

Don't sign away native land rights
Malaysianmirror.com
25 September 2010

COMMENT The woes of the people in Sarawak continue to mount. As the months go by, native land grabs are on the rise.

According to court records, over 200 such cases have been filed against the state and companies. New cases are being filed at the Sarawak High Court at different venues – Kuching, Sibul, Bintulu and Miri. These do not include cases in which community people are charged when defending their land rights.

The number of villages involved is at least double the 200 court cases, as each case involves several communities suing the Sarawak government and companies.

Let us use a conservative number: say there are only 400 villages. Take an average of four voters per family, and another conservative average of 10 families per village, we get 16,000 voters. Let's leave these figures aside for now.

Customary land rights are recognised under statutory law in Sarawak and through several landmark court cases. Even the country's highest court, the Federal Court, has affirmed the rights of indigenous communities, in several decisions concerning the Orang Asli of Peninsular Malaysia and the indigenous communities of Sarawak.

In democratic societies, such landmark cases would have resulted in the necessary change in policies to address the wrongs of governments. But we are not living in a democratic country. So the Sarawak Government continues to insist that each community must go through the alienating and tedious, long and uncertain process of filing court cases to claim their rights.

In Sarawak, we have continuously voted in Barisan Nasional (BN) governments since 1963. So we do not expect the governments to change their policies, to right the wrongs of decades of grabbing Native Customary Rights (NCR) land. After all, the BN keep getting voted into government, however much abuse they carry out, in order to stay in power, and however much they oppress the people.

The syndrome of these land-grabs is clear for all to see. Starting with extracting natural resources like timber, the companies then move on to completely uproot people, by replacing them with water by building dams, while others are dispossessed when mono-crop plantations in the shape of oil palm or fast-growing trees replace natural forests.

In addition to such obvious changes are less visible alterations, to the naked eye at least. One very fundamental change is the "great transformation" of people from landowners to daily-paid workers. In another words, people are forced from food self-sufficiency to food dependency.

The once unheard-of cries of starvation have been repeatedly heard, ironically, in the Belaga district, site of the damned Bakun Dam. There, Upper Belaga Penans had to rely on handouts for food. When governments make people lose their prime resource of land where they can farm, gather food, hunt and catch fish, it is only a matter of time before they go begging.

After all these decades of "development", of "reducing poverty" among the rural Sarawak landowners, the governments – federal and state – have to rely on massaging population and income figures to show the supposed poverty reduction in percentage terms. In terms of actual household figures, we see another set of figures.

The tell-all signs are all too clear to see, to thinking Malaysians. But BN divide-and-rule policies have blinded a select few, from all ethnic groups, with power, positions, projects, and promises. The policies have succeeded in targeting individual greed and ignorance, to support a corrupt system, in order to produce huge wealth for the elites.

My first question to the NCR landowners, from all indigenous communities, is: just how much do your land mean? With this starting point, I then ask the same people my second question – compared to your NCR land being taken away, how important is the BN style of "development" to you? Is this "development" worth your land being taken away, leaving you with no guarantee of any rights?

Of course I am conscious, when asking the above questions, that it is not a simple equation of voting out the BN for NCR land. There are many social, cultural, economic and political forces at play, complicating the matter for most rural voters. Furthermore, we know many do not even have birth certificates or ICs and so cannot even be registered as voters.

Urbanites and even a few rural people, perhaps understandably, blame the rural folks for voting for the BN, causing untold sufferings among the people. Blaming them is the easy thing to do.

I am also conscious that being an urbanite myself, I will never understand how you live – without the most basic facilities, services, and amenities taken for granted by many urbanites. So I shall not use polemic, nor go into the normative judgment of whether this voting is right or wrong.

What I want to say is that you may be tempted to continue voting for the BN because you value "development" more than your land rights, perhaps thinking that you can always fight for your rights in court. I would strongly suggest you talk personally to the few active NCR lawyers to know for yourself, firsthand, whether such thinking is justified.

For someone who has followed many cases in court, I can tell you such ideas are misplaced. Remember what I wrote above: we are not in a democracy, where you might think courts and governments are also subject to the rule of laws. Justice is very selective in Malaysia, and is not blind!

This piece carries a simple message – if NCR landowners continue to vote in the BN, it means you want the same BN government to take your NCR land away, period.

How else can you explain that it is the same BN government that supposedly brings you "development" (even though as citizens and taxpayers, you have every right to development) and yet seizes your land in the name of "development"?

So the next community which is contemplating engaging one of the few land rights lawyers to defend NCR land in court, just ask yourselves whether you had voted for the BN. For those with NCR cases grinding through the court system, some for 10 years, ask yourselves if you had voted for the BN.

With the Sarawak election coming up again, will all of you be swayed by BN "development", which always includes goodies, of course, and vote for the BN again?

Last but not least, be aware that it is not enough for you and your fellow plaintiffs in the cases, simply not to vote for the BN. You must ensure that each of you gets at least 10 other voters to vote for the credible alternative.

With 16,000 voters directly affected by the BN's land grabs, this can translate to 160,000 voters, and contribute to the much needed change of government in Sarawak.

Latest gimmick – don't sign away your rights

If you landowners might be taken in by PM Najib's recent promise of RM20 million to survey NCR land, and with the Sarawak Land and Survey Department's selective starting of survey work, think again!

Ask yourselves one crucial question and then observe the actual survey work – does the survey include your communal forests/areas? Don't be cheated again if you are told you only have rights over your individual land. The Federal Court has ruled that indigenous landowners have rights over communal areas, including those considered as hunting grounds, and not just their individual areas.

Know your rights, and when in doubt, consult the land rights lawyers, before you sign anything presented to you by the land and Survey Department. Don't sign away your rights.
— *Hornbill Unleashed*

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