

Native customary rights: does it hold the future of Sarawak's natives?

Abstract

This article presents an overview of the Native Customary Rights to forests and its role in protecting the future of native people of Sarawak, Malaysia. The native people have had a long history and strong relationship with their forests. Existing documents and studies have been critically reviewed and analyzed in order to elaborate the Native Customary Rights which are critical to the native people of this region. To have a better understanding on Native Customary Rights, it is important to answer three related questions: (i) Who is a native of Sarawak, (ii) What is 'custom', and (iii) What is the nature of 'rights'? The roles of Native Customary Rights for economic, political or social reasons, operate through informal rules embedded in the natives' customs and traditions. These rules have never been codified into formal laws because the *adat* system merely functions to manage the human relations which are tied to culture thus making it difficult to codify the culture into laws. It is evident that there are several issues underlying the development of Native Customary Rights: (i) Native Customary Rights are considered as inferiority to those of the State, (ii) the issue of over-shadowing of traditional laws by the colonial rule and the current statutory laws and, (iii) projects and land schemes involving the Native Land. It is understood that the challenges of promoting Native Customary Rights are daunting task; however, the constitutional laws need to carefully revise to provide a better future for the natives.