



[Joint Statement] SUHAKAM and its Chairperson must uphold highest transparency and integrity during investigations on defamation allegations

(30 June 2023, Bangkok/Kuala Lumpur) The Asian NGO Network on National Human Rights Institutions (ANNI) and Suara Rakyat Malaysia (SUARAM) express concern about the recent civil defamation suit filed by the Chairperson of Suruhanjaya Hak Asasi Manusia (SUHAKAM) (“Commission”) – the national human rights institution of Malaysia – against the Deputy Secretary of the Commission.

We call upon the Chairperson and the Commission to follow due process during the investigation on the staff member’s allegations.

On 24 May 2023, SUHAKAM’s Chairperson – Prof Dato’ Dr. Rahmat Mohamad – filed a civil defamation suit (WA-23NCvC-28-04/2023)¹ against one of the Commission’s staff members – Shahizad Sulaiman – the Deputy Secretary, following the latter’s formal complaint against him on 10 April under Section 12(1) of the Human Rights Commission of Malaysia Act, alleging racial discrimination and abuse of power over a recent staff appointment.²

The decision of the Chairperson to proceed with filing a civil defamation suit against a staff member, without first undergoing an impartial internal investigation and due process, came across as an alleged attempt to circumvent internal investigations on this matter. This is in the context of Section 12(2) of the SUHAKAM Act, which states: “the Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which— (a) is the subject matter of any proceedings pending in any court, including any appeals; or (b) has been finally determined by any court.”³

¹The defamation suit can be found here (in Bahasa Malaysia):

<https://drive.google.com/file/d/1pCwW72dQFP7McBj9XC0IwiHYftW3IS2/view?usp=sharing>

² <https://aliran.com/civil-society-voices/suhakam-chairpersons-defamation-suit-against-staff-places-institutions-human-rights-mandate-and-integrity-in-jeopardy>

³ https://www.suhakam.org.my/wp-content/uploads/2013/11/Act-597-Human-Rights-Commission-of-Malaysia-Act-1999_as-at-1-Dec-2011.pdf

Following media scrutiny on this decision⁴ and more so after the press conference on this issue by SUARAM on 16 June, the Commission released a statement acknowledging the Chairperson's decision to withdraw the defamation suit, in order to "enable an independent and impartial internal investigation into the allegations."⁵

According to SUAHAKAM's press release on 24 June, the Commission will refer the allegations involving the Chairperson to the Prime Minister's Department's Legal Affairs Division (BHEUU) for "advice and direction to ensure the inquiry remains transparent and independent."⁶

While this decision was a welcome step in working towards ensuring a fairer process, SUHAKAM's own acknowledgement of its limited authority in investigating complaints against its commissioners is a key concern. Questions also remain on the fairness, efficiency, transparency, and confidentiality of SUHAKAM's current internal complaint mechanisms for all its members, especially concerning grievances against Commissioners and if these include provisions that protect staff from retaliation.⁷

If the Commission does not address these critical concerns in a timely manner, there is a great possibility for the imposition of a climate of fear, where whistleblowers coming forward with legitimate complaints may be deterred or silenced. This would potentially affect the Commission's credibility and effective functioning, hence raising further concerns about institutional transparency, accountability, integrity, and even legitimacy.

ANNI and SUARAM call on SUHAKAM and its Chairperson to pay heed to these serious concerns and to follow due process during investigation on defamation allegations. We urge the following measures to be taken in this regard:

⁴<https://www.google.com/url?q=https://www.malysiakini.com/news/668935&sa=D&source=docs&ust=1687865201547162&usg=AOvWawID4XG88RSDbgz2hmwAsSD>

⁵ https://suhakam.org.my/2023/06/press-statement-no-17-2023_-withdrawal-of-defamation-suit-to-facilitate-independent-investigation-into-allegations-kenyataan-media-suhakam-no-17-2023_-penarikan-balik-saman-fitnah-untuk-membantu-si/

⁶ https://suhakam.org.my/wp-content/uploads/2023/06/Press-Statement-No.-20_Allegations-Made-Against-the-Chairman-and-Concerns-Raised-by-Various-NGOs-Regarding-the-Internal-Activities-of-SUHAKAM.pdf

⁷ <https://www.suaram.net/post/suhakam-chairperson-must-go-on-garden-leave-pending-external-investigation-outcome>

1. The Chairperson must take garden leave from his duties pending the external investigation outcome to ensure an impartial, safe, and independent investigation for all parties involved.
2. SUHAKAM must provide timely updates about the consultation with BHEUU and the timeline by which the independent inquiry will be conducted and concluded.
3. The Commission must also make transparent the identity and credentials of the external independent body that will be investigating the allegations made by the Deputy Secretary against the Chairperson, with full disclosure of organisational interests if any.

We hope that SUHAKAM will uphold the greatest levels of integrity and impartiality in this matter, and that it will work towards ensuring measures that will avoid jeopardising SUHAKAM's credibility as an 'A' status NHRI in accordance with the Paris Principles.

About the Asian NGOs Network on National Human Rights Institutions (ANNI):

The Asian NGOs Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI currently has 33 member organisations from 21 countries or territories. ANNI members work on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). The Asian Forum for Human Rights and Development (FORUM-ASIA) has served as the Secretariat of ANNI since its establishment in 2006. <http://l.forum-asia.org/ANNI>

About SUARAM

SUARAM has conducted extensive documentation, monitoring and advocacy work relating to police brutality, torture prevention and arbitrary detention over the past 30 years. Apart from advocacy in this area, SUARAM is also the coordinating body for the Movement for the Abolishment of the Sedition Act 1948 (GHAH), organiser for Youth Internet Governance Forum 2019, Co-secretariat for Malaysian CSO Cluster for Reform

and Co-Secretariat in the Coalition of Malaysian NGO in the UPR Process (COMANGO). SUARAM is also part of the national network coordinated by the National Human Rights Commission of Malaysia (SUHAKAM) called ACT4CAT, a network that advocates for UNCAT ratification by Malaysia. SUARAM is also a member of regional and international organisations including FORUM-ASIA (one of the founding members), Asian Alliance against Torture (A3T, one of the founding members), FIDH, OMCT and I4C. For more details about SUARAM, visit: <https://www.suaram.net/>

For further information, please contact:

- ANNI Secretariat, FORUM-ASIA, anni@forum-asia.org
- SUARAM, suaram@suaram.net

For media inquiries, please contact:

- Communications and Media Programme, FORUM-ASIA, communication@forum-asia.org