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RECONCILING PAST COMPROMISES: TOWARDS A MORE EQUITABLE FUTURE FOR ORANG ASLI IN MALAYSIA

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ABSTRACT

In the wake of the COVID-19 pandemic, the present generation has more ability to shape the future than every previous generation in modern times. Intergenerational justice in general means meeting the current needs without jeopardising future generations; all generations are eligible to a healthy, balanced environment favourable to human progress and the State has fiduciary obligation to use and manage resources efficiently and further promotes balance and sound environmental policy. The synergy between its citizen and State create relationship known as "social contract", but the word "social contract" has a very diverse and unique connotation in Malaysia. The "social contract" referred to the difficulties and intricate compromises reached between major ethnics in Malaysia regarding their mutual rights and privileges, since independence of Malaysia. The Aboriginal in Malaysia is also known as Orang Asli, their communities frequently associated with negative connotation and sometimes less fortunate when compared to other main ethnics in Malaysia. Over the time government regimes change guard but developments of reasonable policies and other actions that promotes intergenerational justice and sustainable development goal towards Orang Asli seem slow in progress. This paper aims to highlight the issues of plight among Orang Asli in Malaysia as they are the minorities within minority communities. In contrast to empirical research, doctrinal approach which is library-based focusing on reading and analysis of the primary and secondary materials will be applied throughout this study. It is the contention of this paper to promote better wellbeing of Orang Asli communities as part of Malaysia nation building.

Keywords: Intergenerational Equity, Indigenous Peoples, International Law, Sustainable Development, Orang Asli

INTRODUCTION

Edith Brown Weiss conceived the concept of intergenerational justice, which has since spread around the globe (Weston, 2012). It has been mentioned in treaties, court decisions, and national constitutions, particularly in regard to the issue of climate change, which affects everyone. It is crucial that the Earth and all of its natural and cultural resources remain in the same excellent condition for future generations as they were for us. This gives birth to three concepts of intergenerational equity: alternatives, quality, and access. As a result of climate change, some areas will get wealthier, while others will become poorer. This will make it difficult to be fair to future generations. Economic disparities will widen, and nations better equipped to deal with climate change will have an edge. This will make the world even less equitable than it is already.

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Recent legal proceedings worldwide, initiated by litigants and representatives of posterity, have undergone scrutiny to assess the efficacy and jurisprudential implications of intergenerational equity concerning climate change mitigation. These litigations serve as poignant illustrations elucidating the dynamic nature of intergenerational equity and its intricate interplay with complementary legal doctrines, including but not limited to sustainable development, the public trust doctrine, and the principle of non-discrimination (Pulp Mills on the River Uruguay (Argentina v Uruguay) 2010). Central to these deliberations is the formidable challenge of reconciling the imperatives of present generations with the imperative to safeguard the rights and interests of future progeny. Moreover, deliberations underscore the exigency of devising cogent strategies capable of harmonizing the divergent interests at stake, such as empowering the contemporary cohort while integrating transgenerational perspectives into the decision-making milieu. Furthermore, the discourses underscore the rhetorical significance attributed to intergenerational equity within the ambit of climate change litigation. Conversely, akin to these legal contests, indigenous communities, notably exemplified in the Malaysian context through references to the Orang Asli, engender a comparable fiduciary obligation incumbent upon pertinent authorities to effectuate intergenerational justice.

Traditionally, sovereignty has typically referred to a nation's inclusion within an autonomous political entity, often conceptualised as a "society of states" or an "international society." Within the framework of international society, the application of social contract theory implies that states and nations engage in a similar implicit agreement. This global community operates on the basis of shared norms, rules, and principles that govern interactions among states, which can encompass principles of sovereignty, non-aggression, and adherence to international law. The underlying concept is that, just as individuals within a domestic society agree to a social contract for the sake of order and cooperation, states in the international system adhere to a set of norms and rules to maintain stability and peaceful coexistence. The notion of an international social contract suggests that nations recognize the mutual benefits of cooperation and adherence to certain principles, even though there may not be a centralised authority enforcing these agreements.

According to James Tully, the development of social contract theory is intricately linked with the historical subjugation experienced by indigenous populations (Barry, 2002). In the Malaysian context, the term "social contract" embodies the delicate equilibrium established among the nation's primary ethnic groups subsequent to achieving independence. This contractual arrangement, rooted in historical compromises, defines the rights and entitlements of Malays, Chinese, and Indians, thereby shaping the socio-political landscape of the country. However, for minority communities such as the Orang Asli, the realization of the social contract has proven elusive, with their needs and grievances often disregarded in favour of more dominant factions. Key issues such as equality, the privileged status of Malays, and Malay reserved territories highlight the sensitivity surrounding the social contract, which should be recognised as foundational principles enshrined within the Constitution. This study primarily focuses on the Orang Asli communities in Malaysia, whose customary land tenure has been acknowledged through various judicial pronouncements. By examining the colonial legacies of British imperialism, this article elucidates the historical factors influencing Orang Asli land rights on the Malay Peninsula. The increasing prevalence of legal positivism in both international law and domestic legal systems exacerbates tensions between competing economic interests and

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cultural perspectives, thus hindering the recognition of land rights for the Orang Asli community.

For instance, the Kelantan State Government's logging and land conversion operations in the Gua Musang region compelled the Orang Asli to relocate; thus, the community filed a lawsuit against the government in 2018. The court sided with the Orang Asli, recognising their entitlement to a clean and healthy environment as well as their traditional land rights. This case is an excellent illustration of how intergenerational fairness evolves over time and how it links to other legal concepts such as sustainable development, public trust, non-discrimination, and fundamental rights (Kelantan State Forestry Department & Anor v. Mohd Salim & Ors (2017).

BACKGROUND OF CASE STUDY

The present study delves into the socio-cultural and legal aspects of the Orang Asli, who represent the three primary tribal groupings of the Negrito, Senoi, and Proto-Malay in peninsular Malaysia. With a total of 18 distinct ethnic subgroups, the Orang Asli community holds a significant position in Malaysia's indigenous landscape. Legally defined by the Aboriginal Peoples Act 1954, the Orang Asli are identified as members of an aboriginal ethnic group, having one or both parents belonging to the same lineage. The Department of Orang Asli Development (JAKOA), established in 1954 and now under the Ministry of Rural Development, is entrusted with the welfare of this community, aiming to elevate their livelihood, promote education, and enhance their overall health (Zen et. al., 2021).

In the Malaysian Constitution, Article 160(2) strictly defines the term "Orang Asli" as solely pertaining to the indigenous people of the Malay Peninsula. Consequently, other racial groups are referred to as Bumiputera or natives. Act 134, Section 3(1), further elucidates the criteria for identifying an individual as an Orang Asli or indigenous person, reinforcing the legal framework. In essence, a person is considered an Orang Asli if they have a parent from an Orang Asli or indigenous ethnic group or have been adopted by one of these groups. This recognition entails adherence to the language, religious practices, and cultural beliefs of the indigenous Orang Asli. Thus, those meeting these stipulations are accorded legal recognition as indigenous people or Orang Asli in accordance with Malaysian law. Section 3(2) of the Aboriginal Peoples Act reaffirms that as long as an Orang Asli adheres to indigenous practices and speaks the indigenous language, their recognition as an Orang Asli endures.

Historically, the term “Orang Asli” was adopted by the Malaysian government to replace “aborigines” or “Sakai,” the latter being a term utilized during the British colonial era to refer to forest-dwelling communities (Nicholas, 2002). By redefining the aboriginal community with a new title, the Malaysian government sought to acknowledge their status as the nation's original indigenous inhabitants (Nicholas, 2002). Nevertheless, certain legal shortcomings persist, as demonstrated by the National Land Code of 1965, which recognizes land ownership only through formal registration in the land registry, disregarding ancestral land rights that have been passed down through generations. Consequently, the Orang Asli face challenges in safeguarding their land tenure.

Despite being protected by the Aboriginal Peoples Act 1954, the Orang Asli community continues to encounter difficulties in integrating with the wider society due to their reluctance to adapt to rapid changes. The Act, however, offers some positive aspects, such as providing compensation to indigenous people for crops destroyed during the expansion of the original settlement areas. The subsequent section of this study will delve into a timeline

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of Orang Asli land issues, shedding further light on the complexities and challenges faced by this distinctive indigenous community in their pursuit of legal recognition and socio-cultural preservation.

SAFEGUARDING ORANG ASLI LAND RIGHT

The implementation of local government projects within territories formerly inhabited by the Orang Asli has sparked troubling clashes between the government and the local populace. This dire situation has placed the Orang Asli in the area at risk, leaving them without proper shelter and struggling to obtain essential resources for survival from the land they have inhabited for generations (Mat Dong et. al., 2022). Central to this issue is the Malaysian National Land Code of 1965, which operates under the Torrens system, giving primacy to land registered in the Land Registry. Consequently, ancestral lands that have been passed down through generations do not fall within the purview of Malaysia's land laws, leaving the Orang Asli vulnerable to land dispossession (Hamid et. al., 2011). In accordance with the Land Acquisition Act of 1960, the state has the authority to take possession of any land, even that which belongs to the Orang Asli, further exacerbating their already precarious situation. For the Orang Asli communities, their land is far more than just an economic or social resource – it is an integral part of their identity and way of life as distinct cultural groups. The profound bond between indigenous peoples and their ancestral lands is a captivating and extraordinary phenomenon, reflecting their unique worldview.

Regrettably, Malaysian land authorities often view the Orang Asli merely as tenants on the land they have inhabited for centuries, failing to acknowledge their rightful ownership. Even the Aboriginal Peoples Act 1954 (Act 134) does not grant them formal land titles, leaving the Orang Asli uncertain about their future and status (Human Rights Commission of Malaysia, 2013). It is crucial that the government recognizes the presence and rights of the Orang Asli by granting them rightful ownership of their ancestral lands (Ahmad & Wook, 2023).This includes ensuring their freedom to move within their territories without hindrance and securing their right to sustainably make a livelihood from the land (Hussain et all., 2023).

In the context of Malaysia, the lack of formal recognition and land rights for the Orang Asli has led to numerous conflicts and disputes between these indigenous communities and the agencies responsible for development projects. Act 134 (Aboriginal Peoples Act 1954), the Land Acquisition Act 1960, property deprivation, and legal loopholes have all contributed to exacerbating this situation (Abidin & Wee, 2013).

As caretakers of Malaysia's diverse cultural heritage, it is essential for the government to take prompt and decisive action. Recognizing and upholding the land rights of the Orang Asli is not just a legal obligation, but a moral imperative (Buang, 2003). By doing so, Malaysia can demonstrate its commitment to safeguarding the rights and dignity of its indigenous peoples, fostering a harmonious and inclusive society where every citizen is treated with respect and fairness. Through collaborative efforts, we can pave the way for a future where the Orang Asli can thrive, preserving their unique cultural heritage and making meaningful contributions to the nation's progress and prosperity.

METHODOLOGY

The research methodology employed in this study initiates with a thorough review of the existing literature, serving as a preliminary investigation into the intricate topic of ancestral lands, with a particular focus on Malaysia. The researchers delved into pertinent questions encompassing this

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challenging subject, duly recognizing the significance of addressing specific concerns that arise from conflicts related to ancestral lands. The overarching objective was to furnish a comprehensive overview of native customary land disputes at the national level, thus encompassing the broader theme of ancestral land conflicts in Malaysia.

In order to acquire relevant and reliable information, an extensive range of sources was utilized, including the Tun Sri Lanang Library of Universiti Kebangsaan Malaysia and online materials from the Orang Asli Development Department (JAKOA). Furthermore, a comprehensive array of educational resources, such as textbooks, scholarly articles, journals, theses, newspapers, and other credible references, was meticulously consulted throughout this study. The selection of these sources was made with utmost care to ensure a well-rounded and in-depth understanding of the subject matter, thereby facilitating a robust analysis of the intricacies surrounding ancestral land conflicts in Malaysia.

NATIVE CUSTOMARY LAND ISSUE

In this section, we delve into the critical and pressing matter surrounding the native customary land of the Orang Asli and their unwavering pursuit of land recognition. Over the years, this issue has been at the forefront of significant legal disputes, demanding urgent attention and resolution. The crux of this complex matter can be traced back to a pivotal event in 1997 when the ancestral lands and dwellings of Adong Bin Kuwau and his family faced expropriation to make way for the construction of a dam.

This event is meticulously documented in the legal case of Adong Bin Kuwau *vs*. Kerajaan Negeri Johor 1 MLJ 418 (1997) . In a watershed moment, the Johor Bahru High Court rendered a landmark judgment that unequivocally affirmed the land rights of the Orang Asli community. The court went further, compelling the Johor State Government to provide due compensation for the significant losses endured by the affected community. Despite the Johor State Government's subsequent appeal to the Court of Appeal, their efforts were in vain, as the appeal was summarily dismissed in 1998. The ruling of the Court of Appeal resolutely reaffirmed the inalienable right of the Orang Asli to inhabit their ancestral lands in accordance with their cherished customary traditions, an ancestral legacy passed down through generations, which stands strong and unwavering despite the presence of contemporary legislation.

The legal disputes surrounding the recognition of Orang Asli land rights underscore the gravity of the situation and the urgent need for decisive action. As conscientious stewards of legal and societal affairs, it is incumbent upon us to heed these calls for justice and equitable treatment. The preservation of the cultural heritage and historical connection that the land holds for the Orang Asli is not a mere aspiration but a paramount imperative that demands immediate attention.

By safeguarding and upholding the rightful land recognition of the Orang Asli, we reinforce the principles of justice and equality for all. In doing so, we send a resolute message of commitment to a just and inclusive society where the rights and cultural heritage of the Orang Asli are unconditionally respected and protected. This ruling signifies a significant milestone in the recognition of Aboriginal land rights. Similar instances of land disputes and assertions of indigenous land rights can be seen in the cases of Sagong Bin Tasi vs. Kerajaan Negeri Selangor (2002) and Kerajaan Negeri Selangor vs. Sagong Bin Tasi (2005). These cases centered around the eviction of Orang Asli from their ancestral lands in Kampung Bukit Tampoi, Dengkil, Selangor, to make way for a portion of a road leading to an international airport (Ibrahim, 1996). The courts reiterated the importance of safeguarding indigenous peoples' rights to

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their lands and provided further validation of their ancestral land claims.

In another instance, the Jakuns of Kampung Peta, a distinguished ethnic subgroup of the 'Orang Asli,' sought judicial review through the Sangka Bin Chuka & Ors vs. Pentadbir Tanah Daerah Mersing & Ors (2017) case to challenge a notice issued under section 425 of the Malaysian Land Code (Pentadbir Tanah Daerah Mersing & Ors v Sangka Bin Chuka (2015)). This exemplifies the tenacity with which the Orang Asli people have utilized legal avenues to protect their constitutionally guaranteed land and property rights.

Additionally, the designation of 547 acres as boriginal (Orang Asli) property by the Johor State Government led to further contention when the Jakun of Kampung Peta were not compensated for the structures erected on their customary grounds by Perbadanan Taman Negara Johor in 1993. However, the court asserted that the Orang Asli (Jakun) customary land rights in Kampung Peta were inviolable, refuting any claims that these rights had been extinguished by law.

Furthermore, the FELCRA programme came under scrutiny in the case of Mohamad Bin Nohing vs. Pejabat Tanah Dan Galian Negeri Pahang (2013), where it was deemed to infringe upon the land rights of the Orang Semalai. The subsequent counterclaim by respondent Ketua Pengarah Jabatan Hal Ehwal Ehwal Orang Asli & Anor vs. Mohamad Bin Nohing (Batin Kampung Bukit Rok) & Ors (2015) and another appeal reinforced the need to safeguard indigenous land rights.

The judicial activism demonstrated by the courts in upholding the fundamental land rights of the Orang Asli has necessitated the pursuit of redress through the Federal Court. The cases cited above collectively underscore the importance of recognizing hereditary land rights for different local communities on the peninsula, empowering them to preserve their land and resources without being compelled to relocate for economic or political reasons. As reflected in a Federal Constitution, give assurance every citizen of Malaysia including the Orang Asli in the peninsula has rights to property under Article 13, this recognition aligns with the fundamental concept of acknowledging the customary rights of indigenous peoples to their lands and resources.

LEGAL STATUS OF NATIVE LAND

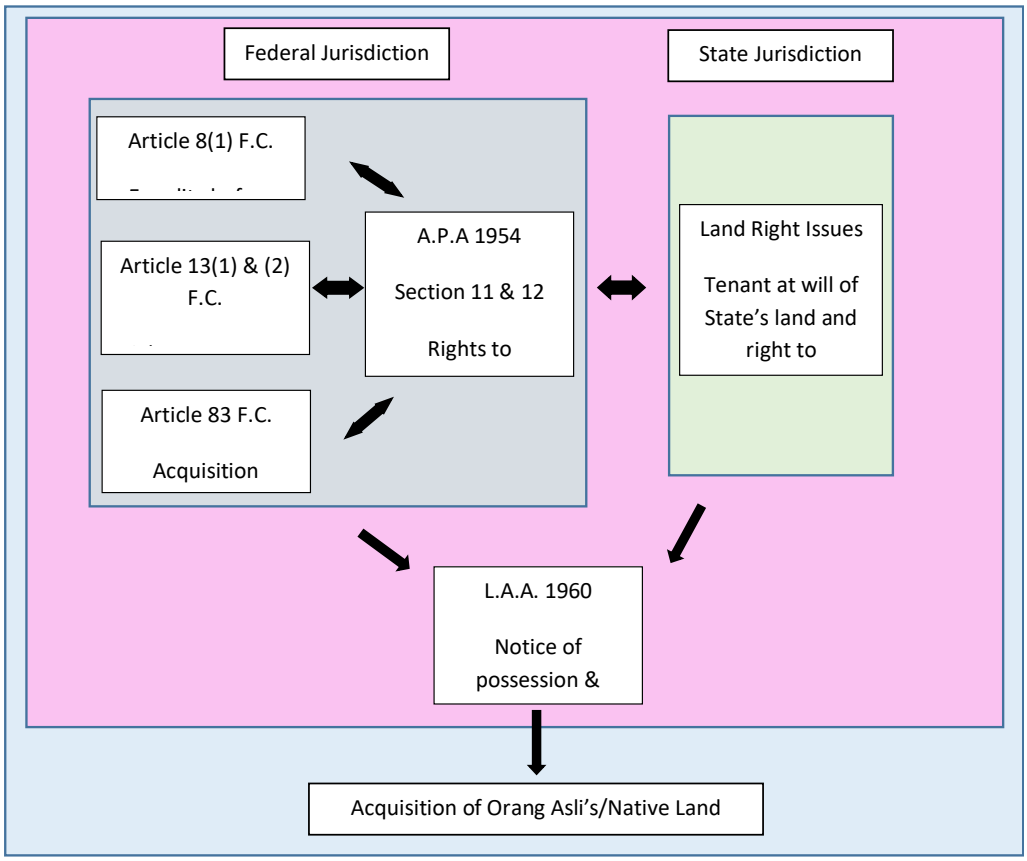
Safeguarding the customary land rights of the Orang Asli community holds paramount significance, thus this section endeavours to elucidate the process of compulsory land acquisition by the Federal Government from the State Government and the ensuing compensation to be remitted to the State Government concerning the acquisition of Orang Asli land and figure 1 explain the process an acquisition of orang asli/native lands and its relationship. It is imperative to grasp the constitutional provisions that uphold their land and property rights. The land acquisition provision of the Federal Government, enshrined in Article 83 of the Malaysian Federal Constitution of 1957, forms the cornerstone of this discourse.

In the endeavour to acquire land for public utility, the government is obligated to exercise its jurisdiction under the Land Acquisition Act 1960, encompassing the acquisition of alienated property, land with an “application approved” status, and land held by “Registry Holder.” Article 13 (2) of the Federal Constitution stipulates that the term “without adequate compensation” pertains to the compensation amount determined subsequent to the consideration of all criteria outlined in the First Schedule of the Land Acquisition Act 1960. Furthermore, Article 8 (1) asserts the fundamental right to “equality before the law” and entitlement to “equal protection of the law.” In the event of government expropriation of their land, the Orang Asli are entitled to commensurate

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compensation, as they possess equivalent rights as other Malaysian citizens.

FIGURE 1. An Acquisition of Orang Asli/Native Lands and Its Relationship



Note: Malaysia Federal Constitution (F.C.)
Aboriginal Peoples Act 1954 (A.P.A.)
Land Acquisition Act 1960 (L.A.A.)

Source: Adaptation from Alias, A. & Daud. M.N. (2011)

Significantly, the Land Acquisition Act of 1960 does not include provisions for the acquisition of Orang Asli property, thereby vesting the State with the authority to assume control over privately-owned land. Nonetheless, it is feasible for the federal government to acquire state land, including Orang Asli territory, under the Federal Constitution's Articles 83. Consequently, the legal framework must safeguard the property rights of the Orang Asli, thereby precluding governmental infringement upon the private property rights of its inhabitants, as articulated in Article 13 of the Federal Constitution, which endows every individual with the fundamental right to property, stipulating that property deprivation can only occur in accordance with the provisions of the law. Article 8 of the Federal Constitution underscores the fundamental right to equality before the law, a principle echoed in the Aboriginal Peoples Act of 1954, which recognizes the right to compensation for tree cultivation by the Orang Asli.

The government identifies three categories of Orang Asli customary land: officially designated Orang Asli Reserves, those designated as such but pending official recognition, and lands designated as Orang Asli Reserves by the government but awaiting formal gazetting based on the table

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1 (Wan Daud et. al., 2020). Typically, all petitions are endorsed by the State Executive Committee, or Majlis Mesyuarat Kerajaan Negeri (MMKN). Data from the Department of Orang Asli Development (JAKOA) indicate that Orang Asli have been allocated land for housing and agriculture, albeit in limited quantities. Orang Asli reserves or territories can be established on alienated land in accordance with the Aboriginal Peoples Act 1954, Sections 6 and 7. Under Section 6 (1), formalizing the establishment of an Aboriginal area and dividing it into several Aboriginal cantons through gazette notification is permissible when an area has been declared an Aboriginal reserve under Section 7 and is predominantly or exclusively inhabited by Aboriginals. The number of cantons must correspond to the number of indigenous ethnic groups present. Any area predominantly or solely inhabited by Orang Asli not designated as a reserve may be declared an Aboriginal (Orang Asli) area (Human Rights Commission of Malaysia, 2013). However, areas designated as Malay Reserves, wildlife sanctuaries, forest reserves, or subject to land transfers, grants, or leases may not be declared as Orang Asli regions, except for Orang Asli who do not permanently reside there. Non-Orang Asli individuals not regularly residing in an Orang Asli area are not authorized to harvest forest products or engage in commercial activities without notifying the Director General. With reference to Section 7: Reservations for Indigenous Peoples (Orang Asli), if a location is wholly inhabited by Indigenous peoples (Orang Asli), the State Authority may declare it an Aboriginal (Orang Asli) reserve through publication in the official gazette. However, if permanent Aboriginal residency is unlikely, the area should not be declared a reserve but included in an Aboriginal area. Furthermore, an Aboriginal reserve may be established within an Aboriginal area. An "aboriginal reserve" (Orang Asli reserve) denotes any area where the Aboriginal population is concentrated and expected to reside permanently, with gazetteer records documenting such areas. Within an Orang Asli reserve, residents are prohibited from designating their land for other purposes, and no land sales, transfers, or temporary occupancy are permitted, except for those residing within the reserve. Table one provides an overview of the land area designated for Orang Asli in hectares.

Drawing from historical analyses of law and official practices in former colonial state, and the Malay Peninsula, the author finds a prevailing and enduring concept that upholds the customary rights of indigenous peoples to their lands and resources. The governance of the Malay states has traditionally been rooted in their own laws and customs, further emphasizing the importance of recognizing and preserving the land rights of the Orang Asli community. This policy reaffirmed the ongoing commitment to legislation and policy governing the management of Orang Asli territory in the Malaysian Peninsula, highlighting the enduring principle recognizing the customary rights of indigenous peoples to land and resources. The populations of the Malay states were predominantly governed by their own customs and laws.

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TABLE 1. Details on Gazetted Orang Asli Reserve in Hectares as 2014



Source: Adaptation from JAKOA 2014 as cited Wan Daud, W. A. H., Mohsin, A. & Rahman, M. S. A. (2020)

ADDRESSING URGENT MEASURES FOR ORANG ASLI LAND RIGHTS

Based on the current state of Orang Asli land ownership, a series of decisive actions must be taken to safeguard the rights and interests of this indigenous community. Foremost, both federal and state governments must demonstrate a strong commitment to granting the Orang Asli rightful possession of their ancestral lands. While a policy on land alienation and development for Orang Asli has been in place since the early 2000s, there remains uncertainty regarding its continuity, especially given that it has been more than a decade since its implementation. Therefore, earnest efforts should be made to ensure its continued implementation, and additional attention should be devoted to gazetting more significant portions of Orang Asli land.

To effectively address the pressing needs of the Orang Asli community, it is imperative to review and amend rules and regulations pertaining to their land rights. Malaysia's legal system exhibits several deficiencies that must be rectified to achieve compliance with international law standards. For instance, the Orang Asli Act 134, which restricts the community from participating in or aiding communist activities, must undergo revision as the country progresses towards self-governing. The Act's current application is deemed incompatible with the welfare and interests of the Orang Asli in Peninsular Malaysia, necessitating immediate amendments (Abidin & Wee, 2013).

The Orang Asli community's active criticism of the new Orang Asli Land Policy should serve as a lesson for the government, highlighting the importance of inclusivity and meaningful engagement in the policy-making process. Public participation, collaboration, and mutual respect must be emphasized to ensure that the voices of the Orang Asli are duly heard and valued in future policy decisions. Taking into account the recommendations of the SUHAKAM National Inquiry into The Land Rights of Indigenous Peoples in Malaysia, the establishment of an independent National Commission on Indigenous Peoples warrants

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serious consideration. This commission should comprise representatives from various indigenous tribes in Malaysia, offering a platform for fostering collaboration among indigenous communities at all levels. Additionally, the commission can provide valuable counsel to the government on indigenous peoples-related legislation and regulations, oversee sustainable development initiatives within indigenous territories, and conduct research on issues related to the prosperity and well-being of indigenous peoples.

Hence, urgent and comprehensive measures must be implemented to address the land rights of the Orang Asli. This entails firm commitment from government authorities, amendments to existing regulations, and active involvement of the Orang Asli community in the policymaking process. Embracing the principles of inclusivity, collaboration, and mutual respect will pave the way for meaningful progress in protecting the ancestral lands and securing the rights of the indigenous Orang Asli. In the subsequent section, the chosen case study will delve deeper into the implications of Orang Asli customary land issues, shedding further light on the challenges and potential solutions to this critical matter.

RESETTLEMENT OF ORANG ASLI

The reintegration of Orang Asli into new planned projects has yielded diverse outcomes, with some settlers experiencing socioeconomic advancement and reduced poverty, while others have faced hardships and decreased living standards. A prominent case study of the Bukit Lanjan neighbourhood in Desa Temuan sheds light on this issue (Abdullah, 2015). The transfer of Temuan Orang Asli to Desa Temuan, Bukit Lanjan, Malaysia, involved the allocation of 147 bungalow units and various community facilities (Abdullah, 2015).

However, only 129 of these units are inhabited, with a considerable number of unoccupied houses, possibly attributed to discomfort in adapting to modern surroundings. A study conducted in 2015 (Abdullah, 2015) reveals that the average household size in Orang Asli villages in Selangor state is significantly higher than the national average, with a substantial proportion engaged in labor-intensive jobs. Moreover, the relocation has left a majority of respondents dissatisfied with their new homes and longing for their previous locations (Abdullah, 2015).

Another case study investigated the quality of life of Orang Asli resettled in PROSDET, Pantos in Kuala Medang, Pahang (Abdullah, 2016). The relocation resulted in a significant shift away from their traditional ways of life, leading to challenges in farming, hunting, and access to roaming areas. Overpopulation and a yearning for their old village further exacerbated their discontent (Abdullah, 2016). The study suggests that practical training and skill development could improve their socioeconomic prospects and facilitate better integration with the mainstream community (Abdullah, 2016). Additionally, the provision of modern amenities while preserving traditional elements in their dwellings could enhance the overall settlement area.

In contrast, the Orang Asli of Ulu Kuang, Rawang, Selangor, have demonstrated a more favourable acceptance of communal development due to on-site redevelopment, minimal disruption to their routines, and improved accessibility to socioeconomic activities in the neighbourhood. Their happiness and satisfaction levels have significantly improved, with better housing and facilities contributing to enhanced living standards and economic opportunities (Abdullah, 2017).

Similarly, findings from research on the rehabilitation of the indigenous village in Sungai Berua, Terengganu, following the

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Kenyir Hydro hydroelectric project in 1977, have shown notable improvements in the region's overall well-being (Abdullah, 2017). The Orang Asli resettled in the new community expressed satisfaction with their improved physical conditions and higher earnings (Abdullah, 2017). The relocation initiative, distinguished by its focus on infrastructural and socioeconomic development, has brought about substantial positive changes to the community (Abdullah, 2017).

To achieve better integration and sustainable outcomes in resettlement projects, critical measures should be considered (Abdullah, 2018). It is essential for governments and relevant authorities to display a genuine commitment to granting Orang Asli rightful possession of their lands while ensuring that relocation initiatives prioritize their socioeconomic requirements and cultural continuity (Ali, et all., 2024). The incorporation of practical training programs to enhance skillsets and educational attainment could facilitate a smoother transition to new urban surroundings. Additionally, redevelopment efforts should strike a balance between modern amenities and the preservation of traditional elements in Orang Asli dwellings, promoting a sense of belonging and cultural identity.

Based on findings, addressing the challenges faced by the Orang Asli in resettlement endeavours necessitates a nuanced approach that considers their unique socio-cultural needs and aspirations. By learning from the various case studies and employing inclusive policies, the government and relevant stakeholders can foster a more successful and harmonious integration of the Orang Asli community into new planned projects, ultimately promoting their overall well-being and prosperity.

CONCLUSION

This paper delves into the critical issue of land rights within the Orang Asli indigenous community in Malaysia. This paper rigorously examines pivotal legal cases that have played a pivotal role in shaping the acknowledgment of Orang Asli land rights. It underlines the utmost significance of upholding their rights rooted in customary traditions and the imperative for just compensation when their land is acquired for development purposes. Furthermore, this paper strongly advocates for safeguarding Orang Asli property rights under the Federal Constitution and pertinent legislative acts. It comprehensively discusses the various forms of Orang Asli customary land and expounds on the procedural aspects of declaring Orang Asli Reserves.

This paper also highlight pertains to the resettlement of Orang Asli individuals into new planned projects. Through the presentation of enlightening case studies, this paper illustrates the divergent outcomes of such projects, where some have led to improved living conditions, while others have resulted in dissatisfaction and significant cultural impacts. Overall, the research done by previous researcher firmly stresses the paramount importance of acknowledging and preserving the hereditary land rights of the Orang Asli. It ardently advocates for a more inclusive and participatory policymaking approach, wherein the Orang Asli community is actively involved. To this end, this paper proposes the establishment of an independent National Commission on Indigenous Peoples, entrusted with safeguarding their rights and promoting sustainable development on their lands. By respecting and recognizing their customary rights, Malaysia can prioritize the well-being and prosperity of its indigenous peoples while cherishing and conserving their unique cultural heritage.

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Within the broader context of climate change planning, adherence to the principles of intergenerational equity theory becomes imperative. The process entails comprehensive examination and forecasting of future climatic changes, accompanied by diligent monitoring of climate shifts. Recognizing that the benefits of our present efforts will be experienced in the present, but the burdens of immense financial repercussions will be borne by future generations, the current generation must undertake decisive action. For the Orang Asli community, this dilemma holds indirect implications concerning stewardship and forest management.

While litigation may appear as a viable course of action, its drawbacks, such as time-consumption, high costs, and unintended negative consequences, necessitate consideration of alternative approaches. Emphasizing the violation of the rights of children and future generations may prove more potent than intricate scientific arguments. In the realm of international law, it becomes paramount to establish enforceable norms of behaviour at global, national, and local levels to effectively address climate change. This will entail building upon existing agreements that address specific aspects of the problem and forging a new social contract to secure the rights and interests of the Orang Asli community.

Hence, this paper provides a overview exploration of the issue of land rights within the Orang Asli indigenous community in Malaysia. It adopts an authoritative academic writing style to emphasize the significance of upholding customary traditions and ensuring appropriate compensation for land development. Moreover, it calls for the protection of Orang Asli property rights under constitutional, legislative frameworks and new social contract.

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CONFLICT OF INTEREST

The authors declare no conflict of interest. The research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

AUTHORS' CONTRIBUTION

The first author takes full responsibility for several key aspects of the study: conceiving and designing the research, collecting and analysing the data, interpreting the result, and preparing the manuscript. The second and third authors provided valuable feedback on the manuscript and revised it for intellectual content. All authors reviewed the final manuscript.

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