

MODULES ON ADVOCACY OF INDIGENOUS PEOPLES' RIGHTS

A PRACTICAL GUIDE FOR
SARAWAK INDIGENOUS PEOPLES
DEFENDING THEIR RIGHTS



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INTRODUCTION

This booklet is a compilation of modules that were used in capacity building trainings in indigenous peoples' communities in Sarawak, particularly in Kebuaw (Sibu) and Batang Ai (Lubok Antu). The capacity building trainings were held in 2012 and 2013 and were facilitated by SADIA, PAN AP and AidEnvironment.

The trainings were organized with the aim of building the capacity of local indigenous communities to defend their ancestral lands against palm oil and logging companies. Thus, these modules focus on indigenous peoples' rights framework, documentation of native customary land and how to do advocacy work.

Some parts of the modules on framework and advocacy were adapted from the book "Leadership Training For Indigenous Peoples" which was developed and published by the Cordillera Peoples Alliance (CPA) and the Asia Indigenous Peoples Pact (AIPP).

This booklet aims to provide a guide and reviewer for community leaders who participated in various trainings and are now involved in providing similar trainings to communities, which are defending their rights over their native customary land. This booklet is also available in Bahasa Malaysia.

SADIA, PAN AP and AidEnvironment wish to thank the European Union Delegation to Malaysia for providing support for the trainings, and the development and publishing of this booklet under the project "Protecting the Human Rights to Land and Food of Indigenous Communities in East Malaysia".

**Sarawak Dayak Iban Association (SADIA)
 Pesticides Action Network Asia and the Pacific (PAN AP)
 AidEnvironment**

Trainings are usually held in longhouses just like this one in Batang Ai, Sarawak. April 12, 2012.



I. FRAMEWORK FOR ADVOCACY OF INDIGENOUS PEOPLES' RIGHTS

OBJECTIVES:

1. To have better awareness, understanding and appreciation of indigenous peoples rights
2. To have a better understanding of the Native Customary Rights in Malaysia

1. INTRODUCTION: DEFINITION OF INDIGENOUS PEOPLES

ACTIVITY: SMALL GROUP DISCUSSION

Materials needed: newspaper or manila paper

Divide the participants into four groups. Each group will discuss one of the four guide questions provided below.

Guide Questions:

1. How do you define 'indigenous peoples' and where can they be found in Malaysia and other countries?
2. What are the basic rights of indigenous peoples?
3. What are the common issues, problems and concerns of indigenous peoples?
4. How have indigenous peoples addressed their issues and concerns?

After a fifteen-minute discussion, each group will present the summary and salient points of their discussion to the whole group. The facilitator then refers back to the points raised by the participants in the following discussion on the definition, rights, issues and options of indigenous peoples.

- a. In 1971, the UN ECOSOC (Economic and Social Council) passed a resolution to undertake a "Study on the Problem of Discrimination Against Indigenous Populations." Jose Martinez-Cobo, a delegate of Ecuador, was appointed as the Special Rapporteur to do this study. The report, which came out in 1983, established a working definition of indigenous peoples that has become the standard reference within the UN and elsewhere on indigenous peoples. It states: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed their territories, consider themselves distinct from other sectors of societies now prevailing in those territories or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. In short, Indigenous Peoples are the descendants of a territory overcome by conquest or settlement by aliens."
- b. The International Labour Organisation (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries adopted in 1989 refers to:
 - Tribal peoples in independent countries (as those) whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; and
 - Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

ILO Convention 169 makes it clear that self-identification, as indigenous tribal shall be regarded as fundamental criterion for determining the groups to which the provisions of the Convention apply.

- c. Indigenous peoples argue against having a global definition of indigenous peoples as this would risk exclusion of some indigenous peoples. A definition can never adequately capture the diversity of indigenous peoples and a definition would tend to fix indigenous peoples' characteristics, while these are continuously changing and developing. However, the working definition of the Martinez- Cobo study is used as a reference whenever the issue of definition of indigenous peoples is raised.
- d. Indigenous peoples are called different terms in different countries, given their varying national contexts, and depending on the terminology applied in their domestic policies and legislation. Among the terms used to refer to indigenous peoples are: Ethnic Minorities, Hill Tribes, Hill or Mountain People, Tribal, Natives, Indigenous Minorities, Indigenous Nationalities, Scheduled Tribes, Tribal People or Indigenous Cultural Communities. Local terms are also used like Adivasis in India, Janajati in Nepal, Orang Asal or Orang Asli in Malaysia, Adi Vaas in Pakistan, Masyarakat Adat in Indonesia, and Pahari, Jumma, or Adivasi in Bangladesh.

2. WHERE CAN INDIGENOUS PEOPLES BE FOUND?

There are approximately 340-370 million indigenous peoples found in various parts of the world. They include, among many others, the following groups with their estimated population:

- A. Inuits, 150,000
- B. North America including the First Nations Peoples of Canada and American Indians, 1.5 million.
- C. Sami peoples of the Scandinavian countries of Norway, Denmark and Finland, 80, 000
- D. Indigenous Peoples of Russia, 1 million
- E. Indigenous Peoples of East Asia, 67 million
- F. Indigenous Peoples of West Asia, 7 million
- G. Indigenous Peoples of South Asia, 51 million
- H. Indigenous Peoples of South East Asia, 30 million
- I. Indigenous Peoples of the Pacific, 1.5 million; First Peoples of Australia, 250,000
- J. Maoris of New Zealand, 350,000

- K. San and Basarwa Peoples of South Africa, 100,000
- L. The Nomads of East Africa, 6 million
- M. Pgymy people of Central Africa, 250,000
- N. Nomads of West Africa, 8 million
- O. Indigenous Peoples of the Plain lands of Brazil, South America, 1 million
- P. Forest Peoples of South America, 17.5 million
- Q. Indigenous Peoples of Mexico and Central America, 13 million

The indigenous peoples of Malaysia represent around 12% of the 28.6 million people in Malaysia. They are collectively called Orang Asal.

The Orang Asli are the indigenous peoples of Peninsular Malaysia. They number 150,000, representing 0.6% of the national population. Anthropologists and government officials have traditionally regarded the Orang Asli as consisting of three main groups, comprising several distinct sub-groups: Negrito (Semang), Senoi and Aboriginal-Malay.

In Sarawak, the indigenous peoples are collectively called Orang Ulu or Dayak and include the Iban, Bidayuh, Kenyah, Kayan, Kedayan, Mu-rut, Punan, Bisayah, Kelabit, Berawan and Penan. They constitute around 50% of Sarawak's population of 2.5 million people.

The 39 different indigenous ethnic groups in Sabah are called natives or Anak Negeri. At present, they account for about 47.4% of the total population of Sabah, a steep drop from the 60% estimated in 2000.

3. INDIGENOUS PEOPLES' BASIC RIGHTS AS ENSHRINED IN INTERNATIONAL LAW

The basic rights of indigenous peoples are inherent rights. This means that indigenous peoples are born with these rights; they are inalienable rights that should be recognized by all.

Indigenous peoples are entitled to the basic human rights accorded to all people. In addition, indigenous peoples possess collective and individual rights that are particular to indigenous peoples. These particular rights are spelled out in international law through international conventions and declarations pertaining to indigenous peoples, specifically the International

Labour Organisation's (ILO) Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

a. ILO Convention No. 169

ILO Convention No. 169 is legally binding international instrument open to ratification, which deals specifically with the rights of indigenous and tribal peoples. Today, it has been ratified by 20 countries – mainly in Latin America, Europe and the Asia-Pacific region.

The Convention recognizes that indigenous peoples' cultures and identities form an integral part of their lives - and that their way of life often differs from that of the dominant population. These differences are to be respected through the recognition of, among other things, their own customs and institutions, languages and beliefs.

The spirit of the Convention is one of non-discrimination. In recognition of the fact that indigenous peoples are likely to be discriminated against in many areas, the Convention from the outset states their right to enjoy the full measure of human rights and fundamental freedoms. It calls for the adoption of special measures to safeguard persons, institutions, property, labour, cultures and environment of these peoples, and stipulates that these special measures should not go against the free wishes of indigenous peoples.

Convention No. 169 has 44 articles covering issues ranging from indigenous peoples' right to land, to social security and health, vocational training and rights concerning recruitment and conditions of employment.

b. United Nations (UN) Declaration on the Rights of Indigenous Peoples (UNDRIP)

The struggles of indigenous people worldwide, and sustained advocacy of indigenous peoples rights at the UN, prompted the United Nations, an international inter-governmental institution, to adopt the UN Declaration on the Rights of Indigenous Peoples. After more than 20 years of lobby and advocacy work, this document was adopted by the General Assembly of the United Nations on September 13, 2007. Malaysia is one of the 144 countries which adopted the UNDRIP.

The UNDRIP is an international human rights instrument that sets the minimum standards for guaranteeing the collective rights of indigenous peoples. It is an affirmation of collective rights that have long been exercised by indigenous peoples. It is not a new set of rights granted by states; rather, it is a recognition of inherent rights and defines the obligations of states to respect those rights.

The UNDRIP consists of 24 preambular (or preliminary statement) paragraphs and 46 operative articles that define the fundamental rights of indigenous peoples.

Among the basic rights of indigenous peoples contained in the UNDRIP that should be recognized are the following:

- Right to self-determination;
- Recognition of indigenous peoples as collectives;
- Inalienable rights to territories, lands and resources;
- Prior consent before development initiatives on indigenous lands;
- Respect for indigenous cultural heritage and intellectual property;

All smiles after a two-day training. Kebuaw, Sib. April 22, 2012.



- Recognition of indigenous peoples' own institutions; and
- Right to exercise the customary law according to our social and cultural practices

Particular note should be made of the rights of the indigenous peoples to self-determination, collective rights, control of their territories, access to resources, recognition of their political and legal institutions and control of traditional knowledge, and free, prior and informed consent.

Right to land and resources

Article 26:

- a. Indigenous peoples have the right to the lands, territories and resources, which they have traditionally owned, occupied or otherwise used or acquired.
- b. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of

In this particular training in Batang Ai on the rights of indigenous peoples, one of the participants said “I didn’t know I have rights until today”. April 12, 2012.



traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

- c. State shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Right to cultures

Article 11:

- a. Indigenous people have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.
- b. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

c. Native Customary Rights Over Land in Sarawak

The Sarawak Land Code legislated in 1958 covers the creation of Native Communal Reserves and Government Reserves in the state of Sarawak. The Land Code has provisions for the creation of native customary rights, including acquisition and guidelines relating to the rights and titles.

Below are some of its important provisions:

- 1. Section 2 of the Sarawak Land Code (SLC) defines Native Customary Land as:**
 - (a) Land in which native customary rights (NCR), whether communal or otherwise, have lawfully been created prior to the 1st day of January 1958 and still subsist as such;

- (b) Land from time to time comprised in a reserve to which section 6 applies; and
- (c) Interior Area Land upon which native customary rights have been lawfully created pursuant to a permit under section 10.

2. Section 5 (2) of the SLC states six (6) methods by which NCR can be created after 1st January 1958

- (a) the felling of virgin jungle and the occupation of the land thereby created;
- (b) the planting of land with fruit trees;
- (c) the occupation or cultivation of land;
- (d) the use of land for a burial ground or shrine;
- (e) the use of land of any class for rights of way; or
- (f) any other lawful method.

3. Although a native has no title he is a “licensee” (Proviso to Sec. 5(2)):

“(i) until a document of title has been issued in respect thereof, such land shall continue to be State land and any native lawfully in occupation thereof shall be deemed to hold by licence from the Government and shall not be required to pay any rent in respect thereof unless and until a document of title is issued to him.” [note Refer to court decision 4.]

4. Court Precedents

Ansi Anak Rengan v Hoe Heng Sawmill Ltd. (1965) states that an NCR owner is not a bare licensee. His right can be enforced against trespassers.

(His Lordship Chief Justice Pike, finding in favour of the Plaintiff said: “The question therefore is “does the enjoyment of native customary rights carry with it a right to sue for trespass by a third party upon the

land over which those rights are enjoyed?" On the determination of this question depends the success or failure of the Plaintiff's action.)

5. Section 5 SLC and Article 13 of Federal Constitution

These laws guarantee the protection of NCR in Sarawak. NCR can be extinguished by an express provision of the law but there must be adequate compensation.

The said extinguishments shall be published in the Government gazette and one newspaper circulating in Sarawak; and exhibited at the notice board of the District Office for the area where the land, over which such rights are to be extinguished, is situated. Claims can be made within 60 days.

6. Section 15 SLC

"Without prejudice to sections 18 and 18A, State land shall not be alienated until all customary rights therein have been surrendered

Nicholas Mujah of SADIA explains to Batang Ai training participants the Native Customary Rights. April 12, 2012.



or extinguished or provision has been made for compensating the persons entitled to such rights.”

7. Section 18 of SLC states

Where the Superintendent is satisfied that a native has occupied and used any area of unalienated State land in accordance with rights acquired by customary tenure amounting to ownership of the land for residential or agricultural purposes, he may, subject to section 18A, issue to the native a grant in perpetuity of that area of land free of premium rent and other charges.”

8. Court of Appeal’s decision in Nor Nyawai (Suit No: 22-28-99-1 High Court)

- (a) That the common law respects the pre-existence of rights under native laws or customs though such rights may be taken away by clear and unambiguous words in a legislation.
- (b) That native customary rights do not owe their existence to statutes. They exist long before any legislation and the legislation is only relevant to determine how much of those native customary rights have been extinguished.
- (c) That the Sarawak Land Code ‘does not abrogate whatever native customary rights that exist before the passing of that legislation’. However natives are no longer able to claim new territory without a permit under S. 10 of that legislation from the Superintendent of Lands and Surveys.
- (d) That although the natives may not hold any title to the land and may be termed licencees, such licence ‘cannot be terminable at will. Theirs are native customary rights which can only be extinguished in accordance with the laws and this is after payment of compensation’.

ACTIVITY: COLLECTIVE READING OF UNDRIP ARTICLES

Selected articles of the UNDRIP may be read, with participants taking turns to read the selected articles and translating these in their own language. The selected articles may include the following:

Article 1 - Indigenous people have the right to the full enjoyment as a collective and as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and International human rights law.

Article 2 - Indigenous Peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular, based on their indigenous origin or identity.

Article 3 - Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4 - Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5 - Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6 - Every indigenous individual has the right to nationality.

ACTIVITY 2: SMALL GROUP DISCUSSION ON MALAYSIA'S NATIVE CUSTOMARY RIGHT

Materials needed: newsprint or manila paper, Sarawak Land Code

1. What is the Native Customary Right (NCR) all about?
2. What are the rights of indigenous peoples under the NCR?
3. What are the common issues, problems and concerns of indigenous peoples in relation to NCR?
4. How have indigenous peoples addressed their issues and concerns?

After a fifteen-minute discussion, each group will present the summary and main points of their discussion to the whole group. The points raised by the participants will be the take off point for the inputs and discussions on Native Customary Right.

Participants from Kebuaw community took a break from a training to visit an ancestral land grabbed by a palm oil company. Sibul, Sarawak. September 11, 2012.



4. ISSUES AND PROBLEMS OF THE INDIGENOUS PEOPLES

In spite of the existence of international instruments recognizing the rights of indigenous peoples, they continue to experience numerous problems and violations of these rights, including the following:

- Non-recognition of indigenous peoples' collective rights to their lands and territories;
- Deprivation or denial of access to lands;
- Lack of social services, poor health conditions, and lack of access to education;
- Non-recognition of traditional knowledge and systems;
- Environment degradation due to large-scale mining, dams and logging;
- Commercialization and bastardization of culture;
- Demise of indigenous languages and cultural heritage;
- Human rights abuses and violations against indigenous peoples and communities;
- Lack of representation of indigenous peoples in official government structures; and
- Climate change causing displacement of indigenous peoples

The major violations of indigenous peoples' rights include:

- Usurpation and destruction of land and resources in the ancestral territories of indigenous people; and
- Imposition of inappropriate development programs and projects in indigenous peoples' lands and communities.

The effects of these violations on indigenous peoples are:

- Degradation of indigenous culture due to commercialization through the promotion of local festivals, tourism-related infrastructure and eco-tourism;
- Non-recognition of indigenous legal systems, political structures and social institutions; and
- Ethnocide or genocide, which refers to the virtual extermination of indigenous peoples as distinct peoples due to the destruction of their villages and ancestral lands, militarization, state terrorism and development aggression.

5. How have indigenous peoples addressed their issues and concerns?

Indigenous peoples have taken various options and forms of struggle in response to their issues and concerns. These include:

Through drawings, participants describe how their ancestral lands were grabbed and converted into palm oil plantations by various companies. Sibul, Sarawak. September 10, 2012.



- Conducting education and awareness raising campaigns;
- Lobbying and pressuring local and national authorities to take action on indigenous peoples' demands through dialogues, petitions or resolutions;
- Collective peoples' protest actions and mobilizations like rallies, pickets and public demonstrations;
- Legal actions filed in the courts; and
- Meta-legal and extra-legal forms of struggles

All these various forms of actions and struggles contribute to our advocacy of indigenous peoples' rights.

SOURCES:

1. Leadership Training for Indigenous Peoples, produced and published for Indigenous Learning Institute for Community Empowerment (ILI) by the Cordillera People's Alliance (CPA) and Asia Indigenous Peoples Pact (AIPP)
2. International Work Group for Indigenous Affairs (Update 2011 Malaysia)
3. SADIA presentations on NCR in various trainings in 2012 and 2013

II. DOCUMENTATION

OBJECTIVES:

1. To understand the importance of documentation for legal struggle
2. To know how to effectively document cases of violation of native customary rights
3. To know how to collect field data and search for documents for the cases

IF IT ISN'T DOCUMENTED, IT DIDN'T HAPPEN

1. WHAT IS DOCUMENTATION?

- **Evidential or reference documents:** documents provided or collected as evidence or as reference material
- **Process of providing written information:** the process of providing written details or information about something
- **Confirmation that some facts or statements are true:** through the use of documented evidence

2. HOW TO DOCUMENT:

- Keep all the important documents (e.g. court letter, notification letter, letter of acceptance, notes, etc.) being received and written.
- Make a note from every conversation or incident that happens.
- Always put the date on every note (see above).
- Make a copy of each letter that is being sent. If a letter is sent using the post office keep the receipt of the letter.

Besides documenting the papers that are kept or received, one can also do field documentation, one part of which is investigation. Investigation is the process of gathering information and ensuring that pieces of evidence needed to prove a case are compiled and collected.

3. HOW TO INVESTIGATE?

- a. Before collecting data from the field, one needs to prepare by doing an initial research. This initial research will help in:
 - Understanding the laws or rules that are related to relevant cases. These may include customary law, local regulation, national and international law, map of concession, permit letter from the authority body, etc.;
 - Identifying the important and relevant sources of information in the field, such as contact persons in the field, the name of the persons in charge of the company that want to investigate, etc.; and
 - Understanding the situation and conditions of the location that will be visited for actual field investigation.

- b. Draft a plan that will set the parameters and guide in the investigation. To help in focusing on the investigation, keep in mind the basic formula of 5 Ws (what, why, who, when, where) and 1 H (how). For example:
 - What is the purpose of the investigation?
 - What issue is being investigated?
 - What is the desired final output out of the investigation (written report, photo, film)?
 - Who is the target (for investigation)? Who or what is intended to be seen in the field investigation?
 - Who will do the investigation?
 - When will the investigation be conducted? How long would the investigation take?

- Where is the location of the investigation?
 - How will the investigation be conducted?
- c. After preparing all the things above, it is imperative to prepare the tools for the investigation, such as:
- Map of the location
 - Recording (voice recording, camera, or video camera)
 - Navigation tools (GPS, compass, etc.)
 - Communication tools (radio, mobile phone, etc.)
 - Writing tools (logbook, pen, ruler, pencil, etc.)
 - Field tools (knife, flashlight, battery, backup lights, matches, cooking appliance, etc.)

Women in Kebuaw, Sibu actively participate in a training on documentation and mapping. April 22, 2012.



While doing the investigation make sure to record all the facts that are found and relevant to the cases. Maximize the use of natural tools: eyes, nose and ears.

- d. The next step after doing the field investigation is to write the report. These are the tasks that need to be done:
- Describe what is happening in the community.
 - Describe the facts that were discovered during the investigation.
 - Describe the violations that have been committed by the companies, i.e., what specific activities have they done in the community? How did these impact the environment?
 - Write an assumption and analysis based on the laws, rules and facts that were uncovered during the investigation.

WE CAN WRITE THE REPORT USING THIS SIMPLE FRAMEWORK:

- Date of investigation
- Location
- Objectives
- Description of the actual investigation
- Methodology of investigation
- Name of people met and interviewed
- Description of information uncovered during the investigation (e.g., is there any violation of the rights of indigenous peoples? Based on the law or regulation, what are the violations? Etc.). Don't forget to always use the 5 W and 1 H formula.
- Description of challenges faced during investigation
- Suggestion or recommendation as a result of the investigation

See Annex for a sample of documentation developed by a community leader from Kebuaw in Sibu who took this training on documentation.

4. HOW TO USE DOCUMENTATION TOOLS?

Comprehensive documentation of findings in the field is the core of documentation process. If evidence of suspected illegal activity is found, detailed photographs, video recordings, GPS referencing and careful notes will be required as proof.

While collecting evidence, the researcher should be thinking about how it will be used to **build a legal case**. In the case of joint missions (where various groups are involved) this means careful observation of the enforcement agents in order to ascertain that they diligently collect all possible evidence.

Although it may not be always possible to answer all the questions in the field, the more details gathered, the stronger the case. For example, it is important to fit an image of both the GPS handset and the damage into the same photograph in order to show the precise location, time and date of the photograph.

Keeping clear, comprehensible notes will provide important source material in any dispute over the content of a subsequent report. On joint missions,

A local leader teaches other members of his community on how to use a GPS. Batang Ai, Sarawak. April 13, 2012.



the researcher and the enforcement agency should, as far as possible, agree on the evidence gathered and its implications. Having a common understanding of the situation will make it easier to agree on the content of any report, and subsequent ordinates of key landmarks on route, such as junctions, refinery (of oil palm), current operation of plantations and machinery should all be entered into the GPS handset. This way a record of the precise route of the mission into the area of plantation can be kept, and subsequently used to indicate which parts of the plantation were visited (and which were not).

a. GPS (Global Positioning System)

The GPS will calculate latitude and longitude points appropriately (point coordinates). It is shown by two series of numbers that indicate degrees of latitude north or south of the equator, and longitude west or east of the meridian line time (Greenwich Mean Time/GMT).

GPS is used for:

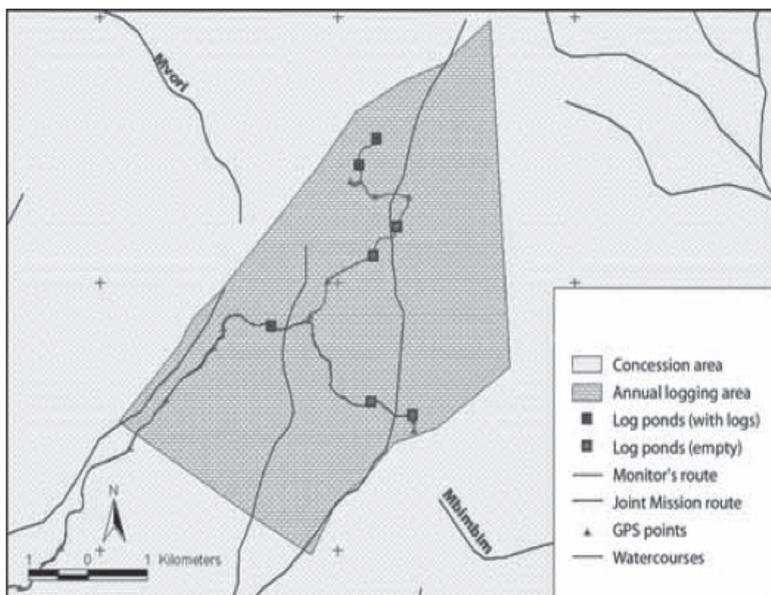
- Identifying the location of coordinates (latitude and longitude).
- Tagging and data storage of “waypoints” (point of locations) at the target location.
- Mapping out travel routes and distances that have been taken. The GPS device can be connected to a computer to download data and can synchronize with maps and satellite imagery.

How to use a GPS:

- Before executing a mission, all relevant UTM coordinates of the map of permit area to be inspected should be entered into a GPS handset to create a map on the GPS display, which will serve as reliable guide in the field. Thus, any boundary-crossing can immediately be established and thoroughly investigated.
- The handset should be switched on and used to track from a point of reference such as a village or a main road.
- The coordinates of key landmarks on route such as junctions, refinery, current plantations operations and machinery should all

be entered into the GPS handset. This way a record of the precise route of the mission into the area of plantations can be kept, and subsequently used to indicate which parts of the plantations were visited (and which were not).

Below shows a simple example of the kind of route plot a GPS can produce:



Important tips for using GPS:

- GPS is more accurate than a compass, but is less reliable as it depends on the existence of satellites.
- GPS has an accuracy rate of 10-15 meters.
- The use of GPS requires precision and a sufficient understanding on how it works. A little training is needed for those who will use it.
- GPS requires sufficient battery. Therefore, before being taken to the field, you must ensure that batteries are fully charged. Also, do not forget to bring a spare battery.

- GPS should be used in the open field, not under trees or in buildings.
- GPS must be connected with at least two satellites in the sky.

b. Photograph Tools

Photographs from digital cameras have at times not been recognized as valid evidence because of the ease with which they can be altered. This is much more difficult with traditional cameras using negatives.

How to use a camera:

Investigators (researchers) must determine which pictures need to be taken before going to the field. Also, determine the exact location of an object for obtaining the right moment as evidence.

Currently, there are digital cameras that have a large storage memory or capacity and are very easy to use, allowing pictures to be saved directly in the memory card. Storage of data is easily done by downloading to the computer.

Important tips for taking a picture:

- Ensure that the batteries are fully charged and the memory card is inserted.
- Choose the settings menu: "super fine" or "best" for ease in editing pictures at the next stage (e.g. Advocacy Strategy).
- Take a picture patiently to get the right moment.
- Mind lighting. At noon, the light might cause whiteness that will likely lead to a disturbing shadow.
- During investigation, avoid using flash when taking pictures.
- Ensure to carry a spare memory card for the camera. Take care when handling the memory card because it's fragile.
- Ensure that you protect the lens by covering it when not in use.

However, there are cases when it is difficult to take good, quality pictures during investigation. Below are a few tips in taking pictures during difficult situations:

- Use an undercover identity as a tourist and/or documentary filmmaker in the target area. This can be done if the investigation is in the indigenous or conservation areas.
- Use a hidden camera in the bag (laptop bag, day bag, waist bag). However, using a hidden camera needs some practice; it's important to know how to set the height of the object to be recorded and it should be performed in a natural way so shooting does not look stiff.

d. Voice recorder

A voice recorder can be a good way to keep notes, especially in wet weather. It is also useful when visiting the forest with a representative of the permit-

A participant practices his new-found skills in using a digital camera. Batang Ai, Sarawak. April 13, 2012.

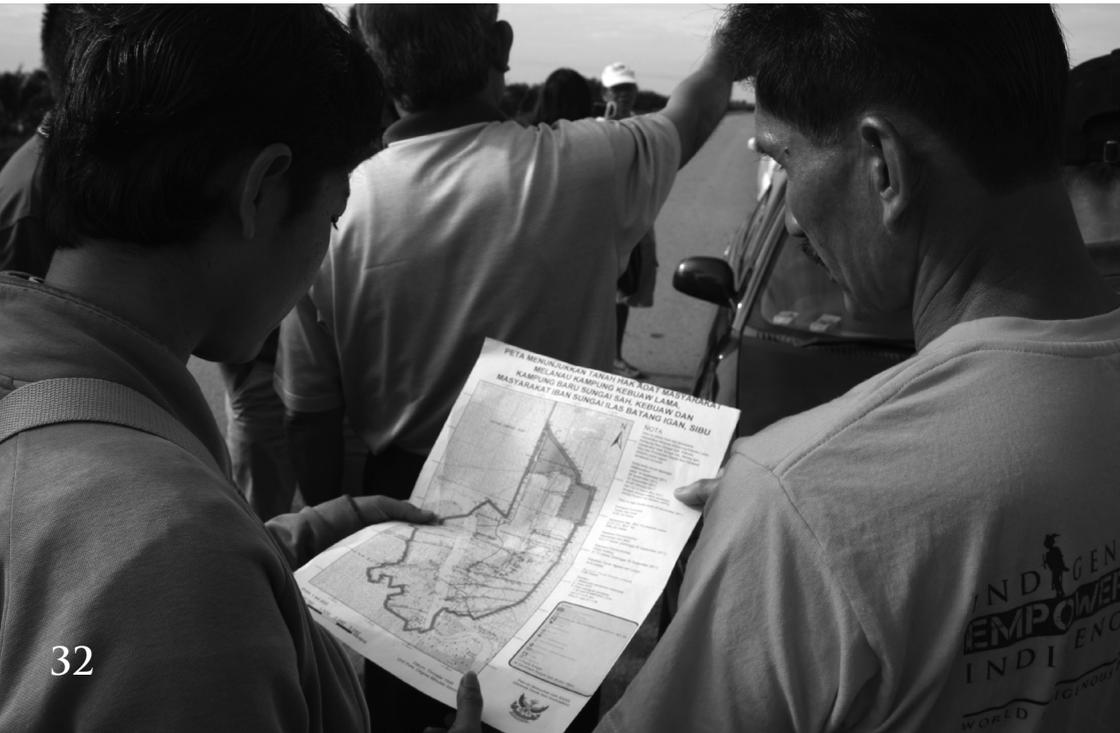


holder or a local official, so that they can be interviewed as the mission progresses.

How to use a voice recorder:

Before recording the information, the investigator must understand the local conditions and understand the character of the informant. For example, there may be people who are very eager to provide information, but are afraid that their testimony will be taken inaccurately. Another situation is when an informant gets antsy when the researcher is using a recorder to do the interview. This situation can be prevented by putting the voice recorder in the pocket and conducting the interview when the person (information) is in a relaxed setting. A voice recorder can also be hidden as a necklace or pinned like a pen in the pocket of clothing.

This is our ancestral land. A participant shows the map of their territories that was developed by SADIA. September 11, 2012. Sibul, Sarawak



Important tips in using a voice recorder:

- Ensure the batteries are fully charged and the memory card is inserted.
- Ensure the voice recorder is turned on.
- If the investigation is done at night, the lights that are lit on the voice recorder must be covered using a tape.

ACTIVITY: EXERCISE ON USING GPS AND DIGITAL CAMERA

Materials needed: GPS, digital camera, notebook and pen

A person previously trained in using GPS, digital camera and mapping should facilitate this activity.

Ask the participants to go around the community and document various landmarks (e.g. bridge, old tree, burial ground, etc) using GPS coordinates and digital camera. The GPS coordinates of a particular landmark should match with the image captured in the camera.

Using a laptop, download the images from the camera and coordinates from the GPS. Discuss with the participants the outcomes of the exercise.

SOURCES:

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III. DEFINITION AND SCOPE OF ADVOCACY WORK AND CAMPAIGNS

OBJECTIVES:

1. To gain knowledge on how to campaign for the advancement of IP rights
2. To gain a better understanding of the importance of advocacy

1. DEFINITION AND SCOPE OF ADVOCACY WORK

Advocacy means public support for or recommendation of a particular cause or policy. Thus, advocacy work refers to awareness raising and mobilization of members of organizations and communities, using various forms and methods. Advocacy work aims to generate greater public awareness,

Through drawings, participants narrate how palm oil companies destroy their communities. April 22, 2012. Kebuaw, Sibiu.



interest, attention and concern, and generating the broadest possible support for a particular cause, objective or goal. For indigenous peoples, advocacy means using these various forms of action for the advancement of indigenous peoples' rights. The central objective of our political advocacy is the full recognition and realization of indigenous peoples' rights.

Awareness raising can be done using various forms of written, visual or oral presentation of a particular issue, position or stand. Mobilization refers to getting the members of the communities, organizations and personalities to participate in various forms of activities, with the aim of highlighting or generating attention and interest for a particular objective or response.

Advocacy can be done at the local, national or international levels. Advocacy at the local level is most important since it is at this level where you can mobilize the most number of people to support your cause and objectives. The targets of our advocacy at the local level may include people's organizations and community people, local government officials, non-government organizations, educational institutions, churches and other groups that may be able to participate and extend their support or assistance for the recognition and promotion of indigenous peoples' rights.

At the national level, government agencies, parliamentarians, professional organizations like lawyers or the academe, media practitioners and others, may be included as targets of our advocacy work. National Human Rights Institutions such as the Human Rights Commission, may also be effective in supporting indigenous peoples in asserting their rights.

At the international level, there are various mechanisms and processes wherein indigenous peoples may do advocacy work by participating and raising their particular concerns. These include the UN Permanent Forum on Indigenous Issues (UNPFII) that meets annually and allows indigenous peoples to participate as experts and as observers. The UN Expert Mechanism on the Rights of Indigenous Peoples, which is a mechanism under the UN Human Rights Council that conducts studies on particular themes relevant to indigenous peoples. Other international processes or treaty bodies such as Human Right Committee, the Universal Periodic Review (UPR) and the Committee for the Elimination of Racial Discrimination (CERD) may also be explored as possible targets for our advocacy of indigenous peoples rights. International environmental agreements such as the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC) also provide opportunities for indigenous peoples to

participate in meetings where important decisions are made that have serious implications for indigenous peoples.

2. CAMPAIGNS

Campaigns are planned, organized and sustained activities on a wider scope and longer length of time to implement and achieve a set of objectives. There are different kinds of campaigns depending on the identified objectives: political, organizational, economic, health, etc. The focus and stress of this training is the launching of political campaigns for the promotion and protection of indigenous peoples' rights and human rights.

Campaigns may also be launched to achieve short-term interests or a single objective. This kind of campaign could be conducted in such a way that it will also contribute to and/ or complement the common struggles and strategic aspirations of indigenous peoples.

ACTIVITY: SHARING OF CASE STUDIES

A resource person or participant is asked to share a case study of a successful campaign he has conducted in their area. The other participants then ask questions for clarification or to learn more from the experience. Then the facilitator draws out the lessons learned from the experiences shared.

A. Components of a campaign:

1. Awareness raising and public information: production of education materials, use of mass media, other forms of education and awareness raising activities
2. Alliance work: generating the support and solidarity of others on the campaign issue, especially influential individuals, personalities, including those in government
3. Series of actions / mobilizations for advocacy

B. Things to consider before launching campaigns:

- Study completely the issue or problem that is to be solved in order to be clear on the basis of the campaign objective and the plan of action.
- Make a concrete campaign plan and considering the following:
 - ◆ Appropriate activities and forms of action with minimum resources but high impact
 - ◆ Available personnel and their capacity to implement the defined tasks
 - ◆ Available resources and time for the campaign
 - ◆ Time frame, clear schedules and targets
- The organizers of indigenous people should be prepared for any outcome, whether the campaign is successful or not. Possible negative responses should also be anticipated and how to handle or deal with these in the process of the campaign.
- Make sure the preparations are sufficient so the majority can join in, and their minds are ready and they are fully convinced to act for the objective of the campaign.
- Prepare those in the leadership and others to do some needed tasks. They will lead and coordinate the mass action or campaign from start to finish.

After every planned action, there is a need to assess, evaluate or sum up in order to clearly see what has been achieved, what are the weaknesses that need to be corrected and what are the lessons learned. Based on the assessment, new planning can be done for continuing actions. Watch out for and take care of newly interested individuals and allies. They are an additional help in implementing more activities and advancing the cause of indigenous peoples.

3. AWARENESS RAISING/PUBLIC INFORMATION

Public information or propaganda is the systematic dissemination of ideas, information, analysis and position on a particular issue in order to reach the widest circle of people and to catch their attention and interest for them to support our cause, objective or position.

The objective of awareness raising and public information is to enlighten the broadest number of people on our viewpoint, position and situation in order to gain their sympathy and support, including joining our organization or our activities. It is also aimed to clarify misinformation or black propaganda, or to "set the record straight" if there are malicious attacks against our organization, activities and actions.

A. Main Content of Public Information

- Description or summary of the issues
- Our analysis and position
- Calls, recommendation, demands and alternatives

B. Forms of Public information:

- a. Verbal - talking or giving verbal presentations, utilizing traditional cultural forms of the oral tradition, speeches in mass meetings, community gatherings, going house to house for discussions, group discussion, fora, symposia, rallies, etc.
- b. Written - comics, statements, pamphlets, newspapers, magazines, information-posters and other written information materials.
- c. Audio-visual and acting - slides, tapes, video, music, drama, skits, radio and TV programs or guest interviews.
- d. Electronic and digital information - e-mails, audio-visual materials, statement and other information sent through electronic media.

You can be as creative as possible in using traditional and modern forms and methods of public information. Appropriate and effective forms will vary, depending on the target audience and their level of appreciation and understanding. For example, communities with high rates of illiteracy

would appreciate audio-visual forms more than written forms. The main consideration should be how to get the “message” understood and appreciated by the target group or audience to make it an effective form of public information.

C. Guidelines for Public Information:

Public Information should be well planned and organized with the following important considerations:

- a. Identification of needs and strengths: What are the needs of the organization in terms of public information on their issues and concerns, who are the target groups, and what are the most effective means to reach out to them? What are the strengths of the organization in terms of forms of public information - e.g. do you have a pool of effective speakers, good artists, allies in the media, etc.?
- b. Human capacity and availability of resources: There should be an evaluation of capacity and resources before planning any public information program of activities. For example, is there a good writer or artist available? Does he/she have the time? Is the public speaker knowledgeable on the topic and confident enough to speak? Are there funds available to print and distribute materials, etc.?
- c. Having a clear message and demand or call: How should our message be presented to the public in terms of content and form: effectiveness of any form of public information is measured in terms of the clarity and conciseness of the message which is understood and appreciated by the target group.
- d. High impact, low cost: This means being able to reach out to a wide number of people but with low cost (e.g. guest interviews on TV or radio programs).
- e. Good timing and setting of schedules: It is considered the best time for making public information materials, i.e., while the issue is “hot”, it has urgency, and media coverage is taken into consideration. When planning any activity, there should be a clear target on when it should come out or be done, and how to make sure it will be done in terms of tasking, resources and personnel.

1. Put in place a feedback and evaluation mechanism: It is important to monitor and have a feedback mechanism on public information activities so that the impact and effectiveness can be measured, and lessons can be drawn, in order to improve the effectiveness of our work.
2. Maximize the skills, talents and resources of allies and friends in the academe, artists, church groups, government employees and officials, others: The work and resources for public information may not necessarily only come from our organization. There is a wealth of skills, talents and resources that we can tap and mobilize from our friends and allies. In fact, it is very useful to include them in the planning as they may have bright ideas on better forms, resources and other contributions.
3. Optimize the use of mainstream and alternative media: It is also very important to make use of the mass media (radio, TV, newspapers) for coverage of our issues, positions and activities. To be able to do this, it is very important and useful to develop friends, allies and partners among media practitioners and outfits.
4. Set up your own MEDIA if viable: Community radio is very effective in reaching out and sustaining information dissemination to a wide number of people. However, it also needs resources and personnel. If allies and friends can provide these needed resources, then community radio could become a viable mechanism for continuing public information work.
5. Use of Social Networking Media and Information Technology: Nowadays, many people use computers and internet for disseminating public information. This is effective for reaching people in faraway places, even in other countries, where such facilities are available.

ACTIVITY: PRACTICUM - PITCHING

Five volunteers are chosen from among the participants to practice public speaking. Volunteer are given 10 minutes to prepare a 3-minute speech to discuss a particular issue that he/she is passionate about. Within 3 minutes, the speaker, in a convincing and interesting way, should be able to:

- o Catch the attention of the audience
- o Describe what the issue is all about
- o Determine those who are affected by the issue
- o Come up with an analysis and position on the issue
- o Come up with recommendations, demands or alternatives that can be conveyed to the audience

The rest of the participants and the facilitators then give their observations, comments and critique of the short speeches made by the volunteers.

4. MOBILIZATION AND MASS ACTION

Mobilization and mass action is the organized participation of indigenous peoples in actions, campaigns and struggles for particular or general objectives and demands in relation to indigenous peoples rights, including economic needs, issues, or concerns. Mass actions can also be conducted in response to a particular violation of rights. Mass actions and mobilizations aim to generate public awareness, attention and support for specific demand, issue or situation, and to strengthen the organization and its individual members. The work of awareness raising, organizing and mobilizing indigenous peoples and their allies is necessary in order to advance the recognition and protection of indigenous peoples rights.

Some examples of mass actions and mobilizations are:

- Mass dialogues/lobbying with government officials and others
- Mass delegations for pickets
- Peaceful demonstrations, rallies and other protest actions
- Public forums on particular issues

Through the united participation of indigenous peoples in collective actions, campaigns and struggles:

1. We acquire experience and the peoples' awareness is raised.
2. Our unity is strengthened and the trust in our own strength to act and solve our own problems will be developed.
3. We can gain concrete benefits or generate better attention and support for our causes and concerns.
4. We can strengthen our level of cooperation and solidarity relations with other groups and sectors.

ACTIVITY: ROLE PLAYING - PLANNING A MASS ACTION

Choose an issue that is relevant and affects the majority of the participants of the training.

Together, the participants plan out a mass action to address the particular issue they have chosen. Identify the objectives, the form of activity, the place and time, the participants, the program, the speakers and the position or demands that the group wishes to express and the resources or material needed for the mass action. The participants then act out the mass action. The rest of the participants give their observations, comments or critique of the mass action that was portrayed.

5. ALLIANCE WORK

Alliance work means uniting the broadest section of the people for the organized implementation of work to achieve an objective agreed upon. Those who will join the alliance can come from different sectors, places, organizations or classes. Alliance work is also generating support to the concerns and issues of the community and the organization.

A. Different kinds of alliance work

Alliances may be long-term (strategic) or short-term (tactical) based on the agreed upon position or objective of the alliance. An alliance may also be in the form of an informal friendship, based on clear talks as to how the allies could help each other. But if it would be more helpful for the organization or a particular cause, a formal organization or alliance could be formed. Formal or informal, this can be tactical or strategic.

B. The importance and objective of alliance work

Alliance work is crucial if we want to succeed in our objectives of promoting and defending the individual and collective rights of indigenous peoples, as well as their welfare and well-being.

The principal objective of alliance work is to unite the broadest section of the people for a particular objective in order to build a stronger and coordinated action and program to achieve certain goals and objectives, i.e. the promotion of indigenous peoples rights and self-determined development.

The objective of alliance work is to mobilize the people in a broad, strong, determined and organized manner so they can effectively carry out the attainment of the objectives agreed upon. It is also the objective of alliance work to weaken and neutralize or isolate those who are anti-people and those who wish to obstruct the realization of the peoples' aspirations for the recognition of their rights and for a just and peaceful society.

C. The process of building an alliance

1. Build unity among the different communities and organizations of indigenous peoples for the promotion of indigenous peoples' rights and development. The bias should be for the poorest of the poor, the most marginalized and most oppressed. Special attention should be given to elders, because of their leadership role and influence in the community.
2. Persuade the broadest section of those in the middle to unite with the poor or marginalized.
3. Persuade even those from the elite to understand, acknowledge and support the issues of the marginalized and oppressed people.

D. Guiding principles of alliance work

1. Build the broader understanding and unity of the alliance with a clear or defined basis of unity and program of action.
2. We should maximize the positive aspects of the indigenous socio-political systems in building cooperation and solidarity with other groups. For instance, our kinship relations, peace pact agreements, and other bilateral relations can be developed to enhance and forge unity and solidarity on indigenous issues and development. We shall optimize the role of respected elders and leaders in building partnerships or alliances with other communities and organizations.
3. We enter into an alliance on the basis of strength of our organization and our consistency in our principles and position. To be able to draw others, they should feel and see our determination and believe we are right. Strength is not always based on numbers or numerical superiority, although this has been the usual practice. There is strength that comes from our principles and practice, position and stand for the protection and promotion of indigenous peoples rights and development.
4. We enter into an alliance based on a just cause and objective. We do alliance to gather added strength so we can advance the protection and promotion of our rights, interest and welfare. In getting into an alliance, there should be no compromise in so far as basic principles and the interest of the indigenous peoples are concerned.

5. We should be ready to grant concessions to our allies. But concessions are not compromises. The concessions that we grant should not run counter to the basic principles that we stand for. It is also important that we look after the welfare of our allies because no one will get into an alliance if they do not gain some benefit. We should not monopolize the benefits and opportunities as long as our principles are not compromised.

6. We enter into an alliance with understanding and patience. We should be patient in explaining things so that we can convince other sectors and groups regarding our stand. We explain things not just once but continuously because alliance work is generating greater awareness and support.

E. With whom should we ally?

In general, we get into an alliance with those who share our stand. This means that all those who agree with our stand should and must be persuaded to enter into a broad unity, cooperation or partnership.

“We will continue fighting for our rights!” Batang Ai training participants. April 13, 2012.



Our principle of experience and cooperation and solidarity relations with others will guide us in our alliance work. What is their stand on the issue of indigenous peoples' rights, their participation in our past activities, and their attitude towards the marginalized sectors, particularly indigenous peoples? This will serve as our basis in determining whom should we prioritize in our alliance work and whom should be the first that we will approach and ally with.

The first level of alliance work should be developing the broadest unity among indigenous peoples. With this, we give premium to respected traditional elders and community leaders, so that it becomes easier to unite and get the cooperation of other members of the community and organization. We should also strive to be inclusive, especially of women and the youth.

The second level would be targeting indigenous personalities among the middle class or educated, who are sympathetic to our cause and issues and can be relied upon. This includes those in government agencies or officials, church sector, academe, and others. We should also take efforts to ally with non-indigenous activists, advocates and other champions of indigenous peoples' rights.

ACTIVITY: WORKSHOP - MAKING A PLAN FOR ALLIANCE WORK AS PART OF A CAMPAIGN ON THE PROMOTION AND PROTECTION OF INDIGENOUS PEOPLES RIGHTS AND INDIGENOUS PEOPLES' DEVELOPMENT

Group the participants according to the common issues of indigenous peoples that they are campaigning on, e.g. campaign against mining, dams, logging or other development projects in their communities. The groups will then discuss and plan how to do alliance work for a specific campaign or issue that they are working on. They can do this by using the guide questions below to determine whom should they ally with and how can they form alliances with the target allies that they have identified.

Guide questions:

- A. Who are the indigenous communities/organizations affected by the issue?
 1. Who are the people and organizations in the communities who are affected by the issue and can be mobilized to take part in the campaign for the promotion of indigenous peoples' rights?
 2. Who are the respected and influential elders and leaders of the community whom we can tap to help us in our campaign?
 3. What is the background, e.g. economic and political situation, and what are their views and perspectives on how to address the issue and improve their situation?

- B. Who are the influential personalities, organizations and institutions inside and outside the community that we can approach?
 1. Identify the influential personalities or groups (e.g. churches, organizations, schools, local government officials, government agencies, professionals, etc.) inside and outside the community who are affected, concerned or interested in the issue.
 2. What are their economic interests, political connections, background and interests?
 3. What is their stand on issues of indigenous peoples and indigenous peoples' rights?

- C. Based on their answers to the previous questions, the identified individuals and/or organizations can be evaluated as to their potential to become friends and allies, and a plan made on how to approach and talk to these individuals or groups.
1. Who are our priority targets for our alliance work?
 2. How can the identified persons and groups be approached and encouraged to support the cause of indigenous peoples?
 3. What types and forms of activities can we conduct together with them?
 4. What kinds of alliance or partnership (strategic or tactical, informal or formal) can we develop with them?

The plan can be written on a craft paper and presented to the whole group using the following matrix:

Target allies	Economic and political background	Stand on IP rights and issues	Kind of alliance and activities we can conduct with them
Affected communities			
Inside the community			
Outside the community			

ACTIVITY: BUZZ WORD - WHAT HAVE WE LEARNED ABOUT THE ADVOCACY?

To close the session, the participants are asked to write down short phrases on cards or pieces of paper to express the following:

1. What are the most important things I learned about advocacy?
2. What kind of advocacy do I plan to do after the training when I get back home?

The cards are posted on the board, clustering together the major learning of the participants and their plans for advocacy after the training.

SOURCES:

Leadership Training for Indigenous Peoples, produced and published for Indigenous Learning Institute for Community Empowerment (ILI) by Cordillera People's Alliance (CPA) and Asia Indigenous Peoples Pact (AIPP)

ANNEX

CASE DOCUMENTATION OF KEBUAW AND ILAS RIVER ON THE VIOLATION OF NATIVE CUSTOMARY RIGHTS

This case documentation was researched and written by indigenous community leaders of Kebuaw in Sibü (Sarawak, Malaysia).*
 This version is a translation from the original Bahasa Malaysia text.

BACKGROUND AND HISTORY OF ILAS RIVER

The history of Ilas River traces back to a common ancestor called Tusin, who was succeeded by his nephew Dasun, who in turn was succeeded by his son Reh, and finally succeeded by Munan who eventually settled in Ilas River in his lifetime. At that time, there were other Melanau who have emigrated earlier from Tanam village to this Kebuaw village at the opposite side of upper Kebuaw river, which was first created by our ancestor, who went by the name of Alek, now passed on to his son, Udi. Over the course of time, this family has mixed and married locally, and some married to people from other villages. As the number of families increased, they decided to split and created their new villages as Kampung Baru Sungai Sah (New Village Sungai Sah) and Kampung Gudang (Gudang village). Udi's sister named Grandmother Dayang married Saong from Kampung Sungai Kut (River Kut village), who also moved to Kampung Baru Sungai Sah.

Jugei Bin Belagiau is the current village chief of Kampung Baru Sungai Sah. Grandfather Munan married Grandma Sedipan, also from Melanau family, who emigrated from Kampung Tanam to Kampung Kebuaw and eventually had nine children. One of their daughters was named Buko, married to Gasan, who was also from Kampung Tanam and moved to Kebuaw village. They have five children, all of whom are boys, and one of them is known as Sumen. Finally at the end of 2003, all of the original settlers have moved to the mouth of Ilas River while some moved to Kampung Kebuaw.

Along the Ilas River there are three deep spots, and one of them was named after Lubok Dasun to commemorate him as one of the natives there, while the other two deep spots were named Lubok Meramat and Lubok Holek.

Lubok Meramat was formerly known as Lubok Mohamad; Mohamad was derived from Müden village. He has created a piece of land to cultivate rice near the mouth of Ilas River. Another deep spot was named after Lubok Holek to commemorate him as one of the original settlers who eventually moved down to the mouth of Igan River and settled at Muara Igan village.

Original crops cultivated from ancient times until now are paddy rice and sago, while other forms of livelihood include hunting wild animals, fishing by means of hooks with bark lining string, installing traps and tapping rubber trees, jelutong trees for the latex to be taken and sold. Some are actually still being done until now such as hunting wild animals and installing traps.

HISTORY OF THE MIGRATION OF THE IBAN COMMUNITIES TO ILAS RIVER

In the early days, Iban communities practiced nomadic life looking for fertile areas. Making a living was easier as there were lots of fish and wild animals, according to Mr. Limbang Son Anyau (still alive until now), initially from Kanowit and moved to Pasai River. The Ibans led by Temenggong Kuk initially and temporarily migrated from a village along Pasai Siong River, by means of raft, to two villages called Teluk Rubat and Kampung Gudang, which is located in the Upper river of Kampung Kebuaw.

This village was named Kampung Gudang as there was a warehouse for storing sago flour (lementak) built by the Chinese in mid-18th century. The migration was welcomed by the Melanau communities on the condition that they should provide mutual tolerance and respect, and safeguard the unity amongst the communities, cultures and customs, respectively. Later, they moved to Kampung Baru Sungai Sah and eventually moved to the estuary of Ilas River, led by village chief Rantai anak Mang, who came from a village of Banyok River, while some moved to the area of Bekumah River at the end of the reign of Rajah James Brooke. He was the successor of village chief Nyalung, soon taken over by village chief Cagui. The village chief position was then replaced by village chief Mangai who was appointed by the communities way before the Japanese occupation.

The order of descendants begins with village chief Mangai, then his daughter Sambai, then to her son with Juan, Nanta. Her daughter Nangkuk married a Melanau man and had a son by the name of James Bin Awat, the lineage continuing eventually to his son Richard James (still alive until now). When

village chief Mangai died, he was succeeded by village chief Bujang for two years, who was then succeeded by village chief Bangit.

However, there is another longhouse in the same area which is under village chief Liang and later succeeded by village chief Itang. The occupants of the said longhouse eventually split into two communities. One is under village chief Morris and the other community is under village chief Diana who still exists. The main crops cultivated are paddy rice and sago. Planting fruit trees and other forms of livelihood are similar to what Melanau communities are engaged in such as hunting wild animals, installing belukak (traps), fishing and collecting rubber latex or taping nyelutong/jelutong.

On the arrival of the British in the 1930s, the clearing of several parcels of land in order to plant rubber trees commenced, while at the same time the Iban people here have consulted with those Melanau communities of Kampung Müden to grow rice near their area. Iban communities continue to farm their lands after they had come to mutual terms until around the year 1963, although this activity is gradually being discontinued. Currently there are four longhouses around the mouth of Ilas River and these longhouses



Community leader Sumen bin Gasan shows a map of his community and the extent of land grabbing by a palm oil company.

are of Rumah Bangit, Janting, Diana and Suwai, with a total population of about 550 people.

Their main source of living is cultivating sago trees, while other sources are hunting wild animals, capturing marine lives with nets, trawling, fishing nets, installing traps, and growing rice, fruits or vegetables.

Kebuaw Village and Kampung Baru Sungai Sah are about three and a half miles (5.6 kilometers) away from Sungai Kut, Batang Igan (Igan river), of Dalat District in Mukah Division, Sarawak. The residents of these two villages in the olden days practiced traditional beliefs (Melanau Liko or pagan) and now with a total household of 123 families with the entire population of around 720 people. About 70% are Christians, with 25% of the population still practicing their traditional "Melanau Liko or pagan" customs, while 5% are Muslims due to marriage with Islam communities outside of Kebuaw village.

At the same time, the Melanau communities here are also mixed with the Dayak Iban communities of four longhouses, where they have a very good relationship as brothers and sisters despite their differences in culture, customs, traditions and beliefs. They are respectful of each other and they help each other in times of need, regardless of the occasion: death, gatherings, Gawai Dayak festival, Christmas and Kaul Festival for Melanau communities. They also share Customary Land Rights (NCR) ancestral territorial domain or Guun Kinah in Melanau language.

The communities here are way behind development, particularly in public facilities such as electricity, water and roads. Their only means of transportation is by boat. The four longhouses of Sungai (river) Ilas share a common boundary with Müden village based on the centre of the river where water split into two directions, flowing toward the river mouth. This place is known as the Rogda River. The total area for all these villages is approximately 6,000 hectares.

Four of the abovementioned Dayak Iban longhouses belong to Rumah Bangit, Janting, Suwai and Diana, which are situated at the mouth of Ilas River, Batang Igan Ilas, Dalat District, Mukah Division. But all the residents of Rumah Diana were not able to participate in this case as they had sold off their native customary right lands (NCR) to the company.

The residents of the other three longhouses comprising Dayak Iban community consist of 51 families (household) with a population of about 550. About 60% are Christians, 38% still practice their traditional Dayak Iban beliefs and customs, and 2% practice Islam. They have very harmonious social life.

Generally, the current community leaders of indigenous peoples have no power to make decisions and adjudicate cases concerning the native customary rights (NCR). The hierarchy of community leadership follows this order: Temenggong, Pemancha, Penghulu (Headman) and Village Chief. And because of that, all NCR cases now have to be tried in Civil Court (High Court) in the State of Sarawak.

What is so obvious is that the Native Court in Sarawak now has been politicized by the government. We also experience this every time an outsider or even the capitalist encroaches into the NCR lands, where the authorities are always blaming indigenous peoples.



Kaui Festival of Melanau communities in Sungai Kut takes place every 2 June.



The annual Gawai Dayak Festival of Iban communities in Sungai Ilas takes place every 31 May (Traditional Ritual Ceremony of the Iban communities).



Current Iban traditional wedding. (3.6.2012)

RECOGNITION BY THE BRITISH GOVERNMENT

During the colonial time, the British showed much respect toward native customary rights of the indigenous peoples. They do not encroach or invade NCR lands. They even released or issued a grant or title to these lands either individually or in groups, and recognized territorial domains. One of the evidence grants or titles of NCR is still in our custody to this date, located within the kampung Kebuaw and Ilas River, Batang Igan.


LEASE OF CROWN LAND

Section _____

KNOW ALL MEN BY THESE PRESENTS that I, LEONARD ERNEST MACFAY
Superintendent of Lands and Surveys, THIRD Division,
(hereinafter called "the said Superintendent") in consideration of the payment of duties
*Check if no pro-
cess is imposed

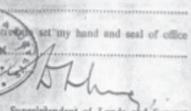
do hereby under and by virtue of the powers conferred on me by the Land Code, on behalf
of the Governor of Sarawak lease unto BANGIT ANAK ANYAU (NCRS.
262014) of Rumah Mangai, Sungai Ilas, Batang Igan, Sibul

all that piece of land situate in the KABANG LAND
District and known as Lot Number 80 (in Block/Section Number _____)
containing SIX ACRES ONE FOUR (6.14) ACRES more or less
and which is more precisely delineated on Survey Plan Number 37-21-3 (261, 162)
deposited in the office of the said Superintendent to hold from the Nineteenth day of
June 1961 for the term expiring on the Thirtieth day of
December 2021 subject to the payment thereof of the annual rent of dollars
Nil
or to the payment of such revised rent as may hereafter be determined under section 30 of the
Land Code, 1957 and subject also to the implied conditions and restrictions contained in the
Land Code, 1957 and to the express conditions hereinafter written.

RESTRICTIONS AND SPECIAL CONDITIONS
(including any modification of implied conditions and restrictions)

(i) This land is subject to Section 42 of the Land Code;
(ii) This land is Native Area Land vide G.N.No.37 of 2.1.53
(iii) This land is to be used only for the cultivation of rice vide
Sibu No.L.772/03 of 18.1.1967. In 1967.

In witness whereof I the said Superintendent have hereunto set my hand and seal of office
this Nineteenth day of June 1961
One thousand nine hundred and Sixty One


Superintendent of Lands and Surveys


REGISTERED at the _____ Land Registry Office
this 19th day of June 1961


Land title issued by the British Colonial dated 19 Jun 1961 to Bangit Anak Anyau. The land is situated at Tanjung Balau.

3217

OCCUPATION TICKET.

(ISSUED SUBJECT TO THE PROVISIONS OF LAND ORDERS
 No. 3444 of 1931.
 L. 2. (Land) 1951.

1. Name ABAU (1888)

2. Area allowed 1 ROSE

3. Rent per acre \$ 27 ANNUALLY

4. Locality BERGEL TAPA BERGEL

5. Nature of crop RUBBER (Planted 1931)

6. Commencement (i) A bona fide commencement to bring the land under cultivation must be made within three months from the date hereof.

(ii) The area specified above shall be brought under cultivation within a period of _____

(iii) As soon as the above area has been cleared, or immediately after completion of planting, application shall be made for survey.

(iv) Boundaries should be kept clear, felling which cost of clearing at survey will be borne by occupant.

(v) The lease for license will run for twenty years, renewable at occupant's option, for such term and at such rent as the Government may determine at the expiration of each term.

(vi) No encroachment to be made on other occupants' land or reserves, or on public paths.

Amount deposited _____ on account of _____ towards cost of survey \$ _____

(Total in words) _____

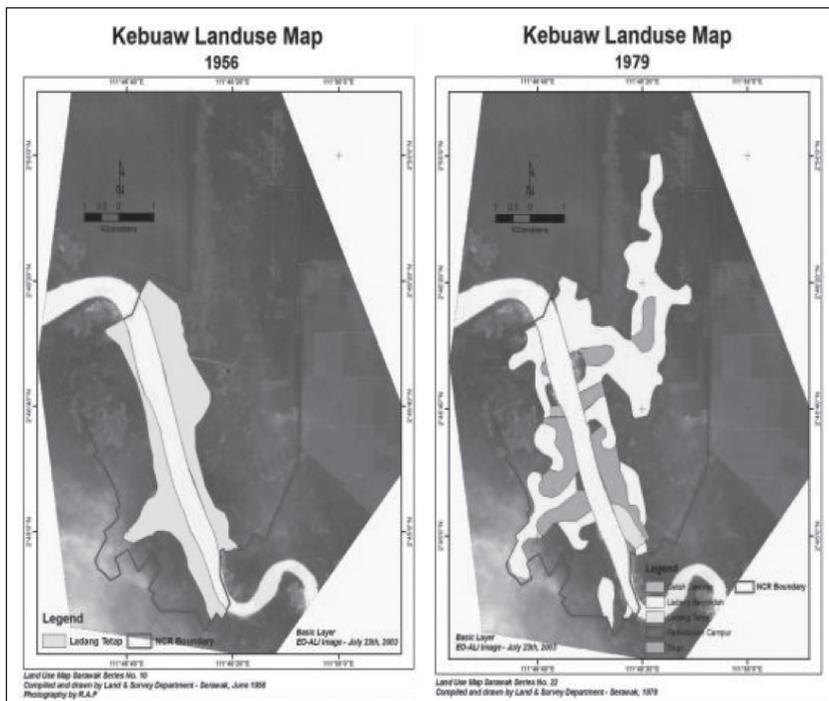
Dated 17/2/38

(Vertical stamp on left side of form):
 Land Office, Sibuan
 Date: 27/2/38
 L.O. 2. 3444 of 1931
 L. 2. (Land) 1951

Quit rent of the customary right land (NCR) the payment is made at the Resident office of Sibuan Division dated 17 February 1938 by our grandfather Nyabu Bin Semun. It was registered in 1931.

Based on the common map plotted in 1956 by the Sarawak Land and Survey Department, according to the aerial photograph of the Royal Air Force (RAF) in 1950, a part of the area of Kebuaw and Ilas River has been cleared by the indigenous peoples for farming. If we compare with the map plotted in 1979 by the Sarawak Land and Survey Department, based on aerial photograph Royal Air Force (RAF) in 1968, most of the area of Kebuaw and Ilas River after 1956 transformed into a wide variety of class/type of cultivation such as

sago cultivation, mature rubber trees, shifting cultivation farms, permanent cultivation and inter-cropping gardens.



Comparison of the two maps of Kebuaw areas in 1956 and 1979

RIVER ILAS/KEBUAW DURING THE MALAYSIAN GOVERNMENT/STATE OF SARAWAK

Ever since the government was established in the State of Sarawak, we, the villagers of Kampung Kebuaw, residents of longhouses in Illas River, Batang Igan, were only able to enjoy a wooden walkway project (titi), water tank (for storing drinking water), primary school building, 5 housing units, 2 boats and 2 units of outboard engines.

The wooden walkway is only a small project, while free housing projects for the poor were given to only five eligible families in Kampung Sungai Kebuaw and Kampung Sungai Ilas. Similarly, boats and engines were given to only two families from our areas that were considered eligible.

The government is not concerned about the needs and welfare of the Melanau communities of Kampung Kebuaw and the Iban communities of four longhouses in the Ilas River. Similarly, the State Government of Sarawak does not respect the NCR of indigenous peoples in the area. They also do not implement what has been agreed by the Government of Malaysia with the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples).

We sent a letter of application to the Department of Land and Survey of Sarawak to request for demarcation of our lands and for them to issue us the grants, but they turned down our application.

Our applications were tendered as early as the 1980s, and copies of these applications are still in our custody as proof of our continuous efforts at appealing to authorities, the letters dating as far back as 21 November 1988 and 18 January 1991.

However, their responses indicate that we are not eligible. Some of the correspondences are attached in the following pages as proofs.

Dua
Kampung Ibbuaw,
Batang Igan, Sibn.
21 November, 1988

Penguasa Tanah dan Ukur,
Bahagian Sibn,
96000 Sibn.

Tuan,

**Per: Permohonan Untuk Mengukur Tanah di Kebuaw
Batang Igan, Sibn.**

Saya, Beruang Bin Pau (BID.K.400917) serta rakan-rakan saya seperti nama yang teresit di bawah ini, ingin memohon jasa baik dari pihak tuan untuk mengukur tanah kami yang terletak di Kebuaw, Batang Igan, Sibn.

2. Kami menghadapi masalah tentang sempadan tanah yang kadang-kadang mengakibatkan penceroobohan ke atas tanah yang bersebelahan dengan tanah kami dengan tidak disedari atau disengajakan. Oleh yang demikian kami sangat-sangat berharap agar pihak tuan dapat membantu kami mengatasi masalah tersebut dan seterusnya menyukat tanah-tanah tersebut mengikut sempadan dan keluasan yang diperseetujui bersama.

3. Untuk makluman pihak tuan tanah-tanah tersebut adalah digunakan untuk tanaman sulong dan untuk kemudahan pihak tuan kami serta kan di sini satu salinan plan (bertanda merah) yang menunjukkan lokasi tanah tersebut.

4. Sekali lagi kami dengan rasa berbesar hati dan penuh penghargaan mengharapkan agar permohonan kami mendapat perhatian dan pertimbangan yang sewajarnya dari pihak tuan.

Sekian. Terima kasih.

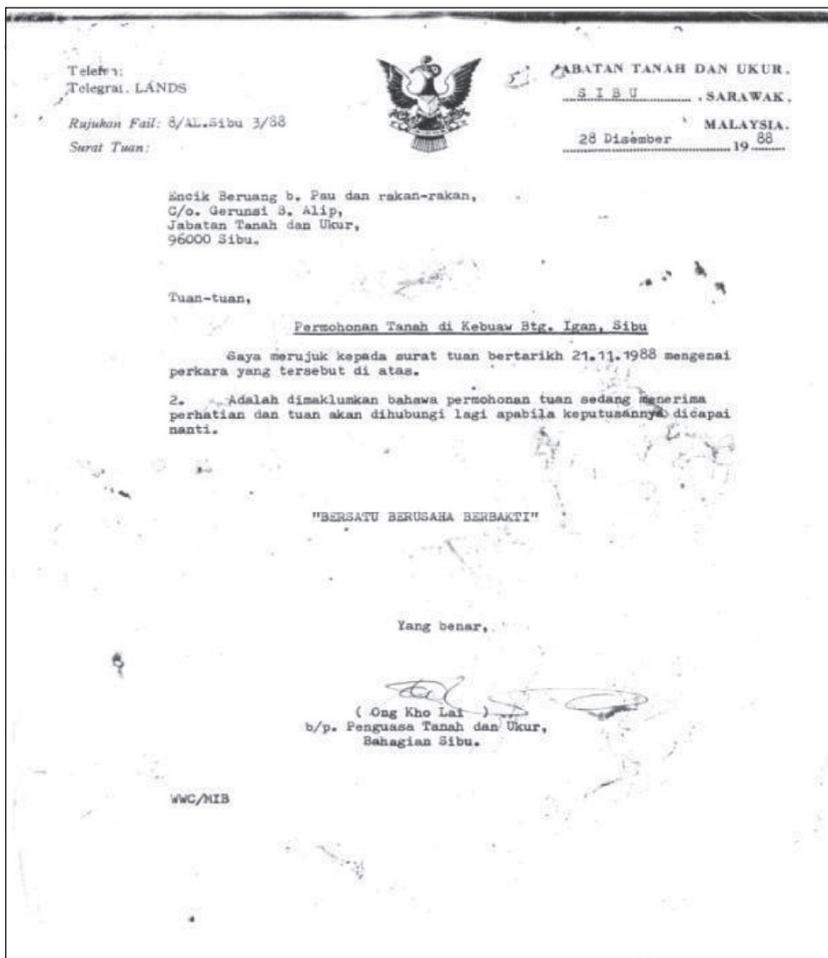
Tang benar,

.....
(Beruang Bin Pau)

Disaksikan oleh Penghulu Kebuaw:


* Senarai nama pemohon disertakan di sebelah.

Above is our letter of application dated 21 November 1988.



This is the response from the Department of State Lands and Survey dated December 28, 1988. The authorities did not take action.

Telefon:
Telegraf: LANDS

Rujukan Fail: 2/9-2/8(5)
Surat Tuan:



JABATAN TANAH DAN UKUR
96109 SARIKEI, SARAWAK
MALAYSIA
10. 2. 19 92

Tuan Rumah Bangit ak Anyau,
Rn. Bangit,
Sg. Elias Batang Igan,
Sibu.

Tuan,

Per: permohonan untuk menyukat tanah
di kawasan Sg. Elias dan kampung
Kebuan Batang Igan

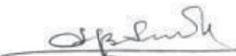
Surat tuan yang bertarikh 16.12.1991 yang
dialamatkan kepada pegawai Daerah, Matu menerusi saya
berhubung dengan perkara di atas adalah dirujuk.

2. Dengan hormatnya dimaklumkan bahawa tanah
yang dituntut berasaskan hak adat bumiputera biasanya
disukat dan diasiat dengan tujuan mengeluarkan surat
hakmilik apabila tanah tersebut disyitihar di bawah
bahagian V Kanun Tanah Negeri (Sab. 81).

3. Memandang kepada kedudukan tanah yang
dimaksudkan itu tidak termasuk dalam sebarang kawasan
penyelesaian yang sedia ada, maka dukacita dimaklumkan
bahawa permohonan tuan tidak dapat ditunaikan pada
masa sekarang. Namun demikian, permohonan tuan telah
dicatat untuk pertimbangan di masa akan datang.

"BERSATU BERUSAHA BERBAKTI"

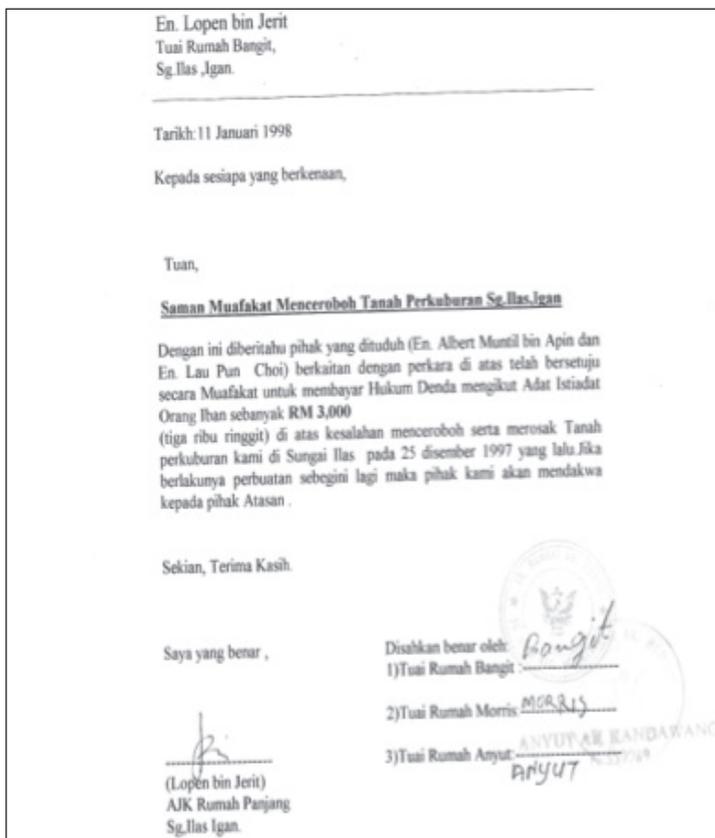
Yang benar,


(OSMAN BIN PEMOAN)
b.p. Penguasa Tanah dan Ukur,
Bahagian Sarikei.

This is the response from the Department of State Lands and Survey dated 10 February 1992. There was also no action taken by the authorities.

We also have concrete evidence from the government, where a logging company was fined according to customary laws for trespassing into the sacred burial site of the Iban and the Melanau communities. The said site is situated at the mouth of the Sungai Anak Besar, a tributary of Ilas River, after we filed a suit of Trespassing Ilas River Cemetery on 11 January 1998.

There were authorities concerned about this burial site of Ilas River case, such as the State Government Department, the Police Department of the KPD Matu/Daro branch. On 21 January 1998 the company was fined with RM 3,000 for the offense. The company being referred to is the Hua Seng SDN BHD. The correspondence is attached in the following pages.



This is the proof of the correspondence (pp. 65 & 66).

(REJLI B. SULAIMAN) L/PL 15912
PONDOK POLIS
POLIS DIRAJA MALAYSIA
KUALA IGAN
38000 SIBU

TR Daryst aka Anyan
Drama -
Supin B. Jirit .

20/1/98

Tuan:

Per: penyerahan wang tunai

Adalah saya diarah oleh Tuan ICPD
Mati/Daro berhubung dengan perkara
diatas pada 21/1/98 jam 930 pagi
di pejabat pondok polis Igan.

Setian untuk makluman dan perhatian
Tuan Tuan.


(Rejli Sulaiman)

THE ENTRY OF THE COMPANY

At first, the government has released licenses to a logging company. The logging company then began operations in the NCR lands in 1993 and continued until 2005. They held operations for 12 years. Now our ancestral domain is gone.

On 28 November 2010, we came to know that the company, Sarananas Sdn. Bhd. had encroached into our NCR lands. We tried to stop and prevent them from continuing clearing activities on our ancestral lands on the same day. We built up a blockade to stop the company from entering, but they refused. At the same time another company encroached into our ancestral domain: Pelita Holdings Sdn. Bhd. Kebuaw Village Community and the Community Longhouses Sungai Ilas were shocked with the discovery of this second company.

On 27 January 2011 we were called to attend a dialogue with the Department of Land and Survey (DLS) – Mukah Division, at Igan Sub District Office, where we were informed by officers from the DLS, Mr. Bujang Raden that PL (Provisional Lease) of Lot 271 Block 56 has been issued to the Sarananas Sdn. Bhd. with an area of 2,517 hectares.

The dialogue was attended by an officer of the DLS who then told us that we have no rights over our native customary rights lands as the PL has already been issued to the said company. The affected areas are our gardens, former sites of our old house (Tembawai), rice paddies (temuda, pengerang), and our reserve forests.

ENCROACHMENT BY SARANANAS SDN. LIMITED COMPANY

Sarananas Sdn. Limited company is engaged in large-scale oil palm plantation in the area of our NCR lands. The company obtained approval from the State Government to commence palm oil plantations in Blk 56 Lot 271 with an area of 2,517 hectares, for a period of 60 years, beginning 3 September 2008 until 3 September 2068. The main shareholder is Roziah Mahmud, the sister of the Chief Minister of Sarawak, Taib Mahmud. Please refer to the attached extract of particulars of Sarananas Company from Malaysian Commission of Companies.

The second company that encroached into our customary rights land, Pelita Holdings Sdn. Bhd., a company engaged in sago plantation, had invaded our ancestral lands with an area of 3,772 hectares. We have no details of the information on the second company because we have no means to access such information or we are forbidden to get the particulars of the said company.

Once we knew that our NCR lands had been encroached, we held another emergency meeting amongst our fellow indigenous peoples. In this meeting, we managed to set up the Steering Action Committee of Customary Lands of Kebuaw Village, Kampung Baru Sungai Sah Kebuaw and four longhouses along Ilas River. Bangit's longhouse is located along Ilas River, Batang Igan. That was in the year 2011. The list of the committee members is shown on the next page.

We erected blockades three times to stop the company from further encroaching into our native land which is located in the Upper Ilas River. The company also destroyed our sago palms. There were hundreds of indigenous peoples who own the native customary lands and who took part in the blockade, to demand for the immediate cessation of operations and leave the areas of our ancestral territorial domain.

We lodged three police reports but there was no action taken by the police.

We had a dialogue with the company twice, but no resolution was reached. Even without our consent as indigenous peoples, the company decided to continue their destructive operations. Unfortunately, we did not have the minutes of the said dialogue.

The company violated our rights by encroaching into our native customary right lands and the traditional ritual custom (Piring pangul) of the Dayak Iban societies and Simah of the Melanau communities. The government also violated our rights by releasing provisional leases over our NCR lands as well as the titled lands of individuals that have been recognized by the British colonies decades ago. The government did not conduct field investigations (Land Inquiry) before approving provisional leases.

As far as we are concerned, they never conduct environmental studies or EIA reports before commencing oil palm plantation operations. They also carry out activities outside the bounds, such as closing down the channel of the

Drainage and Irrigation Department and also part of Ilas River that has been there for decades. There was no compensation receipt from the company.

The company also damaged our protected grounds, such as former old house sites (Tembawai), water springs, hunting areas, and the areas where we collect rattan, timber and tapping jelutong or rubber gardens. Finally, the existence of the company has caused destabilization and division among the local communities.

We demand that the indigenous native customary rights (NCR) lands be recognized by the State Government, and for the company to immediately cease operation and leave our ancestral lands.

We also demand that the existing government treat with serious concern the rights of indigenous peoples.



Impacts of encroachment of Sarananas Sdn. Bhd.

	<p>JAWATANKUASA TANAH SG. ILAS/KAMPUNG KEBUAW, DAERAH KECIL IGAN, 96400 MUKAH.</p> <p>No. H/F: 0194694071 E-mail: lopenbinjirit@gmail.com Ruj. Kami: 1/01/JKTSIKK Tarikh: 11 APRIL, 2011</p>
<p>Penasihat: TR Bangit</p>	<p>Yang Berhormat Datuk Amar Awg. Tengah Ali Hassan, Menteri Perancangan dan Pengurusan Sumber Kedua Sarawak, KUCHING.</p>
<p>Timb. Penasihat KK Jugi</p>	<p>Yang Berhormat,</p>
<p>Pengerusi: Sumen bin Gasan</p>	<p>MEMOHON PENGUKURAN KELILING DAN PEMBERIAN HAK MILIK TANAH DI KAWASAN SG. ILAS DAN KPG. KEBUAW, BTG. IGAN.</p>
<p>Naib Pengerusi: Balau anak Mit</p>	<p>Kami yang bertandatangan di bawah, mewakili para peneroka tanah di kawasan Sg. Ilas dan Kampung Kebuaw, Btg. Igan, Mukah, dengan ini ingin memohon perkara tersebut di atas seperti yang sedang rancang dijalankan di kawasan-kawasan lain di negeri Sarawak. Sila rujuk Lampiran I dan Lampiran II.</p>
<p>Setiausaha: Joseph bin Sirai</p>	<p>2. Ini adalah untuk memastikan tanah-tanah tersebut menjadi hakmilik kami yang telah mengusahakan tanah-tanah ini sekian lama sehingga kebanyakan daripadanya telahpun mengeluarkan hasil walaupun dalam rekod Jabatan Tanah dan Survei ianya masih kosong sehingga kami difahamkan ianya telah memberi kawasan tersebut kepada sebuah syarikat swasta.</p>
<p>Pen. Setiausaha: Unggang ak Belon</p>	<p>3. Subkontraktor kepada syarikat tersebut telah "menceroboh" kawasan yang kami telah usahakan dan telah menebang tanaman kami tanpa mengira tanaman-tanaman tersebut telah mengeluarkan hasil. Ini telah menimbulkan masalah dan ketegangan telah berlaku di antara subkontraktor tersebut dengan pihak kami. Ini telah menjadi kes polis.</p>
<p>Pendehari: Apeng bin Udi</p>	<p>4. Tanah-tanah ini telah kami usahakan dengan bantuan : 4.1. Jabatan Parit dan Taliair yang telah membuat 5 buah parit dan taliair; 4.2. Jabatan Pertanian yang telah memberi subsidi kepada beberapa orang daripada kami.</p>
<p>Pen. Bendahari: Jemat bin Mang</p>	<p>5. Tanah yang kami pohon untuk diukur ini memang sudah ditanam dengan rumbia dan tanaman-tanaman lain dan kebanyakan daripadanya telah pun mengeluarkan hasil bukannya dalam proses untuk diusahakan.</p>
<p>AJK: TR Janting ak Agan TR Suai Atin bin Gerudang Supin b Gerudang Lau ak Jam Das b. Mabut Lopen bin Jirit Saling b. Sanyut Lang ak Bilun Morni b. Sitan</p>	<p>6. Adalah menjadi harapan kami bila ianya mengeluarkan hasil sepenuhnya kelak ia mampu memberi pendapatan yang lumayan sehingga membolehkan kami mendapat pendapatan sederhana sejajar dengan kehendak kerajaan bila negara kita mencapai tahap negara maju menjelang tahun 2020 kelak. Jika hanya mengharapkan dengan bekerja sebagai buruh di ladang yang dicadangkan itu, sampai bila-bila masa pun</p>
<p>Juruodit Dalam: Haslina bt Alau</p>	

List of committee members is recorded on the left.



Open burning by Sarananas Sdn. Bhd. Spread into the lands belonging to the villagers, destroying the sago palms.



Damages done by Sarananas Sdn. Bhd.



Police personnel interference in favor of Sarananas Sdn. Bhd.



N 02 49' 46.4" E111 48' 20.6"(Point GPS). Ilas River is badly damaged due to road construction by Sarananas Sdn. Bhd., which blocked the river.

ABOUT THE BOOKLET

This booklet is a compilation of modules that were used in capacity building trainings in indigenous peoples' communities in Sarawak (Malaysia), particularly in Kebuaw (Sibu) and Batang Ai (Lubok Antu). It aims to provide a guide and reviewer for community leaders who participated in various trainings and are now involved in providing similar trainings to communities, which are defending their rights over their native customary land.



aidenvironment

