

## PRESS STATEMENT

1 October 2009

### THE PENAN SUPPORT GROUP RESPONDS TO THE REPORT OF THE WOMEN, FAMILY AND COMMUNITY DEVELOPMENT MINISTRY-LED TASK FORCE ON THE RAPE OF PENAN WOMEN IN SARAWAK

The Penan Support Group (PSG) would like to acknowledge the important role played by the *Jawatankuasa Bertindak Peringkat Kebangsaan bagi Menyiasat Dakwaan Penderaan Seksual terhadap Wanita Kaum Penan di Sarawak* (the Task Force) in the mission to ascertain and establish that the reported rapes of Penan women and girls by outsiders had indeed taken place. We applaud the Task Force for correctly identifying imbalanced and poorly planned development programmes as a cause of the problems faced by the Penan, including the exploitative situation that Penan women and children in Middle Baram, Sarawak find themselves in. However, acknowledging that these incidences of violence against women and children have taken place is only the first important step towards more crucially redressing these heinous crimes and the structural problems underlying them.

At the very outset, the PSG was dismayed that the Ministry of Women, Family and Community Development delayed the release of the Task Force Report by some nine months. Its inaction and indifference has delayed justice for the victims, their families and the community as a whole and has further increased the vulnerability of Penan minors and women who are already living in a precarious and potentially dangerous environment. Upon review of the report that has recently been released, we find that there are certain obvious and fundamental recommendations missing from the findings of the Task Force. These omissions have prompted the PSG to issue this response:

Following are our key observations and critiques about the Task Force Report and the circumstances by which it was pulled together:

- To begin, it is important to situate the abuses and problems faced by the Penan within a larger picture where ill-conceived development programmes that pay little heed to international norms and/or local customary laws have led to the systematic disempowerment of Malaysia's indigenous peoples, thus making them vulnerable to all forms of sexual violence and other human rights abuses. The Sarawak Government has awarded vast logging concessions to private companies on Penan ancestral lands since the 1980s. The Penans' dependence on logging companies for water, electricity and transport was a problem created by these logging operations. The Penan were traditionally able to trek around forests before logging destroyed many of their natural forest paths which were safe from loggers and other outsiders. The Penan knew in advance how many days' walk was required and could plan their journeys, including trips to and from school. With those traditional paths replaced by logging tracks, the Penan have no choice but to depend on irregular transport along these tracks. This dependency on the "kindness" of loggers for transport has increased the Penan women and children's vulnerability to sexual abuse. Furthermore, cost becomes a major factor in moving around. After decades of impoverishment by logging "development" and, more recently, oil palm plantation "development", such inequitable and unsustainable notions of development have seriously threatened the very existence of Penan communities by destroying the forests that their livelihood and lives depend upon.
- Such a comprehensive and holistic understanding of the Penan communities seems to have escaped the Task Force. This could be due to the limited and Semenanjung-biased composition of the Task Force as well as the unfortunate and obstructive presence of Sarawak Government officials. The PSG notes with great concern that no Sarawak-based NGOs were included in the Task Force, even though the authorities knew that several such NGOs were ready and had offered to contribute to the investigation. These NGOs have worked with the Penan communities for decades and have gained their trust. By comparison, the Peninsular Malaysia-based NGOs in the Task Force were far less familiar with the historical, socio-economic and cultural environment of the Penan and were in no position to counter the skewed inputs of Sarawak Government officials upon whom the Task Force relied heavily for the planning and execution of the field investigation.
- Furthermore, the recommendations of the Task Force lack a timeframe or any mechanisms to ensure that authorities involved take concrete steps to meet these recommendations. More crucially, by focusing only on what the communities can do and not on what the perpetrators and outside parties must do, the Report fails to address the fundamental challenge of ill conceived, non-consultative, top-down development processes that threaten the lives of Penan communities, and push them further and further to the margins of existence.

- We bring attention here to the police response to the Task Force report with grave disappointment. The police representative on the Task Force completely failed to raise matters concerning the police. There was no indication in the report to demonstrate that police involvement in the Task Force would lead to police action against perpetrators. After the report went public, the Bukit Aman police top brass has continued to insist on “more information”, as if criminal investigation is the domain of NGOs. The Police have reneged on their earlier commitment to mount a joint Bukit Aman-NGO investigation team to interview victims, saying the Police have insufficient funding for a joint mission. The police and Federal Government departments and agencies must prove, through concrete actions, to be independent entities serving the Penan and other indigenous communities as the rakyat, and not political masters and logging or plantation companies.

## **RECOMMENDATIONS**

To rectify the serious omissions on the part of the Task Force, we submit the following recommendations:

### **A. Immediate**

#### **1) Acknowledge the Penan’s right to self-determination and include them in all decision-making processes that affect their livelihood and lives.**

We note the frequent failure to include the Penan in decision-making processes that affect their everyday lives. Such failure reflects the erosion of customary, constitutional and legal rights among the rural indigenous peoples of Sarawak and blatantly contradicts the universal human right to self-determination. The Sarawak Government-appointed representative for the Penan, Hasan Sui, has failed to correctly reflect the Penan communities’ views and by our reckoning is unfit to represent them. There is no reason why Penan leaders from the communities, elected by majority vote, should not be allowed to represent their own communities. The Sarawak Government’s refusal to recognise these leaders contradicts basic democratic principles and must stop. We call on the Federal Government to strongly urge the Sarawak Government to acknowledge the rights of indigenous communities, as recognised and upheld by the Federal Constitution and the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) and to respect the customary rights of indigenous communities. We further urge a close review of any Federal Government development programmes to ensure a genuine and completely transparent and thorough involvement of all segments of the Penan communities in decision-making processes that affect their lives.

#### **2) Review development projects that adversely impact on the Penan**

To prevent further development projects that encroach upon the rights of indigenous peoples, we call upon Federal Development Agencies (such as FELDA and Tabung Haji, both involved in plantations on Native Customary Rights Lands, and Petronas, which has a pipe-line project linking Bintulu with Sabah that will slice through much NCR land) to immediately reconsider their programmes and projects in light of the recommendations made by the Task Force. We urge the Sarawak Government to review all its logging, plantations and dam projects in line with the Task Force recommendations and to withhold funding for projects which do not conform to these recommendations.

#### **3) Hold logging and plantation companies accountable for their actions and take immediate mitigating and preventative action against exploitative and illegal actors.**

Logging and plantation companies have for too long had disproportionate access to power and authority in the parts of Sarawak that they are operating in. They have attempted to mislead the public with their minute contributions of occasional “free” transport, housing materials, water and even cash gifts as “corporate social responsibility”, but these have brought about untold sufferings to the Penan and other rural indigenous communities. We call for concrete action to be taken to strictly regulate logging companies, their workers and other outsiders who seek to gain profit through exploitative means. The prevention of sexual violence must target potential perpetrators, even while efforts are made within the Penan communities to equip them with awareness on precautionary measures. We strongly believe that all forms of sexual violence and exploitation stem from the unbalanced power relations in overwhelming favour of the logging companies and their workers. Indeed, the multiple problems inflicted upon the Penan and other Sarawakian indigenous communities are due to unequal social structures, in which the government-corporate collusion must be addressed as a root cause.

#### **4) Resignation of Deputy Chief Minister Alfred Jabu**

We also call for the resignation of the Chairman of the Sarawak Cabinet Committee on the Penan and Deputy Chief Minister Alfred Jabu anak Numpang. His continued denial that any rape of Penan women and girls had taken place, even after the Task Force reported that rapes had been committed is a grave travesty

against the very people he has been appointed to protect the interests of. His insensitive and highly prejudicial statements indicate that he is incompetent and unfit to hold public office.

## **B. Longer term**

There are additional aggravated injustices that adversely affect the daily lives of Penan communities that the PSG wishes to highlight here. We call on the government to:

### **1) Improve measures for the Penan and other Orang Asal to obtain identity cards**

To resolve the predicament of indigenous peoples who are unable to obtain identity cards despite repeated applications and promises by the authorities, we call for the setting up of a one-stop centre in which standard procedures are used and a fixed processing time is set for each application. This centre should be supported with adequate resources for well-equipped mobile units to reach all remote settlements over a set period of time. In addition, if an application is delayed, a proper appeal mechanism must be put in place to record any delayed processing of applications by the relevant authorities. For example, if a birth in a remote settlement was never registered, then a temporary IC must be issued immediately, pending appeal. Undocumented Malaysians must be restored with basic rights as Malaysians and accorded registration documents immediately.

### **2) Improve opportunities and access of Penan children to education**

To enable Penan parents to send their children to school, we call on the Education Ministry to plan and build schools within larger Penan settlements, to support the operation and maintenance of community-run pre-schools, and to explore and implement education solutions using new information and communication technologies that allow schooling to be conducted at community settlements. The Ministry should also set up an effective Penan Parent-Teacher Association in each of the rural schools, so that culturally appropriate educational goals can be institutionally implemented with the involvement of Penan families.

### **3) Provide safe transportation for Penan children**

As an immediate remedy to the problem of safe transportation, we urge the Federal authorities to allocate resources for schools to be equipped with appropriate vehicles and drivers to transport schoolchildren, safely supervised by accompanying teachers or parents, on all trips to and from schools. All such transportation arrangements should be run in agreement with parents and with their input on frequency and other issues.

### **4) Ensure the provision of adequate healthcare services and clean water**

Regarding the issue of healthcare, we acknowledge the Federal Government's flying-doctor service and its rural health programmes as having brought much needed health services and benefits to the communities. However, these services and benefits are limited and the PSG sees great room for improvement. We urge the government to allocate more resources, in a transparent and accountable manner, to overcome widespread neglect of rural healthcare in Sarawak. We call upon the Health Ministry to evaluate healthcare services in consultation with the local communities and the general public and agree on ways to reduce healthcare disparities. In addition, we note the Sarawak Health Department's remedial support to rural communities by providing water tanks for rainwater storage. However, we point out the fact that the Penan and other rural indigenous communities always had access to clean water before logging operations and plantations began that have since destroyed their sources of clean water. We urge the Health Department to be proactive in ensuring that water sources for the Penan and other rural communities are protected from logging, plantations and other "development" projects.

### **5) Establish a Committee for short, medium and long term follow-up action**

We call upon the Task Force to promptly reconstitute a decision-making and monitoring committee at the Federal Women, Family and Community Development Ministry level. The committee must put in place sufficient financial resources and operational mechanisms, and develop immediate, medium and long-term plans, strategies, programmes and projects to ensure that actions go beyond the limited Task Force recommendations. The committee should work to ensure that rights of the Penan and other indigenous communities are respected while appropriate, fully consultative, people-centred development takes place. Definite preventative action must be taken to ensure that all forms of sexual violence and exploitation against rural girls and women be ended. We urge the Federal Women, Family and Community Development Ministry to offer victims and their families regular financial, medical and counselling support. It is well within the Ministry's responsibilities to deliver such support to the Penan victims and their families identified in the Task Force Report.

## **CONCLUSION**

The PSG stands willing to work with the relevant authorities to ensure that common goals are achieved. We also stand ready to play our part in working with the communities to improve their capacity to work directly with the authorities to reach agreed-upon goals. For example, we are willing to work with the Education Ministry to help organise “Parents Organisations”, so that community-based Parent-Teacher Associations can work together on the transportation needs and education requirements of children.

The PSG reiterates that while the Task Force Report was specific to the Penan, we are conscious of how other indigenous communities in Sarawak face similar problems in their struggle for recognition of their customary and basic human rights.

The state government’s seeming defiance, disrespect and downright rejection of native customary land rights thus far have resulted in outsiders entering settlements without community consent, and often with the support and complicity of government authorities and the police. This has resulted in outsiders taking advantage of the communities’ vulnerability, including by subjecting them to rape and sexual abuse, with impunity. We call on the logging, plantations and other outsider companies to withdraw their operations until safeguards against sexual abuse and other forms of exploitation are put in place and NCR land is gazetted by the state government.

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