

**PKR: CM misled by legal consultant on NCR land**  
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Sarawak PKR has alleged that Sarawak Chief Minister Adenan Satem, who said in the state assembly in May this year that the Federal Court did not recognise 'pemakai menua' and 'pulau galau' as native customary rights (NCR) land has been misled by the state legal consultant.

"The chief minister did not read the rulings of the Federal Court and the Court of Appeal which affirmed that 'pemakai menua' and 'pulau galau' were part of NCR land, but relied on the submissions of JC Fong which were rejected by the courts right from the High Court to the Federal Court," said state PKR chief Baru Bian, who is a noted NCR land lawyer.

"We have written to Adenan (left) to brief him on the latest decision of the Court of Appeal (COA) and hand over the rulings so that he can personally read them and will not rely too much on the state legal consultant.

"We expect to meet him towards the end of this month," said Baru, who is the PKR assemblyperson for Ba'Kelalan, when commenting on the latest COA decision.

Adenan had told the assembly that the state government would not amend the Land Code to recognise 'pemakai menua' and 'pulau galau' as NCR land, pointing out that the state's land administration system was based on the principle that NCR land is 'temuda' or land which had been cleared, occupied and cultivated by native persons.

The chief minister said that the allegation that the courts recognised 'pemakai menua' and 'pulau galau' had led Baru to introduce motions to amend the definition of NCR land to include 'pemakai menua' and 'pulau galau'.

Baru said that obviously the chief minister had been misled by his legal consultant and that his statement was based on Fong's arguments that NCR land was only confined to 'temuda' (farmed land) and that 'pemakai menua' and 'pulau galau' were not part of Dayak Adat and therefore not NCR land.

"But his arguments and submissions have been rejected by the High Court and the Court of Appeal, and I am sure that these submissions were given to the chief minister who read them out to the state assembly in its May 2014 sitting," he said.

Baru said that Fong had misinformed the chief minister on the decisions of the Federal Court on the cases of Adong Kuwau and Nor Nyawai.

The chief minister should read the Federal Court rulings himself or he could seek the

advice of the Chief Judge of Sabah and Sarawak Richard Malanjun.

“He is the best person who the chief minister should turn to,” he said, pointing out that Fong’s arguments are always against NCR land.

‘How can it be my concept?’

Baru said that Fong had the cheek to tell the federal government in his presentation that ‘pemakai menua’ is ‘Baru Bian concept’ and not the Iban’s adat.

“How can it be my concept? Don’t tell me the courts believe it to be my concept, and the courts (High Court and the Court of Appeal) cannot be wrong when we won more than 10 cases on the ‘pemakai menua’.

“The COA’s latest decision on the concepts of ‘cari makan’ and of ‘menyerah’ is a victory for the Malays of Sarawak as the concepts are now their customs.

“This case is similar to the Iban’s ‘pemakai menua’,” he said, pointing out that it could be a prelude of what is coming up in the state assembly.

“I hear that the state government is intending to amend the Land Code. We from PKR are asking that the Land Code is to be amended to be consistent with the decisions of the High Court and the Court of Appeal.

“That is our plea all this while,” he said.

On the question of the courts interfering with the state’s administration of NCR land in Sarawak, Baru said: “You must understand what we are talking here is that the judges are the interpreters of the law.

“Section 2 of the Land Code gives definition to the land whether it is communal (pemakai menua) or otherwise it is temuda land which have been lawfully created.

“That is the problem, so the judges interpret the law which means the Land Code and the Common Law that is the custom,” he said.

Baru pointed out that their rights are protected by two principles - the statute that is the Land Code and the previous orders of the Rajah and the second the Common Law, the customs.

“Very simple, and the courts do not interfere with the land administration. They are administering justice,” he added.

