



Forest Peoples  
Programme

## **BRIEFING FOR MEDIA – MALAYSIA**

### **Securing Indigenous Peoples' Rights in Conservation: Reviewing and Promoting Progress, Sabah, Malaysia**

#### ***Key Findings***

Many conflicts arise from protected areas in Malaysia, often due to the lack of legal recognition of indigenous peoples' traditional land and way of life. In Sarawak and Sabah customary rights to land and customary law are partly recognised by state law, introduced by the British during colonial times. However these are not properly implemented and are sometimes ignored by government agencies. In Peninsular Malaysia the indigenous peoples, now a small minority, have few rights to their land under statutory law.

- In Sabah the gazettement of national parks extinguishes the rights of communities living within their boundaries. This happens often, demonstrating the fragility of local community rights. Ambiguous legal status of customary rights exacerbates conflict between Park authorities and communities.
- In practice indigenous peoples continue to use and occupy their customary areas throughout Malaysia, even within parks. In Sabah the administration has introduced measures to accommodate local people, such as the requirement of 'Occupation Permits', recruitment of local people as 'Honorary Park Rangers' and the establishment of Community Use Zones. Although not amounting to proper recognition of indigenous rights, these are positive steps.
- In Sabah (but excluding protected areas) customary systems of land use and conservation have been partially recognised. In particular the *Tagal* system of controlling community fisheries has been officially acknowledged in law. Indigenous peoples have also been involved in the drafting of laws recognising indigenous peoples' rights to their traditional knowledge and to benefits from its use.

#### ***Key facts***

- Malaysia was formed in 1963 through a federation of former British colonies and includes the East Malaysian States of Sabah and Sarawak on the Northern coast of Borneo.
- The forest cover in Malaysia is estimated to be 59.5% of the total land area of which 44% is managed by the Forestry Department; protected areas amount to 16.3% of land area.
- The total population of Malaysia is 28.6million people; 12% are considered indigenous. Sabah has a vast indigenous diversity with at least 39 different indigenous groups who speak more than 50 languages. They comprise 60% of Sabah's population.
- Most indigenous peoples in Malaysia live in rural areas and are typically subsistence farmers. Many also rely on plants in the forest for their food, medicine, fuel and building materials. Hunting and fishing are important for livelihoods.
- Some indigenous communities continue to live in many of the parks in Malaysia. In Sabah the Crocker Range National Park has been home for generations of indigenous communities, in particular the Kadazandusuns and the Muruts.
- In Sabah Forest Reserves are classed in seven categories, most under the jurisdiction of Sabah Forestry Department. A forest reserve is gazetted under the provisions of the Forest Enactment of 1968, which requires notices to be posted to forest communities to allow for objections.

## ***Implementation of the 2003 Durban Action Plan and CBD Programme of Work on Protected Areas***

- **Customary Use:** The Parks of Sabah are totally closed. Communities living in and around them have no access or user rights to the resources, impacting on daily lives and livelihoods. Crocker Range Park is the largest in Sabah and has 17 communities living in its vicinity. This causes conflict with Park authorities.
- **Free, Prior and Informed Consent:** Sabah law requires local inhabitants to be properly informed and consulted about plans for establishment of new forest reserves, in line with the 'Free, Prior and Informed Consent' of the Durban Action Plan. Many elders however told the review that they were unaware of any notice given, and so lost the rights to their land.
- **Resettlement of Indigenous People:** If authorities in forest reserves view local people as encroachers they have the right to evict the community. The establishment of parks results in enforcement of the Park Enactment, which do not allow settlements. Most parks choose to allow communities to stay but no laws have been made to secure the future of the communities.
- **Participation in Management:** Crocker Range Management Plan consultation was 60 days. The plan was in English and it was necessary for a local community based organisation to visit the villages to gather feedback. At end of the process the communities' recommendations were not taken into account.

### ***Positive Developments***

- **Customary Use:** A project in Crocker Range Park, Sabah, is piloting Community Use Zones. The aim is for communities to regain their user and access rights, whilst at the same time being responsible for the management of the area. This could be a win-win situation: communities get user and access rights and authorities have more human resources to care for the park.
- **Traditional Knowledge:** The indigenous resource management practice of *Tagal* has been recognised in law and promoted by the Sabah Fisheries Department. An example of community participation in the sustainable utilization and management of resources, fish can only be harvested when the community decides. Significant growth in fish stocks has resulted. Such inclusion of indigenous knowledge in conservation is a turning point in Sabah. However it is not yet used in protected area management.

### ***Key Recommendations***

- Renewed dialogue is needed between indigenous peoples and protected areas to study and explore options for implementing the Durban Accord
- Training needs to be given to local authorities on the obligations of State parties under the CBD
- Conservation NGOs need to promote their own policies on indigenous peoples, the Durban Accord and the CBD decisions relevant to indigenous peoples in their field programmes.