

Memorandum on the concerted harassment against Suaram

Friday 21 September 2012, by [Suaram](#) (Date first published: 21 September 2012).

21 September 2012

MEMORANDUM TO SUHAKAM ON THE CONCERTED HARASSMENT AGAINST SUARAM BY THE GOVERNMENT AND ITS AGENCIES

The ongoing harassment on Suara Inisiatif Sdn Bhd ("SUARAM") by the government and its agencies is getting out of hand. SUARAM has since July 2012 been publicly persecuted by the government and its agencies. The chronology of events is set out in the following:-

- On 20th July 2012, in compliance with the notices of inspection dated 13th July 2012, SUARAM produced all documents and information to the Companies Commission of Malaysia ("CCM").
- On 30th August 2012, in compliance to a notice dated 3rd August 2012 from the Social Security Organisation ("PERKESO"), SUARAM produced all requested documents and information to the PERKESO office.
- On 5th September 2012, 2 officers from CCM served notices pursuant to ss 7C and 7D(1) of the Companies Act 1965 ("CA 1965") to SUARAM's company secretary and auditors. The S7C notices require the secretary and auditors to produce a list of documents to the CCM for investigation while S7D(1) notices require the secretary and auditors to appear at CCM on 10th September 2012 for investigation.
- On 7th September 2012, 2 officers from CCM served notices pursuant to s7D(1) CA 1965 to SUARAM's Finance Manager, Danapakiam Savari, Refugee Coordinator, Sarah Vanitha Devaraj, Directors, Dr Kua Kia Soong and Dr Yeoh Seng Guan and Executive Director, Enalini Elumalai.
- On 10th and 11th September 2012, SUARAM's company secretary and auditors were investigated by CCM. On 13th September 2012, Danapakiam Savari and Sarah Vanitha Devaraj were investigated by the CCM. CCM's investigation on Danapakiam Savari resumed on the 18th September 2012.
- On 11th September 2012, a meeting between the CCM, Malaysian Communication and Multimedia Commission ("MCMC"), Central Bank ("Bank Negara"), Registrar of Societies ("RoS"), PDRM and Home Ministry was held to determine the jurisdictions of respective agencies and actions to be taken against SUARAM.
- On 13th September 2012, SUARAM Chairman, Arumugam Kalimuthu received a notice pursuant to S7D(1) CA 1965 by way of registered mail and was summoned to appear at CCM on 19th September 2012 for investigation.
- On 19th September 2012, the RoS and PDRM visited SUARAM's office for an intended inspection on SUARAM. However, the team led by one Ganesh of RoS had to return empty handed upon being notified that SUARAM is a registered private limited company and is not a society under the purview

of the RoS.

- On the same day, Danapakiam Savari was again summoned to appear at the CCM on 20th September 2012 for further investigation vide a notice pursuant to S7D(1) CA 1965. The said notice was served at her residence at or about 9:15PM.

SUARAM is gravely concerned on the overreaching powers displayed by Minister of Domestic Trade, Co-operatives and Consumerism, Ismail Sabri Yaakob in interfering and influencing the on-going CCM investigation on SUARAM. Please refer to police report dated 20th September 2012 lodged against the Minister by SUARAM marked as "SUARAM-1"

It is pertinent to note that the CCM had only commenced its investigation on SUARAM on 10th September 2012. The planned persecution of SUARAM by the government and its agencies can be seen even prior to the commencement and continues throughout the investigation:

- On 3rd September 2012, the Minister announced to the public that SUARAM's accounts are "highly suspicious" and that 99.4% of SUARAM's activities are "money collecting".
- On 10th September 2012, the first day of investigation, the Minister announced to the public that CCM will press charges against SUARAM in 2 weeks' time.
- On 18th September 2012, the Minister announced to the public that his team is building a case premised on SUARAM's alleged "confusing" accounts. When pressed further to elaborate on his allegation, he said "...All kinds of things... they (SUARAM) do one thing and report another..." The Minister had also submitted CCM's investigation papers ("IPs") to the Attorney General's Chambers on even date despite the fact that SUARAM's Chairman, K. Arumugam's scheduled investigation on 19th September 2012.

SUARAM questions the integrity and overreaching powers displayed by the Minister's constant hovering above the Registrar of Companies and the Attorney General prior and throughout the investigations. We note with concern that the Minister, may have usurped the powers of the Registrar and the Attorney General and thus placed himself in an embarrassing position.

This is compounded by a report by BERNAMA dated 19th September 2012 whereby Deputy Solicitor-General II, Tun Majid Tun Hamzah confirmed that the IPs submitted by the CCM had to be returned because they were incomplete for the Attorney General to draft the charges.

SUARAM wishes to draw your attention to the recommendations made by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai on page 21 of A/HRC/20/27, Maina Kiai's report at the 20th Session of Human Rights Council dated 21st May 2012. For ease of reference, the recommendations are reproduced as follows:-

1. Any associations should be allowed to function freely, and their members operate in an enabling and safe environment;
2. Associations should be free to determine their statutes, structure and activities and to make decisions without State interference;
3. Associations should enjoy the right to privacy; and
4. Associations should be able to access domestic and foreign funding and resources without prior authorization.

Malaysia, as a member state to the United Nations Human Rights Council, must take heed of the recommendations made by the Special Rapporteur. Instead of taking the opportunity to learn and put to practice all valuable experience gained from other member states in the council, the government made racist remarks towards the Special Rapporteur.

The government has to realise that criticisms from critical organisations like SUARAM and other organisations are important and shall be welcomed and viewed as an added advantage for the government to understand the needs of the people. Undue harassment to silent these voices must be avoided at all costs.

On this note, SUARAM humbly requests from SUHAKAM the following:-

- To acknowledge actions and/or inactions of the government and its agencies against SUARAM as undue harassment;
 - To take an affirmative stand on the violations of fundamental freedoms and civil liberties arising out of the harassment against SUARAM;
 - To monitor and report on the violations of human rights and civil liberties of SUARAM by the government and its agencies;
 - To advise the government on the relevance and violations of fundamental freedoms and civil liberties by the government and its agencies;
 - To urge the government to immediately cease all forms of harassment against SUARAM and uphold fundamental freedoms and civil liberties;
 - To condemn the harassment and violations against SUARAM;
 - To overlook and commit to end the harassment against SUARAM;
 - To advise the government on its role as a member state to the United Nations Human Rights Council;
 - To uphold the right to freedom of association enshrined in the Federal Constitution in line with international standards;
 - To take an affirmative stand on the issue of perversion of civil servants by the government;
 - To condemn the perversion of civil servants by the government;
 - To take a stand on the Minister's over reaching powers in interrupting and influencing the investigations by the CCM;
 - To acknowledge the normalcy of foreign funding to organisations in Malaysia; and
 - To take a stand on the issues of foreign funding to organisations in Malaysia.
- We look forward to a favourable response from SUHAKAM.

Thank you.

Submitted by:

Nalini Elumalai

SUARAM
