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CHAPTER 2

Free, Prior, and Informed Consent (FPIC) and self-determination of Indigenous People in the context of environmental conservation in Sarawak

THOMAS JALONG[1], CELINE LIM[1], PETER KALLANG[1], WILLIE KAJAN NGANG[2] and NG SEAN FONG[3]*

Abstract: Nature conservation, in the context of establishing nature reserves, protected areas, and other forms of conservation areas, may result in potential conflicts with Indigenous Peoples (IPs), especially when no prior consultation took place, and the Indigenous Peoples' consent were not obtained. Prohibition that restrict IPs from accessing, harvesting resources from, or utilising surrounding forests that are demarcated as protected, are examples of how nature conservation has impinged upon the right for self-determination of the IPs. The principles Free, Prior, and Informed Consent (FPIC), explicitly outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), highlights the importance of equitable and fair participation of the IPs in the governance, management, and use of surrounding lands. However, instances of misinterpretation and implementation of FPIC in bad faith continue to occur in Malaysia. This chapter examines both positive practices and challenges in the interpretation and implementation of FPIC in Sarawak, while highlighting instrumental role for safegauarding IP's rights and self-determination.

INTRODUCTION

"*Kalau berani, jangan takut; kalau takut, jangan berani.*"
— Adage repeated by Indigenous Leaders
during protests and blockades in Sarawak

Land is life. The customary land of the Indigenous Peoples (IPs) community function not only as their supermarket and hardware shop to obtain food and essentials, but also as a place of healing, learning, and a source of spirituality and beliefs. The IP community has learnt over generations, the ways of living in harmony with nature within their customary territories and roaming grounds. Their relationship with the land extends beyond meeting basic survival needs; they are deep-rooted with their identity and relationship with the natural environment.

From the land, the IP's language, culture, traditions, and spirituality are birthed. Through generations of observing the natural environment (the seen and unseen phenomena), accessing natural resources (e.g., food, water, medicine, and other materials), and engaging in activities closely connected to their territories, IPs develop a profound sense of attachment and affinity to their customary land. Land is much more than just a source of provision, as the fate and existence of the IP is intertwined with the land itself.

Broadly speaking, IP communities across Malaysia are highly communal. Successful hunts result in the meat being shared amongst the families in the community. In the event of a conflict, the community convenes at a common area for dialogue and seeks consensus to resolve the conflict. Communal resources, such as farmland are planted and harvested with the involvement of the entire village, men, women, and children together.

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As Malaysia's urban centres—many of which are located along coastal areas and within floodplains—grow and expand outwards, available land for future development becomes increasingly scarce. At the same time, there is a growing recognition of the importance of undisturbed forests, coastal, and marine ecosystems towards planetary health and human wellbeing. These competing demands culminated in the expansion of gazetted and developed areas into the hinterlands where the IPs reside.

In the context of Sarawak, Native Customary Rights (NCR) land refers to the land owned by IP communities and is legally recognised by the legal system, whereas customary land is land that is utilised by IPs that is not necessarily legally recognised by the legal system. In most cases, NCR land represents a small portion of customary land that IPs use. This distinction becomes an issue when the Government of Sarawak only recognises NCR land, and considers customary land as state land, thereby undermining and extinguishing an Indigenous community's *de facto* rights over their land.

The encroachment, dispossession, and appropriation of Indigenous customary lands —whether attempted or actualised—in Malaysia is well documented. Cases such as the forced eviction of Temuans from Kampong Busut in Banting, Selangor for the development of the Kuala Lumpur International Airport (Nicholas 2010), the dispossession of land affecting numerous IP communities within the Upper Baram Forest Area in Sarawak (Lee *et al*. 2014), and the non-consultation of IP communities in signing of the Nature Conservation Agreement between the Sabah State Government and a foreign private entity (Channel News Asia 2022) highlight the lack of Free, Prior, and Informed Consent (FPIC) and the curtailing of self-determination by Indigenous communities, in matters concerning their customary land and their rights to it.

FPIC AND THE RIGHT TO SELF-DETERMINATION

Free, Prior, and Informed Consent (FPIC) is promulgated in two key international documents, which are the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and the *Indigenous and Tribal Peoples Convention* (also known as *International Labour Organization Convention 169*, ILO C169). One key distinction between UNDRIP and ILO C169 is that UNDRIP is a declaration that can be adopted by a country, however the country is not legally bound to implement it in full, whereas ILO C169 is legally binding for signatory countries to ratify it. In Malaysia's case, the country has adopted UNDRIP, but has not signed onto ILO C169.

FPIC is both a principle and a process of continuous engagement and consultation between an external party and an Indigenous community, concerning any proposed activity or development that shall directly or indirectly impact the IP community (e.g., land, resources, cultures, or livelihoods). Before examining the individual components of FPIC in greater detail, it must be emphasised that FPIC should not be treated simply as a means for the external party to secure the consent of the IP community; instead, it is a neutral and participatory platform where the proponent and IP community can engage meaningfully. This process should enable the proponent to provide adequate information, seek community feedback, consider modifications to the original plan where necessary, and to reach a consensus or compromise with the IP community engaged. The process does not end there. The proponent should continue providing updates, collaborate, and establish appropriate mechanisms to address grievances. Importantly, the process must uphold the IP's autonomy and self-determination, including their right to withdraw their consent at any point in time and it must be rightly respected by the external party, without attempts to persuade or pressure the community into reversing its decision.

"*Free*" ensures that an Indigenous community is able to reach a consensus without being exposed to pressure, manipulation or intimidation. This may mean the IP community is accorded the space and time to deliberate and discuss on the matter. This includes consulting with the village shaman, conducting spiritual ceremonies to confer with and seek guidance from spiritual entities, and carrying out the aforementioned practices as many times as needed for the community to reach an organic conclusion together.

"*Prior*" ensures that an IP community is given adequate notice and space to form an opinion about the proposed activity and determine whether they wish to provide their consent, before the proposed activity takes place. Within this lies two aspects. Firstly, sufficient time and notice must be provided to facilitate the participation of all segments of the IP community (i.e., women and youth) in engagement session(s), with due consideration for the community's seasonal activities (i.e., avoiding sessions during farming or harvest periods). Secondly, consent must be obtained sufficiently in advance before the proposed activity takes place, as the FPIC process cannot be rushed and must allow ample time for deliberation by the IP community. The consent should not be regarded as permanent or irrevocable, as the IP community have the rights to withdraw their consent at any point of time afterwards, should they collectively decide they no longer agree with the proposed activity.

"*Informed*" means that the IP community receives sufficient information that is conveyed in a transparent, accurate, and understandable manner in order to make a fully informed decision about the proposed activity. This goes beyond presenting the technical details of the proposed activity, including its pros and cons, implementation timeline as well as the roles and responsibilities of parties involed. Equal consideration should also be given to the mode and method of how the information is delivered, such as using local and Indigenous languages, and appropriate printed media with clear and legible text font, among other measures, to ensure the IP community can fully understand the proposed activity and its potential impacts to them. The key distinction is for the proponent not merely inform the IP community of the proposed activity, but to actively engage with and consult with them throughout the process so they genuinely understand and informed of the situation before making a decision.

"*Consent*" means the Indigenous community has reached a consensus in agreement with the proposed activity. Consent may be given as it is, or it may be presented as conditional, where it will only be granted once certain conditions are fulfilled. Similarly, the IP community may withhold their consent or withdraw previously granted consent at a later stage, if the Indigenous community is no longer in agreement with the activity. The right to give consent, or to represent the community as a whole, may not necessarily be vested in the village headperson, to avoid misrepresentation of the Indigenous community.

Most importantly, FPIC as a principle and process must be undertaken in good faith, as a means for the Indigenous communities to exercise their right for self-determination. It is not a tool to be wielded in bad faith, solely to secure the perceived agreement/acceptance of the IP community to the proposed activity, irrespective of how it is secured.

CASES STUDIES: MISIMPLEMENTATION OF FPIC AND THE RIGHT TO INDIGENOUS SELF-DETERMINATION IN THE CONTEXT OF SARAWAK

Bakun and Murum Dam

The Bakun and Murum Dams are two of the multiple hydroelectric dams constructed in Sarawak. These dams are built in the interior watershed regions, which overlaps with customary and NCR land. For Bakun and Murum Dams, the inundation areas were 720 km^2 and 245 km^2 respectively, whereas the number of IPs forcibly displaced were approximately 10,000 and 1,400, respectively.

The Sungai Asap Resettlement Scheme housed the IPs displaced by the Bakun Dam. The displaced IPs found themselves in a precarious situation. Although they have received compensations, they were required to assume financial obligations as they now live in wooden houses (valued at RM52,000, to be borne in full with their names on the sales-and-purchase agreement) (Usit 2010). They also have to meet recurring expenses for basic utilities, or risk having their access to water and electricity cut off. While they had previously relied on hunting, fishing, and harvesting forest produce in the past, many now are increasingly dependent on purchasing and sundry from shops. Despite receiving cash compensation (up to RM100,000) for the loss of land and crops, this did not last for long when the IPs had to contend with the new expenses associated with the resettlement.

Each household was given a paltry three acres of land for cultivation. Some plots however, were unsuitable for cultivation, owing to its rocky or sandy composition, whereas some were located on swampy or steep terrains (Aiken and Leigh 2016). Other plots were located too far away from the access road, rendering it useless to the owners. Some IPs resorted to working at local plantations, where they received a daily pay of RM 20 – RM 30.

Some households chose to return to the inundated areas of their customary land, rebuilding their homes above the new waterline, where they are still able to remain and live on their land. For these IPs, their claims to compensation for the loss of land and crops were denied, as the State Government deemed them as squatters on state land (Kaur 2001).



Figure 1. Sungai Asap Resettlement Scheme as viewed from satellite imagery dated 26th of July 2024, where it is surrounded by plantations and large-scale land clearing. (Copernicus Data Space Ecosystem Browser 2025)

Baram Dam

The proposed Baram Dam was to be built on the Baram River, where it shall inundate an area of 400 km^2 and displace between 6,000 to 20,000 IPs from their customary lands. These communities, alarmed and aware of the history and plight that occurred during the development of the Bakun and Murum Dams, managed to coalesce into the Baram Protection Action Committee (BPAC). Communities of BPAC participated in engagement sessions organised by consultants carrying out the social and environmental impact assessment (SEIA), where one of its objectives was to seek the FPIC from the affected communities to the proposed Baram dam.

In a fact-finding mission by Lee et al. (2014), they reported that communities were not provided full information about the proposed dam. The potential benefits of the project were upsold, while the impacts, such as which communities will be inundated, were withheld from the IP community. There were no attempts for negotiation nor consultation; instead, the purpose of the engagement sessions veered towards merely informing the IP communities about the project. In addition to voicing their non-consent to the project during engagement sessions, Indigenous leaders went to Miri to repeat their non-consent to the proponent of the Baram Dam, Sarawak Energy Berhad (SEB).

The IP communities had to contend with misrepresentation of their voices by external parties. Instead of being elected by IP communities themselves through community protocols, government-appointed spokespersons and leaders expressed support for the proposed dam on behalf of the IP communities, thereby contravening the IPs' genuine sentiment and consensus in opposing the Baram dam. Occurrences of sponsored festivities, as well as providence of gifts and cash handouts by SEB to the IP communities were reported as well. At the same time, land acquisitions were undertaken by the government through the application of the Sarawak Land Code, simultaneously ignoring the customary land rights of the IPs and their non-consent to the proposed project.

In some IP villages, consultants and SEB officials resorted to threats, intimidation, and coercion to compel the IPs' participation in surveys. The IPs were told that if they do not participate in the survey, they will not be eligible to receive compensation money for the project. Lastly, the IP communities' right to self-determination was denied as the proposed Baram Dam was planned in advance, with the assumption that the IP communities needed the Baram Dam and the potential development that may occur within the region. Instead of having the right to determine the nature and terms of development on their NCR and customary lands, the IPs were presented with a pre-ordained development plan, leaving them with little or no meaningful opportunity to negotiate or influence the proposed course of action at all.

It took concerted effort of multiple IP communities over seven years to see the cancellation of the proposed Baram Dam, where it was officially shelved by the Sarawak government in 2015, followed by the revocation of the government gazette that extinguished the recognition of NCR land within the dam reservoir area in 2016 (Malaysiakini 2016).



Figure 2. Indigenous leaders protesting against the Baram Dam at the venue of the International Hydropower Association World Congress 2013, held at the Borneo Convention Centre in Kuching, Sarawak. (Copyright: Save Rivers Sarawak).

Timber and monoculture industry

A study on forest cover change in Borneo elucidated that Sarawak has a total land area of 124,005 km^2, of which 92,152 km^2 were forest areas in 1973. With 1973 as baseline, Sarawak's logged forest area and forest area loss in 2010 was 52,681 km^2 (42.48% of total land area) and 21,309 km^2 (23.12% loss against forest areas in 1973), respectively (Gaveau *et al.* 2014).

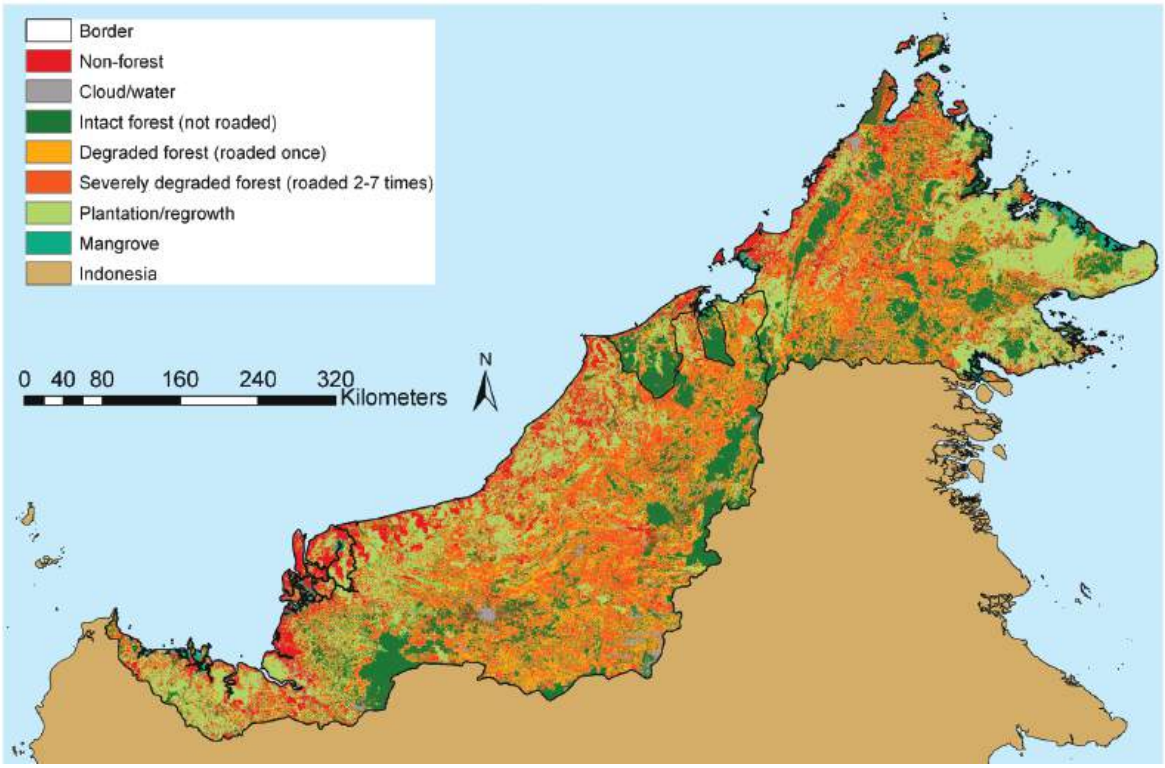


Figure 3. Very little intact forest (20% of land area) remains in Sarawak in 2009 (Bryan *et al.* 2013).

As encroachment, deforestation, logging, and monoculture plantations crept towards customary lands, the IP communities across Sarawak expressed their disagreement and rejection of such violations to their lands. Attempts for dialogue via correspondences, consultations and engagement sessions by the IP communities to the project proponent, consultants, and the authorities either fell on deaf ears, were brushed aside, or received a response that highlighted the benefits of logging instead (The Borneo Project and Bruno Manser Fonds 2023).

In response, the IP communities erected blockades at key entry points to block unauthorised vehicles and personnel from entering their customary lands. These blockages, constructed of wood, are manned by members of the IP communities. Food was either foraged from the surroundings, or purchased with the communities' money and contributions from external donors. Such blockades were often organised as peaceful and communal events, reflecting the community's solidarity and their determination to defend their customary lands.

Section 90B was then introduced to the *Forests Ordinance 1958*, outlawing (1) the construction of, (2) being present at, and (3) preventing the destruction of blockades. This empowered enforcement officers to detain Indigenous protestors and remove blockades,

with force if needed. This amendment was retained when the *Forests Ordinance 2015* came into force, under Section 102 (Offences relating to obstruction of road). However, this did not deter the IP communities from continuing to erect and maintain blockades even to this day, in order to prevent and protest against the unwanted entry of foreign parties into lands.

For legitimate NCR lands, some IP communities were approached by either the Sarawak Land Consolidation and Rehabilitation Authority (SALCRA) or the Land Custody Development Authority (LCDA) to develop the NCR land under a joint venture (JV), often for the cultivation of cash crops such as oil palm. For these JVs, shareholding is split, where 10% of shares is held by LCDA, 30% by NCR land owners, and 60% by the investors. The NCR land owners are deemed to have paid for their 30% share through the surrender of their NCR land to LCDA, which the latter is appointed a Trustee (with Power of Attorney) for the NCR land owners. The LCDA deals with the investors on behalf of the NCR land owners.

During the period of the JV—typically lasting 60 years, the NCR land owners were not permitted to utilise the NCR land surrendered for the JV, and they were allegedly not permitted to even enter the area. The NCR land owners also do not have any say in the management and benefits. There was no rescission clause in the JV agreement that allows the NCR land owners to request for the land back, prior to the completion of the JV. The perceived benefit of the JV, which is the disbursement of dividends to the NCR land owners, did not materialise in some cases. One IP community in particular joined a JV in 1993, but has not received a single dividend disbursement since 2013 (Human Rights Commission of Malaysia 2013).[a]



Figure 4. Berawan community in Mulu protesting against the development of facilities around Gunung Mulu National Park by Borsarmulu Park Sdn. Bhd., which is linked to the late Abdul Taib Mahmud, a former Yang di-Pertua Negeri and Chief Minister of Sarawak. (Copyright: Willie Kajan Ngang)

[a] The explanation given by SALCRA for this particular JV is that dividends will only be disbursed if there was profit.

Indigenous leaders, non-governmental organisations (NGOs), and community-based organisations (CBOs)—who drew attention to the issue, organised and empowered the communities to defend their rights and lands, and published reports and exposés—were targeted by both authorities and private sector alike. Indigenous leaders, including Thomas Jalong, Jok Jau Evong, Gara Jalong, Raymond Abin, and many others, were prevented from leaving Sarawak or Malaysia to raise awareness about deforestation and Indigenous issues at international events and conferences (Phoa 2009). Social activist, Bill Anak Kayong, was shot dead in Miri on the 21st of June 2016, with many suspecting his death was linked to his work with IP communities and the safeguarding of their customary land (Pearce 2017).

Save Sarawak Rivers Network (SAVE Rivers), a grassroots NGO working alongside IP communities affected by home encroachment and deforestation on their customary lands, was served with a lawsuit by Samling Plywood Miri Sendirian Berhad in June 2021. The lawsuit was filed on the grounds of alleged defamation. Samling demanded an apology, an injunction to stop SAVE Rivers from reporting community claims, and compensation amounting to RM 5 million (The Borneo Project and Bruno Manser Fonds 2023). The trial was rescheduled four times over the span of 25 months before the case was eventually withdrawn, resulting in considerable expenditure of resources and time (Keeton-Olsen 2023). This practice is commonly referred to as the Strategic Litigation Against Public Participation (SLAPP) and is utilised as a tool to silence activists, NGOs, andCBOs from exposing wrongdoings or advocating for the rights of the affected.

Fortress conservation

Indigenous communities whose lands are located within Sarawak's Totally Protected Areas (TPAs), which are categorised as National Parks, Wildlife Sanctuaries, and Nature Reserves face challenges pertaining to their customary lands as well. As the purpose of TPAs is primarily the conservation of biodiversity and the natural environment within its boundaries, this puts TPAs at odds with the forest resource utilisation of the IP communities. In the most extreme of cases, TPAs shall seek to minimise human presence within a park, including the removal of settlers, IP communities, and local communities that have long histories of living within the proposed TPA. This is known as fortress conservation. [b]

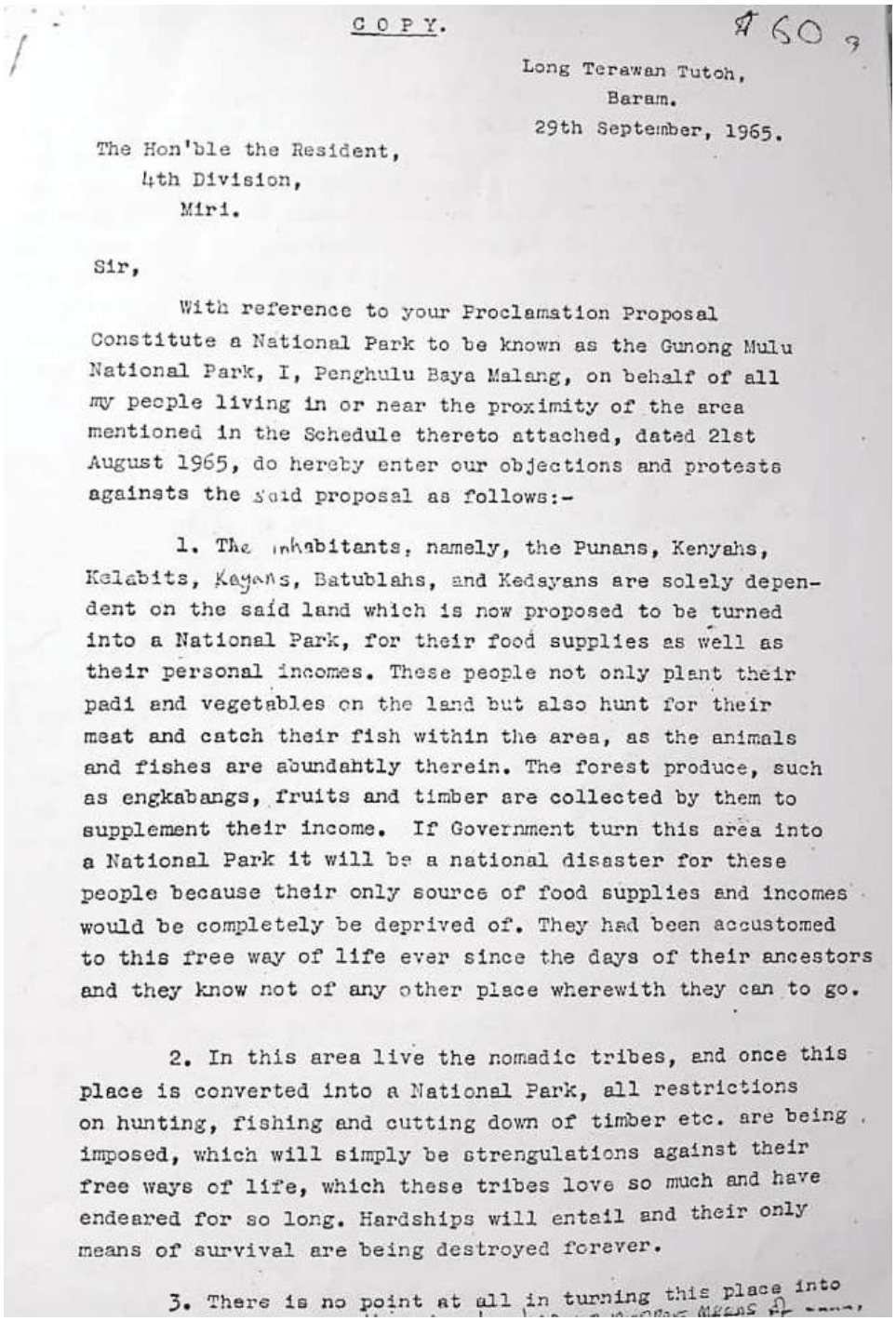
An example of fortress conservation in Sarawak would be the Gunung Mulu National Park (GMNP). While IP communities have long resided within the Mulu area, British explorers first set foot into the Mulu area in 1857 during their expeditions to the interiors of Sarawak. The route to the summit of Gunung Mulu was discovered by Tama Nilong, a Berawan from Long Terawan in 1920 (Wong *et al*. 2019). It would take more than 50 years before Gunung Mulu and its surrounding areas exceeding 50,000 hectares were gazetted as a National Park in 1974. Owing to its rich and endemic biodiversity, as well as the unique cave and karst formations, GMNP was designated as a UNESCO World Heritage Site in 2000.

Indigenous ethnic groups such as Penan, Berawan, Kenyah, Kelabit, and others have long inhabited within and around GMNP. This was recognised in the various scientific expeditions carried out in GMNP when it was first gazetted (Jermy 1983). It was important to note that in 1962, expedition researchers and administrative officers sought consent of the late Penghulu Baya Malang[c] to carry out scientific surveys around Gunung Mulu, where after several rounds of negotiations, the late Penghulu consented to allowing scientific

[b] For further reading on fortress conservation, refer to "*People, Parks, and Power: The Ethics of Conservation -related Resettlement*" by Maria Sapignoli and Robert K. Hitchcock.

[c] The late Penghulu Baya Malang was the elected Penghulu (Headman) for the Tutoh, Kenyah, and Penan houses in Apoh, back in 1959. *Sarawak Gazette* Vol LXXXV, No. 1220, 31st October 1959. https://pustaka-sarawak.com/gazette/gazette_uploaded/1411887107.pdf

expeditions to be carried out only within a set boundary (parts of the lowland, extending from the rivermouth to the foothills and to the peak of Gunung Mulu) established by the late Penghulu and agreed by the administration (Jacobs and Kajan 2019). It should be noted that the consent obtained from the late Penghulu was only for the scientific expedition, and not for any commercial endeavours at all (Figure 5).



COPY.

Long Terawan Tutoh,
Baram.
29th September, 1965.

The Hon'ble the Resident,
4th Division,
Miri.

Sir,

With reference to your Proclamation Proposal Constitute a National Park to be known as the Gunong Mulu National Park, I, Penghulu Baya Malang, on behalf of all my people living in or near the proximity of the area mentioned in the Schedule thereto attached, dated 21st August 1965, do hereby enter our objections and protests againsts the said proposal as follows:-

1. The inhabitants, namely, the Punans, Kenyahs, Kelabits, Kayans, Batublahs, and Kedayans are solely dependent on the said land which is now proposed to be turned into a National Park, for their food supplies as well as their personal incomes. These people not only plant their padi and vegetables on the land but also hunt for their meat and catch their fish within the area, as the animals and fishes are abundahtly therein. The forest produce, such as engkabangs, fruits and timber are collected by them to supplement their income. If Government turn this area into a National Park it will be a national disaster for these people because their only source of food supplies and incomes would be completely be deprived of. They had been accustomed to this free way of life ever since the days of their ancestors and they know not of any other place wherewith they can to go.

2. In this area live the nomadic tribes, and once this place is converted into a National Park, all restrictions on hunting, fishing and cutting down of timber etc. are being imposed, which will simply be strengulations against their free ways of life, which these tribes love so much and have endeared for so long. Hardships will entail and their only means of survival are being destroyed forever.

3. There is no point at all in turning this place into

Figure 5. Correspondence between Penghulu Baya Malang and the Resident of the 4th Division, where Penghulu Baya Malang expressed his disagreement with the proposal to establish the GMNP. (Copyright: Willie Kajan Ngang).

From the gazettement of GMNP and the various scientific expeditions, the *Gunung Mulu National Park: A Management and Development Plan* (the Management Plan) was produced jointly by the Sarawak Forestry Department and the Royal Geographical Society in 1982. The Management Plan outlined, *inter alia*, the plans to rehabilitate the nomadic Penan into a more settled form of existence, where they were to gradually transition from their traditional hunting-gathering way of life, into a sedentary community based on agriculture, handicraft production, and settled domestic practices. The Management Plan highlighted the priority of nature preservation through the following statements[d]:

- "The protection of the park itself, and the fauna and flora therein, must be the primary consideration."
- "The most difficult problem concerning the management of the Park is the regulation, or overseeing, of the privileges of the local people."
- (The Penan) "should be given agricultural training"; develop their skills in their traditional handicrafts so as to enable them to earn ready cash"; and "teach them basic house-keeping and hygiene".
- (The prescribed hunting and foraging privileges of locals) "must be respected."
- "It is recommended that the reduction of the privileges of the Penan might be gradually implemented as follows: Closure of part or parts of the Park, particularly in lowland areas traversed by visitors, to the hunting of the more threatened species, notably monkeys and gibbons; Extension of the areas closed to the hunting of specified mammals and birds, and the number of protected species to be increased."

To the shock of the IP communities of Gunung Mulu, visitors began to arrive at GMNP in the 1980s, followed by the gradual development of hospitality infrastructures, including the Mulu Airport. This brought on an influx of outsiders onto the customary lands of the Indigenous communities. At the same time, the imposition of GMNP resulted in the local IP communities being given varying degrees of privileges to hunt wildlife and forage produce for sustenance, as opposed to their original unimpeded right to hunt and forage.

There was also the appropriation and commercialisation of Indigenous culture, including the construction of elevated walkways over the burial grounds of the IPs in the caves of GMNP. A study by DeLoach (2021) revealed that a request by the IP community in Long Iman for GMNP to contribute RM 2 to RM 5 per park guest to the Long Iman community went unanswered. In the context of IP communities working as nature guides, the study showed that many IPs of Mulu area face difficulties in passing the courses and examples required to become a licensed guide.

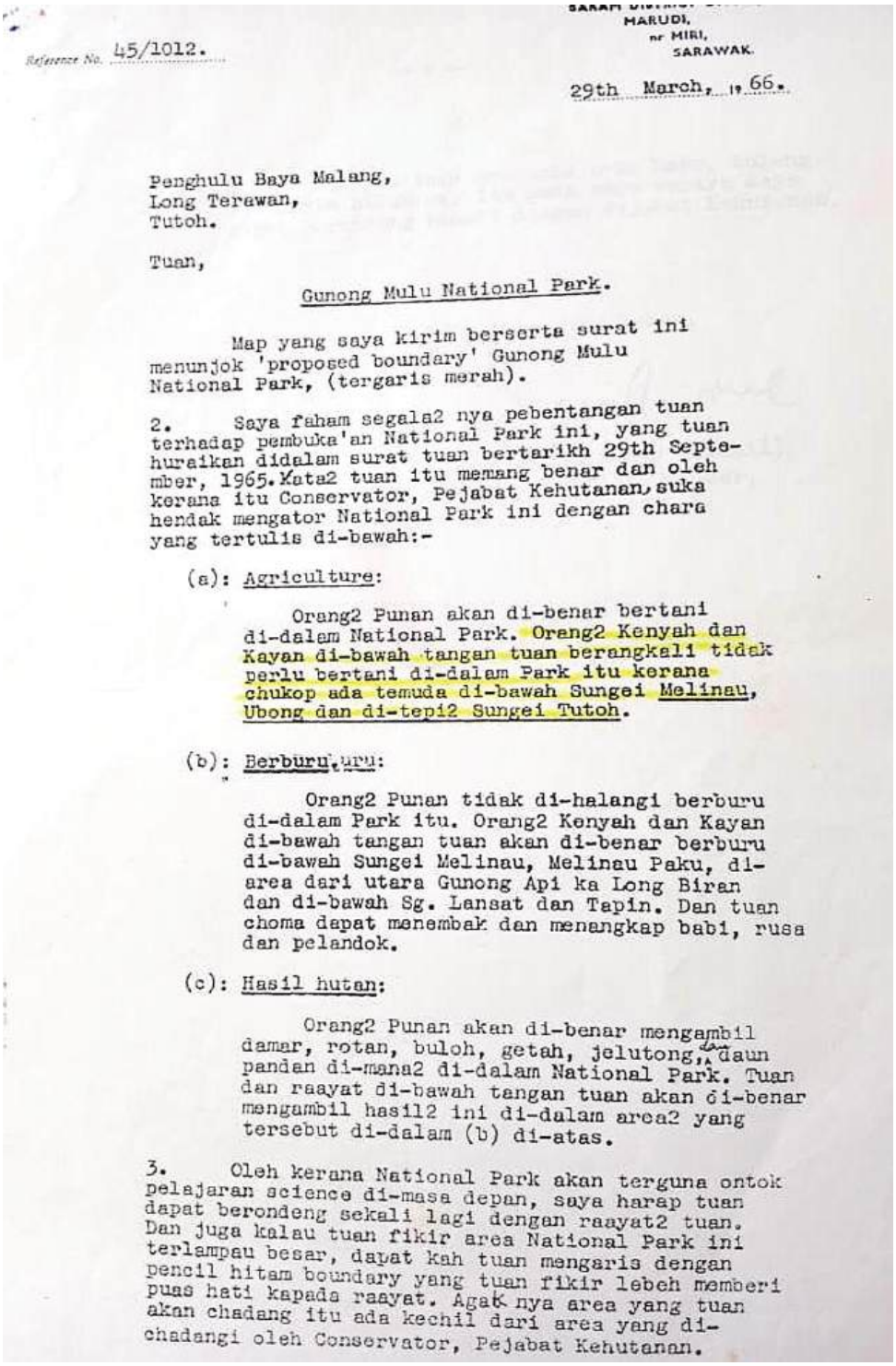
The Conservation Outlook Assessment on the GMNP was conducted by the International Union for the Conservation of Nature (IUCN) in 2025, where in its report stated that some IP communities continue in the non-recognition of the GMNP. An excerpt from the assessment on the topic of "Involvement of stakeholders and rightsholders, including Indigenous Peoples and Local Communities, in decision-making processes" states:

"... After significant land clearing and construction of some 20 shelters in Extension 1 of the national park the group responsible were challenged to explain themselves and the spokesperson's reply was "this is our hunting land. It was made a national park without our consultation or agreement."

– International Union for the Conservation of Nature and Natural Resources (2025).

[d] The Gunung Mulu National Park: A Management and Development Plan can only be found in select libraries around the world and not available online. These quotes are referenced through a postdoctoral Master's thesis "*The Park is the People: (Mis)representations of Nature and Indigeneity at Gunung Mulu National Park in Malaysia*" by Haley R. DeLoach (2021).

While tourism may have contributed to the source of income for IP communities of GMNP, it cannot be denied that the establishment of GMNP did not bear the FPIC of the IP communities, and it has denied the Indigenous communities' right for self-determination.



MARUDI,
MIRI,
SARAWAK.

Reference No. 45/1012.

29th March, 1966.

Penghulu Baya Malang,
Long Terawan,
Tutoh.

Tuan,

Gunong Mulu National Park.

Map yang saya kirim berserta surat ini menunjok 'proposed boundary' Gunong Mulu National Park, (tergaris merah).

2. Saya faham segala2 nya pebentangan tuan terhadap pembuka'an National Park ini, yang tuan huraikan didalam surat tuan bertarikh 29th September, 1965. Kata2 tuan itu memang benar dan oleh kerana itu Conservator, Pejabat Kehutanan, suka hendak mengator National Park ini dengan chara yang tertulis di-bawah:-

(a): Agriculture:

Orang2 Punan akan di-benar bertani di-dalam National Park. Oreng2 Kenyah dan Kayan di-bawah tangan tuan berangkali tidak perlu bertani di-dalam Park itu kerana chukop ada temuda di-bawah Sungei Melinau, Ubong dan di-tepi2 Sungei Tutoh.

(b): Berburu, uru:

Orang2 Punan tidak di-halangi berburu di-dalam Park itu. Orang2 Kenyah dan Kayan di-bawah tangan tuan akan di-benar berburu di-bawah Sungei Melinau, Melinau Paku, di-area dari utara Gunong Api ka Long Biran dan di-bawah Sg. Lansat dan Tapin. Dan tuan choma dapat menembak dan menangkap babi, rusa dan pelandok.

(c): Hasil hutan:

Orang2 Punan akan di-benar mengambil damar, rotan, buloh, getah, jelutong, daun pandan di-mana2 di-dalam National Park. Tuan dan raayat di-bawah tangan tuan akan di-benar mengambil hasil2 ini di-dalam area2 yang tersebut di-dalam (b) di-atas.

3. Oleh kerana National Park akan terguna ontok pelajaran science di-masa depan, saya harap tuan dapat berondeng sekali lagi dengan raayat2 tuan. Dan juga kalau tuan fikir area National Park ini terlampau besar, dapat kah tuan mengaris dengan pencil hitam boundary yang tuan fikir lebeh memberi puas hati kapada raayat. Agak nya area yang tuan akan chadang itu ada kechil dari area yang di-chadangi oleh Conservator, Pejabat Kehutanan.

Figure 6. Correspondence between the authorities and Penghulu Baya Malang regarding the allowable activities to be undertaken by the Indigenous communities within and around GMNP. (Copyright: Willie Kajan Ngang)

CONCLUSION

This Chapter seeks only to highlight the fundamental rights and connection of the IPs to their land and fate, how it was disrespected and denied time and time again over the decades, and the lessons that must be learnt from it. One must not assume what should or needs to happen pertaining to IPs. Instead one should engage in dialogue in good faith, and achieve mutual understanding regarding what the IPs want and allow to happen on their lands. History has shown that there are no shortcuts in recognising and respecting the FPIC right to self-determination.

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REFERENCES

Aiken, S.R. and Leigh, C.H. 2016. Dams and indigenous peoples in Malaysia: Development, displacement and resettlement. *Geografiska Annaler: Series B, Human Geography* 97(1): 69–93. https://doi.org/10.1111/geob.12066

Bryan, J.E., Shearman, P.L., Asner, G.P., Knapp, D.E., Aoro, G. and Lokes, B. 2013. Extreme differences in forest degradation in Borneo: Comparing practices in Sarawak, Sabah, and Brunei. *PLoS ONE* 8(7): e69679. https://doi.org/10.1371/journal.pone.0069679

Catama. 2025. *Aram Bekelala: Community Engagement Guide*. Sarawak: Catama and British Council. https://arts.britishcouncil.org/resources/community-engagement-guide-aram-bekelala

Channel News Asia. 2022. Sabah 100-year carbon trading deal: Controversy as indigenous communities bemoan lack of consultation, details. *Channel News Asia*. https://www.channelnewsasia.com/asia/sabah-nature-conservation-agreement-carbon-trading-hoch-standard-singapore-2562841

Copernicus Data Space Ecosystem Browser. n.d. Copernicus Data Space Ecosystem Browser. *Copernicus Data Space Ecosystem Browser*. https://browser.dataspace.copernicus.eu/?zoom=12&lat=3.04115&lng=113.91964&themeId=DEFAULT-THEME&visualizationUrl=U2FsdGVkX1%2FByvdhc%2BeZlXU%2F3Dp8QscwKT6MhhxhxORrnmfkILA87clyn4BCCVPS0ic%2B3tfeKR0atnYjrPbLxnXfq7S%2BquBv8JzjBGT01B0ZHmMGfpNrb7F4o7axibK8&dat

DeLoach, H. R. 2021. 'The Park is the People': (Mis)representations of nature and indigeneity at Gunung Mulu National Park in Malaysia. Master's thesis. Georgia: University of Georgia.

Durin, X.O., Moi, B.X.M., Karunakaran, P.P., Leong, L.W.S., Afrouzi, H.N. and Mehranzamir, K. 2022. A comprehensive review of the environmental impacts of hydropower projects in Sarawak, Malaysia. *Future Energy* 1(3): 1–10. https://doi.org/10.55670/fpll.fuen.1.3.1

Gaveau, D.L., Sloan, S., Molidena, E., Yaen, H., Sheil, D., Abram, N.K., Ancrenaz, M. *et al.* 2014. Four decades of forest persistence, clearance and logging on Borneo. *PLoS ONE* 9(7): e101654. https://doi.org/10.1371/journal.pone.0101654

Human Rights Commission of Malaysia. 2013. *Report of the National Inquiry into the Land Rights of Indigenous Peoples*. Kuala Lumpur, Malaysia: Human Rights Commission of Malaysia. https://suhakam.org.my/wp-content/uploads/2023/11/NI.pdf

IAITPTF and IPF. 2021. *Handbook on Free, Prior and Informed Consent for Practical Use by Indigenous Peoples' Communities*. Nairobi: International Alliance of Indigenous and Tribal People of the Tropical Forests (IAITPTF) and the Indigenous Peoples' Foundation for Education and Environment (IPF).

Intergovernmental Panel on Climate Change. 2023. Summary for Policymakers. In *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, H. Lee and J. Romero (Eds.), pp. 1–34. Geneva: Intergovernmental Panel on Climate Change. https://doi.org/10.59327/IPCC/AR6-9789291691647.001

International Union for the Conservation of Nature. 2025. *Gunung Mulu National Park 2025 Conservation Outlook Assessment*. Gland: International Union for the Conservation of Nature. https://worldheritageoutlook.iucn.org/node/1103/pdf?year=2025
Jacobs, J. and Kajan, W. 2019, April 1. Taking Action For Mulu. *BFM Earth Matters*. https://www.bfm.my/content/podcast/em-taking-action-mulu.
Jermy, C. 1983. Gunung Mulu National Park, Sarawak. *Oryx* 17(1): 6–14. https://doi.org/10.1017/S0030605300018329
Kaur, A. 2001, July 14. Bakun dam natives: S'wak minister's apathy rapped. *Malaysiakini*. https://www.malaysiakini.com/news/3874
Keeton-Olsen, D. 2023, October 4. Small wins for Indigenous Malaysian activists in dispute with timber giant. *Mongabay*. https://news.mongabay.com/2023/10/small-wins-for-indigenous-malaysian-activists-in-dispute-with-timber-giant/
Lee, T., Jalong, T. and Wong, M.-C. 2014. *No Consent to Proceed: Indigenous Peoples' Rights Violations At The Proposed Baram Dam In Sarawak*. Miri: Save Sarawak Rivers Network (SAVE Rivers). https://www.forestpeoples.org/fileadmin/uploads/fpp/migration/publication/2014/08/noconsenttoproceedbaramreport2014-1.pdf
Malaysiakini. 2016, March 22. Controversial Baram Dam cancelled, natives rejoice. *Malaysiakini*. https://www.malaysiakini.com/news/334694
Nicholas, C. 2010. *Orang Asli Rights Problems Solutions: A Study Commissioned by SUHAKAM*. Kuala Lumpur: Human Rights Commission of Malaysia.
Pearce, F. 2017, March 24. Murder in Malaysia: how protecting native forests cost an activist his life. *The Guardian*. https://www.theguardian.com/environment/2017/mar/24/in-malaysia-how-protecting-native-forests-cost-an-activist-his-life
Phoa, J. 2009. Protecting Native Customary Rights: Is Legal Recourse Viable Alternative? *Akademika* 77: 69–89. https://journalarticle.ukm.my/607/1/akademika78%5B03%5DA4.pdf
Sovacool, B.K. and Bulan, L.C. 2011. Behind an ambitious megaproject in Asia: The history and implications of the Bakun hydroelectric dam in Borneo. *Energy Policy* 39(9): 4842–4859. https://doi.org/10.1016/j.enpol.2011.06.035
The Borneo Project and Bruno Manser Fonds. 2023. *Lost in Certification: How forest certification greenwashes Samling's dirty timber and fools the international market*. Berkeley: The Borneo Project; Basel: Bruno Manser Fonds. https://borneoproject.org/wp-content/uploads/lostincertification.pdf
Usit, K. 2010, May 5. Shadow of Bakun looms over Sibu. *Malaysiakini*. https://www.malaysiakini.com/news/130982
Wong, S.Y., Boyce, P.C., Aisahtul, B.W. and Chai, S.K. 2019. Araceae of Mulu National Park I: Four new species of Schismatoglottis (Araceae). *Nordic Journal of Botany* 37(11): 1–10. https://doi.org/10.1111/njb.02566
Wook, I., Nordin, R. and Hassan, M.S. 2022. *The Rights of Indigenous People in Malaysia: The United Nations Declaration on The Rights of Indigenous Peoples (UNDRIP) and The Law in Malaysia*. Kuala Lumpur: SUHAKAM.