

NEW

**NATIONAL INSTITUTIONS FOR
THE PROTECTION AND PROMOTION OF HUMAN RIGHTS**

HUMAN RIGHTS COUNCIL
6TH SESSION
10 – 14 DECEMBER 2007

**STATEMENT MADE IN RESPONSE TO THE
REPORT BY THE SPECIAL RAPPORTEUR ON INDIGENOUS PEOPLE**

Mr President,

I take this opportunity on behalf of the National Human Rights Commission of Malaysia to congratulate Mr Rodolfo Stavenhagen, the Special Rapporteur for his comprehensive report on human rights violations of indigenous people especially forest based communities who are among the poorest of the poor in Asian countries.

The Special Rapporteur has rightly linked the violations to their disposition of the land, which not only represents their identity and roots but also the source of their subsistence. It is in this context that future reports should also provide an in-depth analysis of indigenous people especially communities in interior forest sections and their access to public funded services such as education, health care, agricultural development and their inclusion into national poverty eradication programme.

While MDG's have been used as a methodology to access minimum national development standards, a disaggregated approach might provide a useful comparison between indigenous communities and mainstream or dominant communities within a community. This approach will provide an accurate picture of their denial or lack of access or lack of inclusion into national development programmes.

With specific reference to the Special Rapporteur's report, Addendum (A/HRC/6/15/add3, page 8, paragraph 18 on Penans and the MTCC I have the following comment.

The Malaysian Human Rights Commission undertook two studies on the Penan communities in Sarawak. While our findings on this communities inability to make a claim to their traditional land is similar to the Special Rapporteur, however on the reference to MTCC there are some differences. Let me elaborate

There is a difference between the licensing process and the MTCC certification process. In addition there is a difference between conventional logging and logging undertaken in the certified area.

It is the State government that issues a logging license and it is the State, which must ensure that indigenous land claims and compensation are met. In contrast the MTCC certification is to ensure that the logging company, which has a legal license to log uses

the sustainable forest management approach, which includes dialogue with local indigenous communities as a key criteria for certification.

As far as I am aware due to the objection by indigenous communities, logging in the MTCC certified area has be terminated till a mutual agreement is reached between the logging company and the indigenous community.

In conclusion Mr President, at the heart of land claims and disputes are legal and legislative instruments, which might restrict the right to land claims. Establishing a special legal expert and research team to assist indigenous communities, will enhance their effective advocacy role.

This is the way forward and the Human Rights Council could facilitate this process.

Statement made by Datuk Dr Denison Jayasooria
Malaysian Human Rights Commissioner

December 13, 2007