

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

- 1. Is there any evidence of harsh treatment by the authorities accorded to members of Friends of the Earth in Malaysia?**
- 2. Anything else you feel might be relevant.**

RESPONSE

- 1. Is there any evidence of harsh treatment by the authorities accorded to members of Friends of the Earth in Malaysia?**

The sources consulted provided a number of news articles which confirm that there has been an ongoing history of confrontation in Malaysia, in the region of Sarawak on the island of Borneo, between developers and Malaysian security forces, on the one hand, and environmental activists and the local tribal communities on the other. A June 2004 article published by *The Times* (UK), reports that “[e]nvironmental activists are frequently deported and then blacklisted by the Government”; and that Greenpeace has alleged that a logging company in Sarawak employs arms and torture. Less recent reports indicate that a prominent *Sahabat Alam Malaysia* (Friends of the Earth, Malaysia) member, Harrison Ngau, was detained by security forces without charge or trial under Malaysia’s Internal Security Act (ISA) in 1987. Numerous activists and indigenous tribal persons are also reported to have been detained at this time. Extracts from articles referring to such arrests, and other relevant details, follow below in reverse chronological order.

4 June 2004 – *The Times* (UK)

...they have now lost the war against the Malaysian Government and private logging companies. Parangs (machetes) and blowpipes are no match for the guns of the police who support the business interests.

...the Orang Ulua, Sarawak's upriver people, are fast becoming urban squatters in the seedy coastal towns of Malaysian Borneo.

Their tragedy is little reported. Environmental activists are frequently deported and then blacklisted by the Government. But Long San's experience is repeated in longhouses -huge wooden communal dwellings accommodating up to 2,000 people the length of the Baram.

...Road blockades have failed to stop the loggers. The last blockade was last September along the Peluta River, a tributary of the Baram, when jungle dwelling Penans with spears and blowpipes lost to the bulldozers of Rimbunan Hijau, a logging company which, according to Greenpeace, "arms its staff, makes people sign agreements at gunpoint and also uses torture".

Sahabat Alam Malaysia, the local Friends of the Earth group, concede that the battle is lost in circumstances uncannily similar to the American Wild West: "The sand is already in the cooking pot. At a time when the rights of the indigenous people are increasingly being recognised by governments the world over it is appalling that the Sarawak state government is going in the opposite direction," the group says (Drummond, A. 2004, 'Jungle tribes losing war against loggers' *Times* (UK), 4 June – Attachment 1).

14 November 2002 – Malaysiakini

In the case of campaigns against the unsustainable development of the Bakun Dam and Bukit Merah, activists were arrested and detained without trial under the Internal Security Act during Operation Lallang in 1987 (Soong, K.K. 2002, 'Development is Sustainable Only with Human Rights', Global Policy Forum website, source: Malaysiakini, 14 November <http://www.globalpolicy.org/ngos/soecon/rights/2002/1114develop.htm> – Accessed 11 August 2005 – Attachment 2).

27 October 1990 – *The Economist*

In Sarawak, too, there were signs of dissatisfaction with the way the state's forests are managed. Mr Stephen Yong, the federal minister for science, technology and the environment, lost his seat. The up-country seat of Baram, where much logging is taking place, was won by Mr Harrison Ngau, the Sarawak representative of Malaysia's Friends of the Earth. In 1987 Mr Ngau was arrested, but later released, under Malaysia's Internal Security Act, on suspicion of sabotaging the state's development (that is, opposing indiscriminate logging) ('Dr Mahathir Mohamad Wins General Election' 1990, *The Economist*, 27 October – Attachment 3).

4 August 1990 – *Reuters*

Police have arrested eight tribesmen in Sarawak for setting up road blocks to keep loggers out of their tribal areas, and some were beaten up in custody, a local environmental group said yesterday.

Sahabat Alam Malaysia (SAM), the Malaysian Friends of the Earth, said in a statement the eight were arrested on July 28 in the eastern district of Belaga, in the timber-rich state of Sarawak.

...The Sarawak government banned logging blockades in 1987 after more than 200 spear-wielding Penan tribesmen were arrested that year for blocking timber works.

The eight arrested last week were members of the Kenyah tribe, SAM said. Relatives of some of them had alleged they were beaten while in custody, the group said ('Tribesmen arrested for timber blockade' 1990, *The Straits Times*, 4 August – Attachment 4).

19 February 1989 – *The Boston Globe*

In the once-remote interior of Sarawak on the island of Borneo, logging companies are closing in from two directions on the island's last nomadic rain-forest people, the Penan.

During the last two years, the Penan's courageous, and so far nonviolent, fight to defend their rain-forest home against invasion has won them worldwide support... . Now in the face of mass arrests, this desperate battle is entering its final phase.

...Timber is big business in Sarawak. As a series of charges and countercharges during a bitter 1987 political campaign revealed, most of the state's lucrative timber concessions are in the hands of Sarawak's government officials and their relatives, including James Wong, the minister of the environment. "It's a mini-Marcos scene," said one anthropologist familiar with both Sarawak and the Philippines.

The conflict between the Penan and the government, which has been building since early 1987, reached a crisis in recent weeks, as police smashed blockades and arrested 128 native people, most of them Penans.

...In March 1987, the Penan erected their first blockade. In the six months that followed, the protests spread through the region and grew into a network of 12 blockades that temporarily halted the logging.

...In October 1987, as part of a sweeping government crackdown on opposition figures of all stripes, police arrested 42 indigenous activists. Harrison Ngau, a Friends of the Earth activist and a member of Borneo's Kayan tribe, was jailed for 60 days without a trial under Malaysia's Internal Security Act because of his work on behalf of the Penan.

...Today, logging is taking place in all the areas where the Penan are living, according to a knowledgeable Malaysian source who asked not to be identified for fear of government reprisals. "Their livelihood is getting very critical. It's becoming worse and worse" (Dumanoski, D. 1989, 'A Fight for Life in the Rain Forest as Loggers Advance, Penan Tribesmen Lose Another Piece of Their Homeland', *The Boston Globe*, 19 February – Attachment 5).

A March 2003 report produced by the *Organisation Mondiale Contre la Torture* (OMCT; or World Organisation Against Torture) on the repression and intimidation of activists and opposition groups in Malaysia makes specific mention of *Sahabat Alam Malaysia* in the following passage:

...administrative pressures can also be directed at individuals. The children of human rights advocates or political activists might be denied scholarships or book loans, or the family might see its application for a housing scheme rejected. Authorities might also decide to withdraw the passports of activists, officially on administrative grounds, as was the case with members of *Sahabat Alam Malaysia* (Friends of the Earth – Malaysia), an NGO specialised in environmental issues, who denounced the Government's Bakun dam project in Sarawak. They also withdrew the passport of Cecil Rajendra, the president of the Bar Council's Human Rights Committee following his work in 1998 on illegal logging in rainforests (*Organisation Mondiale Contre la Torture* 2003, 'Malaysia – "The Boa Constrictor": Silencing Human Rights Defenders', March, p.17
http://www.omct.org/pdf/observatory/Malaysia_SilencingHRDefenders.pdf – Accessed 27 September 2004 – Attachment 6).

In September 1997, the *Bruno-Manser-Fonds* (BMF or Society for the Peoples of the Rainforest) website reported that, according to *Sahabat Alam Malaysia*, forty-two members of Sarawak's Iban community had been "arrested by members of the paramilitary as a result of their opposition to a projected oil palm plantation on indigenous lands"; it is claimed that

“[d]uring the course of the arrest, some people were beaten, jailed, and subsequently refused medical care”. The report follows in detail:

Sungai Bong, July 4, 1997 (Sahabat Alam Malaysia) – 42 Iban, including nine women, were arrested by members of the paramilitary as a result of their opposition to a projected oil palm plantation on indigenous lands. During the course of the arrest, some people were beaten, jailed, and subsequently refused medical care. A letter written from the jail in Miri states: “it is a denial of basic human rights if the government of Sarawak intimidates us so that it can establish an oil palm plantation on our land against our will”. (Since the law of land rights was changed in 1958, the government has claimed ownership of all primary forests and imposed far-reaching limitations on the land rights of the indigenous.) The indigenous are now initiating legal steps against the government. The court case is pending (‘42 Iban arrested Sungai Bong, July 4, 1997’, 1997, *Bruno-Manser-Fonds* website, *Tonga Tanga*, source: *Sahabat Alam Malaysia*, September http://www.bmf.ch/letters/pdf/e_9709.pdf – Accessed 12 August 2005 – Attachment 7).

2. Anything else you feel might be relevant.

The aforementioned March 2003 OMCT report, supplied as Attachment 7, provides extensive background on the various methods of control which have, historically, been employed by successive Malaysian governments as a means of marginalising dissent; such as the extensive powers of arrest granted to Malaysia’s security forces by the Internal Security Act (or ISA). A more recent publication, an *Agence France-Presse* bulletin of 1 August 2005, reports on recent claims, made by ISA detainees and human rights groups, that “[d]etainees held under Malaysia’s notorious security laws are routinely tortured during interrogations, stripped naked, beaten with broomsticks and threatened with rape” (‘Malaysian detainees routinely tortured, say former inmates’ 2005, *Agence France-Presse*, 1 August – Attachment 8).

A recent statement published in *The New Straits Times*, by the president of *Sahabat Alam Malaysia*, on the Bakun Dam project and the plight of the indigenous “Penan community in Sarawak” is supplied as Attachment 9. A less recent, but more comprehensive, *Sahabat Alam Malaysia* statement on the Bakun Dam hydro electric project is supplied as Attachment 10 (Idris, S.M. Mohamed 2005 ‘Study on Penans long overdue’, *New Straits Times*, 2 February – Attachment 9; *Sahabat Alam Malaysia* 2002, ‘Fundamental questions on Bakun construction’, Rengah Sarawak News website, source: Utusan Konsumer, 5 September <http://www.rengah.c2o.org/news/article.php?identifer=de0384t> – Accessed 12 August 2005 – Attachment 10).

Background information with regard to the nature of the Malaysian environment appears in the opening pages of a 1998 paper authored by the University of Malaya’s Dr S. Sothi Rachagan. Dr Rachagan’s 1998 publication is supplied as Attachment 11 (Rachagan, S. Sothi 1998, ‘Sustainable Forest Management in Malaysia – Guidelines for Conflict Resolution’, Institute for Global Environmental Strategies website <http://www.iges.or.jp/en/fc/phase1/ir98-2-9.PDF> – Accessed 11 August 2005 – Attachment 11).

List of Sources Consulted

Internet Sources:

Government Information & Reports

US Department of State website <http://www.state.gov>

United Nations (UN)

UN Office of the High Commissioner for Human Rights (UNHCHR) website

<http://www.unhchr.ch>

Non-Government Organisations

Amnesty International website <http://www.amnesty.org/>

Friends of the Earth UK website <http://www.foe.co.uk/>

Friends of the Earth International website <http://www.foei.org/>

Human Rights Watch (HRW) website <http://www.hrw.org/>

The Institute for Global Environmental Strategies website

<http://www.iges.or.jp/en/index.html>

Organisation Mondiale Contre la Torture (OMCT; or World Organisation Against Torture)

website <http://www.omct.org>

International News & Politics

BBC News (World Edition) website <http://news.bbc.co.uk/>

Region Specific Links

Asian Human Rights Commission (AHRC) website <http://www.ahrchk.net/index.php>

Bernama Malaysian National News Agency website <http://www3.bernama.com>

Bruno-Manser-Fonds (BMF or Society for the Peoples of the Rainforest) website

<http://www.bmf.ch>

Malaysiakini website <http://www.malaysiakini.com/>

The Malay Mail website <http://www.mmail.com.my/>

Malaysian Human Rights Commission (Suhakam) website

<http://www.suhakam.org.my/en/index.asp>

The New Straits Times website <http://www.nst.com.my/>

Rengah Sarawak News website <http://www.rengah.c2o.org/>

Sahabat Alam Malaysia (Friends of the Earth, Malaysia) website

<http://www.surforever.com/sam/>

Suara Rakyat Malaysia (SUARAM) website <http://www.suaram.net/>

Search Engines

All the Web search engine <http://www.alltheweb.com>

Google search engine <http://www.google.com.au/>

StaggerNation website's Google API Proximity search engine

<http://www.staggernation.com/cgi-bin/gaps.cgi>

Internet Archive WayBackMachine search engine <http://www.archive.org/>

Databases:		
Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

1. Drummond, A. 2004, 'Jungle tribes losing war against loggers' *Times* (UK), 4 June. (FACTIVA)
2. Soong, K.K. 2002, 'Development is Sustainable Only with Human Rights', Gopal Policy Forum website, source: Malaysiakini, 14 November.
(<http://www.globalpolicy.org/ngos/soecon/rights/2002/1114develop.htm> – Accessed 11 August 2005)
3. 'Dr Mahathir Mohamad Wins General Election' 1990, *The Economist*, 27 October. (FACTIVA)
4. 'Tribesmen arrested for timber blockade' 1990, *The Straits Times*, 4 August. (FACTIVA)
5. Dumanoski, D. 1989, 'A Fight for Life in the Rain Forest as Loggers Advance, Penan Tribesmen Lose Another Piece of Their Homeland', *The Boston Globe*, 19 February. (FACTIVA)
6. *Organisation Mondiale Contre la Torture* 2003, 'Malaysia – "The Boa Constrictor": Silencing Human Rights Defenders', March
(http://www.omct.org/pdf/observatory/Malaysia_SilencingHRDefenders.pdf – Accessed 27 September 2004.
7. '42 Iban arrested Sungai Bong, July 4, 1997', 1997, *Bruno-Manser-Fonds* website, *Tonga Tanga*, source: *Sahabat Alam Malaysia*, September.
(http://www.bmf.ch/letters/pdf/e_9709.pdf – Accessed 12 August 2005)
8. 'Malaysian detainees routinely tortured, say former inmates' 2005, *Agence France-Presse*, 1 August. (FACTIVA)
9. Idris, S.M. Mohamed 2005 'Study on Penans long overdue', *New Straits Times*, 2 February. (FACTIVA)
10. *Sahabat Alam Malaysia* 2002, 'Fundamental questions on Bakun construction', Rengah Sarawak News website, source: Utusan Konsumer, 5 September.
(<http://www.rengah.c2o.org/news/article.php?identifer=de0384t> – Accessed 12 August 2005)
11. Rachagan, S. Sothi 1998, 'Sustainable Forest Management in Malaysia – Guidelines for Conflict Resolution', Institute for Global Environmental Strategies website.
(<http://www.iges.or.jp/en/fc/phase1/ir98-2-9.PDF> – Accessed 11 August 2005)