



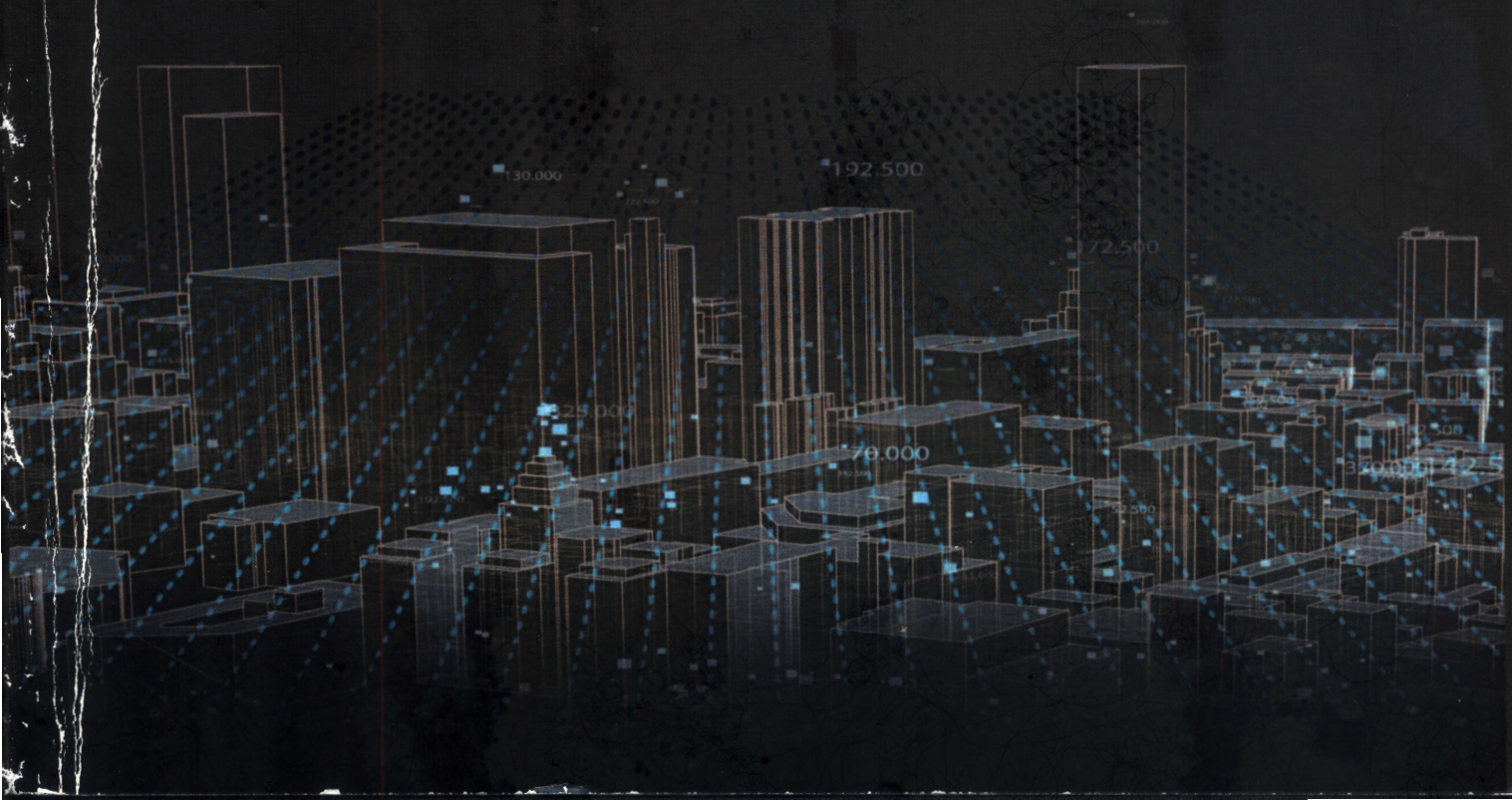
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**PROPERTY TALK 2021**  
INDUSTRIAL REVOLUTION 4.0 IN MALAYSIAN PROPERTY





# PROPERTY TALK 2021: INDUSTRIAL REVOLUTION 4.0 IN MALAYSIA PROPERTY

HOUSING AND LOCAL GOVERNMENT TRAINING INSTITUTE  
UNIVERSITI TEKNOLOGI MARA, PERAK BRANCH

November 2021

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**ISBN 978-967-25697-7-0**



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# LAND TENURE SECURITY FOR WATER SETTLEMENT AREA: A PRELIMINARY STUDY

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## Abstract

Land tenure is a complicated concept that comes in a variety of forms. Concerns about tenure and property rights have been linked to population displacement, food insecurity, and environmental degradation. The security of land tenure property rights in water villages should be safeguarded, as small-scale fishing communities contribute significantly to food security, inclusive economic growth, and other critical development goals. This article is the result of a preliminary study on securing land tenure for the Water Village community. The current practices of water village land tenure were ascertained through qualitative interviews with the village heads of three water villages in Northern Sarawak. Thematic analysis was used to deduce land ownership practices such as type of land ownership, documentation of land ownership, and property transaction. It can be concluded that while current practices are convenient, they could be improved to better protect the water village area's land tenure and property rights.

**Keywords:** Land Tenure, Water Village, Land Issues, Property Rights, Qualitative Study

## 1.0 INTRODUCTION

Land tenure is a complicated historical and cultural concept. As a result, the right to tenure can now be established in a variety of ways: statutory, customary, religious, and informal. All of these processes have an effect on attitudes toward land and property use, development, transfer, and inheritance. Additionally, in many countries, multiple legal tenure regimes may exist concurrently, and reform policies may be in varying stages of development, adding to the degree of uncertainty (FAO, 2002). For example, in many countries, urban areas are governed by statutory law while rural areas are governed by customary law, creating ambiguity regarding land tenure status in peri-urban areas. Diverse tenure systems may exist within a given neighbourhood or even on the same plot of land, posing significant challenges for land administrators. With this backdrop and ever-increasing pressures on land, interest in land tenure policies, approaches, and interventions aimed at enhancing tenure security and compliance with legal standards has risen significantly in recent years.

According to ISEAS (2010), land requirements for investment by the private sector and governments to improve infrastructure and facilitate private investment have increased significantly. As demand for this finite resource increases, those who lack formal tenure or property rights have faced varying degrees of insecurity. Moreover, there is mounting evidence that tenure and property rights issues can contribute significantly to political instability, population displacement, food insecurity, and environmental degradation, undermining or preventing the successful implementation of development programmes (Courtney et. al., 2017).



## **2.0 ISSUES OF LAND TENURE IN WATER SETTLEMENT AREA**

The issue of land tenure and property rights encompasses both terrestrial and subterranean land, as well as marine space. In Sarawak, there are a few traditional fisherman villages located on the water (water village) where small-scale fisheries provide the primary source of income. Small-scale fishing communities, on the other hand, are some of the poorest and most vulnerable groups in developing countries, as they rely heavily on wild fish stocks for food and livelihood (Courtney et. al., 2017). These communities are largely landless and live in coastal areas that are particularly vulnerable to threats posed by climate change. Additionally, the income is unstable due to the global decline of fish stocks as a result of open access and poor governance of both land and sea.

Land tenure and environmental conditions are inextricably linked. Land tenure can either promote land use practices that harm the environment, or it can serve to enhance the environment. Inappropriate rules (formal or informal) for acquiring land, insecure land tenure, and inefficient land use can all contribute to environmental degradation. In addition, a lack of defined rights can reduce the incentive to implement long-term resource management measures (FAO, 2002). Water village security should be safeguarded because small-scale fishing communities contribute significantly to food security, inclusive economic growth, biodiversity conservation, environmental protection, and other high-priority development objectives. As such, this paper will discuss the current state of land ownership in Sarawak's water villages and other related issues.

## **3.0 THE SECURITY OF LAND TENURE**

Land is permanent and indestructible by nature, yet it is the most adaptable and convertible form of property. There are dozens of activities that can be undertaken on land, with land, and also within the land (Maidin et al., 2008), as the land's surface and area are where life occurs. Land is a fixed quantity of physical space; it cannot be destroyed or increased in size or volume. According to a 1999 FAO and UNEP report, land supply is constrained, while demand for land is constant. As a result, the demand for land increases, creating a problem with yield production due to limited land supply and resulting in competition to conquer land for development.

One of the concepts of land is as a human right as stated in Universal Declaration of Human Rights, Article 17:

"Everyone has the right to own property..."  
(UN 1948)

As a result, each owner is bound by the legal rights that accompany the land, ensuring that each landowner can enjoy and utilise their property in a reasonable and necessary manner. This does not mean that the landowner has a right to everything on or in the land; there are numerous exceptions, for example, when the materials are state-owned minerals. The property rights derived from property law are the landowners' connection to their land. Property law or real estate law is also referred to as land law in other national legal systems (Dimopoulou and Elia, 2012).

Tenure over natural resources refers to the social relations, institutions, and rules that govern how people obtain and use land, water, and other natural resources. Marine tenure establishes a set of rights and obligations regarding who is permitted to use which resources, in what manner, for how long, and under what conditions, as well as who is authorised to transfer rights and how. Small-scale fishermen and coastal communities that have established secure rights to a particular fishery, fishing ground, or territory have a strong incentive to organize and act collectively to manage their resources sustainably (Courtney et. al., 2017). Thus, land tenure can be defined as a legal or customary relationship between individuals or groups of people in relation to the land. It is a broad term used in land administration theory to

describe how people approach and think about land. Williamson et al. (2008) agreed that while tenures can be classified in a variety of ways, each one is unique. What constitutes land for the purposes of a particular tenure varies between nations and communities within those nations. Following that, land is a critical component of development and economic growth (Hasrol & Farid, 2016). Additionally, its value varied according to location, area, and tenure type.

Now, the NLC 1965 is the primary law governing the land administration system in Peninsular Malaysia, while Sarawak Land Code (Cap 81) and Sabah Land Ordinance (Cap 68) govern Sarawak and Sabah, respectively. According to the United Nations Economic Commission for Europe (2005), land rights include both "rights of ownership and rights of use." It encompasses what a particular right entails, who the holder of the right is, and the extent to which the right extends over a piece of land (Choon, 2013). This is partly because once titles are granted, they are difficult to revoke unless the landowners fail to uphold their obligations (Payne et. al., 2015). According to Williamson et al. (2010), various rights exist on land, whether at the surface, above, or below the ground, including ownership rights, air rights, water rights, right of way, development restrictions, agricultural rights, and mineral rights.

#### **4.0 GENERAL CONCEPT OF WATER VILLAGE IN SARAWAK**

The term "water village" refers to an area that is located along a river or is adjacent to a coastal area. The majority of residents of Sarawak's water villages are Bumiputera, more precisely Malay or Malay Brunei. Water villages are primarily located in northern Sarawak, specifically in Limbang and Lawas. Due to its location and community, the water village is unique. According to Ahmad (2013), a water village is an area where house foundations developed in a watery area (river). As a result, it resembles a floating village. Additionally, this area has developed into a tourist attraction and a seafood hub in Sarawak. Since 2019, the water village has also been designated as an aquaculture zone.

Generally, the distance between houses in a village on the water is slight (Ahmad, 2013). Each house is constructed using a variety of materials, including concrete or wood for the house pillars. Additionally, the houses in the water villages have their own jetties for their boats, and each household owns at least one to two boats. Consequently, the water village features a bridge/sidewalk constructed from a variety of different materials. For example, Kampung Limpaku Pinang in Limbang and Kampung Bangsal in Awat-awat in Lawas continue to use belian timber, while Kampung Seberang Kedai in Limbang has upgraded its cement sidewalks. Rural development contributes to the improvement of people's lives, particularly by providing necessities (Hussain et. al., 2021). For example, the water village now has access to basic amenities such as electricity and water supply.

#### **5.0 RESEARCH METHODOLOGY**

This article is the result of a preliminary study on the security of land tenure for water villages in north Sarawak. The interview session was conducted qualitatively with the heads of three villages: Kampung Limpaku Pinang (KP1) and Kampung Seberang Kedai (KP2) in Limbang, and Kampung Awat-awat (KP3) in Lawas. These villages were chosen based on the criteria of being water villages and geographically located along the riverbanks. The data were analysed using thematic analysis to ascertain the area's land tenure practices. Table 1 contains acronyms for each of the three villages.

#### **6.0 THE PRACTICES OF LAND TENURE AT WATER VILLAGE**

Using thematic analysis, this study identified three distinct land tenure practices in a water village. The practices are classified according to the types of land ownership, the documentation of land ownership, and the nature of the property transaction.

### Types of Land Ownership

The three villages have varying degrees of land ownership. KP 1 and KP 3 do not have formal land ownership or tenure in their area. However, there are two types of land ownership in KP2: formal and informal. The land title was granted to the area's first generation of villagers. According to the village head for KP2, land ownership and property rights disputes are uncommon. One reason is that the majority of villagers are related, and they respect one another's boundaries.

Due to the lack of formal land ownership, house development is based on the first come, first served principle. This concept is implemented in each of the three villages. Figure 1 depicts the approval process for house development in Water Village.

### Documentation of Land Ownership

To certify that the house belongs to a certain individual, the location was documented and submitted to the District Office for record keeping. Additionally, there is a map that depicts the entire area covered by the villages. The Sarawak Land and Survey Department was the official custodian of this map.

However, under KP2, if a house is built on a river reserved area, only the development approval document is required for recording and safekeeping at the village level. Approval is required only from the village head.

### The Nature of Property Transaction

Although land ownership is informal, property transactions do occur in these villages. However, the property may be sold or purchased only among family members and only upon mutual agreement.

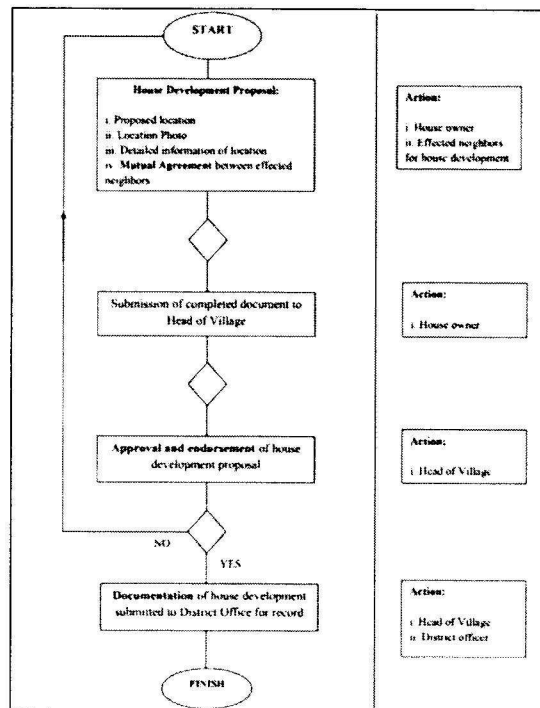


Figure 1: Process of House Registration at Water Village

Source: Author's Field Work, 2021



## Discussion

Table 2 summarises the land tenure practises in all three villages. Even though these villages are geographically dissimilar, their land ownership practises, documentation of land ownership, and property transactions are almost identical.

Table 2: Summary of The Practices of Land Tenure at Water Village in Sarawak

Element	KP1	KP2	KP3
Type of Land Ownership	No formal land title.	Formal and Non-formal land title.	No formal land title.
Documentation of Land Ownership	The record of the houses was documented and submitted to District Office for record.	The record of the houses was documented and submitted to District Office for record.  However, if the house is developed under river reserved area, the document is only submitted to the head of village for record	The record of the houses was documented and submitted to District Office for record.
Property Transaction	Sale and purchase of the property is only among the family members, and only based on mutual agreement.	Sale and purchase of the property is only among the family members, and only based on mutual agreement.	Sale and purchase of the property is only among the family members, and only based on mutual agreement.

As a result of these practices, all three villages are now at ease with their land ownership. For the time being, the majority of villages are connected, which minimizes or eliminates land disputes. However, as development occurs, a new route will be opened in their area, resulting in land ownership and property rights issues. Thus, it is critical to define and legalize land ownership in the water village area in order to avoid future conflict. Property rights must be recognized and documented to ensure clarity for all parties involved, including landowners, the community, and the authorities.

## 7.0 CONCLUSIONS

In summary, land ownership in Water Village is considered informal land possession. Although land ownership and land-related issues are not prevalent in the water village area, they must be addressed. The second and third generation of this group are beginning to reside within the area and they have the rights to request the ownership of the area. Furthermore, the water village area's position makes it particularly vulnerable to environmental threats, river flooding, and other factors. They will lose their territory as a result of this. To protect their rights to the area, it is critical to conduct research on the protection of land tenure and property rights for Sarawak's water villages.

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