

The Rufford Foundation Final Report

Congratulations on the completion of your project that was supported by The Rufford Foundation.

We ask all grant recipients to complete a Final Report Form that helps us to gauge the success of our grant giving. The Final Report must be sent in **word format** and not PDF format or any other format. We understand that projects often do not follow the predicted course but knowledge of your experiences is valuable to us and others who may be undertaking similar work. Please be as honest as you can in answering the questions – remember that negative experiences are just as valuable as positive ones if they help others to learn from them.

Please complete the form in English and be as clear and concise as you can. Please note that the information may be edited for clarity. We will ask for further information if required. If you have any other materials produced by the project, particularly a few relevant photographs, please send these to us separately.

Please submit your final report to jane@rufford.org.

Thank you for your help.

Josh Cole, Grants Director

Grant Recipient Details	
Your name	Julia anak Nelson
Project title	A study on compatibility between the Forest Law and the Native Law and their impacts on <i>Bidayuh</i> indigenous community in Sarawak
RSG reference	13988-1
Reporting period	January 2014-January 2015
Amount of grant	£6000
Your email address	ju_vcngai@yahoo.com
Date of this report	January 2015

1. Please indicate the level of achievement of the project's original objectives and include any relevant comments on factors affecting this.

Objective	Not achieved	Partially achieved	Fully achieved	Comments
Brainstorming with the community's head			X	The brainstorming was conducted with at least eight <i>Bidayuh</i> community's head.
Pilot survey			X	The site survey was carried out to select the potential site for data collection which is, the suitable village with major <i>Bidayuh</i> people.
Preparation of questionnaire			X	The preparation of questionnaire involved building of open-ended and closed-ended questions to test the reliability and validity of the questions. Both types of questions were used to determine the types of questions that can get major response from the local people and to get maximum response to the matter of subject.
Pre-testing			X	Pre-testing of questionnaire was carried out among 22 respondents. The reliability analysis of the closed-ended questions showed that the internal consistency of the scales is poor. Then, the questionnaire was corrected on its' wording and answer scale. Some additional questions was further added to increase the reliability of the questionnaire. The open-ended questions were then decided to be used for interview with the key informant and expert.
Key informant and interview		X		The key informant and interview with the <i>Bidayuh</i> community members was conducted to achieve additional information using the open-ended questions. The interview with a forestry expert via email was also conducted. However, the intended interview with other experts cannot be carried out as planned as there was no response from the contacted experts.
Field survey			X	The site pictures have been taken.
Data entry analysis			X	The data from the closed-ended questions was analysed using frequency analysis in SPSS and the data from the open-ended questions was analysed manually. The initial plan to analyse the open-ended questions using NVivo software has to be cancelled due to unavailability of this software.
Presenting research			X	The research has been presented through poster presentation and journal publications. 1. Nur Muhammed & Nelson, J. 2014. The consistency between the forest law and the native law contents and impacts on <i>Dayak-Bidayuh</i>

				community in Sarawak. Poster presented during PEREKA UMS 27-28 October, 2014. <i>Kompleks DKP Ke-2</i> , Universiti Malaysia Sabah (Silver medal). 2. Nelson, J. & Nur Muhammed. 2014. The roles of native customary rights towards the future of Sarawak native people. (in communication) 3. Nelson, J. & Nur Muhammed. 2014. A study on compatibility of forest law and <i>Bidayuh</i> native law in Sarawak. (in communication)
Final report to Rufford Foundation			X	The final report has been sent in January 2015.

2. Please explain any unforeseen difficulties that arose during the project and how these were tackled (if relevant).

Some of the villagers acted negatively towards the researchers and some refused to comment or cooperate. The researcher tried to convince the reluctant villagers that this project will only be used for the purpose of academic and not for other purposes especially for political purposes. Besides that, the response from the other expert besides the forestry field was also low.

3. Briefly describe the three most important outcomes of your project.

Communities' Demographic Profile

Demographic Profile		Frequency	(%)	S.D.	Min.	Max.
Education level	No formal education	2	2.1	1.788	1	9
	UPSR/Primary 6 Assessment Test	8	8.3			
	PMR/LCE	9	9.4			
	SPM/MCE	45	46.9			
	STPM	8	8.3			
	Diploma	10	10.4			
	A-level	1	1.0			
	Bachelor's degree	12	12.5			
Master's degree	1	1.0				
Employment status	Unemployed	21	21.9	2.906	1	10
	Agriculture sector	10	10.4			
	Forestry sector	2	2.1			
	Business sector	6	6.3			
	Service sector	19	19.8			
	Student	9	9.4			
	Retirees	7	7.3			
	Self-employed	6	6.3			
	Private sector	14	14.6			
	Housewife	2	2.1			
Estimated income monthly (RM)	< 1,000.00	69	71.9	1.286	1	7
	1,000.01 - 2,000.00	8	8.3			
	2,000.01 - 3,000.00	7	7.3			
	3,000.01 - 4,000.00	8	8.3			

	4,000.01 - 5,000.00		2	2.1			
	5,000.01 - 6,000.00		1	1.0			
	6,000.01+		1	1.0			
Residential period	Less than 5 years		10	10.4	1.019	1	4
	5-10 years		8	8.3			
	10-20 years		13	13.5			
	More than 20 years		65	67.7			
Land area	Less than 10 acres		76	79.2	0.497	1	3
	11-50 acres		17	17.7			
	More than 50 acres		3	3.1			
Land use	Housing	No	21	21.9	0.416	0	1
		Yes	75	78.1			
	Agriculture	No	62	64.6	0.481	0	1
		Yes	34	35.4			
	Paddy field	No	84	87.5	0.332	0	1
		Yes	12	12.5			
	Orchard	No	75	78.1	0.416	0	1
		Yes	21	21.9			
	Pepper field	No	89	92.7	0.261	0	1
		Yes	7	7.3			
	Rubber plantation	No	79	82.3	0.384	0	1
		Yes	17	17.7			
	Oil palm plantation	No	95	99.0	0.102	0	1
		Yes	1	1.0			
	Pond	No	90	93.8	0.243	0	1
		Yes	6	6.3			
	Husbandry	No	94	97.9	0.144	0	1
		Yes	2	2.1			

Current Forestry Issues in Study Area

Issues		Frequency	(%)	S.D.	Min.	Max.
Illegal logging	No	74	77.1	0.423	0	1
	Yes	22	22.9			
Wildlife hunting	No	75	78.1	0.416	0	1
	Yes	21	21.9			
Mass land clearing for agriculture purpose	No	87	90.6	0.293	0	1
	Yes	9	9.4			
Shifting cultivation	No	86	89.6	0.307	0	1
	Yes	10	10.4			
Soil erosion	No	67	69.8	0.462	0	1
	Yes	29	30.2			
Hills cutting for road construction	No	79	82.3	0.384	0	1
	Yes	17	17.7			
Water source pollution	No	63	65.6	0.477	0	1
	Yes	33	34.4			
Depletion of forest resources due to over-consumption	No	73	76.0	0.429	0	1
	Yes	23	24.0			
Forest destruction	No	77	80.2	0.401	0	1

	Yes	19	19.8			
Forest fire	No	91	94.8	0.223	0	1
	Yes	5	5.2			
None	No	82	85.4	0.355	0	1
	Yes	14	14.6			
Not sure	No	83	86.5	0.344	0	1
	Yes	13	13.5			

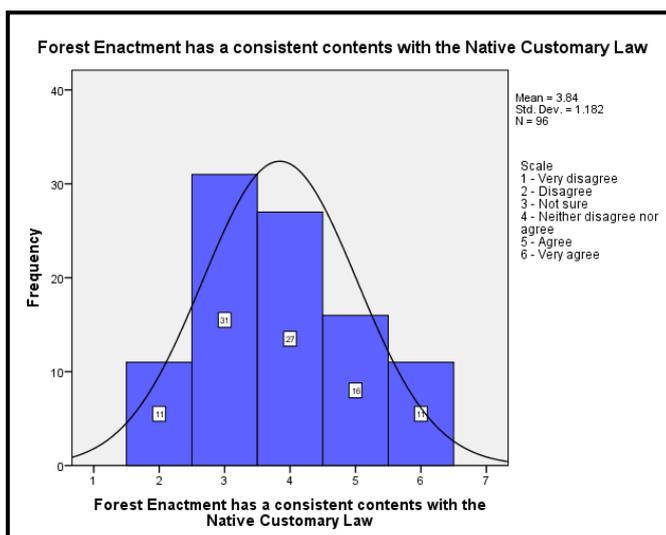
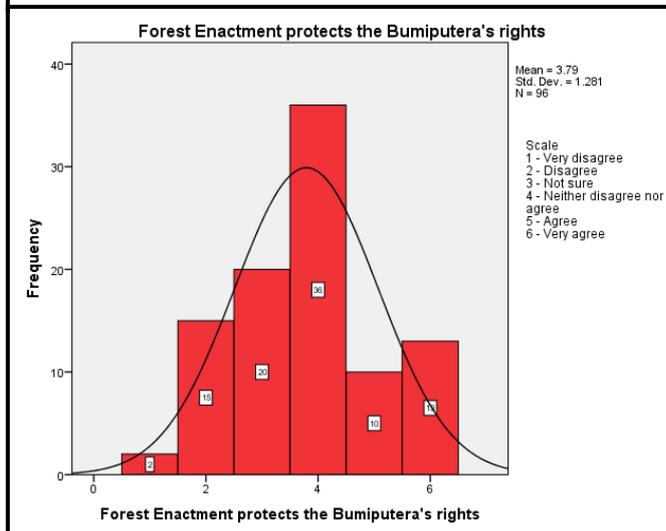
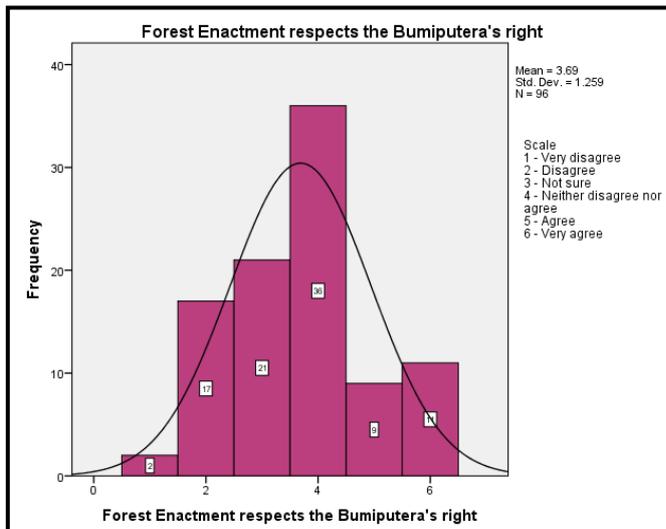
Objective 1: To Compare the Contents of Forest Law and Native Law

Majority of *Bidayuh* community members neither disagree nor agree with the statement that say the Forest Enactment respects and protects the *Bumiputera'* people rights. And they also are not sure about the consistency between the Forest Enactment and the Native Customary Law.

Frequency Table

	Forest Enactment respects the <i>Bumiputera's</i> right		Forest Enactment protects the <i>Bumiputera's</i> rights		Forest Enactment has a consistent contents with the Native Customary Law	
	Frequency	(%)	Frequency	(%)	Frequency	(%)
Very disagree	2	2.1	2	2.1	0	0
Disagree	17	17.7	15	15.6	11	11.5
Not sure	21	21.9	20	20.8	31	32.3
Neither disagree nor agree	36	37.5	36	37.5	27	28.1
Agree	9	9.4	10	10.4	16	16.7
Very agree	11	11.5	13	13.5	11	11.5
Total	96	100.0	96	100.0	96	100.0
N	Valid	96	96	96	96	96
	Missing	0	0	0	0	0
Mean	3.69 ~ 4		3.79 ~ 4		3.84 ~ 4	
Mode	4 - Neither disagree nor agree		4 - Neither disagree nor agree		3 - Not sure	
S.D.	1.259		1.281		1.182	
Variance	1.586		1.640		1.396	

Histogram



Document analysis

Two types of document have been reviewed i.e. Forest Ordinance Chapter 126 (1958 Edition) and The Native Customary Laws Ordinance: The *Adat Bidayuh* Order, 1994. From the documents, three themes have been emerged i.e. ownership, loss of rights to forest or inheritance and management of forest. The ownership theme shows that the documents are interrelated in terms of how the community can gain ownership towards the land or forest. The community can make a request for a forested area to be constituted as communal forest except for forest reserve, protected forest or other government reserve under the Forest Ordinance. On the other hand, the Native Customary Laws Ordinance stated that the community members have to refer to the Land Code (Cap. 81) for any matters regarding their land, be it titled or native customary land. The Native Customary Laws Ordinance also stated that every *tapang* tree is owned by an individual or family. However, there is no such specification of the ownership of *tapang* tree in the Forest Ordinance. On the contrary, the community has the risk of losing their rights to forest or inheritance through different ways. The Forest Ordinance stated that the community may lose their communal forest or land if the Minister, by notification in the Gazette, direct the termination of that communal forest. The Native Customary Laws, on the other hand, stated that the community member may lose his/her inheritance if he/she married a non-*Bidayuh* man not in accordance of *Bidayuh* custom. Last but not least, the Forest Ordinance has provided a separate part for the management of communal forests in Part IV of the ordinance. The maintaining of communal forest is the responsibility of the community but through the method and extent regulated by the forest officer. The community is also allowed to use the forest produce for the purpose of their own use only and not for sale, exchange or direct profit. However, a strict restriction has also being stated for the utilisation of any forest produce for the purpose of research, study, experiment, process or test in relation to the production or development or intended production or development of any pharmaceutical product or medicinal compound. On the contrary, the Native Customary Laws Ordinance did not provide a separate section for the management of communal forest as in the Forest Ordinance but only one section relating to farming in the communal land.

	Forest Law	Native Law
Document	Forest Ordinance Chapter 126 (1958 Edition)	The Native Customary Laws Ordinance: The <i>Adat Bidayuh</i> Order, 1994
Definitions	- "permanent forest" means all forest reserves, protected forests, communal forests, State land forests, Government reserves and planted forests in the State.	- " <i>Buah</i> " (Bau and Kuching) refers to articles such as eastern-wares, brass wares, bronze articles, land or fruit trees for settling disputes, but for the purpose of this <i>Adat Bidayuh</i> , one <i>buah</i> is given a monetary value of one Malaysian ringgit (RM1.00) - " <i>jojak nyomba</i> " (Bau) means communally owned grove of fruit trees (Serian, <i>jajak namba</i> ; Kuching, <i>jajak nyomba</i> ; Lundu, <i>kompong kungsi</i> or <i>ta' mhu kongsi</i>) - " <i>pulau tu'aan</i> " (Serian and Bau) means communal forest - " <i>Takud</i> " means a form of restitution which covers two important ingredients: first, it covers the idea of

		<p>providing settlement between individuals; second, it covers the idea of appeasement, atonement or restoration of the physical and spiritual wellbeing of the community; there is no element of punishment in <i>takud</i></p> <p>- “<i>tana nyomba</i>” (Bau) means communal land (Serian, <i>tana namba</i>; Kuching, <i>tana nyamba</i>)</p>
Ownership	<p>Part IV Communal Forests</p> <p>- Section 40 - The Minister may, at the request of a community, constitute any State land, not being a forest reserve, protected forest or other government reserve, a communal forest in the manner provided in this part.</p>	<p>- Chapter 5 Customs relating to property Section 213(6) Titled land - In the case of the property involving a titled land, the transfer of title and interest in respect of that land shall be made in accordance with the provisions of the Land Code (Cap. 81).</p> <p>- Chapter 5 Customs relating to property Section 207 Property - Property includes all possession which may be;</p> <p>(a)....</p> <p>(b) Immovable such as land (titled or native customary land and).</p>
		<p>- Chapter 4 Customs relating to living in the <i>kupuo</i> Section 46 (1) <i>Tapang</i> Tree - Every <i>tapang</i> tree is owned by an individual person or a family. Therefore no other person is allowed to <i>nyopuh</i> it without consent of its owner.</p> <p>- Chapter 4 Customs relating to living in the <i>kupuo</i> Section 46 (2) <i>Nyopuh</i> another person’s <i>tapang</i> tree without permission - Whoever <i>nyopuh</i> another person’s <i>tapang</i> tree without the consent of its owner shall be fined three <i>pikul</i>. All collection from the <i>tapang</i> tree shall be given back to the owner. If the collection has been sold or eaten its equivalent value in cash shall be paid to the owner.</p> <p>- Chapter 4 Customs relating to living in the <i>kupuo</i> Section 46 (3) Felling another person’s <i>tapang</i> tree (<i>pingasung</i>) - Whoever fells another person’s <i>tapang</i> tree shall provide <i>takud</i> as stated below: (a) mature and productive <i>tapang</i> tree where bee</p>

		hives are always found, one hundred <i>buah</i> ; (b) less productive <i>tapang</i> tree where bee hives have only recently been found, fifty <i>buah</i> ; and (c) young <i>tapang</i> tree where bees have not settled yet, twenty <i>buah</i> .
Loses of rights to forest or inheritance	Part IV Communal Forests - Section 48 - The Minister may, by notification in the <i>Gazette</i> , direct that from the date specified in such notification, any communal forest or part thereof shall cease to be a communal forest, and any such direction shall have effect accordingly.	- Chapter 4 Customs relating to matrimonial or sexual matters Section 181 Marrying a non- <i>Bidayuh</i> man not in accordance of <i>Bidayuh</i> custom - If a <i>Bidayuh</i> woman marries a non- <i>Bidayuh</i> man not in accordance with <i>Bidayuh</i> custom, she is deemed to have relinquished all her rights to the <i>tana nyomba</i> , <i>jojak nyomba</i> and all other properties which are commonly owned by the people of the <i>kupuo</i> except land (whether titled or untitled), fruit trees, robber garden or other cash crops belongs to her parents.
Management of forest	Part IV Communal Forests - Section 46 (1) - The community shall undertake to maintain the communal forest in a condition of sustained yield in such a manner as the Director or any forest officer specially authorized by him may reasonably direct and, for this purpose, the Director or any forest officer specially authorized by him may regulate the method and extent of any felling or other operations. - Section 46 (2) - It shall be an offense for any member of the community to do any act which the Director or any forest officer specially authorized by him has the power to prohibit, and has expressly prohibited in writing under subsection (1).	- Chapter 3 Customs relating to farming and infringement of farming rites Section 99(3) Clear space between one's padi farm and the <i>pulau tu'aan</i> (<i>pulau tu'aan</i> means communal forest in Serian and Bau dialects) - Whoever farms next to a <i>pulau tu'aan</i> shall be required to make <i>oran token</i> of a reasonable width along the <i>irah</i> , to ensure that the fire will not spread to the <i>pulau tu'aan</i> during <i>nyouh</i> . If he fails to do so and the fire spreads to the <i>pulau tu'aan</i> , he shall provide <i>takud</i> of one hundred <i>buah</i> .
	Part IV Communal Forests - Section 47 (1) - Subject to any conditions imposed in writing by the Director or any forest officer specially authorized by him under section 46, any member of the community may remove, free of royalty or fee, any forest produce for his own use and not for sale, exchange or direct profit. - Section 47 (2) - No other person shall	

	remove any forest produce for any purpose whatsoever.	
	- Section 65A (1) - Subject to any rules made under section 95, no person shall, without the written authorization granted by the Director with the approval of the Minister - (a) cut, remove or take any tree found in any State land or in any forest reserve, protected or communal forest for undertaking or conducting any research, study, experiment, process or test in relation to the production or development or intended production or development of any pharmaceutical product or medicinal compound	

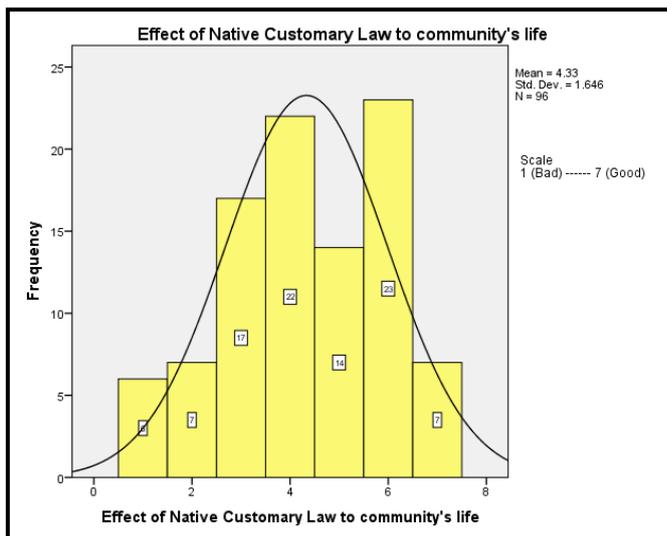
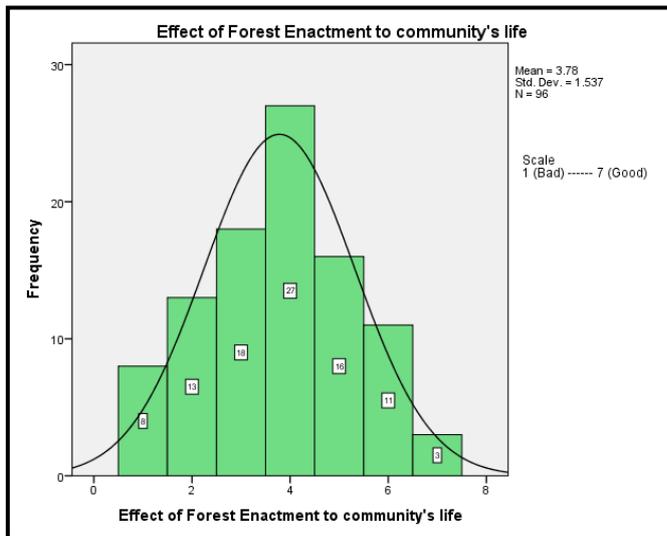
Objective 2: To Determine the Effects of Forest Law and Native Law towards Communities Livelihood

Majority of the community members think that the Forest Enactment does not bring any effect towards their livelihoods. However, they think that the Native Customary Law bring a very good effect towards their livelihoods.

Frequency Table

		Effect of Forest Enactment to community's life		Effect of Native Customary Law to community's life	
		Frequency	(%)	Frequency	(%)
Extremely bad		8	8.3	6	6.3
Very bad		13	13.5	7	7.3
Somewhat bad		18	18.8	17	17.7
Neutral		27	28.1	22	22.9
Somewhat good		16	16.7	14	14.6
Very good		11	11.5	23	24.0
Extremely good		3	3.1	7	7.3
Total		96	100.0	96	100.0
N	Valid	96		96	
	Missing	0		0	
Mean		3.78 ~ 4		4.33 ~ 4	
Mode		4 - Neutral		6 - Very good	
S.D.		1.537		1.646	
Variance		2.362		2.709	

Histogram



Interview with the Forest Officer

What can you conclude about the contents of the Forest Enactment in terms of rights and interests of the local community?

- In the Forest Ordinance, the Forest Department does not deny the rights and privileges of the local community. Forest Department has taken steps as early as 1950 with the establishment of communal forest for the benefit of the community. Gazetted forests to local communities in order to produce forest products such as wood to make a house, a boat and a result of non-wood such as rattan, bamboo, pine, etc. for their own use and not for sale / commercial. In addition, the establishment of protected areas such as national park full, natural reserves and wildlife sanctuaries, the rights and privileges of the local residents who live on the edge of the protected area is taken into account to recognise the rights and peculiarity and was given permission to collect forest products, hunting, fishing in certain zones for their own use and not for sale.

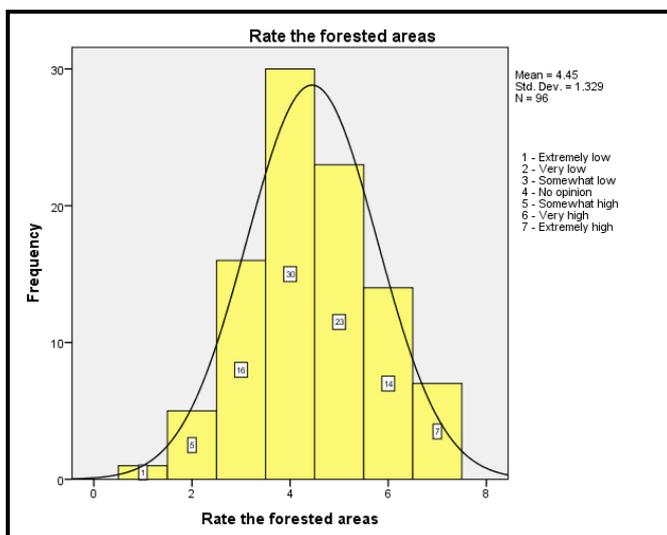
Objective 3: To Determine the Effects of Forest Law and Native Law towards the Forest

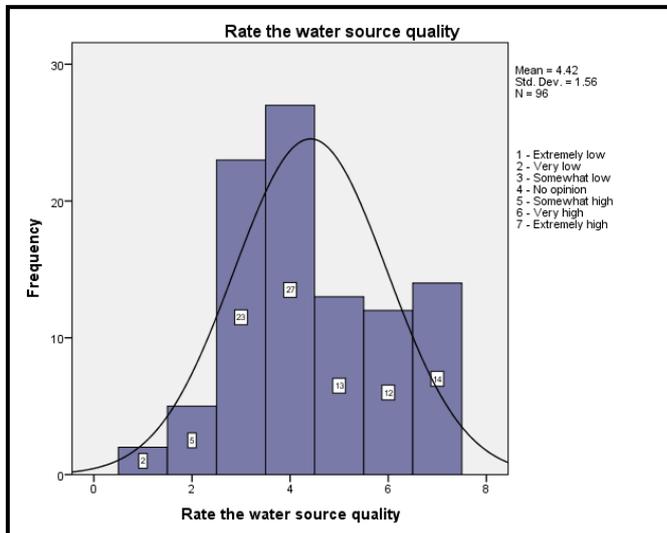
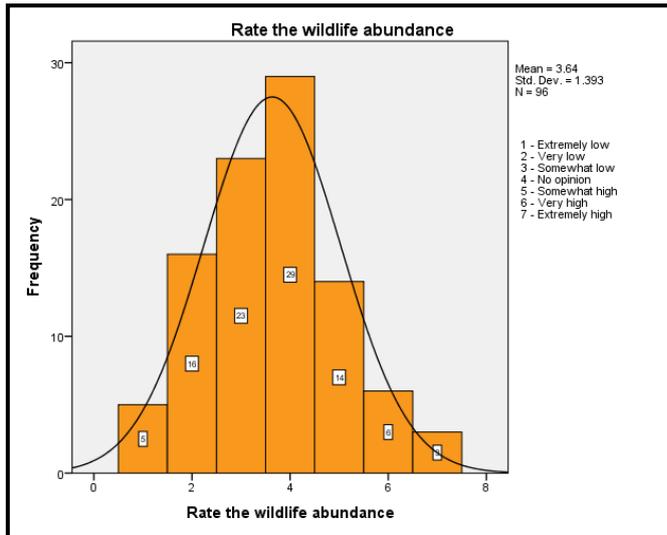
Majority of the community has no opinion or not sure about neither the rate of forested areas, rate of wildlife abundance nor the rate of water source quality in their living areas.

Frequency Table

		Rate of forested areas		Rate of wildlife abundance		Rate of water source quality	
		Frequency	(%)	Frequency	(%)	Frequency	(%)
Extremely low		1	1.0	5	5.2	2	2.1
Very low		5	5.2	16	16.7	5	5.2
Somewhat low		16	16.7	23	24.0	23	24.0
No opinion		30	31.3	29	30.2	27	28.1
Somewhat high		23	24.0	14	14.6	13	13.5
Very high		14	14.6	6	6.3	12	12.5
Extremely high		7	7.3	3	3.1	14	14.6
Total		96	100.0	96	100.0	96	100.0
N	Valid	96		96		96	
	Missing	0		0		0	
Mean		4.45 ~ 4		3.64 ~ 4		4.42 ~ 4	
Mode		4 - No opinion		4 - No opinion		4 - No opinion	
S.D.		1.329		1.393		1.560	
Variance		1.766		1.939		2.435	

Histogram





4. Briefly describe the involvement of local communities and how they have benefited from the project (if relevant).

Several local people has been hired as the crews during the pilot and field data collection in 2014. Besides that, the locals have also been involved directly in this project as key informants and respondents. The interview of local people during pilot data collection has enabled the researcher to design the experimental design and develop the suitable research framework. Also, during the field data collection, the local people has been involved directly in answering the questionnaire. From the researcher’s engagement with the local people, it was believed that getting communities’ opinions and involvement of locals on all levels of management plan are crucial steps to ensure the success of any activities. The communities will also be able to gain a fair share of benefits through these kinds of involvement.

5. Are there any plans to continue this work?

For this project, I plan to conduct a more detailed study on this subject of matter by conducting high level of statistical analysis for the quantitative data and using a computer software for the analysis of qualitative data, rather than doing it manually as in now. Besides that, I also plan to add more variables into the experimental design to generate a better results.

6. How do you plan to share the results of your work with others?

I plan to publish my results in high impact peer reviewed scientific journal, such as International Journal of Social Forestry.

7. Timescale: Over what period was The Rufford Foundation grant used? How does this compare to the anticipated or actual length of the project?

The Rufford Foundation Grant was used for work starting from January 2014 till January 2015. The original plan to complete this project and carried out all the intended major activities was during this twelve months and this plan has been achieved on-time.

8. Budget: Please provide a breakdown of budgeted versus actual expenditure and the reasons for any differences. All figures should be in £ sterling, indicating the local exchange rate used.

1 GBP= RM5.20142424

Item	Budgeted Amount	Actual Amount	Difference	Comments
Brainstorming with community heads and other relevant stakeholders	1058	384.51	673.49	The budget was overestimated
Literature purchase/ photocopying	106	132.07	- 26.07	There was a need for more books and literature for document analysis
Accommodation during field data collection (X 2 X 30 days X 3 phases)	1420	1240.04	179.96	Accommodation was provided by the locals
Food during data collection (X 2 person X 30 days X 3 phases)	330	330.00	0	Food was provided along with accommodation
Transportation for field data collection in 3 phases including air ticket and local transportation	425	542.35	- 117.35	The rate of air ticket was unstable
Field crews for field data collection (X 5 persons X 30 days)	1650	903.60	746.40	The salary for crews has to be cut to top-up the other expenses
Data analysis software	210	384.13	- 174.13	The researcher need a new laptop to work
Communication and stationeries	320	431.96	- 111.96	There is an increase in communication expenses as the researcher need to update and contact the key informant, crews etc.
Gifts/ Souvenirs	105	87.60	17.40	The expenses for gifts was cut in terms of packaging as the

				researcher herself did the packaging
Conference attending and publications				Still on-going
Total		4436.26		

9. Looking ahead, what do you feel are the important next steps?

Results from this project suggest that there are still gaps between the current Forest Enactment and Native Customary Laws. The Native Customary Laws has yet to be fully recognised in the current legal system. Therefore, in order to have a better understanding of how to recognise the Native Customary Laws, it is necessary to conduct more research on this subject of matter. This is important as the local people or in this context, the community members, also contribute to a sustainable forest management. Thus, it is also important to understand their system and take it into account during the rule-making process.

10. Did you use The Rufford Foundation logo in any materials produced in relation to this project? Did the RSGF receive any publicity during the course of your work?

I use the logo in my questionnaire for the data collection and in a presentation at the Universiti Malaysia Sabah during 2014 where I was presenting my progress report of my master project. Besides that, the logo has also been used in the poster during the PEREKA UMS 2014.

11. Any other comments?

I am deeply grateful towards The Rufford Foundation for providing me this grant to support my research project and help me in gaining my ground as a forester. I hope there will be more chance of engagement between The Rufford Foundation and myself in the future.