MATTER OF ACCESS, NOT RIGHTS: INDIGENOUS PEOPLES, EXTERNAL INSTITUTIONS AND THEIR SQUABBLES IN MID-TINJAR RIVER, SARAWAK

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Introduction

Indigenous peoples in postcolonial states often use cultivated lands, aquatic resources, ancestral burial sites, mountain ranges, and traditional fruit groves as traditional markers of their territorial boundaries. Within these boundaries, the indigenous peoples' way of life and resource use patterns are governed by customary laws. It is only under these laws that the indigenous peoples can claim ownership over the land and right to use its resources. Amongst the indigenous peoples of Sarawak, the term for such customary rights is generically referred to as adat.

More importantly, adat is an encompassing concept that governs not only customs relating to property rights but also includes aspects of community life that revolves around such properties. These include land inheritance customs, cultivation of natural resources on the land, changes in resource use patterns, and systems of forest tenure. To be more specific, Sather (1980:xi) states that

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1 The initial series of fieldwork on which this essay is based upon was first conducted in 2003. For the remaining months of 2003, there were no follow-up or further research fieldwork activities. When UNDP/GEF Funded Project collaborated with Universiti Malaysia Sarawak (UNIMAS) on the Loagan Bunut National Park Scientific Expedition in April 2004, Prof. Dimbab Ngidang, Robert Malong and I, all from UNIMAS, decided to participate in this project. The brief report for our part of this expedition was published by UNDP/GEF Funded Project in 2006 entitled Negotiating Ethnic Boundaries and Resource Use Patterns in Loagan Bunut and Tinjar. However, most of the findings and discussion in this paper is primarily based on the initial research fieldwork that was 'informally' conducted (i.e without research funding) in early 2003. I would like to specifically acknowledge Robert Malong's contribution for the empirical data on the Iban migration mentioned in this essay.
"adat covers all of the various customary norms, jural rules, ritual interdictions, and injunctions that guide an individual’s conduct, and the sanctions and forms of redress by which these norms and rules are upheld".

However, the concept of ‘rights’ defined according to adat and state authorities have collided over the years especially with escalating development projects that have encroached into indigenous peoples’ territories. As a result of this, customary rights and practices relating to the traditional use of natural resources among indigenous peoples have been significantly transformed.

This transformation can be observed notably with the introduction of large-scale agricultural plantation (e.g. oil palm), agroforestry or other forest-based development (e.g. pulp and paper, logging), and lately, the establishment of biodiversity conservation areas (e.g. state-imposed national parks, forest reserves) on indigenous peoples’ territories. Due to the distinct cultural and political values that indigenous peoples place on their adat and the regulations of state-oriented policies, it is not uncommon that conflicts arise. In other words, the broader economic policies imposed by state authorities with regards to property ownership and the indigenous peoples’ land tenure system administered by the adat, often tend to conflict. Among academic researchers, government institutions, development agencies and non-governmental social movements, such conflicts are often dichotomous into a relatively simple “indigenous-peoples-versus-external-institutions” framework. I argue that this simplistic dichotomy is not adequate for an understanding of the intricate socio-cultural and political relations amongst the indigenous peoples of Sarawak.

Managed by the state’s forestry department, the Loagan Bunut National Park (LBNP) in Sarawak was established in 1990 and covers an area of 10,736 ha. The main physical feature of the LBNP is the Loagan Bunut (Bunut lake), which occupies 650ha of the national park and the largest natural lake in

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2 By the term ‘external institutions’, I am referring to all kinds of political-economic institutions outside of the indigenous peoples’ cultural domain that affect – positively or otherwise – their social lives within their own territories. The term ‘external institutions’ is borrowed from Horak’s (1998) ‘external political economy’, which refers to the political and economic structures and processes within the national and international society.
Sarawak. More importantly, the LBNP supports a rich and diverse ecosystem that inhabits the lake, swamp and riverine forests. Because of this diversity, an interdisciplinary research expedition was carried out in LBNP in 2004 jointly organized and financed by the Peat Swamp Forest Project (PSF), United Nations Development Program/Global Environmental Facility (UNDP/GEF), the Sarawak's Forests Department and Universiti Malaysia Sarawak.

The main objective of this expedition is to enhance the management of the park in terms of its tourism and conservation values. In doing so, it is imperative that local indigenous communities be made aware of the adverse impact of overexploitation and mismanagement of natural resources within the national park boundaries.

In the context of LBPN’s establishment, the notion of ‘rights’ is clearly defined by the “external institutions” (e.g. the state, UNDP/GEF) rather than based on the indigenous people’s adat. When it comes to the establishment of conservation areas by such external institutions, this creation of ‘rights’ for the indigenous communities can be biased in favor of certain indigenous groups. With regards to the LBNP, the ‘rights’ to use the natural resources (for example, forest, lake, rivers) is given to the two Berawan communities living at the fringe of the national park. In the report *Scientific Journey Through Borneo: Loagan Bunut (2006: vi)*, it says that

“Though gazetted as a National Park, approximately 10% of LBNP area is under shifting cultivation, practiced primarily by the Berawan. The local Berawan have been granted the Native Customary Rights (NCRs) to continue using the natural resources of the area for subsistence purposes”.

Such a statement grants the Berawan communities the ‘rights’ to exploit these natural resources while excluding the other indigenous communities living in the area such as the Penan and Iban. Here, the traditional concept of ‘rights’ based on adat has been replaced by the state-based or non-adat concept of ‘rights’.

More importantly, this newly-acquired concept of ‘rights’ confirms the Berawan’s indigenousness in the mid-Tinjar river and their traditional use of...
the natural resources within the Loagan Bunut area. Under Section 28 of the Sarawak Forest Ordinance, the Berawan is able to assert their indigenous 'rights' over the protected forests in Loagan Bunut:

"The rights or privileges that may be claimed in or over the area to be constituted a protected forest shall be only those rights or privileges which have been enjoyed or exercised by or accrued to a native or his forefathers or a native community for an uninterrupted period beginning from a date prior to 1 January, 1954 to the date of the notification referred to in section 26."

In this paper, I wish to discuss the broad empirical issues pertaining to the indigenous peoples living in the mid-Tinjar River and the establishment of the national park, which has significantly affected their resource use patterns and social relationship with other indigenous peoples in the area. These issues include the restrictions in the expansion of indigenous peoples' farm lands within the national park boundaries, and resource use conflicts among indigenous peoples' especially in the demarcation of their community territorial boundaries. In this argument, the claim to 'rights' (via their customs, traditions, religions, or adat) to natural resources within the national park boundaries is not necessarily an inherent privilege of the indigenous peoples of the mid-Tinjar River. These 'rights' are constantly constructed in order to protect the indigenous peoples' own interests against other indigenous ethnic groups and the various external institutions in the area. In concluding this paper, I will use the "theory of access" as put forward by Ribot and Peluso (2003) in explaining the socio-cultural and political issues with regards to resource use among the indigenous peoples living in the mid-Tinjar River.

Geo-Cultural Landscape: The Mid-Tinjar River

The area known as the mid-Tinjar River in the Marudi district approximately covers a territory that stretches from Teru River up to Long Tuyut. Lapok is its main tributary. Long Tuyut is the earliest settlement by indigenous peoples in the mid-Tinjar River. The area is characterized by an area rich with forest resources, and cultural resources. The forest resources include orchards and type of ecotourism. The area is gazetted as the Loagan Bunut system of protected area.

The term 'indigenous ethnic group' used in this paper generally refers to the early settlers who are traditionally swidden cultivators and subsist on the forest resources in the area. Indigenous ethnic groups, therefore, include the Berawan, Lelak, Penan, Iban, Kayan, and Sebob. Being traders, the Chinese community are also early settlers in the area but excluded from the term 'indigenous ethnic group' due to their different cultural lifestyle from the other groups mentioned above.
Under Section 28 of the Law, native or his an uninterrupted period. These issues pertaining to the main bazaar, located about 120km southeast of Miri connected via the Beluru-Long Lama trunk road. Other means of transportation that links Lapok and the people of mid-Tinjar River to the urban centers is the express boat that travels to-and-from Marudi and Miri on a daily basis. Due to this rural-urban accessibility, Lapok has become the economic hub of mid-Tinjar River, acting as the meeting point between traders from upriver Tinjar and the downriver urban centers of Marudi and Miri. The economic boom in Lapok was particularly evident in the 1970s due to the growth of timber industry in the Tinjar watershed. Other economic activities gradually thrived in Lapok, contributing to its development with the expansion of oil palm plantations, engagement of indigenous communities in the local cash economy, and lately, ecotourism.

Drapped in tropical peat swamp forests, the physical landscape of the mid-Tinjar River is generally flat with scattered hilly areas. A large part of the area is made up of a floodplain (about 7,000 ha) caused by the Tinjar River and Teru River. Due to the seasonal tide patterns of these two rivers, several freshwater ox-bow lakes were formed in the vicinity. The social life of the indigenous ethnic groups – the Berawan, Penan and Iban – living in the mid-Tinjar River revolves around these lakes and its surrounding natural resources. The largest and most prominent of these lakes is Loagan Bunut, which was gazetted as a national park in 1990. The Loagan Bunut National Park covers an area of more than 10,700 ha. As a result of sharing the common pool of resources in the area, occasionally hostile competition would erupt among the culturally diverse indigenous ethnic groups over limited “resource systems” (Ostrom et. al. 1994). Resource systems characterized in this context would include timber/non-timber forest products, aquatic resources, inherited fruit orchards, and land area for agricultural activities. With the establishment of the Loagan Bunut National Park (LBNP), the competition for these resource systems has intensified among the indigenous communities of mid-Tinjar River. Following this constant struggle to gain access and rights to own certain resource systems, there are critical issues that need to be addressed before the community’s property rights such as the Native Customary Rights (NCR) is extinguished. Communities encroaching into the national park boundaries, restrictions imposed by external agencies upon the indigenous communities in managing their own resource systems, and demarcation of the community’s territorial boundaries are all contentious issues in the mid-Tinjar area.
It is imperative to note that the ethnic groups living in mid-Tinjar River have exploited the natural resources in the area since the mid-19th century. Apart from the now culturally-extinct Lelak community, all the indigenous peoples living in the mid-Tinjar River today are considered as migrants to the area (Metcalf, 2002). Today, there are three main indigenous ethnic groups living along the mid-Tinjar River, namely, the Iban, Berawan and Penan, whose settlements are located between downriver Long Teru to upriver Long Lapok. The culturally and to a certain extent, politically dominant ethnic group in the mid-Tinjar River is the Berawan.

There are three Berawan communities living along the mid-Tinjar River area in Long Teru, Bunen River, and Long Jegan. The Long Jegan Berawan is a community living further upriver and do not have a stake in the national park, and therefore, will not be discussed in this paper. The Berawan communities of Long Teru and Bunen River used to settle in Long Teru before their longhouse burned down in 1998. As a result, half of the Long Teru residents decided to leave Long Teru and establish a new settlement at Bunen River near Loagan Bunut inside the national park boundary. Complete with a newly installed longhouse community leader, this newly established Berawan community at Bunen River has changed not only the political but also the cultural landscape within the vicinity. This migration into the national park has redefined the cultural access and rights to exploit the resource systems in the area.

This community is believed to be the first and only community living in mid-Tinjar River before the arrival of the other indigenous ethnic groups such as the Berawan, Penan, and Iban. The Lelak used to reside in Loagan Bunut (known as Luak then), and possessed a totally different set of cultural systems than the other ethnic groups today. Through contact and intermarriages with the other ethnic groups, particularly the Berawan, the Lelak culture has gradually lost and subsumed by the dominant cultures of other ethnic groups. Today, it is believed that no one speaks the Lelak language nor identifies themselves as belonging to the Lelak cultural group. In other words, they were the true indigenes of the mid-Tinjar River (Metcalf, 2002).

Berawan ethnicity is rather complex. Along the Sungai Tutoh, there are three longhouse settlements – Long Terawan, Batu Belah and Long Kiput – in which its inhabitants consider themselves as belonging to the Berawan ethnic group. The other Berawan communities are located in Long Teru, Sungai Bunun and Long Jegan, along the Tinjar River tributary. However, despite sharing a common ethnic taxonomy, they have distinct cultural, linguistic, and historical backgrounds (Metcalf, 2002).

The Berawan community at Bunen River renamed their village Kampung Loagan Bunut, headed by Meran Surang. They justify their relocation to the Bunen River by claiming that their
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6 Kampung Lougan Bunut, a River by claiming that their

There are four Penan settlements in the mid-Tinjar River at Long Maligam, Long Lapok, Meno River, and Bukit Limau. Each of these four settlements has its own individual longhouse community leader appointed by the state to administer its own community affairs. Similar to the accounts of Berawan migration, the Penan communities have a history of being in the area since the mid-1800s. All the Penan communities living in the mid-Tinjar River share a similar genealogical history, which traces the same route of migration from Temala River, Lamah River, Temedoh River, and Lepeso River into the mid-Tinjar River. According to the Penan, the physical boundary of their territory covers an area from Long Tuyut to the confluence of Bok River. The confluence of Bok River now is populated by one Iban community even though prior to the arrival of the Iban in the 1950s, this confluence was already inhabited by the Penan (see Sarawak Gazette, August 1876). The Sarawak Gazette (July 1910, June 1911) also recorded several Penan settlements along the mid-Tinjar River tributaries of Balat River, Tuyut River and Long Metigai. The Penan are traditionally nomadic hunter-gatherers but the Penan communities in this area have permanently settled down and practiced agriculture by the early 1850s (Needham, 1953). This indicates that the Penan communities in the mid-Tinjar River could have been one of the earliest, if not the earliest Penan communities to shed their nomadic lifestyle. This is in contrast to the other Penan communities living in the Baram and Belaga districts where some of the Penan groups were still nomadic by the late 1980s. This also shows that the Penan of mid-Tinjar River has been one of the few indigenous ethnic communities exploiting the natural resources in the area in the mid-19th century. By this time, the Penan communities in the mid-Tinjar River have already established trading and political relationship with their neighboring indigenous settlers such as the Berawan, Lelak, and Sebob (further upriver Tinjar).

ancestral longhouse was originally at Bunen River by the lake before they were told to move to Long Teru in the late 19th century. From the interviews, however, the Berawan community at Long Teru, headed by Kajan Sigeb, was not particularly in favor of the split and eventual resettlement at Bunen River. The primary reason for this displeasure on the part of Kajan Sigeb’s community is due to the partition in resource use rights (e.g. fishing rights, land for farming) within the LBNP and areas along its fringes. These have already caused numerous disputes between the two communities since their split in 1998.

7 The Penan community then was under the leadership of Tama Unan when they were told by the Berawan chief, Tama Long (or Aban Jau), to settle down and guard the confluence of Sungai Bok. This event took place in the 1870s.
The other indigenous ethnic group is the Iban, a relatively newcomer to the mid-Tinjar River. The Iban communities have varying historical patterns of migration into the area due to the different periods of migration into the area, their relationship with earlier settlers, and the constant social fragmentation within the longhouse community. The earliest recorded accounts of Iban settlement in the area was in the 1920s when the Brooke government allowed an Iban faction from Skrang to settle in Long Temala (Sarawak Gazette, 1922).

Since then, there has been continual Iban migration into the mid-Tinjar River due to territorial expansion, split from the original longhouse, relocation by the government, and labor migration. There are two main categories of Iban communities living along the mid-Tinjar River today: the settler and the migrant Iban communities. In the 1920s, the first group of settler Iban moved into the mid-Tinjar River at Pau River, Ulu Lait. From Pau River they divided into two groups, led by Gerasi who moved his group upriver and Medan who took his group to Long Aloi (the present site Rumah Junggang). By the year 2000, Medan’s group further dispersed into three areas, that is, in Nanga Bok, Nanga Lait and Lubok Mulong. The term “migrant” Iban communities basically refer to Iban longhouse communities that were relatively recent in the area-around the 1960s. Its inhabitants were formerly migrant workers in the timber industry. One Iban community is now living and exploiting the natural resources within the national park boundary.

The Berawan, The Penan And Their Stories

The Berawan and Penan communities began re-telling their different histories as a response to establishment of the Loagan Bunut National Park (LBNP) in August 1991. For the Berawan, their history was re-enacted with the objective of claiming ownership over the forest and aquatic resources in the Loagan Bunut vicinity. With this claim of having longstanding cultural ties to the area, the Berawan is given special privileges by the state authorities to continue reaping benefit from the natural resources in the LBNP. This automatically excluded the non-Berawan indigenous ethnic groups in the area. For instance, Section 14 of National Park Ordinance (in UNDP/GEF Funded Project, 1999) clearly states that only the Berawan are given the exclusive rights to fish, hunt and collect forest resources within the national park.
...the newcomer to the historical patterns of migration into the area, inhabited by the social fragmentation of accounts of Iban tribe. The state government allowed people to move into the mid-Tinjar River longhouse, relocation by main categories of Iban people: the settler and the group of settler Iban moved from Pau River they divided upriver and Medan who lived in the village Junggang). By the year 1995, that is, in Nanga Bok, the Iban communities were relatively recent in the area. The Berawan were once migrant workers in exploited the natural resources in the Loagan National Park (LBNP) in conjunction with the objective of conserving the area. The Berawan relationship with Iban communities in the mid-Tinjar River with respect to resource exploitation in the area appear to be more amiable, primarily because the Iban know they are relative newcomers to the area.

Since they are native to the area, Section 14 also allows the Berawan to farm on their customary rights land inside the national park. The Berawan indigenous status is even more pronounced in the mass media and travel brochures, which further strengthened their claims to the resources to the detriment of other indigenous ethnic groups living in the same area. Wong (2004) reported that the Penan and Iban communities in the area "respect the special privileges that the Berawan have in the park", and thereby, justified their own marginalization in the LBNP.

The squabble over forest resources in the mid-Tinjar River is directly related to the creation of the LBNP, especially when the state authorities endorse the claim that the Berawan are the sole original inhabitants of the area. While the Iban and Berawan have a more amiable relationship in the mid-Tinjar River, the Penan disputes the Berawan's exclusive indigenous rights to the natural resources in the area. The Penan communities said that they did not have any problem with the establishment of the LBNP even though it dispossessed the Penan of their access rights to the forest resources and farming areas inside the national park. For the Penan, the establishment of the LBNP signifies the transfer of 'caretaker' duties of what was traditionally theirs. If the LBNP was necessary to conserve the environment, even to the point of restricting the Penan from using the natural resources in the area, then the Penan had no opposition to the LBNP. However, the problem lies in the fact that while the Berawan are given exclusive privileges to utilize the resources based on their "native to the area" status, the Penan, also claiming a similar status, are excluded from this privilege. According to the Penan, if the LBNP authorities decided to carve out an area for biodiversity conservation purposes and create a law that prosecute those who breach the national park policies. They argue that whatever exclusive rights that the Berawan have over the natural resources in the LBNP as being "native to the area" must also apply to the Penan living in the mid-Tinjar River.

This point of contention of a group's indigenous status or being "native to the area" is significant in determining the rights to use of natural resources in a
common geo-cultural setting. The Penan have a point in arguing their status of being “native to the area” especially with the various historical accounts claiming that the Berawan are not the sole original inhabitant of the mid-Tinjar River. Although he did not mention the Penan communities living along the mid-Tinjar River in the late 19th century, Peter Metcalf (2002:79) devoted one chapter to explain Berawan migration and thus, proving their status as latter migrants to the area.

“In the 1870s, as colonial records attest, there was a small community living on the banks of a large, shallow lake that could only be reached via the Teru [River]”. They called themselves Lelak...Unlike almost all the peoples in the region, they had no traditions of migration at all – true indigenes”.

In the late 1890s, the Lelak community under the leadership of Orang Kaya Luak decided to move from Luak lake to the confluence of Teru River. This emigration to Long Teru inevitably deprived the Lelak of their safe refuge from enemy attacks, which was rampant at that time. At the same time, however, Long Teru became a regular stopover for colonial administrators since the time of the Brooke government. Because of this, the Lelak of Long Teru became familiar with the English and subsequent administrators that frequently visited indigenous ethnic groups in upriver Tinjar. In the 1920s, there was a population boom among the Lelak community at Long Teru, due to migration into their community. The immigrants were from Batu Belah located in the lower Tutoh River and they called themselves Melawan. Due to hostile rivalries among the Melawan at Batu Belah, the losing faction decided to move away from Batu Belah, and was invited by the Lelak to settle at Long Teru. The Lelak and Melawan are two different ethnic groups, and the Lelak’s invitation to the more aggressive Melawan to settle in Long Teru proved culturally disastrous for the Lelak community. Lelak and Melawan children intermarried, and thus eventually led to the disappearance of the Lelak culture which was replaced by the Melawan culture. The Melawan, in

9 Luak was the name for Longun Bunut, and the title “Orang Kaya Luak” is translated as “The Rich Man of Luak”. This title was bestowed by the Sultan of Brunei, which clearly indicates Brunei’s commercial influence deep into the interior at that time. 10 The Melawan called themselves Berawan due to the “absurd little pun”, which in the Malay language, melawan would literally mean ‘to challenge or fight an enemy’. Besides, the Melawan were known as berserkers in the 19th century (Metcalf, 2002:93).
asserting their indigenous status in the area, only retain one very significant cultural element of the Lelak, that is, Lelak religious rituals. For instance, both the Melawan and Lelak give emphasis to ancestors in their rituals. In this case, at Long Teru the ancestors would be Lelak and not Melawan. During religious rituals, the Melawan would pray and invoke the (Lelak) ancestors in the Melawan language and consequently ratified their status of being “native to the area”. By the mid-1970s, the Lelak language and their cultures were lost (Metcalf, 2002:78-86).

In the case of the Penan communities living in the mid-Tinjar River area, there was no history of cultural assimilation although there were constant references to fierce rivalries and struggle for territorial rights in the area between the Penan and other smaller indigenous ethnic group, such as the Narom Lemeting. Needham (1953) recorded several comprehensive migration stories of the Penan communities that led to their settlement in the mid-Tinjar River in the mid-19th century. At that time, a large number of Penan went to downriver Tinjar together with the Berawan. This group of Penan was referred to as Penan Temedoh, named after the Temedoh River in lower Tinjar River. Between the 1850s and 1890s, the Penan Temedoh then split and moved to the Lamah River, located between the Tinjar River and Baram River. Needham (1953, 1965) verified that another group of Penan settled at Lamah River under the leadership of Madang. The groups of Penan then moved from the Lamah via the Teru River, located in the south of Luak (now Loagan Bunut), and then to Bok River.

From these official accounts and historical narrations during several sessions of focus group interviews, it is apparent that both the Berawan and Penan communities in the mid-Tinjar River can claim to be “native to the area” according to the definition made by the UNDP/GEF Funded Project. However, only the Berawan communities of Long Teru (and Bunen River) obtained the rights to exploit the resources in the LBNP. When these

11 Lemeting was the former name of the Tinjar River.
12 Needham (1965) argued that the Penan communities were already living in the mid-Tinjar River area in the early 19th century. Furthermore, there were constant mention of Penan settlements in the area by the Sarawak Gazette since the 1876 issue. During my last field visit to the four Penan communities in the area (Long Lapok), the Penan community leaders from Long Lapok, Meno River, and Long Maligam, narrated to me their genealogy in the area from a common ancestor, i.e. Buruit.
privileges were granted to the Berawan, the Berawan did not consult the Penan communities about their land\textsuperscript{13}. The Penan discovered that the Berawan claimed customary land rights to the areas that belonged to them. From the interviews, the Penan narrated the existence of traditional resources such as fruit orchards, cash crops (including the rubber trees subsidized by the government), forest islets, and farm lands, within the national park boundaries. Each group is attempting to prove their rights to the resources in the LBNP. But if we adopt the theory of access (Ribot and Peluso, 2003), the issue here is not about 'rights' but rather about 'access'.

Theory of Access and the Indigenous communities in the mid-Tinjar River

From the arguments presented above, the exploitation of natural resources between the Berawan and Penan communities in the mid-Tinjar River is about 'access' and not 'rights'. It has also been argued that the catalyst of these resource-use disputes among the indigenous ethnic groups involve external institutions such as the Loagan Bunut National Park authorities and related government agencies that determines who can or cannot have access to the biological resources in the national park. Ribot and Peluso (2003:153) defined access as "the ability to benefit from things – including material objects, persons, institutions, and symbols...[as opposed to] the right to benefit from things". The notion of rights argues that a person or community obtain their rights through acknowledgement by the law, custom, or convention of that particular society or nation-state. However, using these categories to understand resource use patterns and land tenure system can be very restricted as it ignores other means and mechanisms that people use to obtain such resources.

The concept of 'rights' is introduced as a way to protect 'access' through cultural, ethnic, political, economic motivations, or socio-cultural constructions. Therefore, not necessarily 'rights' are not innate as thought in theory of property\textsuperscript{14}. On the other hand, by applying the theory of access to

\textsuperscript{13} This information was obtained during a focus group interview with Penan elders and leaders. According to the Penan, only one Penan longhouse community was consulted in regards to delineation of territories prior to the establishment of the Loagan Bunut National Park.

\textsuperscript{14} In many cases, there are also incidences whereby the person or community has the right to benefit without access to things, and vice-versa. For instance, the Penan communities in the
wan did not consult the Penan discovered that the Berawan belonged to them. From the traditional resources such as ber trees subsidized by the national park boundaries. to the resources in the LBNP (Peluso, 2003), the issue here

...resources in the mid-Tinjar

...mid-Tinjar River is about sued that the catalyst of these ethnic groups involve external Park authorities and related s or cannot have access to the and Peluso (2003:153) defined as including material objects, to the right to benefit from son or community obtain their custom, or convention of that r, using these categories to use system can be very restricted that people use to obtain such

...mid-Tinjar River have been using the resources within the Loagan Bunut National Park boundaries before it became a national park, a concept of right developed with the other indigenous ethnic groups living in the area. But with the establishment of the LBNP, the Penan communities are deprived of that right through government-institutionalized laws and conventions. Despite this, however, the Penan still farm on their lands and gather forest resources within the national park boundaries. In this sense, they have lost their rights but still have access to the available forest resources.
via illegal access is not sanctioned by the state and society. This approach to obtaining access is similar to the Marxist conflict-based approach whereby the legitimacy of property is a result of material relations of production. Here, the loss of access through the material relations of production does not necessarily legitimize the new control over access for those who gained at the expense of others. Illegal access, in this context, can also be gained through coercion and consequently, maintained by developing relations with those who control access.

By merely applying the right-based access approach, it is difficult to understand the conflicting relationship between the Berawan, Penan and external institutions in the mid-Tinjar River with regards to resource use. While this approach is able to ascertain the broad state-and-indigenous-peoples relationship, it would fall short of specifically identifying the resources or land use system that is in dispute. In other words, the argument of 'rights' in the study of property ownership would obscure the details of the resources in question. The work by Sather (1993), Peluso (1995) and Appell (1997) provides brilliant illustrations of specifically identifying the network of power relations pertaining to the notion of rights and access to resources among the indigenous ethnic groups in Borneo.

One of the crucial factors in determining access to resources is the community's access to technology. In order to gain resource access, it is important that the community possesses the ability to physically reach the resources. Ribot and Peluso (2003:165) argues that "many resources cannot be extracted without the use of tools or technology; more advanced technology benefits those who have access to them". These technologies can exist in different forms such as electricity supply, types of vehicles and even weapons used as a form of intimidation or tools of violence. In the context of the Penan and Berawan's relationship to resource use in the LBNP, there is an unequal balance of power when it comes to access to technology. The number of Berawan individuals of Bunen River owning four-wheel-drive trucks, for instance, outnumber the Penan. Such vehicles have given the Berawan an advantage to market their agricultural products, forest and aquatic resources to the markets in Lapok, Miri, Bakong and other scattered oil palm plantation camps.
Another form of access is the access to capital which implies access to wealth in the form of financial capacity. With access to financial capital, it is possible to operate "the service of extraction, production, conversion, labor mobilization, and other processes associated with deriving benefits from things and people" (ibid.). In the mid-Tinjar River, the Berawan not only possess political influence but there are also larger numbers of Berawan business entrepreneurs compared to the Iban and Penan in the area. There are several Berawan individuals who earn their livelihood from working in the civil service, private sectors, construction industry, tour guides/boat drivers, chalets for tourists, and canteen operators, to name a few. There is also the cash income derived from fishing in the Teru River and Bunut River and this has proven to be the main source of income among many Berawan fishermen. Since the Penan are prohibited by the LBNP authority and Berawan communities to utilize these river systems, they lose another potential form of income. From the above-mentioned examples, access to capital often acts as a significant single factor in controlling and maintaining resource access.

The third form of access is the access to markets. Ribot (1998) argued that the ability to profit from extracted resources depends essentially on the owner's access to markets rather than if someone has rights to it. Access to markets is accentuated if a community has access to technology and capital. By having rights to extract the abundance of fish resources from the Teru River and Bunen River, the Berawan has the means to also market their catch in nearby towns. Another advantage that the Berawan has is their monopoly over the tourism industry in the area. In addition to the canteen, chalets and boat which are operated by the Berawan communities, they also have access to the market. For many years now, the Berawan headman of Bunen River, for instance, has established a huge chalet for tourists on the bank of Loagan Bunut. Most of the tourists who knows of Loagan Bunut gain their information from travel agencies in Miri who are either personally related to the headman, or are business partners who receive a commission from the headman. By maintaining his relationship with the various travel agencies in Miri, the headman is able to control his access to the tourism market in terms of attracting tourists to Loagan Bunut.

However, the ability to maintain access to the market is never secure. The same Berawan headman who is engaged in the tourism industry is also subjected to global economic changes. During the South East Asian
economic crisis in 1997, the number of tourists visiting Loagan Bunut plunged, causing the Berawan headman to close his business and shut down his popular tourist chalet. When the Loagan Bunut National Park authorities acted against unauthorized business within the boundaries of the national park, the headman’s tourism business worsened.

Central to the ability to gain benefit from resources is the access to knowledge. Among many indigenous ethnic groups in Sarawak, it is vital that they possess the knowledge to identify forest resources. "For some resources, access might be driven by more than economics or moral claims to subsistence rights; it serves social, political, and ritual purposes as well representing kinship, power relations, or ritual harmony" (Ribot and Peluso, 2003:168). The ability to identify ownership rights of certain forest resources signifies the historical (sometimes, even spiritual) affiliation to the area and the community as a whole (Sather, 1993). Should this knowledge be absent, then the individual has lost control and maintenance over his/her resource access. In the mid-Tinjar River, both the Berawan and Penan communities constantly narrate their historical accounts, especially of migration and resource use patterns, in order to authenticate their indigenous status in the area. These include their knowledge on the location of ancestral burial sites, old fallow lands, permanent fruit groves or traditional forest islets, which confirm their history in the area. This ability to assert their rights of belonging and thus, use of resources is more important than economic claims to rights.

Access to authority is another critical ability in accessing resources. Communities or individuals who possess privileged access to authority can determine who benefits from the resources.

"Legal, customary, and conventional authorities may also compete or conflict in the sense of having overlapping jurisdictions of authority. Such overlaps allow individuals to take advantage of different social identities to acquire or accumulate resources using different notions of legitimate or authoritative access" (Ribot and Peluso, 2003:170).

This process describes the ability of the community in using external institutions to justify their claims over certain resources against other communities in the same geo-cultural area. The most appropriate example in the case of the establishment of the Loagan Bunut National Park is when the
as visiting Loagan Bunut in business and shut down by National Park authorities... the access to knowledge. It is vital that they possess the resources, access might to subsistence rights; it representing kinship, power (2003:168). The ability to access signifies the historical... and the community as a absent, then the individual source access. In the midst of communities constantly narrate... in accessing resources. Access to authority can... entities may also compete or advantage of different social... using different notions of adat (Peluso, 2003:170). One community in using external resources against other... most appropriate example in it National Park is when the Berawan communities managed to convince the UNDP/GEF to allow them exclusive use of their existing farmlands and forest resources in the area. The Berawan’s ability in gaining access to authority has in turn, marginalized the Penan from experiencing the same benefits that the Berawan now enjoys.

Lastly, the ability to gain resource access through social identity also plays a crucial role in determining benefits from things. As the examples in this paper have shown both the Berawan and Penan communities have aggressively asserted their rights to use and control of resources in the mid-Tinjar River, the LBNP in particular, by strategically regarding themselves as “indigenous people” or “practicing customary law” in the area. In this context, the Berawan seems to have the upper hand in asserting their indigenous status due to their extensive exposure to the state’s bureaucratic system. By being familiar with the state, and constantly reiterating their cultural claims to the various authorities, the Berawan succeeded in gaining control over the resources in the area.

Conclusion

In this paper, I argued that there has been too much emphasis on the conflicts between indigenous peoples and external institutions, especially with regards to resource use in the indigenous peoples’ territories. This unilateral view of resource use conflict tends to simply juxtapose the concept of ‘rights’ according to the adat with state institutions. However, the process of over-analyzing the concept of ‘rights’ may obscure the complex realities of the indigenous peoples’ way of life. Further, I argued that we should not restrict our focus on the “indigenous-peoples-versus-the-state” debate but rather on the wider socio-cultural conflict among indigenous peoples living within the same geo-cultural landscape. As an illustration to my arguments above, I have selected the resource use conflicts between the Berawan and Penan communities in the mid-Tinjar River, with specific attention on the bestowal of ‘rights’ by external institutions to the Berawan communities following the establishment of the Loagan Bunut National Park. For instance, Section 14 of the National Park Ordinance regard the Berawan as the “native to the area” and thus, they have exclusive ‘rights’ to continue albeit not expanding their farming activities in the area. This exclusive ‘rights’ also allow the Berawan to utilize the forest resources inside the national park boundaries for the purpose of building, hunting, and gathering. In providing this exclusive “native to the
area” status to the Berawan, Section 14 excluded the Penan (and settler Iban) communities from enjoying the benefits of their traditional forest resources and land claims within the national park boundaries. This also signifies a systematic process of ignoring the Penan socio-cultural and historical ties to the area, and hence, estranging their resource access. In the third section of this paper, I have elucidated on the origins of both the Penan and Berawan communities of the mid-Tinjar River. By referring to the literature written in the 19th century (e.g. Sarawak Gazette), on the genealogical history and from my own interviews, it is clear that both the Penan and Berawan ancestors were migrant settlers in the area. It is still debatable, however, which of these two groups first settled in the mid-Tinjar River area as the Berawan has a more complex cultural history due to their assimilation of the Lelak community. On this basis alone, it is not adequate that the argument should exclusively revolve around the concept of ‘rights’. Rather, the crucial question with regards to analyzing resource use conflict is who get to use what resources in what way and when.

The answer to this question would facilitate our understanding of why some people or institutions benefit from resources, regardless of whether they have ‘rights’ to them or not. In concluding the discussion of this paper, I have adopted the “theory of access” in explaining the complex phenomena relating to the resource use, indigenous peoples, external institutions and their squabbles in the mid-Tinjar River.
led the Penan (and settler Iban) to traditional forest resources beyond the customary land boundaries. This also signifies a cultural and historical ties to access. In the third section of the paper both the Penan and Berawan refer to the literature written in a genealogical history and from Penan and Berawan ancestors' perspective; however, which of these areas as the Berawan has a more distinct genealogical history and from Penan and Berawan ancestors' perspective. On this argument should exclusively refer, the crucial question with regard to understanding of why some people have access to what resources in the Lelak community. On this argument should exclusively refer, the crucial question with regard to understanding of why some people have access to what resources in the Lelak community.

References


The Sarawak Gazette. August, 1876, July 1910, June 1911, January 1922.

