

**A REVIEW ON THE LEGAL RIGHTS OF INDIGENOUS
PEOPLE IN PENINSULAR MALAYSIA; A COMPARATIVE
STUDY WITH AUSTRALIA AND NEW ZEALAND**

By

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

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ABSTRACT

This research study consists of all chapters on our research background, status and rights of *Orang Asli* in Malaysia, New Zealand, and Australia. The purpose of this study is to analyse every law that enshrined the provisions regarding aboriginal peoples in Malaysia, New Zealand and Australia. Then, we compare the law in Malaysia with the law in New Zealand and Australia. Moreover, this study is important as to ensure that all *Orang Asli's* rights in Peninsular Malaysia would be protected under the law. This research also highlights the importance of the revolution and reformation in shaping the actions of the Malaysian government.

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CHAPTER ONE: INTRODUCTION

1.0 Research Background

The topic on legal rights of indigenous people attracts our attention because in line with their own cultural designations, social institutions and legal systems, they are a passive group of society who determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as people.¹ To add, indigenous people had been defined and subjected to victimization, social and legal injustice, and specifically exposed to exploitation, marginalization and oppression by nations or states that may still be colonized, or dominated by political ethnic groups, all because of the interpretation of the indigenous people itself.

The Malaysian Indigenous People consists of the Malays, the *Orang Asli* in Peninsular Malaysia and the natives of Sabah and Sarawak. In Malaysia particularly, the Malays and the natives of Sabah and Sarawak special rights are preserved under the Federal Constitution.² However, the rights of the *Orang Asli* are not mentioned in the Constitution. Whereas, according to historical evidences and interpretation, *Orang Asli* could be translated as “original peoples” in which it meant that; they are the first people and also natives of the land.³ Hence, there is the need to scrutinize the positive impact of Australian and New Zealand laws that could be modelled after by Malaysian laws and legal organizations regarding *Orang Asli*'s rights.

The first lacuna that inclines us to do research on this topic is that; the rights of the *Orang Asli* are not enshrined in the Constitution. *Orang Asli* could also be classified as *Bumiputras* theoretically, which signifies that they should have the same legal status and rights as the Malays and the natives of Sabah and Sarawak in society, economic and politics. Unfortunately, their name and status in general are not stated in the Constitution. There were however, some legislation concerning them such as

¹ Jose Martinez Cobo, “Indigenous Peoples’ Discrimination”, United Nation Declaration of Human Rights (1987).

² Article 153 of Federal Constitution 1957.

“Orang Asli”, available at <http://mmunamaziblog.blogspot.co.uk/>, accessed on 26 March 2013.

³ Alberto G. Gomes, “The Orang Asli of Malaysia”, Indigenous’ People Movements (2004).