

Climate Change & Indigenous Communities in Malaysia

Building a grassroot movement to stop climate change

Junia Anilik

PACOS Trust





Google Earth

Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Image Landsat / Copernicus





Who are the indigenous peoples of Malaysia



ORANG ASLI

0.7% of Peninsular population. Main groups: Negrito, Senoi, proto-malay

Indigenous peoples make up 13.8% of 31 million population of Malaysia (census 2017)



DAYAK/ORANG ULU



ANAK NEGERI

58.6% of Sabah population. Main groups: Dusun, Murut, Paitan and Bajau

70% of Sarawak population. Main groups: Iban, Bidayuh, Orang ulu

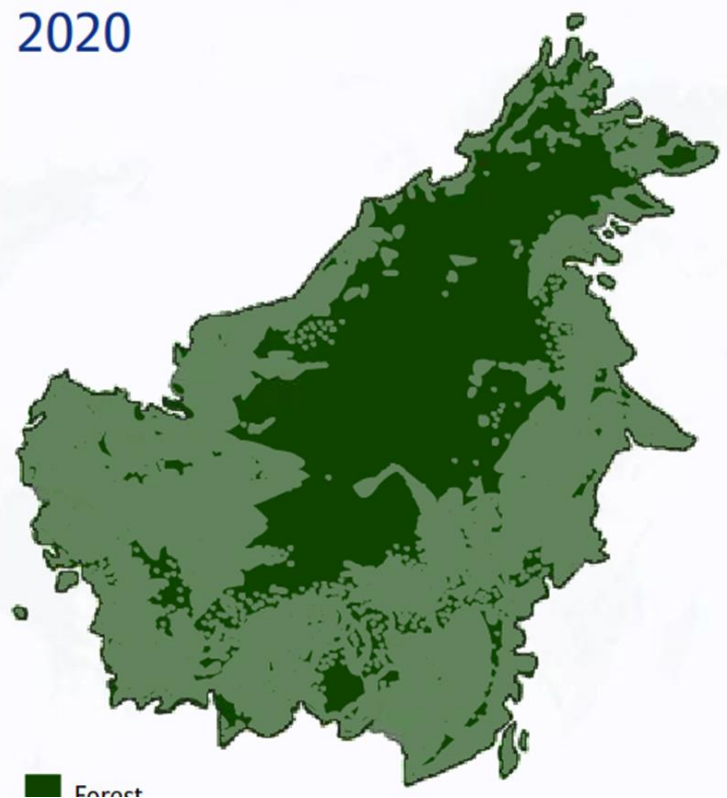


Land grabbing and deforestation is the major challenge faced by indigenous communities in Malaysia as the lost of land mean the loss of their identity and livelihoods

1950

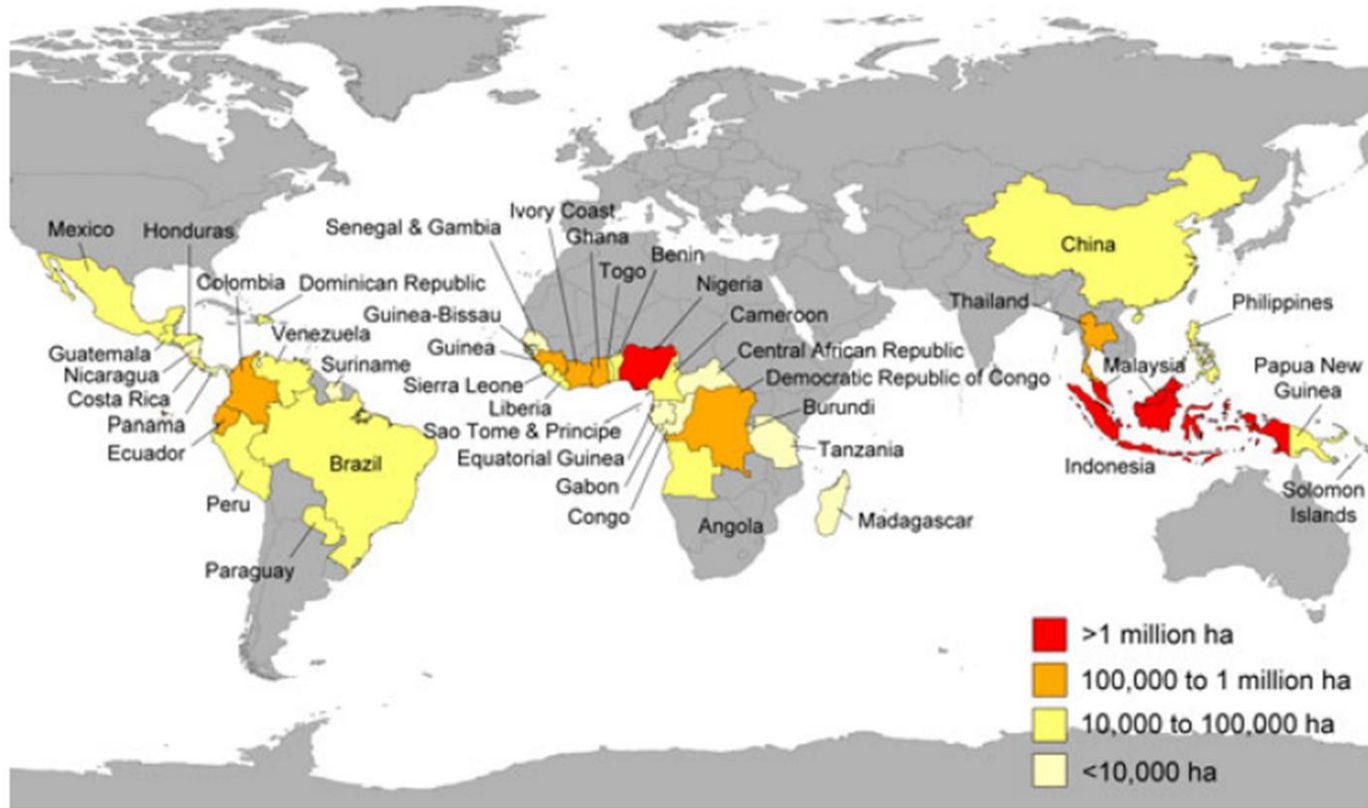


2020





Indigenous communities are being displaced from their traditional territories due to large scale projects such as mega dams, large scale farming (monocrops), national parks etc



Malaysia is one of the two largest producers of oil palm : Indonesia (14.6 mil ha) and Malaysia (5.9 mil ha) - 87% of the world palm oil production



Indigenous communities are at the forefront of protecting Malaysia's natural capital

Impacts of climate change

Climate emergencies & biodiversity crisis

- Unpredictable and extreme weather
- Change of season
- Impacts agriculture especially subsistence farming thus causing food insecurity and reduced income

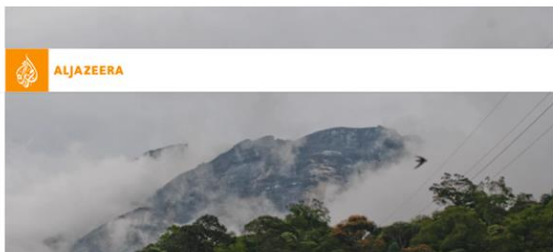


Emerging issues on Climate Change

Economy | Business and Economy

'Very hush-hush': Borneo's \$80bn carbon deal stokes controversy

Figures behind the deal include a politician linked to deforestation in the 1990s and an associate named in the Panama Papers.



Kitingan says scrapping carbon trade deal will hinder Sabah's economic recovery



IE LEE

WAK

b 2022 3:21 PM MYT



MALAYSIA

Federal law being drafted to regulate carbon trading: Tuan Ibrahim

Cabinet agreed with Environment Ministry's proposal for single platform, says its minister

hed on 01 Mar 2022 5:12PM - 0 Comments

Climate change

Climate finance not reaching the local level

IIED research has found that less than 10% of funding committed under international climate funds to help developing countries take action on climate change is directed at the local level.

Article, 01 November 2019



IISD / SDG KNOWLEDGE HUB
A project by IISD

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9 August 2022

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Climate Finance Needs Rethinking to Reach Indigenous Peoples on the Ground

Everything is good about Nature Conservation Agreement, says Jeffrey

By Olivia Miwil - February 19, 2022 @ 4:02pm



WHAT IS THE NATURE CONSERVATION AGREEMENT (NCA) BETWEEN SABAH STATE GOVERNMENT & HOCH STANDARD?

The NCA was signed between the Sabah State Government and Singapore-based Hoch Standard Pte Ltd on 30th October 2021. It provides exclusive rights for 100 years plus to:

- develop Nature Conservation Management Plans (NCMP)
- monetise the benefits of nature capital (including carbon) in an unmarked Designated Area of Sabah of a total 2 million hectares in stages with a commitment to an initial 600,000ha

Unusual Aspects to the Agreement



1 JURISDICTION

The NCA is governed by both the Laws of Singapore and Sabah.

2

SCALE & MONOPOLY

The term of the NCA is 100 years renewable and





3

IRREVOCABLE

Many clauses in the NCA make it impossible for the future or present Sabah Government to cancel the NCA.

The NCA will continue regardless of any change in government, agencies and ministers, including the Sabah State Legislative Assembly and the State Cabinet.

If a future Sabah Government enacts laws that render the agreement void or unenforceable, Sabahans are then required to pay the companies for all losses, expenses and damages.

The amount paid is based on expected cash flows to the companies until the end of the 100 years.



5

LIMITED DUE DILIGENCE

Documents show that the Australian and Singaporean companies involved are new, small, and have no established record in this field, nowhere close to the billion-dollar scales

The term of the NCA is 100 years renewable and covers around half of Sabah's forest area.

Currently, forest carbon agreements of smaller areas with defined terms and already proven stakeholders only last up to 30 years, making this deal highly unfamiliar.



4

FOREIGN CONTROL

The foreign company only needs to inform Sabah Government in writing if they decide to sell the rights to another entity.

The sale does not require the consent of the Sabah Government.

Any individual, company, or government can purchase the rights of this deal on the open market.

6

RIGHTS GRANTED ARE EXTENSIVE AND VAGUE



These rights are complete and not limited to carbon.

"Non-carbon" assets are not defined and ought

expected.

The roles of the many different companies connected to this deal are not defined.

Public records show the ownership of Hoch Standard is hidden in the British Virgin Islands so it is unknown who is the real owner of this deal.



7 NO FREE PRIOR & INFORMED CONSENT (FPIC)

DOES NOT mention the rights of diverse Indigenous Peoples of Sabah over forest, natural resources and associated intellectual property. Instead, the right to monetise any and all natural capital goes to foreign private companies without FPIC for Sabahans.



9 NO TRADING & PAYMENT MECHANISMS

The NCA does not disclose how emissions reductions will be registered or traded, nor set any minimum price mechanisms.

Natural capital assets are not defined and seem to be specified to limit broad interpretations that can grant these companies monopoly to any use of land or nature in NCA designated area.

Sabah Government gives up all claims over natural capital (carbon and non-carbon) in these areas, excluding timber, oil and gas, and mineral resources.



8 PERFORMANCE GUARANTEES

Companies are to prepare NCMP in less than two years and adhere to REDD+ and/or other international standards.

Are to be commercialised at least 50,000 hectares of Designated Area within 2 years of the area being identified.

No performance bond.

No specific requirements for NCMP to meet any biodiversity standards, and no requirements to meet monetisation targets or other performance indicators over the 100 years.

Legally, Sabah is required to implement the company's management plans for the Designated Area, regardless of cost, nature and quality, all at the State's expense.



any minimum price mechanisms.

Actual arrangements on how Sabah will receive its share of the revenue are not specified.

Companies were originally required to transfer its revenue share to Sabah within 28 business days.

Now, companies need only pay within one year, and if a transfer is overdue, Sabah is required to give notice and grant six months' extension, only after which the agreement may be terminated. Sabah agrees not to unreasonably withhold further extension.

The authors of the agreement understand so little about carbon trading that they fail to explain how they will calculate additionality.



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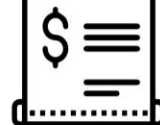
INVASIVE

The NCA:

- controls how Sabah spends its share of the revenue for the entire term
- requires Sabah to bear the costs of REDD+ compliance
- enables the companies to control what is considered "best practice" in nature capital

10

PROFITABILITY



No performance requirements or obligations on the companies to bear management costs of generating carbon credits.

Agreement gives the companies a whopping 30% of gross revenue on carbon or other ecosystem service commercialisation, despite their bearing few costs of producing them. Sabah does not actually need to contract out such services and if it did, 1% of gross revenue would be closer to the market rate.

CURRENT STATUS

The Sabah Attorney General has instructed the companies not to seek investments or financing following international reports of Mr Stan Lassa Golokin doing so at COP26.

The AG states that the NCA has not yet been finalised as the Designated Area is yet

and resource management in Sabah prime protected areas

- aligns all expenditures from revenues to achieve UN SDGs

The companies are to audit Sabah Government's use of its fund shares, including disclosure of bank statements and financial documents.

Sabah Government is not allowed to take legal action over any disagreements, and must submit any disputes to mediation in Singapore within 10 business days.

been finalised as the Designated Area is yet to be decided due to third party rights over those areas.

The Sabah Government does not have the right to sign over Native Customary Rights.

An Addendum to properly and fairly protect the State Government's rights has yet to be developed.



How are we involved

- ❑ Partners of Community Organisations in Sabah (PACOS Trust) is a community based voluntary organization registered under Trustees Ordinance Chapter 148.
- ❑ To help raise the quality of life of Indigenous Community.
- ❑ Registered with the ordinance 1997, but has been actively involved with communities since 1987 as a different legal entity.



Vision & Mission

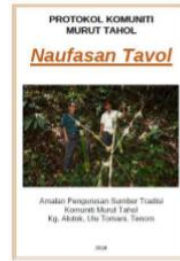


- ❑ Indigenous communities living in a peaceful, united & well equipped with the knowledge & expertise to manage their resources and opportunities to support a comfortable life.
- ❑ 3 main mission :
 - Ensure that indigenous communities have legal title to their customary land (NCR) and the right to use resources in other traditional areas.
 - Strengthen indigenous knowledge systems in the management of natural resources.
 - Strengthen positive values, culture, language, and belief systems of indigenous peoples.



Climate action

- Advocacy at state level (press release, memorandums, demonstration, consultation, networking)
- Raising awareness to the public and also the community (our connection with nature, traditional knowledge, food security, indigenous identity)
- Promote renewable energy, regenerative agriculture, circular economy
- Community organizing especially with the youths
- Documentation and promotion of indigenous knowledge and value (gompi guno, ohusian)



Why is it important to involve grassroots

- Integrate climate agendas into the local level
- More participation and voice to women, youth, elders, children, disabled peoples
- Needs and concerns of communities are prioritized due to better understanding to local realities
- More ownership and accountability of projects



Challenges

- A lot of knowledge is already gone
- Support for monocrop and large scale projects is huge (bank, government, companies facilities)
- Government priority is to make money and to stay in power
- Lack of capacity in grassroots for higher level engagement



Kitingan says scrapping carbon trade deal will hinder Sabah's economic recovery

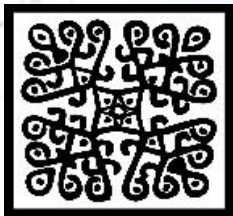


by STEPHANIE LEE

SABAH & SARAWAK

Friday, 04 Feb 2022 3:21 PM MYT





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Simply the best | Ulu Papar, Penampang, Sabah