



Paternalistic approach towards the Orang Asli in Malaysia: Tracing its origin and justifications

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Abstract

Issue and challenges pertaining to land and the native communities loom large in contemporary Malaysian political and economic affairs. Responding to them often necessitates an understanding of their genesis. The main objective of this study was to examine the importance of land and natural resources to the life of the Orang Asli, and to demonstrate that their limited autonomy was the reason why the British claimed that they needed state protection. To achieve this objective secondary data were examined to provide information background of the Orang Asli, the relationship between Orang Asli and the Malays during pre-colonial period, the relationship between the Orang Asli and the British colonial government during colonial periods, and the relevant policies towards the Orang Asli by both the Malays and the British colonial government during the pre-colonial and colonial periods. This article concludes that the paternalistic approach towards the Orang Asli was adopted during the pre-colonial period and the approach was continued and to the certain extent worsened during British colonial period in which the Orang Asli were treated in a paternalistic manner as compared to the Malays, in particular, with regard to land matters.

Keywords: autonomy, colonial policies, indigenous peoples, land and resources, Orang Asli, paternalism

Introduction

In Malaysia the term, “indigenous peoples” is not commonly used in the Malaysian context, and is not a legal term under the Federal Constitution (Reid Constitutional Commission 1957), and Malaysian statutes. Racial categorizations of the Malaysian population (including indigenous peoples) are explicitly recognised by the Constitution, where the categorization of indigenous peoples is based on political and ethnographical grounds (Bulan, 1999; Bulan, 2001; Bulan, 1998). The indigenous peoples in Peninsular Malaysia are legally referred to as “aborigines”, or Orang Asli (Federal Constitution, art. 160)ⁱ while in Sabah and Sarawak, the indigenous peoples are called “natives” [Federal Constitution, art. 161a(6) (a) & (b)]ⁱⁱ. This article provides for an anthropological background and a view of the cultural distinctiveness of the groups of Orang Asli, the indigenous peoples of Peninsular Malaysia. The article will also discuss the relevant policies towards the Orang Asli by both, the Malays, and the British colonial government,ⁱⁱⁱ during the pre-colonial and colonial periods,^{iv} and the subsequent impact on the Orang Asli. The overarching objective of this article is to demonstrate the importance of land and natural resources to the life of the Orang Asli, and to demonstrate that their limited autonomy is the reason why the British claimed that they need State’s protection.

The peoples: Orang Asli groups

The Orang Asli are believed to have inhabited the jungles of Peninsular Malaysia some 5,000 – 25,000 years ago (JOANGOHutan, 2006). There are three main categories of Orang Asli: *Negrito*, *Proto-Malay*, and *Senoi* (Aboriginal Peoples Act, s. 2)^v, which are further subdivided into 18 subgroups. Based on their physical appearance, socio, and economic conditions, they are distinct from the main population.

The *Negrito* are believed to have inhabited the jungles of Peninsular Malaysia some 25,000 years ago. They number some 5,009 (2.8 percent of the total Orang Asli population of 178,197) (JAKOA, 2010)^{vi} and thus are the smallest of the three Orang Asli groups (Carey, 1976). Customarily, they rely on natural resources for food. They enter the forest for lengthy periods in order to collect fruits, to hunt animals, and to collect forest products such as medicinal plants, timber, and rattan. Such activities demonstrate their close connection to the land and natural resources and has often caused them to be considered as semi-nomadic.

The *Senoi*, represent 54.9 percent of the total Orang Asli population. They are said to have migrated around 2,000 BC from the Mainland Southeast Asia. They are of a Mon-Khmer origin, that is, they are racially related to certain mountain tribes living in Cambodia and Vietnam (Carey, 1976). Today, many *Senoi* have ventured into permanent agriculture, managing their own rubber, oil palm and cocoa farms, and participating in public and private sector employment (Nicholas, 2000). Similar to *Negrito*, *Senoi* have a close connection to their land. However, unlike the *Negrito* who rely on forest produce for food and income, *Senoi* are involved in permanent and commercial plantation. Some of them are also involved in other sectors of the economy making them more flexible and more open to adopt the government's policies, including land policies, that may remove them from their land.

Finally, the remaining 42.3 percent of the Orang Asli population are the *Proto-Malay*, who arrived in Peninsular Malaysia about 4,000 years ago from Borneo, and the Indonesian island of Sumatra (Carey, 1976). Today the *Proto-Malay* are very settled peoples,^{vii} engaged in permanent agriculture, while the newer generation is involved in the wage market as skilled labours and professionals. Thus, the nature of the relationship between *Senoi* and *Proto-Malay*, with their land is similar, i.e. they are engaged in permanent agriculture. Those working as skilled labour and as professionals may have no connection at all with their land.

Although the Orang Asli have never considered themselves as a homogenous group, today, for administrative purposes they are generically referred to as aborigines or Orang Asli (Federal Constitution, art. 160). Historically, prior to colonisation, Malays referred to them by descriptions of their abode and perceived characteristics, in a clearly derogatory manner that reflected the assumed superiority of the "civilised" speakers, such as *Orang Liar* - wild people, *Pangan* - eaters of raw food, *Orang Mawas* - apelike people and *Orang Jinak* - tame or enslaved people (Karim, 1981; Wilkinson, 1971). In the British colonial period, the Orang Asli were generically termed *Sakai* or *Jakun*, terms that carried varying derogatory meanings (Veber, 1993). According to Couillard the term *Sakai*, used variously to mean slave, dependant or savage, appeared in European literature in the 18th century to designate the non-Muslim indigenous groups of Peninsular Malaysia that were the objects of slave raids (Couillard, 1984).

It was the event of the Emergency (1948-1960) that made the British colonial government realise that a more correct and positive term was needed if they were to win the hearts and minds of the Orang Asli to fight against the communist insurgents, and caused them to adopt the Malay term Orang Asli (literally mean "natural people"). It later became a national policy for that term to be used in the English language as well (Carey, 1976). However, the term was not enough to impose a common identity among the Orang Asli subgroups as Nicholas writes, "the Orang Asli homogeneity was initially the creation of non-Orang Asli perceptions and ideological impositions rather than something that was self-defined." (Nicholas, 2000) This paper will refer to *Negrito*, *Senoi* and *Proto-Malay* under the generic category of Orang Asli whilst recognizing that they are distinct peoples.

In terms of their existence as an ethnic category, prior to 1960, the Orang Asli, as an ethnic category, did not exist. Particular ethnic labels and identities had historically been ascribed to indigenous

communities by others who wanted to discriminate against them on grounds of their real or assumed ethnic characteristics. For example, in the 1931 census, the Orang Asli were considered as “other Malaysian” (Census Report, 1931) but in 1947, many of them were reassigned as Malays (William-Hunt, 1952).

As the term Orang Asli translates, they are the original or the first people of Peninsular Malaysia, descendants of the earliest known inhabitants who occupied Peninsular Malaysia before the establishment of the Malay kingdoms. (Nordin *et al.*, 2012) The Orang Asli groups have inhabited the jungles of Peninsular Malaysia for at least more than 3,000 years before the arrival of the Malays in the 9th century (Emerson, 1964). Even though *Proto-Malay* look like Malays (Swettenham, 1948)^{viii}, they are not ancestors of today's Malay. The following section will describe the arrival of the Malays and their interaction with the Orang Asli during the pre-colonial period.

Orang Asli and the Malays during pre-colonial period

There seems to be no consensus among scholars on the origin of the Malays. There is some evidence to support the view that the Malays were driven southward from the southern border of Burma or Southern Asia (Emerson, 1964). Some have claimed that Malays are the descendants of peoples who crossed from the south of India to Sumatra (Swettenham, 1948). More contemporary scholars linked the Malays with Sumatra's ancient kingdoms and Kalimantan and claimed that the ancestors of today's Malays related to the early Buddhist Malay kingdom of Srivijaya, whose seat was what Palembang is now, Sumatra (Baharuddin, 2001; Emerson, 1964). Malays dominated much of Peninsular Malaysia, especially Malacca from the 9th to the 13th centuries.

At the beginning of the 15th century, Malacca was at the heart of the great expansion of Islam in Peninsular Malaysia although Terengganu was actually the first place on Peninsula that Islam touched (Tregonning, 1964). In the absence of further research, one can only state that Muslim traders, principally from India, were responsible for familiarizing the Malays in Malacca with Islam, as a way of life, but the process by which the society became Muslim is still unknown (Andaya, 1982). Conversion of the Malays to Islam, beginning in the early 14th century, accelerated with the rise of the state of Malacca under the rule of Parameswara (a Muslim Prince), in the 15th century, who founded the Sultanate of Malacca in 1409. The Malacca Sultanate stretched from southern Thailand in the north, to Sumatra in the southwest, until Malacca was invaded by the Portuguese in 1511 (Andaya, 1982). During the sultanate, Malacca was a major regional commercial centre, where Chinese, Arab, Malay, and Indian merchants, traded precious goods. The traders interacted with the Orang Asli, when they became suppliers of the forest products, bartering them for salt, cloth, and iron tools (Andaya, 1982).

With regard to the identity of the Malays, Reid argues, the term Malays initially represented self-referent categories among the peoples inhabiting the archipelago (Reid, 1988). Then the terms became social labels that were used by the traders from South Asia and China, and the Europeans (Portuguese, Dutch and British), who were the colonisers (Reid, 1988). Anthropologically, Malays were associated with the following: descent, religion, language, and custom (traditions and practices). Malays were associated with a line of kingship (sultanate), acknowledging descent from Srivijaya and Malacca. They retained the customs, language, and trade practices of Malacca (Andaya, 1982). In the middle of the 15th century, the term was expanded to include Islam (Andaya, 1982). According to Baharuddin (2001), kingship was a prominent pillar of Malay, while Islam was another pillar, because it provided kingship with some of its core values. Subjectively, according to Baharuddin (2001), anyone who embraces Islam could be counted as Malay, while non-Muslims could be labelled as Malays as long as they spoke and wrote the Malay language and lived a Malay way of life. For example, if they wore certain clothes and performed certain practices they became an integral part of the Malay population. Under British colonial rule, the term Malays included Indonesian migrants who spoke Malay, and were not necessary Muslims. This is also because the British colonial power had created broad ethnic divisions, for administrative

convenience and to fill certain functions in the colonial economy (Andaya, 1982). We will, in the following paragraphs, explore the interaction between the Malays and the Orang Asli, during the pre-colonial period.

Organized slave^{ix} raids against the Orang Asli was a significant element of the Malay relationships with the Orang Asli. Andaya writes that in *Sejarah Melayu*, the Orang Asli were called *hamba Melayu* (Malay slaves) or the subjects of the Malay (Andaya, 1982; Holman, 1958). Discussing slavery in Peninsular Malaysia, Gullick (1989) writes that it was restricted to non-Muslim slaves, like the Orang Asli, captured in raids by Malays. There were Malay slave hunters who were ordinary Malay villagers and full-time professional slave hunters. Ironically, there were also slave hunters amongst the Orang Asli, though the slaves captured were sold to the Malays (Endicott, 1983).

Apart from organizing the slave raids against the Orang Asli, Malay villagers also traded, and sometimes intermarried with them (Gopinath, 1991). The Orang Asli's knowledge of the jungle and ability to deliver forest products encouraged the Malacca rulers to incorporate them as Malay subjects. Malay settlements, the *kampong* (village), had developed along the rivers and coasts but, the Malays rarely ventured beyond the fringes of the jungle. The forested hinterland was the habitat of the Orang Asli and they became the major collectors of local products (Gopinath, 1991). Goods were bartered and passed from any groups of Orang Asli to the Malays. Andaya also recognised that some Orang Asli groups played very dominant roles in the administration and defence of the Malay system and political ranks. He wrote that when Parameswara arrived in Malacca, he established his relationship with the *Orang Laut* by bringing their leaders into the political hierarchy and judicious marriages (Gopinath, 1991). On the other hand, the extreme Malay perceptions of Orang Asli as sub-human were described by Abdul Kadir in his 1849 biography *The Hikayat Abdullah*. He said:

The first thing I noticed was that in their general bearing they were human beings like ourselves, but that in their habits they were hardly even as animals. For animal at least know how to keep themselves clean, which the *Jakun* certainly did not ... Their eyes had a wild look in them as though they were ready to bolt. As they chattered to one another they sounded to me like birds twittering (Abdul Kadir, 1797-1854).

The Malay Sultanate periods in Peninsular Malaysia witnessed the increase of Orang Asli slaves and exploitation of the Orang Asli and their resources by the higher class of the Malays (Nicholas, 2000).^x These prompted many of the Orang Asli groups to move further inland^{xi}, each within a specific geographical space isolated from others, to avoid contact with outsiders. They identified themselves by their specific habitat or customary territories from which the basis of their culture and religion is derived (Nicholas, 2000). For example, *Temiar* kindred owns a hereditary area of common land called the *saka*, on which the individual groups clear plantations and their members hunt (Holman, 1958). Though isolated, economic relations with the Malay communities continued, especially between the *Proto-Malay* and the neighbouring Malay communities who resided along the fringes of the forest.

British Colonial policies towards the Orang Asli

Malaysia was colonized by Portugal, the first European power to control the country, which conquered Malacca in 1511. The Dutch subsequently ousted the Portuguese from Malacca in 1641 (Swettenham, 1948; Gomez, 1997). During this period, there was little interaction between the Portuguese and Dutch colonial governments with the Orang Asli. Interaction began during the British colonial period. The British administration has a significant impact on the Orang Asli. Factors include the role of the British as protectors, Christian evangelicalism, and government schemes to assist them. The Emergency had a major impact on their lives.

The arrival of British colonialists further changed the lives of the Orang Asli. They became the subject of anthropological research and the target of zealous Christian missions until the period of 1948-60, the Emergency (Nicholas, 2000). The most important impact on the Orang Asli during British rule was the beginning of paternalism towards the Orang Asli. Until the British intervention, as we discussed in the earlier paragraphs, relations with the Malays varied with the Orang Asli viewed as sub-human, to a perception of a master and slave relationship (Harper, 1997). British rule brought some administrative changes, with laws being enacted in order to outlaw certain practices like slavery, and to control the extraction of natural resources, and the alienation of land (Emerson, 1964).

British paternalism towards Orang Asli is best illustrated with the comment made by the British Resident when it was said, "they (Orang Asli) must be provisionally treated as children and protected accordingly until they are capable of taking care of themselves" (Quoted in Nicholas, 2000). The British perception of Orang Asli as defenseless creatures with limited intelligence and capacity for self-reliance helped to justify British intervention into their lives and made the British colonial government the "protector" of the Orang Asli (Dodge, 1981). This paternalism influences the contemporary approach to the Orang Asli's rights when paternalism was adopted in the official treatment of the Orang Asli by the Malaysian government after independence in 1957 (McLellan, 1986; Nordin, 2012b; Nordin & Witbrodt, 2012).

Direct intervention into the affairs of the Orang Asli by British colonial government was followed with the view of the British colonialists that the Orang Asli should remain in isolation from the rest of the population but should also be given protection. Subsequently, the colonial government called for the establishment of large aboriginal land reservations where the Orang Asli would be free to live according to their own tradition, laws, and the creation of patterned settlement in less accessible areas (Nicholas, 2000).^{xiii} The colonial government did not adopt this proposal until the Emergency period in 1952. During that period, the Orang Asli provided food, labor, and intelligence to the communist insurgents, while a few even joined their ranks (Abdullah, 1998; Slimming, 1958). The colonial government launched a civil war against the insurgents and as the Orang Asli lived in the forest their assistance was needed to assist the government. To prevent the insurgents from getting support from the Orang Asli, the colonial government moved^{xiii} the Orang Asli into hastily built resettlement camps. Under this resettlement program, they were segregated from their own land and resources. This step ended with the death of hundreds Orang Asli mainly due to depression and disease (Nicholas, 2000). In comparison, the Chinese squatters involved in the resettlement program were given better treatment by the British administration. They were given leases to their land as part of the settlement program even though before that, they had no permanent title to land (some with no title at all) (Gullick, 1964).

The Emergency period also saw the introduction of two initiatives that have had a lasting impact on the future wellbeing of the Orang Asli, namely: (i) the establishment of the Department of the Aborigines (now *Jabatan Kemajuan Orang Asli* [JAKOA]) in 1950; and (ii) the enactment of the Aboriginal Peoples Ordinance in 1954.^{xiv} The Ordinance was the turning point in the administration of the Orang Asli as the government officially recognized its responsibility to the Orang Asli especially when the Emergency called for the introduction of some regulations for the protection and control of the Orang Asli and their traditional territories.

The legislation was designed to prevent the Orang Asli from co-operating with the communists during the Emergency by creating reserves so that their movements could be controlled. It was enacted as part of the colonial government's efforts to defeat the communist insurgency (Tachimoto, 2001). Under this legislation, the colonial government finally adopted the earlier proposal for the creation of patterned settlement. They were moved to patterned settlement in areas that were more accessible to the officials of the Aborigines Department and security forces. The resettlement areas were supplied with wooden stilt-houses with modern amenities such as schools, shops and clinics (Carey, 1976). All these efforts contributed positively to the end of the Emergency in 1960 but marked a new phase of a more active and direct intervention of the state into the affairs and lives of the Orang Asli.

The British colonial rules and policies have also affected the position of the Orang Asli in their traditional territories and in their right to forest resources. For example, the government gazettes spelled out specific rights and privileges that the Orang Asli enjoyed in relation to forest resources such as a privilege, rather than a right, of taking forest products annually, for their own domestic use, and not for sale or barter (Wyatt-Smith, 1958). They experienced discrimination with regard to their rights to land when the British generally became willing to acknowledge that aboriginal land was the Crown land of the Malay rulers,^{xv} and were treated as if they were unoccupied (Means, 1985-86). The Orang Asli were permitted to live on unoccupied land by sufferance, as dependants of the Malay rulers (Means, 1985-86) and the land within which they could roam freely was reduced (Emerson, 1964). By contrast, Malay reservations provided substantial protection for the customary holdings of Malays, whose titles were legally recognized in perpetuity. There were cases where Orang Asli land was given to Chinese squatters and the Orang Asli themselves were ejected. In other cases the *Senoi's* land was given to European estates with compensation while in the Cameron Highland, where land was acquired for tea plantations, no compensation was given for the alienated land (Nicholas, 2000; Holman, 1958). These examples show that the Orang Asli's land and their natural resources were increasingly given to others in the colonial period.

In the late colonial period, the Orang Asli resorted to a Malay political party (United Malays National Organization [UMNO]) to try to seek some reinstatement of their rights. Harper writes that Malay politicians submitted to the colonial government that the Orang Asli have no one to plead their cause and argue for their rights as the original inhabitants of the country (Harper, 1997). The former Adviser on Aborigines, William-Hunt, expressed his view that UMNO, with its extensive funds and membership, was in a better position to undertake welfare and advancement work than existing government organizations, and could do much to prevent friction between Malays and neighboring Orang Asli (Nicholas, 2000). This reflects how the Orang Asli were not only abandoned in the early development of Malaysian politics but they also had to rely on the holder of the Malay political power to safeguard their interests. Therefore, beside the colonial government, through the JAKOA, Malays had also become the protectors of the Orang Asli.

Despite UMNO's intervention, according to Harper (1997), UMNO never recognized that Malaya had belonged to the Orang Asli. The Malay newspaper, *Utusan Melayu*, claimed that "the people who pretend that Malaya belongs to the *Sakai* are trying to deny that it belongs to the Malays" (Harper, 1997). Dr Mahathir Mohamad (Dr Mahathir), the former Prime Minister, and the former UMNO's President has also claimed, "Malays are the original or indigenous peoples of Malaya and the only people who can claim Malaya as their one and only country." (Mohamad, 1970). Dr Mahathir's statement actually reiterated what Tunku Abdul Rahman, the first Prime Minister said on this issue, "there was no doubt that the Malays were the indigenous peoples of this land because the original inhabitants did not have any form of civilization compared with the Malays... and instead lived like primitives in mountains and thick jungle." (*The Star*, 6 November 1986)

Based on the historical facts in this article, it is argued that the Orang Asli are indigenous peoples because each group individually or collectively satisfies the general criteria used to determine an indigenous group.^{xvi} Among other things, they possess self-identification as a distinct ethnic group (socio-economic, socio-cultural, language, spiritual culture) and the wish to retain a distinct identity. They also have historical experience of, or contingent vulnerability to, severe disruption, dislocation, or exploitation and non-dominance in the national society since the arrival of the newer population, the Malays which worsened during the British colonial periods. Their long connection with the region or territory and historic continuity (especially by descent) with prior occupants of the land in the region are also valid reasons to support that argument the Orang Asli are indigenous peoples in Peninsular Malaysia.

Conclusion

The Orang Asli are the indigenous peoples in Peninsular Malaysia even though they are not legally called indigenous peoples. They are distinct from the majority population and they have close connection with their land. They rely heavily on their land and natural resources for food and income. However, the arrival of the Malays drastically affected their territories and autonomy. The situation worsened during British colonial period when the colonial government interacted with the Orang Asli in a paternalistic manner as compared to the Malays, especially in land matters. The colonial government also established the framework for the independent government in dealing with the Orang Asli.

The post-independence period saw the government adopting a policy in 1961 seeking the Orang Asli's ultimate integration into the wider Malaysian society (JHEOA, 1961; Nordin, 2012a). The policy that was initially intended to improve the socio-economic position of the Orang Asli, however, began to emphasize their assimilation into the Malay community and their adoption of Islam (JHEOA, 1983). Under the National Economic Policy (NEP), National Development Policy (NDP), and the Vision Development Plan (DVP) that emphasized modernization and industrialization, the Orang Asli began to experience competition to their traditional resources (Nicholas, 2000). Encroachments into, and appropriation of, Orang Asli traditional territories become increasingly frequent, provoking varying responses from the Orang Asli themselves, through various organizations. Much of the policy introduced by the colonial government remains as the policy of the JAKOA, established to govern and protect the Orang Asli upon independence. The function of the JAKOA was similar to that of the British colonial government – they became the “protector” of Orang Asli.

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Notes

ⁱ Defines “aborigines” as an aborigine on the Malay Peninsula (West Malaysia).

ⁱⁱ Defines “natives” in respect of a native of Sabah and Sarawak (East Malaysia).

ⁱⁱⁱ The term “colonial government” in this article refers to “British colonial government” unless specified otherwise.

^{iv} The term “colonial period” refers to “British colonial period”.

^v Provides that “aboriginal racial group” means one of the three main aboriginal groups in West Malaysia divided racially into Negrito, Senoi and Proto-Malay; “aboriginal ethnic group” means a distinct tribal division of aborigines as characterised by culture, language or social organization and includes any group which the State Authority may, by order, declare to be an aboriginal ethnic group.

^{vi} In 2010, total population is 178,197.

^{vii} For example, Seletar peoples live near urban area. See, Mat Nor, Hasan *et al* (2009), 19.

^{viii} Malays look similar to Proto-Malay with black hair, flat noses, dark pupils, marked cheekbones, and square chins.

^{ix} The word “slave” reflects relations of personal dependence similar to those suggested by the term “subject” or “dependent.”

^x See also, Emerson (1964), 13 where he claimed that in the days of Malay rule the Orang Asli led a “miserable and hunted life”.

^{xi} For example, many Siwang were driven inland and into the mountain by the pressure of Malays moving up the river. Malays killed some of the Siwang but they did not retaliate. See, Needham (May 1956) 49-69.

^{xii} See also, Perry Robinson (1956), 178.

^{xiii} Templer said, “The control of aborigines in deep jungle will be achieved by taking protection and administration to them rather than resettling them in new areas”, see, Perry Robinson (1956), 179.

^{xiv} Amended in 1967 and 1974 and now titled the “Aboriginal Peoples Act”. This legislation is unique as it is the only legislation that is directed at a particular ethnic group while the JAKOA is the only government department overseeing a particular ethnic group.

^{xv} In the 1880s, Land Commissioner William Maxwell introduced Torrens system under which all land is deemed to be vested in the crown, and private rights are alienated based on fixed-term leases. In the case of Malay states, the Malay Ruler was deemed to be the crown.

^{xvi} See, Kingsbury (1995), 33; Martinez-Cobo, UN Doc. E/CN.4/Sub.2/1986/7/Add.4 (1986), vol. V, para. 379; Trask (2001); Daes (1996), UN Doc. E/CN.4/Sub.2.1996/2, para. 69 and 70; Thornberry (2002), 55; Weissner (1999), 57; and ILO 169, art. 1(1)(a)(b).