

Statement by the National Network of Indigenous Peoples of Malaysia (Jaringan Orang Asal SeMalaysia-JOAS) submitted by Thomas Jalong to the Expert Mechanism on the Rights of Indigenous Peoples at its 5th Session.

9-13th July, 2012 in Geneva, Switzerland.

Item 6: United Nations Declaration on the Rights of Indigenous Peoples

Mr. Chair, Distinguished Delegates, Ladies and Gentlemen,

Jaringan Orang Asal SeMalaysia (Indigenous Peoples' Network of Malaysia), an umbrella body of sixty IP community-based organisations from various parts of Malaysia would like to thank the Expert Mechanism on the Rights of Indigenous Peoples for providing this opportunity to discuss as well as to bring to its attention regarding the promotion and implementation of the UNDRIP at national and state level. I wish to also thank the UN Voluntary Fund for providing support to enable my participation in this 5th Session of the EMRIP as well as to bring back useful information in relation to this process and other processes within the UN.

JOAS and its member IP community organisations commend the willingness of the Malaysian government to support and endorse the UN Declaration on the Rights of the Indigenous Peoples at the UN General Assembly in 2007. We regard that support and endorsement as a renewed commitment and affirmative effort to promote and protect the rights of indigenous minorities in the country. As a concerned indigenous organisation, JOAS on its part together with other CSOs affiliated to it, have conducted roadshows at the community level to create awareness about the endorsement, existence and significance of the Declaration that promotes and advocates for the protection of indigenous peoples. Although high logistical cost hampers the effort to reach out to as many members of the communities all over the country, it is committed to continue with the exercise.

However, five years after the endorsement of the Declaration, the challenges and problems faced by indigenous peoples in the country in the promotion and protection of our rights in many aspects as stipulated in the Declaration are escalating. Lack of respect for and the violation of indigenous peoples' rights to lands, territories and resources, culture, traditional institutions, the principle of free, prior and informed consent and other rights are becoming more glaring. Indiscriminate issuance of provisional leases to plantation companies and licenses for planted forests involving tens or even hundreds of thousands of hectares which

overlap native customary lands and territories are still on-going. This is manifested in the growing number of conflicts and disputes resulting from indigenous communities' lands and territories inclusion in the concessions for logging and monoculture plantations development. Despite numerous letters, reports and appeals made to the relevant authorities about the violations of rights and the problems faced by the communities, no concrete action has been done. As a result, a number of communities have to put up peaceful protests while some have to exhaust their hard-earned income to file legal actions in the civil courts to seek redress despite having to wait for very long period for the cases to be fully heard and decided. There are several cases of conflicts over lands between communities, companies and the state governments especially in Sarawak and Sabah that have been filed. At the same time, there are many more communities ^{that} could not afford to do so and continue to suffer in silence.. During a national public inquiry held by the Human Rights Commissions of Malaysia early this year, high ranking government officials admitted that they have no knowledge of the UNDRIPs.

In addition to the numerous problems arising from the extensive logging and plantations development, the government has started to construct mega dams for hydro-electric projects especially in the state of Sarawak and Sabah. In Sarawak alone, there are twelve (12) mega dams targeted to be completed by 2020. These dams will also involve forced dispossession and involuntary resettlement of tens of thousands of indigenous communities from their traditional homelands and territories. We are gravely concerned with such development projects because similar dam projects and resettlement schemes in Sarawak and Sabah in the past have created serious short and long term impacts on the indigenous communities. In one of this upcoming dam project, the Baram HEP Dam, more than 20,000 indigenous peoples from 26 villages will be affected by the reservoir which will flood their homelands, gardens, houses, properties, crops, burial sites, historical sites and other vital resources for their livelihood. The affected people have expressed strong objection to the project and are very angry at the lack of consultation and that their informed consent have not been obtained. Yet, the project proponent continues to engage consultants to carry out the geological studies and statements by the State government leaders maintained that the project is for rural transformation and development.

On the so-called consultation process claimed by the government and authorities to have been carried out, these are usually done through the engagement of community chiefs who are under

the government's payroll. Members of the affected communities are not informed nor are they involved in consultation on matters that adversely affect their rights and very survival.

We therefore call on the Government and UN and its relevant agencies to :-

1. To ensure that the rights of the indigenous peoples as stipulated in the UNDRIPs as well as in the relevant State and Federal Constitutions and laws especially to their customary lands, territories and resources which is fundamental to their survival and future be respected and protected
2. To put a moratorium to all projects or activities that are disputed pending proper and amicable solution between parties involved.
3. All development projects or programmes proposed or planned by the government and or companies must be preceded by meaningful consultation with the various stakeholders through representation unanimously decided and agreed by the communities and that full information about the impacts of the projects or programmes be disclosed. The principle of the FPIC and ^{its} due process must be adhered to.
4. To immediately review or scrap ^{that} projects that are unacceptable to the affected indigenous communities or those ^{that} may have adverse implications on their rights, culture, livelihood, way of life and future.
5. That the Federal and states' government in Malaysia take immediate efforts to promote and create awareness regarding the UNDRIPs at all levels of the government machineries and develop mechanisms to ensure its compliance.