

**THE REVIEW ON MALAYSIAN LAW REGARDING THE  
RIGHTS OF THE ABORIGINES ON LAND MATTER IN  
PENINSULAR MALAYSIA.**

**By**

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## ABSTRACT

The study is carried out to review on Malaysian Law regarding the rights of the aborigines on land matter specifically in the Peninsular of Malaysia. The rights of the aborigines of Malaysia on land matters are stated in The Federal Constitution 1957 and The Aboriginal Peoples Act 1954. The issue focusses on whether The Federal Constitution 1957 and The Aboriginal People Act 1954 have sufficiently covered the rights of the aborigines of Malaysia on land matters.

This research will cover on the aspects which these two Acts had failed to provide to the Orang Asli. One of the issue being discuss in on the amount of the compensation given to the Orang Asli upon their land being taken away. Besides the law, case law such as *Sagong Tasi & Ors v Kerajaan Negeri Selangor & Ors [2002] 2 CLJ 543* and *Adong bin Kuwau & Ors v. Kerajaan Negeri Johor & Anor [1997]1 MLJ 418* will also be discussed. This research is based on the empirical research of the non-doctrinal research. The sources will be based on data gathered from various written sources and there will be interview sessions to be carried out.

Thus, the research done has some recommendation proposed at the end of this research in view of improving the Acts and thereby provides a more comprehensive guideline.

# TABLE OF CONTENT

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Statutes	vi

## CHAPTER 1: INTRODUCTION

1.0	Introduction	1
1.1	Research Background	4
1.2	Research Questions	5
1.3	Research Objectives	7
1.4	Significance of Research	8
1.5	Scope of Research	12
1.6	Limitation of Research	14
1.7	Research Methodology	15
1.8	Research Outline	18

## CHAPTER 2 : LITERATURE REVIEW

2.0	The law in Malaysia.	21
2.1	Problems faced by the aborigines.	22
2.2	Insufficiency of the law	24
2.3	Conclusion	27

### **CHAPTER 3 :       LEGAL CHAPTER**

3.0	Laws of aborigines in Malaysia	28
	i.    Aboriginal Peoples Act 1954	
	ii.   Federal Constitution	
	iii.   Land Code of Sarawak 1958	
	iv.    Sabah Land Ordinance 1930 and Land Acquisition Ordinance 1950	
3.1	Relevant cases	31
	i.    Adong bin Kuwau & Ors v Kerajaan Negeri Johor & Anor [1997]1 MLJ 418	
	ii.   Sagong Tasi v Kerajaan Negeri Selangor [2002] 2 CLJ 543	
	iii.   Naung Felix Sitom v Pendakwa Raya [2000] 7 MLJ 605	

### **CHAPTER 4 :       RESEARCH FINDING**

4.0	Interview Table	36
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### **CHAPTER 5 :       RECOMMENDATION AND CONCLUSION**

5.1	Recommendations	38
5.2	Conclusion	40
	Bibliography	41
	Appendices	43
	Appendix 1	44
	Appendix 2	46
	Appendix 3	47
	Appendix 4	48
	Appendix 5	49

# CHAPTER 1: INTRODUCTION

## 1.0 INTRODUCTION

The Orang Asli (the aborigines) are the indigenous minority peoples of Peninsular Malaysia. The Malay term represents the Orang Asli as the 'first people' or the 'original people' of Malaysia. They are generally divided into three distinct groupings: the Negrito, Senoi and Proto-Malay. These Orang Asli ethnic only holds a very minimal percentage of the national population. Nevertheless, the Orang Asli is not a homogeneous group as they have their own language and culture which perceive itself as different. About 40 per cent of the Orang Asli population live close to, or within the forested areas. In there, they involve in hill rice cultivation and do some hunting and gathering.. However, very small numbers, especially among the Negrito groups are still semi-nomadic and they preferred to take advantage of the seasonal bounties of the forest. A fair number also live in urban areas and are engaged in both waged and salaried jobs. There is no doubt, however, that the Orang Asli is the descendants of the earliest inhabitants in the peninsula. It has been suggested that they retained much of their identity to the present day because of their relative isolation from the other communities and the forces of change.

But it was not until quite recently that the Orang Asli started being exiled from their homes and traditional land by government sponsored and Western backed development including: logging, dams, plantations and golf courses. Their resources have been destroyed and insufficient compensation (if any) has been supplied such as reforming them into 'schemes' with inadequate land or aid for growing food let alone any cash crops.

There are few statutes that are currently governing the Orang Asli's rights in Malaysia. The two main statutes that are governing the rights of Orang Asli in land matters are the Federal Constitution and the Aboriginal People's Act 1954.

In Malaysia, the Federal Constitution is the supreme law of the land. Any laws contradict with the Federal Constitution will be null and void as stated in Article 4 . The Federal Constitution also includes some right pertaining to the Orang Asli or also known as the Aborigines. Article 5 of the FC explains that no one shall be deprived the right to life and