

**11<sup>th</sup> Session of Expert Mechanism on the Rights of Indigenous Peoples (EMRIP11)**

**9 – 13 July 2018**

**Agenda Item 7: United Nations Declaration on the Rights of Indigenous Peoples: Good Practices and Lessons Learned**

**STATEMENT OF JARINGAN ORANG ASAL SEMALAYSIA (JOAS) / (Indigenous Peoples Network of Malaysia)**  
**Presented by: Beverly Joeman of Jaringan Orang Asal SeMalaysia**

Kopivosian. I'm Beverly Joeman, and I represent the Jaringan Orang Asal SeMalaysia (JOAS), a national network for about 120 community based organisations in Malaysia.

Foremost, I would like to thank the United Nations Voluntary Fund Board for the chance to participate in this 11<sup>th</sup> EMRIP Session. We hope the States will continue their support to the Voluntary Fund to empower more indigenous representatives in the future.

Respected delegates,

Under the past government of Malaysia, there was an absence of good practice of the UNDRIP implementation of Orang Asal's rights to land, territories and resources. Although there were initiatives such as, in Sarawak, the conduct of perimeter survey and issuance of Native Communal Reserves title under Section 6 of the Sarawak Land Code Cap. 81, such approaches were strongly objected by the Indigenous Peoples as it was found to have deliberately deprived and denied them of their collective rights to their customary lands, territorial domains and resources.

The past government had endorsed the UNDRIP twice and also the UN Outcome Document<sup>1</sup> which reiterated the government's commitment to implement the UNDRIP. Several provisions of the UNDRIP are relevant to land and territories. In recognition of the fact that Orang Asal have their own customary laws regulating access to land and resources, Article 27 emphasizes that these must be taken into account when recognizing and adjudicating land rights.

In the 2013 UPR cycle review, Malaysia only noted the recommendations pertaining to compliance with the UNDRIP<sup>2</sup>. The past government saw the UNDRIP as a 'soft-law' and non-binding, therefore compliance was not necessary.<sup>3</sup> The past government painted a different image internationally, by making statements that it was committed to uphold Indigenous Peoples rights, however this was all a façade and a rhetorical act.

We have a new government in Malaysia; and we are extremely happy that Madam Jannie Lasimbang, an EMRIP member from 2011-2014, who had worked extensively on the Outcome Document, is now serving in the present government as the Assistant Minister of the Sabah Law and Native Affairs Department, and we have hope that she will be our best advocator for the rights of the Orang Asal.

Our Recommendations are:

With the new government, we recommend Madam Victoria Tauli-Corpuz, the Special Rapporteur on the Rights of Indigenous Peoples, and EMRIP to urge the government for official country visits.

Further, we recommend the Members of the EMRIP to support our following recommendations to the new government of Malaysia:

1. Even though the UNDRIP is a non-binding agreement, the government still have a moral obligation to comply with it through its own domestic laws; and the government must respect the rights, policies and decisions made and formulated;
2. The government must develop a national action plan on Orang Asal, including in relation to their commitment to the 2030 Agenda, as a follow-up to the WCIP Outcome Document;
3. The government should seriously consider the establishment of an Orang Asal tribunal to look into the rights disputes with different parties. The establishment of this tribunal with judges who are well versed in Orang Asal issues would minimise the costs for the Orang Asal to bring their case to the courts;
4. The government should not dismiss the formation of a National Commission on Indigenous Peoples as this commission can address many issues faced by the Orang Asal;
5. And, ultimately, we strongly urge the government of Malaysia to ratify the ILO 169, and the Convention on the Elimination of All Forms of Racial Discrimination.

Kotohuadan, thank you.

<sup>1</sup> [https://www.un.int/malaysia/sites/www.un.int/files/Malaysia/69th\\_session/2014-10-20\\_-\\_3rd\\_comm\\_national\\_statement\\_on\\_agenda\\_item\\_65.pdf](https://www.un.int/malaysia/sites/www.un.int/files/Malaysia/69th_session/2014-10-20_-_3rd_comm_national_statement_on_agenda_item_65.pdf)

<sup>2</sup> A/HRC/22/14/Add.1, para 146.209 (Switzerland)

<sup>3</sup> [http://webcache.googleusercontent.com/search?q=cache:kl\\_z7q5tPYMj:www.parlimen.gov.my/files/hindex/pdf/KKDR-24102017.gempro.pdf+&cd=4&hl=en&ct=cnk&gl=my,pg\\_9](http://webcache.googleusercontent.com/search?q=cache:kl_z7q5tPYMj:www.parlimen.gov.my/files/hindex/pdf/KKDR-24102017.gempro.pdf+&cd=4&hl=en&ct=cnk&gl=my,pg_9)