

CONSTITUTION OF THE STATE OF SABAH

(Earth jurisprudence version)

Preamble

We, the people of Sabah –

CELEBRATING this beautiful land that has given birth to us as a nation, shapes our diverse cultures, and sustains us as part of the community of life on Earth;

CONSCIOUS of our common and sacred responsibility to the present and future generations of humans and other species to protect and care for all the living communities of Sabah and to ensure that we maintain and strengthen the integrity of the natural systems that support us all;

AWARE of our ethnic, cultural and religious diversity and determined to live in peace and unity as one indivisible nation within the Earth community;

COMMITTED in nurturing and protecting the well-being of the individual, the family and the community within our nation;

RECOGNISING the aspirations of our people for a government based on the essential values of freedom, democracy, social justice and the rule of law;

RECOGNISING that human rights, ecologically, sustainable human development and peace are interdependent and indivisible;

EXERCISING our sovereign and inalienable right to determine the form of governance of our country and having fully participated in the constitution making process;

Do adopt, enact and give to ourselves and to our future generations this Constitution.

Article 1. Fundamental principles

- (1) Sabah is a living community which exists by virtue of the interrelationships between the land, air and waters within its territory and the living creatures that inhabit them.
- (2) The State of Sabah is established by the people of Sabah to regulate human affairs in a manner that enables humans to maintain a harmonious and respectful relationship with other member of Sahab.
- (3) The State of Sabah is founded on principles of good governance through multiparty democracy, participatory governance, transparency and accountability, separation of powers, respect for other living beings and the environment, human rights, fundamental freedoms, and the rule of law.

- (4) The State shall recognise its responsibilities to future generations by taking all reasonable measures to ensure that human activities do not degrade the environment and that natural resources are used in a prudent manner which ensures the preservation of ecosystems and species.
- (5) The State shall respect the integrity of natural processes and ecological communities, the intrinsic value of all forms of life and the unique role of each of these in sustaining life.

Article 2. Fundamental rights of members of the Sabah

- (1) Each member of Sabah has the right to exist, to have a place where it can exist and to play its part in the on-going evolution of Sabah.
- (2) Every form of life is unique and each living being is entitled to be respected by humans, regardless of its worth to human beings
- (3) The rights of each member of Sabah are limited by the rights of other members and the rights of each member must be limited to the extent necessary to maintain the health, integrity and well-being of Sabah and the Earth community as a whole.

Article 3. Duties of human inhabitants

- (1) All human inhabitants of Sabah must respect and protect the other members of Sabah for the benefit of present and future generations.
- (2) The duty set out in clause (1) apply equally wherever appropriate to legal persons.
- (3) Any person who owns:
 - (a) a living organism must treat it with the care and respect appropriate to living being and cohabitant of Sabah;
 - (b) part of Sabah must respect and care for it, and conserve and protect any indigenous plants and animals on it, as a trustee for the present and future generations.
- (4) The cultural and social principles traditionally applied by any human community within Sabah to regulate their relations with their environment or other members of Sabah shall be applied, in so far as -
 - (a) they are relevant; and
 - (b) not inconsistent with the fundamental rights referred to in this constitution.

Article 4. Duties of the State

- (1) All State officials exercising a power or performing a function that affects the environment shall be guided by –
 - (a) the principle that every form of life is entitled to be respected and protected by humans as a unique and irreplaceable member of

Sabah and is entitled to a habitat to sustain it and to play its natural role in the on-going evolution of life.

- (b) the recognition of the responsibility of the State of Sabah and its people:
 - (i) to protect the forests;
 - (ii) to maintain and protect biological diversity;
 - (iii) to protect the environment, giving priority to prevention of environmental damage and degradation, but also providing for restoration in case of existing or unavoidable damage, and for compensation;
 - (iv) to assess the potential impacts on Sabah of any proposed project or combination of projects, including government projects, likely to have a significant impact on any ecological community within Sabah and to ensure that the process of doing so is open; gives adequate opportunity for public comment; is scrutinised by a body which is independent of the project proponent; and that the views of that body are taken into consideration when deciding whether to grant approval for the project

Article 5. Interpretation of the constitution

- (1) In this constitution "Sabah" means all the ecological communities and their environment within the territory of the State of Sabah, and includes all the peoples, other life forms and the land, waters and atmosphere that sustains them.
- (2) When interpreting the Constitution, a court, tribunal or forum –
 - (a) shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - (b) shall recognise the importance of considering the interests of other members of Sabah and future generations in ensuring that each has the freedom to play its role in the ongoing evolution of Sabah;
 - (c) shall consider international law; and
 - (d) may consider foreign law.
- (3) When interpreting any legislation and when developing the common law or customary law, every court, tribunal or forum shall:
 - (a) promote the spirit, purport and objects of the Constitution; and
 - (b) recognise the fundamental importance of maintaining the ecological balance and a harmonious relationship between human beings and the other members of the Sabah community.

- (4) The Constitution does not deny the existence of any other rights or freedoms that are recognized or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.

Article 6. Enforcement of the Constitution

- (1) A person may bring an action in the courts on the ground that a provision of the Constitution is not being complied with or that an enactment or anything contained in, or done under, an enactment is inconsistent with, or is in contravention of, the Constitution for declaration to that effect.
- (2) The courts may make an order or give appropriate effect to the declaration in clause (1).
- (3) A court must enforce any fundamental human right or duty recognised by this Constitution against or on behalf of natural persons and the fact that any breach of that right or duty was done by or on behalf of a legal person shall not affect the rights or duties of the natural persons to whom they apply.
- (4) Clause (3) shall not be interpreted as restricting the ability of a court to impose and enforce duties recognised by this Constitution against legal persons.

Article 7. Legal standing

- (1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Constitution or of any statute concerned with the protection of the environment –
 - (a) in that person's or group of persons own interest;
 - (b) in the interest of, or on behalf of, any person or other member of Sabah or of the Earth community who is, for practical reasons, unable to institute such proceedings;
 - (c) in the interest of, or on behalf of a group or class of persons or members of Sabah whose interests are affected;
 - (d) in the public interest; or
 - (e) in the interest of protecting the environment.