and is being built, including how it is affecting their land rights and livelihoods.

While the Penan were in the process of negotiations with the company involved, 'Sarawak Energy Berhad' (SEB), SEB reneged on these negotiations by impounding the dam. The Penan felt they had no alternative but to set up a blockade in protest from 9 September 2013. The police arrested a Penan leader, Ngang Buling, and fired a shot into the air as a threat and warning to the Penan people.⁸

On 6 and 7 November 2013, 10 Penan who had been blockading the Murum Dam since the previous August were arrested at the blockade and were detained at the Belaga Police Station. The 10 were remanded in custody for three days. Two minors, Tingang Lingok, 13, and Philip Bujang, 16, were amongst them.⁹ On 30 November, the 10 were charged under section 447 of the Penal Code for illegal trespassing.

The combination of police pressure, threats, intimidation and continued impounding of the Murum Dam forced villagers to abandon their 77-day protest on 3 December 2013. The \$1.3bn Murum Dam project will flood 245 square kilometres, resulting in 1,500 Penan and 80 Kenyah natives losing their homes.

On 24 June 2014, Suhakam commissioner James Nayagam visited¹⁰ the Murum Dam resettlement site and concluded that the Penan communities are facing many issues including bad road conditions, making it difficult to transport children to school, and inadequate electricity. They are also still waiting for full compensation.

The 1,200 MW Baram Dam is next in line for construction under the Score project. On 23 October 2013, indigenous communities set to be affected by the Baram dam erected a blockade and demanded an end to all construction work at the dam site and its access road.

It is unclear how many Indigenous People will be resettled as a result of the Baram Dam project, as project information is not publicly available. It is estimated that up to 20,000 people will be affected. Communities in Baram have been

⁶ Sarawak Corridor of Renewable Energy Official Website - <http://www.recoda.com.my>

⁷ Sold Down The River: How Sarawak Dam Plans Compromise The Future of Malaysia's Indigenous Peoples – Bruno Manser Fonds, November 2012 - http://www.stop-corruption-dams.org/resources/Sold_down_the_river_BMF_dams_report.pdf

⁸ Malaysiakini – Police Arrest a Penan Near Murum Dam, 3 October 2013 - <http://www.malaysiakini.com/news/242874>

⁹ Free Malaysia Today – Release Penan Children, Police Urged, 10 November 2013 -

<http://www.freemalaysiatoday.com/category/nation/2013/11/10/release-penan-children-police-urged/>

¹⁰ The Borneo Post – Penans in Murum Face Myriad of Issues – Suhakam Commissioner, 24 June 2014 -

<http://www.theborneopost.com/2014/06/24/penans-in-murum-facing-a-myrriad-of-issues-suhakam-commissioner/>

vocal: they do not want to be moved from their ancestral lands or end up in conditions like those resettled/ relocated by the Bakun and Murum dam projects.¹¹

When the company (Sarawak Energy) refused to comply, the community chased out 30 workers who were conducting geological studies at the dam site and persuaded a further 29 to stop their surveying.¹² To date, indigenous communities in Baram continue to man their blockades and have so far collected 10,000 local signatures against the dam project.

Covert religious conversions

In some States, indigenous children from religious or faith minorities are exposed to Islamic religious instruction against their will. In October 2012, a group of parents lodged a police report against a teacher at an indigenous Orang Asli school near Gua Musang in Kelantan, for slapping four children because they did not recite the doa (Islamic prayer). The parents protested that the children were made to practise a religion that is not their faith¹³

On 20 January 2014, The Malaysian Insider reported¹⁴ that 64 Dusun people, including children from three remote and impoverished villages in Pitas, Sabah were allegedly tricked into converting to Islam in exchange for 'welfare assistance'. The communities were told to give their name and identity card number in exchange for 'financial assistance' at a local mosque.

Despite the communities being unable to read or write they were asked to sign a form using their fingerprints. These forms were later given to a church elder who informed the villagers that it was a consent form for conversion to Islam, and by putting their fingerprints to it, they had consented to be converted to Islam.

Christian NGOs in Sabah are currently engaging lawyers to seek legal redress and the villagers have lodged a police report urging the police to investigate their claim of 'covert conversion' so they can retain their faith as Christians. It is particularly worrying for non-Muslims who may have been tricked into converting to Islam as it is difficult under Malaysian Sharia law to rescind the conversion or convert out of Islam.

On 14 May 2014 it was reported that seven Iban parents from Balai Ringin in Serian, Sarawak complained to Parti Rakyat Sarawak (PRS) over attempts by a Muslim non-governmental organisation (NGO) to convert their Christian secondary school children to Islam under the pretext of an 'anak angkat' (child adoption) programme.¹⁵

Recommendations

We entreat the UN Human Rights Council and Permanent Missions to make urgent representations to the Malaysian Government, urging them to:

1. Ratify ILO Convention 169 and end all violence and harassment against indigenous peoples defending their native customary lands;

11 Baram Dam Blockade Support Site – Sarawak Report - <http://sarawakreport.org/baram/>

12 Bruno Manser Fonds Press Statement – Native Landowners Chase Out Baram Dam Workers, 26 November 2013 - http://www.stop-corruption-dams.org/campaign_update/?show=75

13 Malaysiakini - Orang Asli Children Slapped for Not Reciting Doa, 29 October 2012 - <http://www.malaysiakini.com/news/212654>

14 The Malaysian Insider - We were tricked into converting to Islam, claim Christian villagers in remote Sabah district – 20 January 2014 <http://www.themalaysianinsider.com/malaysia/article/we-were-tricked-into-converting-to-islam-claim-christian-villagers-in-remot>

15 Malaysiakini – Parents Angry Over Bid to Convert Children to Islam, 14 May 2014 - <http://www.malaysiakini.com/news/262769>

2. Invite the UN special rapporteur on indigenous peoples, Victoria Tauli Corpuz, for an official visit to investigate the enjoyment of human rights by the ‘Orang Asal’ Indigenous Peoples in Malaysia and to provide recommendations to the Malaysian government;
3. Consult Indigenous Peoples (Orang Asal) in a genuine and meaningful manner in drafting the Eleventh Malaysia Plan; and
4. Respect the principle of free, prior and informed consent, immediately halt all dam construction projects, and review the Sarawak Corridor of Renewable Energy (Score) and other development plans so that indigenous rights are respected.

* Suara Rakyat Malaysia (Suaram) NGO(s) without consultative status, also shares the views expressed in this statement.