
Malaysia: New law will make community mapping illegal

Community map making has been an increasingly important tool for the indigenous communities in Sarawak. For people struggling to prove their land rights, the making of a map has been a necessary step in getting the boundaries of their lands recognised. In Sarawak, numerous NGOs have assisted communities in making maps of their village boundaries, which have then been used as evidence in court cases, as a resource management tool, and for many other purposes.

Earlier this year, the community mapping work and land rights case won by a community called Rumah Nor was a huge success for the recognition of Native Customary Rights lands, and maps made by NGOs and the people of Rumah Nor were vital evidence in that victory.

Now, all of this work is threatened by the Land Surveyors Bill 2001. The new bill, introduced in the Dewan Undangan Negeri (DUN) (former General Council) on October 31, will have a devastating impact on the ability of native people to defend their Native Customary Rights (NCR). According to the bill, any map that shows "the delimitation of the boundaries of any land, including State land and any land lawfully held under native customary rights" can be done only by a licensed surveyor.

For years, community activists have made dozens of maps in Sarawak showing community boundaries, using mapping teams well trained in GPS (global positioning systems) and GIS (geographic information systems) technology. Now, if any such mapper "certifies as to the accuracy of any cadastral land survey or signs or initials any survey plan", they "shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand Ringgit or to imprisonment not exceeding three years or to both for each offence".

Unfortunately, these mappers working with communities cannot simply become licensed surveyors. Under this new law, the Board of Land Surveyors has complete power to decide who is certified and who is not. Community mappers do not possess the necessary professional degrees that will be recognised by the Board of Surveyors. Even those with all the necessary university degrees and experience can be turned away without explanation by the Board. They can furthermore revoke anyone's license at any time. It appears the board will be controlled by the Department of Land and Survey so there is little opportunity to influence the board's composition.

Clearly these provisions are a reaction to the Rumah Nor legal victory, and are an attempt to defeat the right of indigenous people to prove their community boundaries. Numerous recent cases show that the Sarawak courts are willing to legally recognise maps made by communities and NGOs. But this law would usurp the functions of the judiciary by not allowing the courts to make a decision over the admissibility of mapping or survey evidence conducted by community efforts.

The Department of Land and Survey has mapped only a very small percent of NCR boundaries until now, and if they start on a major effort to do so, it will take decades to complete. The government also knows that most communities cannot afford to pay a licensed surveyor to map their boundaries, if in fact surveyors will be willing to risk taking on such jobs at all in the wake of this ruling. Community mappers have played a vital role neglected by government surveyors. Without any map

to indicate the extent of their lands, communities will be increasingly powerless to oppose the claims of logging, oil palm and other companies on their lands.

Around the world, indigenous land rights are increasingly recognised. Even in Sarawak the courts have been increasingly progressive on these issues. Only the Sarawak State Government is moving in the opposite direction. Under the guise of a procedural surveying law, the government is adopting a very regressive policy to suit their own vested interests, and denying indigenous people their rightful claims. If approved, this law will be another negative step in the treatment of indigenous peoples by the Sarawak State Government.