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NATIVE CUSTOMARY LAWS (FROM AN ASPECTS JUDGEMENT)

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INTRODUCTION

Any study of the Native Customary Laws would contribute to the understanding and appreciation of the cultural heritage of the people concerned. The Native Customary Laws or better known as "Adats" particularly in East Malaysia were already in existence before the coming of the expatriates. *Adats* continued to flourish during the colonial era and throughout the period of independence.

Adats therefore play an important role in East Malaysia as in many ways they regulate the way of life of the natives. They are part of the cultural heritage of each of the East Malaysian States. In the light of the rapid social, economic and political changes *Adat* become even more valuable in providing the natives with a sense of certainty of identity.

Adats do not remain static. They must grow and change as the communities progress and develop in line with rapid social, economic and political changes in the country otherwise they will wither and die and eventually disappear. Where they outlived their usefulness and no longer serve any useful purpose or command the respect of the community concerned they should be discarded. The fact that they are discarded strengthens rather than diminishes the value of those *adat* which remain.

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NATIVE COURT SYSTEM

The Native Court System in Sarawak is quite different from that of Sabah. The Sarawak one is more precise than Sabah in many respects. In Sarawak there may be as many as three appeals whereas in Sabah there can be only one appeal before the case goes to the respective Native Court of Appeal.

The formal structure of the Native Court administration reached its definite form in 1955 with the promulgation of the Native Courts Ordinance (Cap. 43) and the Native Customary Laws Ordinance (Cap. 51). One of the most important features of (Cap. 43) is the creation of the Native Court of Appeal to be presided by a Judge of the High Court who is appointed by the Yang di-Pertua Negeri. The Judge sits with two assessors.