



Permanent Mission of
Malaysia
to the United Nations

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**STATEMENT BY
MR. ZAHID RASTAM
FIRST SECRETARY, PERMANENT MISSION OF MALAYSIA
TO THE UNITED NATIONS
ON
AGENDA ITEM 66 (A): INDIGINEOUS ISSUES
OF THE THIRD COMMITTEE
OF THE 64TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY
NEW YORK, 19 OCTOBER 2009**

Mr. Chairman,

On 13 September 2007, Malaysia joined 143 other countries which voted in favour of General Assembly Resolution 61/295 to adopt the United Nations Declaration on the Rights of Indigenous Peoples. The Declaration was significant in that the whole spectrum of individual and collective rights of indigenous peoples were recognised. The Declaration sets out the principles and standards to which all stakeholders should strive for. For Malaysia, ensuring the protection of the rights and the development of our indigenous populations has always been a national priority, and we have undertaken various efforts in this regard.

Mr. Chairman,

2. Malaysia agrees with the recommendation contained in the report to the General Assembly by the Special Rapporteur on the situation of human rights and fundamental freedoms, contained in document A/64/338, for there to be greater coordination between his mandate, the Permanent Forum on Indigenous Issues and the expert mechanism on the rights of indigenous peoples. Such coordination would help to avoid duplication within the UN Indigenous Issues structure, and provide coherence to the roles and responsibilities of the Special Rapporteur, the Forum and the expert mechanism, and ensure effectiveness and efficiency.

3. Malaysia further agrees with the conclusion of the Special Rapporteur that the Declaration does not bestow a special or new set of rights, but contextualizes elaboration of general human right principles and rights as they relate to the circumstances of indigenous peoples. This concept is essential to ensure that the positive standards in the principles do not get lost in the discourse on the legal status of the document – a phenomenon that we increasingly observe.

4. These two points mentioned are increasingly significant in the context of recent developments. Malaysia values the Permanent Forum on Indigenous Issues as one means for indigenous peoples throughout the world to come together and have a unified voice at the international level. We also appreciate the work by the Member States and

members of the Forum to bring understanding and cooperation between states and indigenous peoples. However, the cause of indigenous rights is not assisted with the *de facto* attempt by the Permanent Forum to change the legal understanding of the Declaration and its mandates through the issuance of a general comment at its Eighth Session in May this year. As a subsidiary organ of the Economic and Social Council, the basis of any new function for the Forum requires the consideration of the intergovernmental process of the ECOSOC, and the Forum cannot assume for itself a role as a treaty body – of which the Declaration itself is not a treaty nor legally-binding. While the intention of the Forum in issuing this comment was noble, it has instead triggered debate on the credibility and the roles and responsibilities of the Forum, and this debate harms and delays the acceptance of the Declaration as a set of principles, ideals, and rights which all member states can fully accept and strive for.

Mr. Chairman,

5. At the national level, the status of indigenous people in Malaysia has been recognized since even before the time of our national independence. The Aboriginal People Act of 1954 was enacted to provide for the protection, well-being and advancement of the aboriginal people of West Malaysia. The legal recognition of indigenous peoples was enshrined in the Federal Constitution following independence in 1957 and later expanded to include the native peoples of the states of Sabah and Sarawak on the island of Borneo following the creation of Malaysia in 1963. The principle of non-discrimination on any basis is enshrined in our constitution and this also extends to our indigenous peoples.

6. The most significant challenge which besets Malaysia is providing indigenous peoples with development while assisting them to safeguard their customs and cultures. Our policies and strategies thus focus on uplifting the status and quality of life of the indigenous community via socioeconomic programmes and giving priority to help them preserve their traditional cultural heritage.

Mr. Chairman,

7. Allow me to share some of the various measures undertaken to safeguard the rights of indigenous peoples in Malaysia, and these include the following:

- 7.1 Firstly, at the political level, the Federal Government appoints as Senators a representative from the Thai and *Orang Asli* communities respectively. At the local level, the headman of the indigenous group has the right to exercise his authority in matters of aboriginal custom and belief. Additionally, in the eastern states of Sabah and Sarawak, Native Courts have jurisdiction on matters of native law and custom;
- 7.2 Secondly, education remains important to allow indigenous groups to overcome the challenges from modern and mainstream society while safeguarding their customs. In this regard, a modified curriculum has been introduced in Orang Asli, and in the Penan schools of Sarawak that takes into consideration the knowledge relevant to the indigenous groups and adopts indigenous pedagogy;
- 7.3 Thirdly, indigenous groups which prefer continuing a nomadic lifestyle are allowed to continue with their traditions. For both nomadic and settled

indigenous groups, public services are provided through a number of ways. Amongst these are service centres in strategically located districts that provide essential basic services and facilities for the surrounding areas, education assistance, health and medical services through a Flying Doctors programme and mobile clinics, and agriculture extension services to assist in agricultural development.

Infrastructure assistance for settled communities includes basic amenities, housing assistance programmes and road projects. Economic development includes agriculture and livestock projects and human capital development includes skills training and motivational programmes;

- 7.4 Fourthly, with regard to land rights, land rights for indigenous people are adequately protected under existing laws, including the right to compensation. State Governments in Malaysia, with support from the Federal Government, have gazetted various tracts of land for settled indigenous groups, as well as for semi-nomadic groups for hunting and gathering. Malaysian courts have also progressively recognized customary land rights; and
- 7.5 Finally, all efforts are undertaken to prevent indigenous peoples from being the subject of violence or exploitation. In this regard, an inter-agency committee has been established at the national level to investigate reports of alleged sexual harassment and abuse of indigenous women, involving various Federal Ministries, the relevant State Government, police and civil society. Our national human rights institution, SUHAKAM, also plays an important role in investigating and reporting of abuse.

Thank you.