

## **THE ORANG ASLI: FIRST ON THE LAND, LAST IN THE PLAN**

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### **INTRODUCTION**

The Orang Asli (Original Peoples) are the indigenous minority peoples of Peninsular Malaysia. They are the descendants of the early inhabitants of the peninsula before the establishment of the Malay kingdoms. They number 133,775 today, representing a mere 0.5% of the national population. Anthropologists and administrators have traditionally regarded the Orang Asli as consisting of three main groups which in themselves comprise several distinct tribes or subgroups. The main groups are the Negrito (Semang), the Senoi, and the Aboriginal-Malay. Each tribal group is further divided into various subgroups as given overleaf.

Linguistically, some of the northern Orang Asli groups (especially the Senoi and Negrito groups) speak languages, now termed Aslian languages, that suggest a historical link with the tribespeople in Burma, Thailand and Indo-China. The members of the Aboriginal-Malay tribes, whose ancestors were believed to have migrated from the Indonesian islands to the south of the peninsula, speak dialects which belong to the same Austronesian family of languages as Malay, with the exceptions of the Semelai and Temoq dialects (which are Austroasiatic).

The Orang Asli have equally varied occupations and ways of life. The Orang Laut, Orang Seletar and Mab Meri, for example, live close to the coast and are mainly fishermen. Some Temuan, Jakun and Semai people have taken to permanent agriculture and now manage their own rubber, oil palm or cocoa farms. About 40% of the Orang Asli population including Semai, Temiar, Che Wong, Jab Hut, Semelai and Semoq Beri however, live close to, or within forested areas. Here they engage in swiddening (slash and burn agriculture) for hill rice cultivation and do some hunting and gathering. These communities also trade in *petai*,

*durian*, rattan and resins to earn cash incomes. A very small number, especially among the Negrito (e.g. Jabai and Lanoh) are still semi-nomadic, preferring 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, and there are several professionals among them today.

To a large degree, the Orang Asli remained in relative isolation during the colonial period (circa 1640s–1940s) and led autonomous, self-sufficient lives primarily because the colonialists regarded them as people of no political or economic import. About the only people who were interested in the Orang Asli then were the missionaries and the anthropologists. Prior to this, however, when Malaya was being peopled by others in the archipelago, the Orang Asli were an organised, independent people, respected enough to be sought for help in the establishment of the early Malay kingdoms (as in Johor, Melaka, Negeri Sembilan and perhaps even Perak). Nevertheless, it was events during the Malayan Emergency (1948–1960) that brought the Orang Asli into the scheme of modern government and control and which eventually led them to be categorised as *bumiputera* although, as I argue below, while they may be indigenes on this land, they are certainly not the princes.

## WHAT THE 'BUMIPUTERA POLICY' IS ABOUT

For the purpose of my discussion here, I have interpreted the *bumiputera* policy to mean more than the mere economic rights that the general populace normally is concerned with. However, in Malaysian real politic, the *bumiputera* policy is more than this; it is about giving recognition to a category of Malaysians who are perceived to be endowed with special rights and status on account of their primal presence on this land. Thus, apart from economic 'rights', other rights or privileges extended to *bumiputeras* are the *greater* protection and recognition of their religion, culture, language, education, representation in government, leadership in key government positions and institutions, and political dominance, just to name a few.

At the onset, I should stress that I am not an adherent of any social or economic doctrine that suggests that social, political or economic rights should be linked or attached to any particular group based purely on the merit of their ancestral blood line, or that others should be discriminated against purely on account of their perceived racial differences or lateness in arrival. I subscribe to the simple rule that fairness and justice should always prevail as the fundamental premise for any distribution of rights, resources and opportunities. This does not rule out exemptions or affirmative actions being taken for a category of people. It does insist, however that such departures should be based on the sole purpose of alleviating difficulties and for achieving the demands of justice.

Nevertheless, since I have been tasked to comment on the way in which a periphery community, the Orang Asli, have been affected by the 'bumiputera policy', I shall restrict my discussion to the specifics.

Although the term *bumiputera* is frequently perceived to be directed at the Malays, there is accord that the Orang Asli are also *bumiputera*, as are also the natives of Sabah and Sarawak. It is also generally perceived by the Orang Asli and the Bornean Malaysians that they are, in most regard, the lesser *bumiputeras* insofar at least as the (extended) rights and privileges they enjoy are far removed from those enjoyed by the Malays.

So if the Orang Asli are to be assessed in terms of the 'bumiputera policy', for us in the Malay Peninsula it is only logical that we do so with regard to their progress and advancement vis-à-vis the Malays.

## THE ORANG ASLI AND DISTRIBUTIVE JUSTICE

A quick glance at the social indicators for the Orang Asli, using the government's own figures, will show that the Orang Asli are indeed among the most marginalised of Malaysians today.

### Poverty and Wealth

Statistics based on a 1999 survey by the Department of Orang Asli Affairs (JHEOA) show that 81.4% of the Orang Asli live below the

poverty line (compared to 8.5% nationally). Of these, 49.9% are among the very poor (compared to 2.5% nationally).

Other indicators also point to the poor quality of life that the Orang Asli experience. For example, only 47.5% of Orang Asli households had some form of piped water, either indoors or outdoors, with 3.9% depending on rivers, streams and wells for their water needs. The availability of toilet facilities as a basic amenity was lacking in 43.7% of the Orang Asli housing units, compared to only 3% at the Peninsular Malaysia level (Department of Statistics 1997: 47). For lighting their homes, 51.8% of Orang Asli households on kerosene lamps (*pelita*).

Another indicator of wealth (or poverty) is the availability (or absence) of selected household items that could provide an approximate measure of material wellbeing.<sup>1</sup> About a third of the households in the rural settlements (35%) own a motorcycle, confirming its place as an important means of transportation. A fair proportion of both rural and urban Orang Asli households also have access to a radio or television (this negates the presumption that they are 'isolated', or that they are blissfully impervious to outside influences). Significantly, also, almost a quarter (22.2%) of all Orang Asli households did not have any of the selected household items indicating a "certain lagging in economic development" (Department of Statistics 1997: 42).

Clearly, there must be something wrong in the distribution of economic justice if, while the national poverty rate is decreasing to single-digit levels, that for the Orang Asli is actually increasing and affects more than fourth-fifths of the Orang Asli population.

### **Educational Attainment**

While there has been some improvement in the levels of education attained among the Orang Asli, education levels still lag far behind those achieved by other communities. Almost half (49.2 %) of the Orang Asli are illiterate, while the remainder (38.5 %) have mainly primary

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<sup>1</sup> The selected 'household items' used in the survey by the Department of Statistics included the motor car, motorcycle, bicycle, refrigerator, telephone, television, video, radio and hi-fi.

education. Only 177 Orang Asli have achieved tertiary education, and this figure is not expected to increase markedly in the near future in view of the meritocracy policy put in place by the government.

In general, about 62% of Orang Asli school children drop out of school each year while 94.4% do not go beyond secondary level or sit for Sijil Pelajaran Malaysia (SPM) level. The former opposition leader, Tan Chee Khoo, published articles in *The Star* and *Utusan Melayu* in the early 1980s addressing similar lamentable statistics regarding the Orang Asli. He opined that if all these things were happening to the Malay community, there would be a big hue and cry and some heads would roll. Two decades on, and the situation is not much better for the Orang Asli. And no official heads have even turned.

But there are programmes in place today to uplift the standard of education (and so lower the dropout rate) among the Orang Asli, such as the RM4.8 m Stay-in-School project announced in 2000. Or the move to transfer the responsibility of Orang Asli education from the JHEOA to the Ministry of Education since 1995. But, as I argue elsewhere, the motivation for doing so is not to promote and advance Orang Asli *bumiputeraism*.

## **Health**

In terms of health, the Orang Asli are still disproportionately afflicted with health problems – specifically tuberculosis, malaria, leprosy, cholera, typhoid, measles and whooping cough – that are easily preventable and curable. Data on Orang Asli health also indicate that malnutrition is highly prevalent, even 15 years after they have been relocated in government resettlement schemes.

The crude death rates and infant mortality rates for the Orang Asli also do not compare well with the national statistics. Orang Asli generally recorded a much higher infant mortality rate (median=51.7 deaths per 1,000 infants) than the general population (median=16.3). Similarly, the crude death rate for the Orang Asli (median=10.4) was doubled that of the national population (median=5.2). Accordingly, their life expectancy at birth (estimated at 52 years for females and 54 years for males) was also significantly lower than that for the national population (68 years for females and 72 years for males). The lower life expectancy at birth

for Orang Asli females could be due to their higher maternal death rates caused by childbirth or poor maternal health (Ng, et al. 1987, cited in Razha 1996: 13), or that Orang Asli mothers are over-burdened with reproductive, as well as productive tasks. Maternal mortality is also disproportionately higher among the Orang Asli. For example, of the 42 mothers who died during delivery in 1994, 25 (60%) were Orang Asli women. Given that the Orang Asli community is only 0.5% of the national population, this means that an Orang Asli mother in 1994 was 119 times more likely to die in childbirth than a Malaysian mother nationally.

Thus, despite the relatively good medical service provision, the health problems that the Orang Asli face are still those that reflect underdevelopment (Chee 1996: 63). Nevertheless, experts are of the opinion that there is sufficient information on Orang Asli health available to enable the Orang Asli to enjoy and benefit from better healthcare facilities, especially since most Orang Asli health problems are easily preventable and curable.

### **Ownership of Land**

The attachment Orang Asli have to their traditional lands cannot be over-emphasised. Most Orang Asli still maintain a close physical, cultural and spiritual relationship with the environment. Increasingly, however, Orang Asli are beginning to see the ownership of their traditional lands as an essential prerequisite for their material and economic upliftment. Under present Malaysian laws, the greatest title that the Orang Asli can have to their land is one of tenant-at-will – an undisguised allusion to the government's perception that all Orang Asli lands unconditionally belong to the state. However, provisions are made for the gazetting of Orang Asli reserves, although such administrative action does not accord the Orang Asli with any ownership rights over such lands.

In 1999, a total of 127,234.6 hectares of Orang Asli land were given some form of recognition by the government, but not full title. Of this, 19,507 hectares (15.3%) were gazetted Orang Asli reserves, while another 29,932 hectares (22.7%) had been approved for gazetting but have yet to be officially gazetted. Still, another 78,795 hectares (61.9%) have been applied for gazetting and for which no approval had been

obtained as yet. However, it should be stressed again that these areas are merely those that the government deem to be Orang Asli lands. From calculations made based on the JHEOA's *Data Tanah*, it was found that the area gazetted represented only 15% of the 779 Orang Asli villages. The remaining villages faced (even greater) insecurity of tenure over their territories.

Of more concern is the realisation that the size of gazetted Orang Asli reserves had actually declined from 20,667 hectares in 1990 to 19,507.4 hectares in 1999 – a decline of 1,159.6 hectares. Similarly, approval for gazetting have been withdrawn from 7,443.8 hectares of the 36,076 hectares originally approved before 1990. However, there had been an increase (of 11,775 hectares) in new applications for gazetted Orang Asli reserves, mainly for new regroupment schemes where Orang Asli are to be relocated to once their original lands have been taken.

Taken on a per capita basis, the reserve land allocation works out to 0.15 hectares per Orang Asli. This figure compares poorly to the same computation for the Malays. With the size of the total Malay Reserve Land being 4.413 million hectares (*The Sun* May 23,1996), and with a Malay population of 10.2 million in 1996 (*The Star* January 31,1998), the Malay reserve land to population ratio is 0.43 hectare per person. This is almost triple that for the Orang Asli.

In terms of actual titled ownership to Orang Asli traditional lands, the statistics are even more dismal. Only 51.185 hectares (0.28%) of the 18,587 hectares of gazetted Orang Asli reserves were securely titled. Furthermore, in terms of individuals, only 0.02% of Orang Asli (19 individuals) have title to their land.

Orang Asli reserve land, in effect, has none of the security that Malay reservation land guarantees. The government perceives that the Orang Asli are only tenants-at-will (at the will of the government) on their land and it can acquire the land at any time *without* any need for compensation, save for what the Orang Asli have built or planted on it. Ironically, even in the much-publicised move to grant so-called 'grant land titles' to Orang Asli, the move involves relocating Orang Asli to new resettlement schemes where in they will be given 99-year Temporary Occupancy Leases (TOL) to up to 6 acres of agricultural land and a quarter acre of homestead for each household. Such a move

would usually require the Orang Asli to give up their claim to more than 70% of their traditional land. In contrast, Federal Land Development Authority (FELDA) settler-applicants, who were landless in the first place, get to have 10 acres of agricultural land (for this is what has been established to be the the minimum acreage required to keep a household above the poverty line) and full title to the land as well.

### **The (Missing) Orang Asli in the Federal Constitution**

But, as mentioned earlier, the '*bumiputera* policy' is not about improving social indicators only. It is also about the exercise of special rights and privileges as provided by the Constitution.

Orang Asli legal commentators have long pointed out that there is a glaring omission in the categories of people that are accorded special privileges under Article 153 (reservation of quotas in respect of services, permits, etc., for Malays and natives of any of the states of Sabah and Sarawak). Despite being the indigenous peoples of Peninsular Malaysia, the Orang Asli are not made the beneficiaries of the special position assured to the Malays and the natives of Sabah and Sarawak by this article. This article posits the mandatory duty of safe-guarding the special position on these *bumiputera* in specific areas of economic activity, education and employment on the Yang Di-Pertuan Agong.

The Orang Asli are, in fact, mentioned in only four places in the Federal Constitution, and that too in a rather unclear way that it has also become increasingly difficult to argue for the same rights and privileges that are accorded to, for example, the Malays (on account of their claim to indigeneity). The four places where the Orang Asli are mentioned in the Federal Constitution are:

- Article 8(1), which legitimises discriminatory legislation in favour of Orang Asli by way of provisions in the law of their protection, well-being and advancement (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service.
- Article 45(2), which provide for the appointment of Senators 'capable of representing the interest of the aborigines'.

- Article 160(2) which rather unhelpfully defines an aborigine as 'an aborigine of the Malay Peninsula'.
- Ninth Schedule; List 1 that vests upon the Federal Government legislative authority for the 'welfare of the aborigines'.

An indirect reference to Orang Asli is inferentially made in Article 89 regarding Malay Reservations, which would appear to authorise reservation of such lands in favour of 'natives of the state' besides Malays. But in reality, the government has chosen to interpret the vagueness in the Constitution in its favour, rather than to protect the rights and interests of the Orang Asli *bumiputeras*. Thus, while the Constitution does authorise the government to enact laws that are in favour of the Orang Asli for their protection, well-being and advancement, it has not done so.

### **JHEOA: CONTROLLING THE ORANG ASLI**

The Orang Asli have the unrivalled 'privilege' of having a specific department to govern them. However, the JHEOA is arguably responsible for making the Orang Asli the most controlled and regulated community in the country. It is run predominantly by non-Orang Asli and exercises wide powers in a variety of functions, including the appointment of village heads, as de-facto 'land-owner' of Orang Asli territories and as general decision-maker for the community in effect effectively treating the Orang Asli as its 'children', as wards of the state.

The JHEOA has also persistently ignored calls by both Orang Asli and non-Orang Asli observers for it to be managed by the Orang Asli themselves, the usual excuse being that there are no Orang Asli who are qualified or who have applied for the job.<sup>2</sup> Both of these arguments are

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<sup>2</sup> The now-classic tale of two Orang Asli personalities is perhaps worth repeating here. In the mid-1980s, when Bah Tony graduated from the University of Malaya with an economics degree, he promptly approached the JHEOA for a job. He was turned down by the Director-General on the grounds that the department needed anthropologists, not economists. Soon after, however, the JHEOA did employ an economist a Malay. In any case, in

no longer valid, as there *are* Orang Asli today who have higher qualifications than those presently holding managerial positions in the JHEOA, including that of the top post. Also, there is no programme of working towards the eventual management of the JHEOA by the Orang Asli.

Imagine any other *bumiputera* agency such as Majlis Amanah Rakyat (MARA), Permodalan Nasional Berhad (PNB) or Universiti Teknologi MARA (UiTM) being run by a non-Malay, or even a non-*bumiputera*. So why the exception in the case of the JHEOA?

### ACCEPTING ORANG ASLI IDENTITY

Again, based on the privileges and rights enjoyed by the Malay community as the standard-setter to assess those enjoyed by the Orang Asli, on the basis that both are *bumiputera*, we now turn to the maintenance, development and regard for Orang Asli identity (including its culture and religion).

When you have an expressed policy to “integrate the Orang Asli with the mainstream society”, or more specifically to “assimilate the Orang Asli into the Malay sector of society”, you cannot place the Orang Asli on the same level as the dominant *bumiputera* ethnic group to which it is supposed to assimilate into. Furthermore, the expressed objective to convert all Orang Asli to Islam, coupled with the general inability of the Orang Asli to reject state-sponsored *dakwah* among its fold, should they want to, clearly indicate that the Orang Asli do not enjoy the same *bumiputera* ‘privileges’ as the dominant mainstream society. Also, while there are moves for Orang Aslis’ culture and arts to be “geared up” not only “to preserve their traditions, but also as tourist attractions”, there are no state-sponsored actions to protect and promote Orang Asli

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1989, when Juli Edo graduated from Universiti Kebangsaan Malaysia with a Masters degree in Anthropology and promptly applied for a job with the JHEOA, he was told that the department needed economists, not anthropologists.

traditions and languages, be it in the education system or in mainstream government.

Clearly, therefore, a policy of assimilation for the Orang Asli does not reflect its *bumiputera* status. Some, however, will be quick to deny that there is such a programme of assimilation directed towards the Orang Asli. Nevertheless, despite the protestations to the contrary, it should be obvious that the policy of Orang Asli ... "integration with the Malay/mainstream society" is clearly one of assimilation – or *domination* (when one community takes control of the other), *paternalism* (which occurs when one society governs the other in what it views as being the other's best interest) and *integration* (which occurs when single institutions are "developed and ethnic origin ceases to be recognised") all occur within the general framework of *assimilation* (which involves an internalisation of the values of the dominant or majority group).

### **Political Participation**

To a large degree, the Malay claim to political dominance is based on their indigeneity. While they may stake their claim as the indigenes of this land, the Orang Asli however do not enjoy the accompanying political clout. On the contrary, two of our Prime Ministers have gone onboard to officially deny any possibility of the Orang Asli getting that status.

There was no doubt that the Malays were the indigenous peoples of this land because the original inhabitants did not have any form of civilisation compared with the Malays...and instead "lived like primitives in mountains and thick jungle" (Tunku Abdul Rahman, *The Star* November 6, 1986).

The Malays are the original or indigenous people of Malaya and the only people who can claim Malaya as their one and only country the *Orang Melayu* or Malays have always been the definitive people of the Malay Peninsula. The aborigines were never accorded any such recognition nor did they claim such recognition. Above all, at no time did they outnumber the Malays.

(Mahathir Mohamad 1981: 73)

Save for an Orang Asli senator, who is appointed by the government (and in the case of at least two past senators, the choice had been opposite to what the Orang Asli wanted), the Orang Asli are not represented in any political position, be it at state or federal level. Thus, unlike the other *bumiputera* groups (for example, in Sarawak where even a minority *bumiputera* can hold much of the state in his sway), the Orang Asli does not enjoy this 'right'.

## CONCLUDING REMARKS

The above discussion seems to go against the grain of what I set out at the beginning insofar as I said that I am not in favour of any social or economic policy that is based purely on ethnic categorisation. It appears that I am saying that the Orang Asli are among the most marginalised of Malaysians because the affirmative policies and actions that should be accorded to them, by virtue of their *bumiputera* status, were not in fact accorded to them. This is not so.

On the contrary, the high level of poverty among the community has not dented the rise in the number of Orang Asli businessmen – *Orang Asli Baru* – who have bettered their economic situation at the expense of the community, largely through logging activities and development projects in Orang Asli areas obtained on the "merit" of their good relations with the authorities and on the strength of their Orang Asli identity. This has led to a furthering of the gap between the Orang Asli haves and have-nots [to use a phrase popularised by Tun Razak when he applied the *bumiputera* body politic at the onset of the New Economic Policy (NEP)].

So why are the Orang Asli still on the periphery? Simply because fairness and justice had not prevailed in the distribution of rights, resources and opportunities. It is not fair when the land you and your ancestors have lived on and tilled for generations is now given to a corporation that only came on the scene a couple of years ago and only because the corporate bosses were able to convince the political masters of their need for it. It is not fair that an Orang Asli student should compete on merit with other students who had the advantage of better facilities, better teachers and a full belly, to enter into an institute of higher learning, while at the same time those Orang Asli who are more

qualified to help manage their own department are denied that opportunity. Also, where is the natural justice if you are required to become somebody else, to integrate with the dominant group, and so give up your identity?

## **MOVING FORWARD**

Lest anyone should argue that the Orang Asli are far behind the other Malaysians because they are anti-development, let it be stated clearly that on the contrary the Orang Asli have persistently asked, for development – but on their own terms. The Orang Asli have, in fact, put forward several necessary preconditions for their assured development, well-being and progress. Some of these include:

- Recognise Orang Asli traditional land and accord it permanent title. Once this is in place, the authorities will be required to treat the Orang Asli as legitimate land-owners and so deal with them accordingly.
- The Government should also recognise the right of the Orang Asli to use the forest where they reside. (The courts have already done so.)
- There should be full and informed participation, including access to information, in all programmes or projects involving the Orang Asli communities concerned before a project is implemented.
- The Orang Asli should be allowed to administer themselves via the JHEOA. If necessary, proper training and education should be given so that the goal of an Orang Asli – run JHEOA is realised.
- Orang Asli, like other Malaysian citizens, have a right to basic infrastructure facilities such as water supply, electricity, roads, housing, schools and others – and priority should be given to the provision of these facilities instead of on programmes to change their values and religion.
- The resources of the state and its authority should not be used to get the Orang Asli to convert to any religion other than their own.

On the contrary, such energies and resources should be utilised to further promote the indigenous culture and spirituality.

These are not special privileges that are being asked for. These are basic demands that all Malaysians are entitled to.

The label *bumiputera* has little meaning or usefulness for most Orang Asli. To them, they are Orang Asli first. Even Orang Asli have rights and privileges as citizens.

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