



Memorandum of Understanding (MOU) between the Human Rights Commission of Malaysia (SUHAKAM) and the National Commission on Human Rights of Indonesia (Komnas HAM), with the Commission on the Human Rights of the Philippines (CHRP) as an official observer on Statelessness Issues in Sabah

The Parties to this MOU are the **National Human Rights Commission of Malaysia** (hereinafter referred to as “SUHAKAM”) and the **National Commission on Human Rights of Indonesia** (hereinafter referred to as the “Komnas HAM”) with the **Commission on the Human Rights of the Philippines** (hereinafter referred to as the “CHRP”) acting as an official observer, pertaining to an agreement to collaborate on issues of statelessness in Sabah, Malaysia.

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1. Purpose and Scope of MOU

This MOU covers the terms and conditions pertaining to the agreement between SUHAKAM and Komnas HAM on 10 July 2018, to assist each other collectively in addressing the issue of statelessness in Sabah from a human rights perspective.

2. Partnership and Collaboration

The Parties agree to strengthen their partnership through collaborating on issues aimed at improving the situation for stateless persons, and people at risk of statelessness in the state of Sabah, Malaysia.

In the spirit of encouraging multi-stakeholder engagement on such issues, upon agreement, the Parties will jointly seek to collaborate with relevant government bodies or civil society organisations to undertake activities in line with this Memorandum of Understanding.

3. Terms and Conditions of the MOU:

3.1 General Responsibilities of SUHAKAM:

- i. SUHAKAM shall appoint a secretariat staff member from the Sabah Office to coordinate all communications and arrangements with Komnas HAM;
- ii. SUHAKAM shall share information relating to alleged human rights violations against stateless persons as well as to the general situation regarding stateless persons in Sabah;
- iii. SUHAKAM shall share information relating to the initiatives taken to secure the release of stateless persons detained by law enforcement agencies;
- iv. SUHAKAM shall share information relating to the status of case processing (registration, status determination, resettlement) of stateless persons in Sabah, including any constraints that are faced.

3.2 General Responsibilities of Komnas HAM:

- i. Komnas HAM shall appoint a secretariat staff member to coordinate all communications and arrangements with SUHAKAM;
- ii. Komnas HAM shall share information relating to stateless persons of Indonesian origin as well as to the general situation regarding stateless persons of Indonesian origin in Sabah;
- iii. Komnas HAM shall share information relating to the initiatives taken by the Indonesian Government to resolve the issue of stateless persons of Indonesian origin in Sabah;
- iv. Komnas HAM shall share any other relevant information relating to the issues of stateless persons of Indonesian origin in Sabah, including any constraints that are faced by these stateless persons.

4. Terms of Reference:

The main areas of cooperation between SUHAKAM and Komnas HAM include, but are not limited to, those outlined below:

- 4.1 Engaging the Governments of Malaysia, Indonesia and the Philippines to ensure that the human rights of stateless persons are respected, including access to asylum and justice, freedom of movement and liberty, non-refoulement, work, education, and healthcare;
- 4.2 SUHAKAM will assist Komnas HAM in liaising with the Sabah State Government and other relevant agencies on issues pertaining to stateless persons in the state of Sabah;
- 4.3 Komnas HAM shall assist SUHAKAM in liaising with the respective Governments of Indonesia and the Embassy of Indonesia in Malaysia on the issue of stateless persons in Sabah;
- 4.4 SUHAKAM and Komnas HAM shall conduct joint research to address the geopolitical nature and historical impetus of the problem of statelessness in Sabah;
- 4.5 SUHAKAM and Komnas HAM shall work together with the Malaysian Anti-Corruption Commission and the Indonesian Corruption Eradication Commission to ensure no corruption in the registration and documentation processes of stateless persons in Sabah;
- 4.6 SUHAKAM and Komnas HAM shall propose recommendations and increase efforts to discuss the issue of statelessness collectively at the Association of Southeast Asian Nations (ASEAN) level;
- 4.7 SUHAKAM and Komnas HAM shall use the Sustainable Development Goals (SDGs), the Universal Period Review (UPR) and the Global Compact on Migration process to jointly raise the issue of statelessness to their respective governments;
- 4.8 SUHAKAM and Komnas HAM shall initiate bilateral dialogues between the Governments of Indonesia and Malaysia on the issue of statelessness.

5. Implementation

- 5.1 The Parties shall periodically agree to joint work plans to guide the implementation of activities in line with this Memorandum of Understanding.
- 5.2 The implementation of this Memorandum of Understanding is governed by the principles of partnership, complementarity, mutual support and coordination of action between SUHAKAM and Komnas HAM.
- 5.3 The Parties (Commissioners) will meet every six months to discuss policy issues and will nominate focal points to act as conduits of information sharing and to coordinate joint activities.
- 5.4 Working-level meetings will take place as and when agreed by the parties to review progress on the implementation of the agreed-upon work plans and to discuss developments related to stateless persons in Sabah.

- 5.5 The implementation of this Memorandum of Understanding will be in compliance with the respective administrative and financial rules and procedures of the Parties and be subject to the availability of resources.

6. Confidentiality and Data Protection

- 6.1 The Parties will keep secure and confidential, and will not use, or permit to be used, any confidential information relating to the other Party or to the beneficiaries of this Memorandum of Understanding except to the extent that:
- a) the confidential information was lawfully in the receiving Party's possession before being disclosed to it by the disclosing Party; or the confidential information lawfully enters the public domain; or
 - b) the Party to whom the confidential information relates, consents in writing to its disclosure; or
 - c) the information in question was independently developed by the receiving Party without reference to the confidential information received from the disclosing Party; or
 - d) the information was received in good faith from a third party, where no obligation of confidentiality is owed to the third party; or
 - e) disclosure is required by law in any country, in which case the receiving Party will promptly notify the disclosing Party so as to allow the disclosing Party a reasonable time to oppose such process; or
 - f) this Agreement permits.
- 6.2 In relation to investigations into allegations of human rights violations against stateless persons, neither SUHAKAM nor Komnas HAM should publicly report confidential information or otherwise disclose personal or identifying details regarding the alleged violations without the expressed consent of the beneficiaries involved.
- 6.3 The Parties must ensure that their respective agents or employees who receive, or may receive, confidential information are aware of, and are bound by, these confidentiality provisions.
- 6.4 In performing its rights and obligations under this Memorandum of Understanding, each Party, to the extent necessary, shall at all times comply with the Personal Data Protection Act 2010 of Malaysia.

7. General Conditions

- 7.1 This Memorandum of Understanding is not legally binding and is entered by the Parties herein merely to express their interest in collaborating towards the objective stipulated herein.
- 7.2 Nothing in or relating to this Memorandum of Understanding is to be deemed a waiver, express or implied, of any privileges or immunities enjoyed by either Party.
- 7.3 Any dispute arising from the interpretation or implementation of this Memorandum of Understanding shall be resolved by the Parties through negotiations in the spirit of coordination and cooperation.

8. Time Frame

This MOU shall enter into effect on the date of signature by the duly authorized representatives of the parties to this MOU and shall remain in force for one (1) year and may be renewed as agreed by the parties to this MOU.

9. Amendments to this MOU

This MOU may be amended through the exchange of formal letters between the signatories to this MOU, denoting their consent to any proposed amendments. Any letters exchanged to this effect shall become an integral part of the MOU.

10. Official Observer

The CHRP as an official observer may be invited as a partner for advisory and/or joint actions as is agreeable with SUHAKAM, Komnas HAM and CHRP based on any of the projects or activities undertaken pursuant to this MOU.

Jerald Joseph

Acting Chairman

Human Rights Commission of Malaysia (SUHAKAM)

23 April 2019

Ahmad TaufanDamanik

Chairman

National Commission on Human Rights of Indonesia (Komnas HAM)

23 April 2019

Witnessed by

Datuk Godfrey Gregory Joitol

Commissioner

Human Rights Commission of Malaysia (SUHAKAM)

23 April 2019