NEGOTIATING ORANG ASLI IDENTITY IN POSTCOLONIAL MALAYSIA

ALICE M. NAH

A THESIS SUBMITTED

FOR THE DEGREE OF MASTER OF SOCIAL SCIENCE

DEPARTMENT OF SOCIOLOGY

NATIONAL UNIVERSITY OF SINGAPORE

2004

ACKNOWLEDGEMENTS

This thesis would not have been possible without the kindness of many who helped me along my journey of discovery about the lives of the Orang Asli in contemporary Malaysia.

I wish to thank Dr. Nirmala PuruShotam, who was the first to encourage me to undertake sociological research and who inspired me with her own work. I benefited greatly from the guidance of my supervisor, A/P Roxana Waterson, who mentored me during the ups and down of fieldwork and writing and am thankful to Dr. Saroja Dorairajoo who agreed to to co-supervise my work. I am indebted to Dr. Juli Edo, who acted as my Malaysian supervisor, and to Dr. Colin Nicholas, who started me off on my fieldwork and who gave me invaluable feedback along the way. A/P Lian Kwen Fee provided insightful comments on earlier drafts of chapters. The final version of this thesis has incorporated critical reviews of two anonymous examiners. The research for this thesis was undertaken with the financial support of the National University of Singapore under its Research Scholarship programme.

I am grateful to A/P Vedi Hadiz, A/P Habibul Khondker, Dr. Goh Beng Lan, Dr. Kyaw Yin Hlaing and Dr. MacDonald Daly for teaching me to see the social world critically through their classes. The process of learning would not have been as stimulating or as enjoyable without the numerous discussions I had with Dr. Tim Bunnell, whose ideas have influenced my theoretical leanings considerably. I am also thankful for the friendship and support of K. Shan, who guided me through the theory and praxis of civil society and the law in Malaysia. None of this would have been possible without the financial and moral support of my parents, Dr. Nah Seang Hoo and Dr. Chiam Yoke Choo, who, while frequently puzzled at what I was up to, always tried to understand.

I am most indebted to the Orang Asli individuals that I met in the course of this research. I am particularly thankful to the members of the Orang Asli Graduates Club (KSOA) for their hospitality and friendship, Melati Jamil for her advice, and Mahat China for his critical thoughts and collections of newspaper clippings. To those who brought me to their homes, invited me to their weddings, and sat with me for hours talking about their perspectives on life, mere words are insufficient thanks.

With more appreciation that can be expressed to all the informants and advisors who have helped me in this research process, I emphasize that all mistakes and weak conjectures remain my own.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS i
SUMMARY iv
LIST OF FIGURES v
ABBREVIATIONS vi

CHAPTER 1: INTRODUCTION 1

Re-presenting the 'Orang Asli' Subject: Power/Knowledge in Contemporary Malaysia 2
Shifting Forms of 'The Orang Asli' 6
Theorising Identity: Contingency, Multiplicity, and Non-Essentialism 7
Structuring Discourse and Practice: Fields, Authorities, Capital 10
Fieldwork 13
Writing Considerations 13
Forthcoming Chapters 15

CHAPTER 2: IDENTITY POLITICS IN A MULTICULTURAL LANDSCAPE 19

Imperial Rule 20
The Race-d Peninsula: The Rise of *Bangsa Melayu* and Other Races 23
The 'Aborigines': Differentiating the Marginal Native-Other 25
The Question of Sovereignties and Subjects 26
The Rising Sun: 'Asia for the Asiatics', and Into the Jungles 28
The Post-War Struggle for Sovereignty 29
The Communist Turn 31
Forging Postcoloniality: The Reid Commission 32
Orang Asli in Postcolonial Malaya 34
Enter the *'Bumiputera'*: The Birth of Malaysia and the Extension of Privileges 36
Bumiputera Debates 38
The Way Forward: From Bangsa Melayu to Bangsa Malaysia 42
The Jagged Logic of Proportionality: Orang Asli in Election Machinery 43
Political Membership 44
Conclusion 46

CHAPTER 3: ADMINISTRATION AND THE DISCIPLINE OF DIFFERENCE 48

A Short History of Colonial Administration 49
The Early Years of the Department of Aborigines 51
'Finding' the Aborigines: Ethnography, Category and Belonging 52
Aborigines and the Emergency Period 56
Advancement in Times of Peace: Modernity and Transformation for Progress 59
Land Matters 61
'Membangun Bersama Islam': Spiritual Development, Integration and Assimilation 63
'World-class Bumiputera' 66
Conclusion 69

CHAPTER 4: ORANG ASLI IN MALAYSIAN LAW 73

Orang Asli in the Federal Constitution 75
Absences in the Constitution 78
Other Constitutional Provisions: Religion and Property 79
Statutory Rights: The Aboriginal Peoples Act 80
Common Law Developments 83

Exclusive Rights to Commercial Activities in Aboriginal Places: The Koperasi Kijang Mas Case 83
Introducing 'Native Title': The *Adong* Rulings 84
Proprietary Rights *in* and *to* the Land: The *Sagong* Case 85
Going to Court: Everyday Realities 86
Conclusion 89

CHAPTER 5: CIVIL SOCIETY ALTERNATIVES 91

Conceptualising 'Civil Society' 91
Securing Social Justice, Negotiating Orang Asli Rights 92
Bangsa Orang Asli: Challenges in Representing Plural Interests 94
Indigenous Peoples of the World 97
Sinui Pai Nanek Sengik – New Life, One Heart 99
The Centre for Orang Asli Concerns (COAC) 101
(Trans)national Networks and Alliances 101
Evangelism, Proselytization, and Religious (re)Organisation 105
Islam 106
Baha'I 107
Christianity 109
The Implications of Religious Change 111
Conclusion 113

CHAPTER 6: BEING ORANG ASLI: REFLECTIONS ON IDENTITY 115

Confronting Stereotypes 117
Challenging Difference 120
Body Politics and Ethnic Relations 122
Plurality among Orang Asli 124
'Colonised Minds' 126
The JOA/JHEOA 128
A World of Already Realized Ends: Same Fate, Different Dreams 130

CHAPTER 7: NEGOTIATING INDIGENOUS CITIZENSHIP IN POSTCOLONIAL MALAYSIA. 137

Reviewing Orang Asli Identity 140
Returning to Structured and Structuring Discourses 141
Concluding Reflections: Learning about 'My People' 146

REFERENCES 148
APPENDIX A 161
Figure 1: Definitions of Identity in the Malaysian Legal System 161
Figure 2: 'Aborigines' ('orang asli') in the Federal Constitution 162

SUMMARY

The lives of the Orang Asli have much to tell us about the workings of power in contemporary postcolonial nation-states. Comprising the minority indigenous peoples of Peninsular Malaysia, the Orang Asli are seen and treated as a distinct group in various *fields*. This has produced a sense of shared identification among geographically dispersed, disparate groups of people, of different languages, cultural systems and socio-economic practices, who are interpellated into a common socio-political identity. Tracing historical and current developments in several discursive *fields* – politics, administration/ government, the law, and civil society – I illustrate the influence of particular events, texts, ideas, and practices on the social construction of the Orang Asli, and how these in turn become reflected in the *habitus* of Orang Asli along certain themes.

Being identified as 'Orang Asli' sets individuals and groups apart in Malaysian society, with deep material and psychological implications. It is on the basis of this identity that citizens lay claim to special privileges, rights, and provisions – but it is also on the basis of this identity that they suffer distinct psychosocial effects, such as racism, shame, and paternalism. The discourses, practices and perceptions through which this identity is reconstructed in the Malaysian nation-state, recreates and maintains differentiated access to resources and social realities. The social construction of Orang Asli, I hope to show, is neither a wholly consistent monolithic process, nor does it remain fixed and uncontested. It is part of this project to uncover the dialectics behind this identity (re)negotiation, and to comment on how certain features of identity are continuously (re)inscribed, (re)worked, and resisted.

LIST OF FIGURES

Figure 1: Location of Orang Asli Ethnic Groups in the Peninsula.....viii
Figure 2: Orang Asli Aboriginal Ethnic Groups.....3
Figure 3: Orang Asli Senators from 1957 to the Present.....35
Figure 4: Percentage distribution of the Orang Asli population by Religion (1968, 1980 and 1991). 106

ABBREVIATIONS

ABIM	*Angkatan Belia Islam Malaysia* The Muslim Youth Movement of Malaysia
AIPP	Asia Indigenous Peoples Pact
ASN	*Amanah Saham Nasional*
COAC	Centre for Orang Asli Concerns
DARA	*Lembaga Kemajuan Pahang Tenggara* Pahang Tenggara Development Authority
FELCRA	Federal Land Consolidation and Rehabilitation Authority
FELDA	Federal Land Development Authority
HOAS	*Hari Orang Asal Sedunia* World Indigenous Peoples Day
JHEOA / JOA	*Jabatan Hal-Ehwal Orang Asli* or *Jabatan Orang Asli* Department of Orang Asli Affairs
JKOASPNP	*Jaringan Kampung Orang Asli Semai Peringkat Negeri Perak*
JOAS	*Jaringan Orang Asal SeMalaysia* Indigenous Network of Malaysia
KWSP	*Kumpulan Wang Simpanan Pekerja* Malaysian Employee Provident Fund
MAIK	*Majlis Agama Islam Kelantan*
MARA	*Majlis Amanah Rakyat*
MCP	Malayan Communist Party
MPAJA	Malayan People's Anti-Japanese Party
NECF	National Evangelical Christian Fellowship Malaysia
NEP	New Economic Policy
PERKIM	*Pertubuhan Kebajikan Islam Malaysia*
POA	*Parti Orang Asli*
POASM	*Persatuan Orang Asli Semenanjung Malaysia* Peninsular Malaysia Orang Asli Association
PPRT	*Program Pembangunan Rakyat Termiskin* Development Programme for the Hardcore Poor
RPS	*Rancangan Penempatan Semula* Regroupment Scheme

RISDA	Rubber Industry Smallholders Development Authority
SPKR	*Skim Pembangunan Kesahteraan Rakyat*
SPNS	*Sinui Pai Nanek Sengik*
SUHAKAM	*Suruhanjaya Hak Asasi Manusia Malaysia* The Human Rights Commission of Malaysia
UMNO	*Pertubuhan Kebangsaan Melayu Bersatu* United Malays National Organisation
YAPEIM	*Yayasan Pembangunan Ekonomi Islam Malaysia*
YADIM	*Yayasan Dakwah Islamiah Malaysia*

Figure 1: Location of Orang Asli Ethnic Groups in the Peninsula

Notes: This is a historically maximal map, which does not indicate the present-day distribution of the Orang Asli. The 'Semang', 'Senoi' and 'Aboriginal Malays' ethnic group divisions are not according to JHEOA classifications but to analytical anthropological writings cited in Benjamin (1985).

Source: Benjamin, G. (1985) In the Long Term: Three Themes in Malayan Cultural Ecology. *In:* K.L. Hutterer, A.T. Rambo, and G. Lovelace, eds. *Cultural Values and Human Ecology in Southeast Asia*, Michigan Papers on South and Southeast Asia: Centre for South and Southeast Asian Studies, Number 27, Ann Arbor: University of Michigan.

‘Jakun’ village, Tasik Chini, Pahang, July 2002

‘Jakun’, Tasik Chini, Pahang, July 2002

‘Orang Laut’, Straits of Johor, October 2002

‘Semai’ village, Perak, May 2003

Road to a ‘Semai’ village from Slim River, Perak, July 2003

JHEOA transport to school, Perak, August 2002

Enjoying fruits from the jungle, ‘Semai’ Village, Perak, March 2004

CHAPTER 1: INTRODUCTION

Claims over 'indigenous' identity have been of paramount importance in the construction of postcolonial Malay(si)a. Dominant historical narratives of the nation-state celebrate the persistence, capabilities, and determination of the 'natives' in securing Independence from British colonial masters. In these accounts, Malay(si)a is a postcolonial story of triumph; of 'the colonized' successfully wrestling self-determination and control back from 'Western' colonizers. These national narratives have been written powerfully into visions, policies, and procedures that guide and rationalize the ways in which the peoples of Malaysia are presently constituted within the nation-state.

Since the Independence of Malaya in 1957, 'indigenous' identity has legitimized the distribution of economic and political benefits across groups in a 'democratic' society. As a product of British and 'native' political negotiations, indigeneity became articulated in terms of ethnic/ racial identity, the dominant dimension of difference that guided colonial imaginations of the Peninsula. This manner of defining indigeneity has been carried forward to the present – those who are presently 'indigenous' in the Malaysian nation-state are those who fall within certain ethnic/racial boundaries, and those who are not are those who fall into other categories. Genealogies in the land have become less relevant[1]. This has become a normalized foundation, an indispensable cornerstone, upon which Malaysian politics, government, law, and civil society currently operate.

Writers focusing on identity politics in postcolonial Peninsular Malaysia have focused on dynamics among 'Malay', 'Chinese' and 'Indian' communities, as well as the heterogeneity within these ethnic categories and the blurring of boundaries between them[2]. It is the first of these who have been officially identified as 'indigenous' or *bumiputera* (literally 'sons of the soil') in the geo-body of the nation-state, while the latter two have been cast as 'immigrant' communities, or non-

[1] Some 'Chinese' and 'Indian' individuals for example, have ancestors who settled in the Peninsula as far back as 600 years ago. This is further back in time than many individuals of 'indigenous' ethnicity are able too trace.

[2] These three most numerically significant ethnic groups have been socially constructed in a mutually exclusive manner, despite the internal fractures, tensions, and plurality of the peoples encapsulated within these categories. For further discussion on the social construction of these ethnic identities, see Alatas (1977), Tan (2000); Hirschman (1987; 1986), edited collection by Khan and Loh (1992), Lian (2001; 1997), Nagata (1974), Shamsul (2001; 1997; 1996a; 1996b).

bumiputera. However, in this thesis, I examine the ways in which socio-political identities – particularly those related to notions of 'indigeneity' – are negotiated from the point of view of the Orang Asli (translated 'original people'), otherwise known as the 'aborigines' of the Peninsula.

More generally, my current study examines the *pan-ethnic* 'groupness' (Cornell, 2000) of Orang Asli identity formed in relation to the modern nation-state, and as such is different from detailed studies that have focused on the cultural uniqueness of particular Orang Asli ethnic groups or 'tribes' (e.g. Ariffin, 1979; Baharon, 1973; Benjamin, 1967; Dentan, 1968; Hood, 1978; Howell, 1989; Nowak, 1986; Omar, 1978; Tachimoto, 1967; Wazir, 1981)[3]. This project is an attempt to deconstruct Orang Asli identity, that is, to examine the ways in which this identity is constituted, conceptualized, and (trans)formed over time. In doing this, I interrogate *common-sense* conceptions of the Orang Asli, which is never just an intellectual exercise, for, as Edward Said (1995), Michel Foucault (1994), Frantz Fanon (1965) and others have demonstrated, it is precisely through taken-for-granted understandings of a 'subject' that power is exercised. Pointing out that the categorical identity of 'Orang Asli' is not as unitary, exclusive, stable, and unproblematically existing as it seems, I explore the ways in which discursive acts operate – sometimes in harmony, sometimes in conflict – to produce certain ideas of who the Orang Asli (essentially) are. In this thesis I also examine how dominant imaginings of identity are internalized by Orang Asli actors, notwithstanding perceived intra-category differences (see Dentan, 1975; Howell, 2002; Nicholas, 2002).

Re-presenting the 'Orang Asli' Subject: Power/Knowledge in Contemporary Malaysia

> Perhaps because of the mysteries associated with their origins, magic and rituals, especially their purported expertise in the so-called 'black-art' most of them came to be thought of as being equivalent to what is known in the English Language [as] 'primitive people….
>
> *Who are the Orang Asli*,

[3] In introducing a volume of essays concerned with 'Being Tribal in the Malay World', Geoffrey Benjamin (2003) argues for the recuperation of the term 'tribal', to refer to groups of people that include the Orang Asli.

plaque on display at the Orang Asli Museum, Gombak

viewed December 2002

A starting point for interrogating the construction of knowledge about the Orang Asli is to look at the ways in which they are represented in official government documents, statistics and museum displays. In these representations, the Orang Asli are described as comprising exactly 18 clear-cut aboriginal ethnic groups which are classified according to three broad 'racial groups' (see Figure 1.1). They number around 132,000 people, are scattered across Peninsular Malaysia (see Map 1), and are described as speaking different languages and practicing different customs.

Acts of describing the Orang Asli are practices of representation that carry meanings beyond the presentation of 'objective facts'[4]. One 'truth' communicated in these data is that the 'race' and 'ethnic-group' classifications are unproblematic, eliding the creative processes that went into such categorization. The specific genealogies of communities in the land are effaced, as are the presence and absence of other communities which could also be deemed 'Orang Asli'[5].

Figure 2: Orang Asli Aboriginal Ethnic Groups

Race	Negrito	Senoi	Proto-Malay
Aboriginal Ethnic Groups	Kensiu Kintak Lanoh Jahai Mendriq Bateq	Temiar Semai Semoq Beri Che Wong Jahut Mah Meri	Temuan Semelai Jakun Orang Kanak Orang Kuala Orang Seletar

Source: Plaque on display at the Orang Asli Museum, Gombak, viewed December 2002

It is possible to get a sense of how slippery these categories can be, if we consider the writing of some individuals who have had close interactions with Orang Asli groups. Carey (1976a), for

[4] As Tim Harper (1997) has demonstrated, for example, British conceptions of the 'aborigines' or 'sakai' became legitimizations for administrative action, military intervention, and the apportioning of resources (e.g. rights to land, and to mining for tin) under colonial rule.

[5] Benjamin (1974a) pointed out other ethnic groupings were missing from administrative data. However, his comments were summarily dismissed as being a case of "academic hair-splitting" in Jimin et al (1983:4). Lye (2001) suggests that there are between 17 to 25 indigenous ethnic minorities that may be considered Orang Asli. Benjamin (2002) notes that some smaller groups are subsumed under other ethnic categories.

example, notes that some individuals, known as being of the Jakun sub-ethnic group, with whom he had conversations, did not refer to themselves by that name and, in fact, "were of the opinion that the Jakun are a kind of wild people, and may be compared with the monkeys but whom they, themselves, had never met" (p.21). More recently, Juli Edo notes in his PhD thesis concerning the ubiquitous term 'Semai',

> From the people's point of view… the term 'Semai' is not their word and has no meaning, either good or bad. They refer to themselves as *Seng-oi*, which means people. Since the term 'Semai' has been introduced by the state without any specific meaning, this study will employ the term *Seng-oi* to refer to this people. (1998:17)[6]

Howell (1989), in examining the origin of the term 'Chewong' (or Che Wong), concludes that this name was given by a British game warden, C.S. Ogilvie, on the basis of a misunderstanding with a Malay ranger, who gave his own name (Siwang) when asked for the name of the the aborigines at Kuala Gandah. Nicholas (2002:125) describes his experience with Jahais as follows: "when meeting with the Jahais in Perak and Kelantan in 1993, the Jahais of Banun (Perak) emphatically denied that those in Jeli (Kelantan) were also Jahais. Similarly, the Jeli Jahais strongly insist that they were the *real* Jahais. This is despite both groups having similar physical features and linguistic affiliations".[7]

Nevertheless, in order to manage the Orang Asli population, it was necessary for both British and postcolonial administrators to determine exactly who constituted the aborigines/Orang Asli. Through the use of topographical maps, censuses, and ethnographic surveys, attempts were made to fix the location of each aboriginal group both spatially and socially. The demographic, geographic, and ethnographic profiles produced through such investigative procedures now guide administrative policies that lend material reality to such imaginations of 'race' and 'place'. These representations also shape contemporary understandings that Orang Asli individuals have of

[6] Also see Gomes (1988) for a discussion on the development of Semai 'ethnic consciousness'.
[7] See Lye (2001:207-222) for further elaboration on the variety of names used to refer to Orang Asli groups.

'their own people'[8]. State articulations of who the 'Orang Asli' comprise have become internalized, fostering a sense of 'groupness' among peoples with different languages, lifestyles, social practices, and cultural beliefs (Carey, 1976; Nicholas, 2002).

As Benjamin (2002) points out, there remains a strong emphasis on 'race' in descriptions about populations in the Peninsula (see also Rambo, 1988). Specifically, groups are stratified according to 'Negritoids', 'Veddoids', Proto-Malays' and 'Deutero-Malays', and explanations given about their migration patterns. Referring to this racial approach as the "*kuih lapis* (layered cake) ethnology", Benjamin notes that Orang Asli communities are presented "as if they occupied different steps on a culture-evolutionary staircase" (p.19). The 'Negritos', as a whole, are thought be more 'primitive' than the 'Senoi', who were seen as less civilized than the 'Proto-Malays'. These conceptualizations support common-sense notions that the Orang Asli are more 'backward' or 'primitive' than other groups in the Peninsula, and that much about their culture and civilization can be explained by focusing on their racial origins.

Descriptions about the Orang Asli often refer to their socio-economic position vis-à-vis other ethnic groups. It is pointed out that majority of Orang Asli live below 'the poverty line', a point presented factually and often deployed ideologically[9]. Their 'poverty', their 'lack', brings attention to Orang Asli communities and legitimization for the actions of others – including the State, civil society actors, corporate organisations, social service groups, and missionaries of various faiths – to act upon them, and for them. In other words, "they are poor", "they need help", "they need to change", are ways in which action on/for Orang Asli communities is justified.

[8] 'Semais' in Perak, for example, think of the northern Peninsular groups as being 'Orang Asli', people strangely different ('little negroes' as a group of young Semai people said to me, not without some humour) but yet still 'one of them'.
[9] I do not dismiss the social realities of poverty – such as malnutrition or economic disempowerment – but it is necessary to interrogate the ways in which the label 'poverty' is conceptualized, utilized, and deployed, particularly by other groups acting on – and for – the Orang Asli.

Shifting Forms of 'The Orang Asli'

> [The Orang Asli are] a Malaysian community that is still backward in all areas (*segala bidang*) and who have their own cultural patterns.
>
> "Social Change among the Orang Asli"
>
> ("*Perubahan social dalam masyarakat Orang Asli*")
>
> *Berita Harian*, 20th June 1985

Stereotypes tend to homogenize all Orang Asli, producing normalized 'ways of seeing' (Scott, 1998). Orang Asli have been identified, sometimes in a derogatory manner, as being 'aborigines' and 'sakai' (Dentan, 1997). They have been portrayed as 'minority groups' needing protection from cultural assimilation; as 'indigenous people' deserving of respect by virtue of being 'original inhabitants' of the land; or as 'under-developed' communities needing encouragement to 'get with the programme' (literally!). They are sometimes represented as 'jungle experts', having innate understanding about the management of eco-systems. Others see them as having romanticized, spiritual connections to land, peoples who are inherently 'one with nature', and for whom therefore, participation in eco-tourism is a logical rational business alternative. Orang Asli communities have also been positioned as a "tourism product", their 'traditional' way of life viewed as a potential "cultural attraction" (e.g. see Khairil et al, 1998:25).

The Orang Asli have been – and are still – seen by some as backward, racially inferior, 'dirty', lazy, and 'pagan'[10]. They have also been conceptualised, not necessarily in intentionally nefarious ways, as in need of 'protection', 'assistance', and 'enlightenment'. They are valorised by some as being the 'true' *bumiputera* (literally 'sons of the soil'), and yet they are also seen by many as not quite living up to the modern 'indigenous' Malay-Muslim ideal. They struggle with hegemonic ideas that cast them as 'weak' and 'helpless', thus needing Federal administration in

[10] This sometimes presented in an inverted, indirect form, for example, by saying that they are "increasing rational from a psychogynist [sic] perspective (*di segi psykogonis*), as a result of their engagements with people who are more culturally advanced" ("Ruangan Rabu", *Berita Harian*, 26.06.85), that "most of them do not yet embrace a religion (masih belum menganut sebarang pegangan agama)… hence… efforts by authorities to bring them closer to the Islamic religion that is pure (*suci*)" ("Kebajikan Pasukan Senoi Praaq diutamakan", *Utusan Malaysia*, 23.08.84), or highlighting that "[their] taboos that restrict development have long been thrown away" ("*Pantang larang yang menyekat pembangunan sudah lama dibuang", Berita Harian*, 28.08.84).

order to 'survive' the 'onslaught' of a fast changing world. And while they have different ways of viewing themselves – simultaneously as Orang Asli and as members of their own ethnic and cultural groups – they grapple with homogenizing State definitions.

Currently, Orang Asli identity pre-exists the individual. From the event of their State recorded existence, that is, their official 'birth' on identity-fixing documents, individuals are noted as being of 'Orang Asli' descent. This is repeated on certificates, census registers, identity cards, and various other administrative records that guide and sustain the use of this identity within the modern nation-state. Within Malaysia, this identity has become a taken-for-granted indispensable label, used to refer to a range of peoples who can only exit from this category by ascription into another socio-political identity[11].

Taken as common sense, Orang Asli identity remains powerful, emotive, significant, relevant, and *necessary*. Indeed, as I will emphasize in subsequent chapters, political, legal, social and personal decisions based on such social ideas have substantial material and psychological effects for the peoples to whom this 'sign' refers. Unproblematized, commonsensical social ideas concerning the Orang Asli become the basis on which discriminating (and discriminatory) decisions are rendered unquestionable, for they are intimately entwined with the fixed 'factual' existence of the Orang Asli in the Malaysian social landscape. The task I undertake in this thesis is to deconstruct this identity in contemporary Malaysia, and to trace the structures, processes and ideologies that contribute to producing meanings about the Orang Asli. In doing so, I raise how fundamental notions such as 'culture', 'race/ethnicity' and 'indigeneity' are wielded powerfully in everyday practices in postcolonial Malaysia.

Theorising Identity: Contingency, Multiplicity, and Non-Essentialism

Critiques of early Marxist discourses remind us that identities are produced through systematically formed bodies of ideas, or ideologies. Through such belief systems, people are

[11] In relation to this, 'Malay' is a legally and socially permissible, if not always desirable, option, a matter I discuss in subsequent chapters.

placed in 'foundational categories' (Prakash, 1990) constituted in relation to other 'groups'. In examining the link between ideology and identity, Althusser (1971) pointed out the importance of the link between relationship and recognition; individuals *discover themselves* within their identity, by *being recognized* as such. Through these identities, individuals conceptualise what is possible, acceptable and desireable[12], which renders them subject to disciplinary mechanisms.

The process of discovery, of finding out how one is constituted within a socially-constructed category, as Stephen Cornell (2000) notes, is part of the process of identity formation in the modern nation-state. 'Pan-ethnic' identities, in particular, often emerge through modernist undertakings to classify individuals systematically, projects which tend to be executed by more-powerful others for administrative reasons. Cornell reiterates that identity formation is not a singular process and thus often results in inconsistencies, contradictions and slippages. Nevertheless, this is a matter of which social actors are oblivious. The 'discovery' that takes place often occurs in very subtle ways, such that ideas concerning identity emerge quite frequently as essential, a-historical, and de-contextualised truths, with the 'work' of such construction effaced. The identities most socially and political powerful are those whose meanings become 'fixed' and internalized by the people encapsulated within the categories themselves, for this demobilizes those who are well placed to be cognizant of the simplifications of these types of social ideas.

Feminist writers have long argued the necessity to guard against various forms of essentialism. Not only are we cautioned not to presume that the essence of a subject, or any identity, can be reached, we are to be critical of the assumption that those who comprise the subjects of whom we speak all share the same experience, ideas, feelings, essentially located by ascription into a social identity. bell hooks, for example, in speaking about black identity, points out the importance of providing space for alternative understandings, conceptualizations, and critiques, of

[12] However, critics of Althusser point out the significance of agency and negotiation in the everyday practices of identity-making, a matter I return to later on when discussing Bourdieu's ideas.

'the black experience'. She argues that individuals should be given the freedom to be who they are within the identity of 'blackness', emphasizing that it is necessary to,

> critique essentialism while emphasizing the significance of 'the authority of experience'. There is a radical difference between a repudiation of the idea that there is a black 'essence' and recognition of the way black identity has been specifically constituted in the experience of exile and struggle (2001:133).

Thus, she argues for the treatment of experience without essentialism, and identity without homogenization.

Realists or empiricists may claim that deconstructive work reveals that a particular cultural identity is 'false', an 'invention', or a 'dishonest unity' (to borrow the words of Jeremy Waldron (2000) who addresses their criticisms). This assessment reveals their underlying philosophical assumption that 'Real' cultural identities exist, and that by default, they exist in essential, stable, and coherent forms. It is thus necessary to point out that *all* cultural identities are similarly emergent and located in socio-historical processes, and upon which such discursive construction may thus be performed. I treat Orang Asli identity as thus being *no different* than all other identities, whether established on the basis of ethnicity, race, sexuality, gender or class.

Again, it is important to emphasize that the act of deconstruction does not 'negate' the identity, causing it to disappear or lose its everyday meaningfulness. In relation to the indispensability of identity in the Malaysian and international context, the words of Stuart Hall (1996) are instructive. As he observes, the deconstructive, anti-essentialist critique of identity leaves us not with 'nothingness', but with "idea[s] which cannot be thought in the old way, but without which *certain key questions cannot be thought at all*" (p.2, my emphasis)[13]. Orang Asli identity has become

[13] As Modood (2000) comments concerning Wittgenstein (1967)'s treatment of language – an observation I hold relevant here – "(t)he key point is that that one [does] not need an idea of essence in order to believe that some ways of thinking and acting [have] a coherence, and so the undermining of the ideas of essence [do] not necessarily damage the assumption of coherence…".

'*essential*' in negotiating the socio-political landscape of Malaysia, and '*essentialised*' in order to deal with ambiguities, as well as to legitimize claims and practices[14].

Structuring Discourse and Practice: Fields, Authorities, Capital

In order to study discourses, practices, and perceptions in a meaningful manner, it is important to consider how they are systematically structured – a matter Pierre Bourdieu theorized through his idea of fields (*champ*) and habitus. He describes fields as 'microcosms of social spaces' – such as academia, art, science, religion, politics, law and economy – that impose requirements, rules, regularities and forms of authority which guide and constrain the production of discourses, practices and representations (Bourdieu, 1995). Structures in the social world are 'objective' in that they exist independently of the consciousness and will of individual actors. Those who intend to 'succeed' in these fields need to 'play the game' right – that is, to operate within the 'general laws' of the field.

Bourdieu points out that each field is defined in specific ways. Firstly, each field has its own stakes and interests, agents endowed with the *habitus* prepared to 'play the game', and various 'species' of *capital* that are distributed in specific ways, over which struggles are waged (Bourdieu and Wacquant, 1992). These struggles, Bourdieu explains, are about the "monopoly of the legitimate violence (specific authority) which is characteristic of the field in question" (1977:73). Those who have authority are inclined to *conservation strategies*, while those least endowed with capital tend to take on *subversive strategies*. Contests do not merely focus around competing value systems, but agents resist and contend with the introduction of heteronymous standards of evaluation.

[14] However, because there remains some 'play' (within limits) in the meanings associated with Orang Asli identity, it is possible for power to work in different ways, and therefore for resistance to these representations to be mounted through sometimes necessarily contradictory ways. As I point out in Nah (2003), the social construction of Orang Asli identity occurs sometimes as an unintended effect of constructing other groups, such as the Malays, which can create unexpected binds for the latter, with concomitant 'rebound' effects on the way the Orang Asli are managed in postcolonial Malaysia.

Likening this to a game, Bourdieu (1977:74) emphasizes that all agents uphold the legitimacy and existence of the field. "Those who take part in the struggle help to reproduce the game by helping – more or less completely, depending on the field – to produce belief in the value of the stakes". According to Bourdieu, individuals are not on an level playing ground; different resources are available to actors, which affect their positioning within the field in question. This 'capital' he conceptualizes in four main forms – economic, cultural, social and symbolic – which contribute to identifying and placing individuals within social existences defined by difference, implicitly legitimizing hierarchies and inequalities.

Rejecting the simplistic objectivism vs. subjectivism duality therefore, Bourdieu proposes that meaning is negotiated through unconscious cognitive and motivating structures developed through exposure to social conditions and conditionings. This collectively, socially shared yet internalized framework he calls *habitus*, "the system of structured, structuring dispositions" (Bourdieu, 1990:53) which function as the *principles* of constructing objects of knowledge, that both generate and organize practices/ representations. This system is "constituted in practice and is always oriented towards practical functions" (p.52). That is, *habitus* is both structured, and has the capacity to structure practices, which in turn reproduces mental structures. It involves the internalization of external constraints and possibilities, is shared by people with similar experiences, and is malleable within limits set by earlier experience. Bourdieu's *habitus* does not presuppose a conscious aiming at ends, or mastery of the operations necessary to attain them, but similar to Foucault's idea of *governing power*, "can be collectively orchestrated without being the product of the organizing action of a conductor" (p.53). Therefore, the 'practical world' is constituted in reference to the habitus, "a world of already realized ends – procedures to follow, paths to take" (p.54).

In parallel to the oft-repeated individual-society dialectic therefore, Bourdieu proposes a relationship between *habitus* and *field*, the former informing actions 'from within', the external latter constructing possibilities and constraints with associated costs, profits and effects. He

argues that this relationship – between 'mental structures' and 'social structures' – need to be excavated in order to understand any social phenomena. Congruencies between *habitus* and *field* lead to the reproduction of social phenomena, while discordances lead to crisis, innovation, and change.

In this thesis, I borrow Bourdieu's ideas concerning 'microcosms of social spaces', and set out in chapters 2 to 5 to address each field that I identify as being powerful in inscribing the 'rules' through which Orang Asli identity is constituted and transformed. Thus, I focus upon four fields – politics, government/ administration, the law, and civil society – although others (such as academia, religion, literature and the 'marketplace') may be similarly addressed in a longer thesis. Bourdieu's formulations of fields are complex, and can be used as analytical frames to address a number of issues. This thesis, however, is specifically interested in the *discursive acts* and *signifying practices* that contribute towards (re)constructing Orang Asli identity, and, simultaneously, its position within the rationale of the nation-state. In these fields, my main focus is on social change *over time*, and how these implicate the (re)constitution of the Orang Asli within the nation-state. However, the issue of *authority* becomes salient as we look at these developments – authority that imbues actors and texts particular power in shaping ideas concerning the Orang Asli. By focusing on four different fields at once, I also hope to show that there is both synchrony and dissonance between these specialized spheres, that the productive and regulatory forces in each field do not operate in isolation or with complete autonomy but are inter-related with that of other fields. Synchronization of discourses and practices in these different fields reinforce the immutability of social ideas concerning whom the Orang Aslis *are*, and who they *should* be. Challenges to these prevailing ideas have been and can be mounted, albeit with great difficulty. A struggle over "the imposition of the legitimate vision of the social world" (Bourdieu, 2005:36) continues for the Orang Asli. Before I proceed to discuss the structure of the rest of this thesis, I review methodological and writing considerations for this text.

Fieldwork

This thesis is a culmination of fieldwork and investigation that took me into different parts of the Peninsula over a one-year period. 'Pre-fieldwork' – in which I first investigated initial questions concerning Orang Asli identity, spoke to key spokespeople on Orang Asli issues, and made first visits to Orang Asli *kampungs* – took place between August and December 2002. This was followed by another five months from the end of April to July 2003, in which more systematic data collection was undertaken. During these two periods, I took short trips to different locations in Pahang, Johor, Perak, Negeri Sembilan, Kelantan and Selangor, in order to visit 'Jakun', 'Semelai', 'Temuan', 'Semai', 'Temiar', 'Orang Laut' and 'Mah Meri' villages[15]. The purpose of these trips was to establish context and to observe everyday realities. Entrance into these places was not easy, and made possible only with the 'sponsorship' of gatekeepers who already had relationships with villagers in these locations.

During this period, I also conducted extensive interviews with Orang Asli individuals and actors involved in Orang Asli matters. These included spokespeople such as current- and ex-POASM (Peninsular Malaysia Orang Asli Association) leaders, members of the Orang Asli Graduates Club (KSOA), civil society actors, community development workers, lawyers, 'missionaries', and researchers. In addition, as discourse analysis was an important method I had planned to utilize, I scoured archives and libraries in Kuala Lumpur, Selangor and Singapore, in order to obtain government documents, policy statements, administrative plans, text of speeches, correspondence and other historical material.

Writing Considerations

It is an impossible task to distil multiple social realities into one single text. Attempts to do so inevitably create silences and simplification of unresolved matters. By creating this particular text, the sequencing of ideas and events lie in my hands, as does the choice of what material to

[15] I was, unfortunately, unable to meet with the more northern groups due to time constraints.

include, whose opinions count, and how differing accounts are woven together to form some sort of coherent fabric.

In this project, I have tried to be conscious of the ideological and problematic ways in which signifiers that point to identity are deployed. Often, in writings concerning Orang Asli 'ethnic groups' – such as 'Semai', 'Temuan', or 'Semelai' – the people written about are taken as representatives of *all* the Orang Asli. That is, they become a synecdoche of the Orang Asli whole, and vice versa. This has already been demonstrated in many texts, and is a pothole that is difficult to avoid. Certain phrases – such as "the Orang Asli (are/ believe…)", "the Semai child (is)", or "the Semelai (see themselves as)" – create a sense of homogeneity, and can be interpreted as essentialist statements about the peoples discussed. Talking about a group of people in this fashion, was, for a time, accepted practice in anthropological writings, but has come under critique, for example by Geoffrey Benjamin (2002). Using such phrases elides the social reality that many who are identified with – and identify themselves as – members of the same identity may disagree or have consciously 'moved away' from the position being articulated. In this thesis, I have constantly tried to avoid such potential 'epistemic violence'. However, pluralizing the term Orang Asli is not an easy feat, and I would like to signal that when I have used the phrase "the Orang Asli" without qualification, it has been in a literal translation of "the aborigines", which is inherently, in my mind, a plural concept.

Writing processes, particularly ones that trace historical change, are problematic in various ways. Firstly, they tend to streamline events into coherent sequences, suggesting an over-inflated sense of logic to historical moments. This tends to efface the time and anxiety actors spend unsure of their own actions, their inability to forecast the consequences of their decisions, and their unknowing reproduction of hegemonic social ideas. This creates the conditions under which intention may be invalidly attributed to social practices.

Secondly, actions, behaviours, thoughts, speech, and conversations, often contain slippages that do not fall nicely into grammatical sentences, although it is necessary for me to construct these narratives as such. This inevitably happens despite all attempts to account for contradictions – within people, within communities, across documents, and between conversations with the same informants[16]. Thirdly, there is some privileging of voices/ opinions – not only those which have become dominant historical accounts, but those 'dominant-from-the-margins'– in particular, the same spokespeople of the Orang Asli who are repeatedly offered space to articulate their thoughts and concerns[17].

In addition, I acknowledge my fallibility as a human listener. As social actors, we tend to hear selectively, despite our best intentions to being 'recorders' of what we see. Our memories of encounters are also mediated – a matter that psychologists in particular have recognized for decades – and although I have written notebooks full of observations and interview data over the past months of research, there will be some unintended slippages and unconscious interpretations that I introduce. Last but not least, the greatest challenge has been to select and edit the material I have in order to comply with the word limits set for a Masters thesis. This has required me to refrain from pursuing many arguments and from including much more research data that would have made this thesis more insightful.

Forthcoming Chapters

The next four chapters trace developments in four fields – politics, administration, the law, and civil society. In Chapter 2, which is organized historically, I examine the *political field*, reviewing how political control coalesced over the geographical terrain of the Peninsula. I emphasize that British colonial policy mutually strengthened the power of British traders/ administrators and local

[16] In trying to track down certain events, I found that single actors had different accounts of the same moment, and that these interpretations varied across their contexts of articulation. This is unsurprising in itself, but creates the dilemma of choice – which opinion should I include if he/she speaks in different ways about the same matter? These are important contradictions I am unable to express in this short thesis.

[17] Certain individuals I interviewed had already been interviewed many times over, and were, as I surmise, adept at producing certain types of narratives about the Orang Asli (particularly in relation to describing food taboos and rituals, or concerning the contemporary 'problems' faced by the Orang Asli), while appearing unsure about how to handle other less conventionally anthropological questions.

Malay chiefs/ sultans, leaving certain geographically-specific communities and their leadership structures out of significant economic and political negotiations. *Structural* (administrative, political and legal) as well as *ideological* British mechanisms of power were carried on into the present nation-state. These shifts of power, I argue, tended to re-inscribe rather than displace the 'rules' by which the British Empire regulated its colonies, particularly with regard to the management of minority groups[18]. 'Indigenous' identity has been a powerful argument for special privileges, taking most concrete form in *bumiputera* discourses over the past four decades. This has created tensions between the majority, politically dominant Malays, and the minority, geographically scattered and politically disempowered Orang Asli, which has required accommodation, negotiation, and identity repositioning.

In Chapter 3, also organized historically, I look at the *administrative field* – the ways in which government agencies at federal and state levels have articulated and grappled with Orang Asli identity. I note how the exposure of different groups of people to the same administrative policies, rhetoric and developmentalist discourses has created social proximity and a shared sense of 'otherness' among those categorized as Orang Asli. In the postcolonial state, administrative information – in the form of maps, statistics and measurements – has been used to bring the Orang Asli into comparison with other Malaysian citizens. Such data carry a plethora of ideological notions – of distinct race/ethnicity, of comparability, of bounded membership, of total representation, and of their lack of 'civilization' and 'progress' – which are premised on modernist indicators. This continues to legitimize efforts to foster their transformation into modern *bumiputera* subjects, so that they may take their 'appropriate place' in a 'fully-developed' Malaysia.

In Chapter 4, I outline the *legal field.* I first point out that the legal framework in Malaysia requires that identities be established before laws are interpreted as being relevant. I point out that Orang

[18] Nevertheless, subversions of these power-relations do occur, and the Orang Asli can be particularly threatening to the postcolonial Malay 'Self', as legitimizations of power waged by the latter construct their indigeneity as an unchallengeable argument for political and economic benefits (Nah, 2003).

Asli individuals have been given special exemptions and rights in the modern nation-state, although these do not parallel those afforded to the 'Malays' or to the 'natives of Sabah and Sarawak'. This distinction creates space for the protection of ethnically-distributed 'special privileges', and becomes an incentive for individuals to assert Orang Asli identity. More recently, specific court judgments have ruled in favour of Orang Asli interests, which demonstrate that individuals have found refuge in certain legislation precisely because of this socially constructed identity. The Malaysian legal system also operates quite differently on Muslims and non-Muslims. As such, Muslim Orang Asli are subject to a different set of legal rights, an operation of judicial power that reifies differences between Muslim Orang Asli and non-Muslim Orang Asli.

In Chapter 5, concerned with 'civil society', I examine some of the actions, initiatives and challenges faced by individuals who organize together either to work on Orang Asli issues or to work with Orang Asli communities. I discuss two main types of voluntary associations, classified loosely according to their *primary* aims: firstly, groups that are more directly concerned with the civil, political and legal rights of the Orang Asli; and secondly, those whose chief aim is evangelistic/ proselytization activities among the Orang Asli[19]. I discuss, in particular, the ways in which these activities are both constrained by, and actively (re)construct, socio-political conceptions of Orang Asli identity. The most significant development in recent years has been the rise of the concept of '*indigenous peoples*' in international discourses and I examine how these have been utilized in order to strengthen arguments for Orang Asli rights in the Malaysian context.

In Chapter 6, I move away from the analysis of social structures to focus on the socio-psychological accounts of 'being' Orang Asli. I look at the narratives that Orang Asli individuals produce about their own identity, paying attention to their personal meanings of identity. I examine how discourses and practices (outlined in previous chapters) have influenced the ways in which Orang Asli individuals realize and think of themselves, which involves the simultaneous

[19] Research was done about civil society groups that focus on socio-economic development, but word constraints do not permit me to elaborate on this.

embracing, resistance, and negotiation of these identity scripts. I highlight key themes that emerged through interviews conducted with Orang Asli individuals: dealing with stereotypes that emerged when their Orang Asli identity is revealed to others; challenging mainstream ideas that cast them in specific ways; managing their body-coded identities; their views on the social, economic, and political problems facing the Orang Asli; and, finally, their experience of being administered, tracked, and managed by a federal agency in ways they realize no other category of Malaysians are. It is in this chapter that I draw upon Bourdieu's idea of *habitus*, examining how 'mental structures' are formed in relation to 'social structures'.

In a final chapter, I outline the implications that developments in the four fields have for contemporary Orang Asli, and discuss the main issues they face as they negotiating Orang Asli identity in postcolonial Malaysia.

CHAPTER 2: IDENTITY POLITICS IN A MULTICULTURAL LANDSCAPE

Contests for power in the Peninsula over the past century have shaped the way the Orang Asli presently negotiate their socio-political position in Malaysia. In this chapter, I begin a discussion of the *political field* by reviewing early Malay-aboriginal relations as well as the spread of British colonial influence in the 18th and 19th century. I discuss how British negotiations established the sovereignty of Malays, casting them as being 'the' indigenous people of the Peninsula. Their interventions also contributed to the creation and imagination of a 'race-d Peninsula', which would indelibly influence negotiations of power in the postcolonial nation.

In a second section, I examine British-led reformulation of political arrangements during the 20th century, which resulted in the sewing together of local patterns of rule into a Peninsula-wide entity. I focus on how these negotiations, after some contestation, privileged the Malays yet again, and reified officially their claims to being *the* key indigenous people of the land. In the formation of Independent Malaya, this was deployed in political negotiations, resulting in the Constitutional recognition of the 'special position' of the Malays in the nascent nation-state. The 'aborigines' were not granted such recognition. It was only in the Emergency Period (1948-1960) that special attention was given to the previously-ignored 'aborigines' of the Peninsula. However, such consideration was driven by tactical necessity to gain control over jungle areas – the terrain most familiar to aboriginal groups – rather than a desire to keep them politically included. When Malaya joined with Sabah, Sarawak and Singapore in 1963, the 'special position' reserved for the Malays was extended to the natives of Sabah and Sarawak, while the 'aborigines' were again, ignored.

In a final section, after introducing Mahathir-ist nation-building goals of 'Vision 2020' and his purported intention of promoting civic nationalism in the form of *Bangsa Malaysia*, I look at how the Orang Asli have been reconstituted in current coalition politics. I end with some discussion about how Orang Asli leaders have navigated the (disproportionate) electoral system and how some of their leaders imagine their future political involvements in 'multicultural' Malaysia.

Imperial Rule

> What must be remembered very clearly, despite the rough title 'colony' traditionally applied to Malaya, is that it was not as colonial conquerors that the British came to the country…. British rule was always based upon *agreement* with the sultans, the traditional and spiritual leaders of the Malays…. Because the British administrators appeared to pay heed to the sultans, the Malays became accustomed to a certain aura of privilege… it was still *their* country….
>
> Barker (1969:247, my emphasis)

British colonial policy in the 18th and 19th centuries dictated that colonies be established through negotiations with 'native' people. By way of the Treaty of London in 1824 with the Dutch, the Peninsula was demarcated as being in the sphere of influence of the British alone, which allowed them greater autonomy in the way they exercised control in these territories (see Andaya and Andaya, 1982). At the time of the acquisition of Penang in 1786, there were several sultanates on the Peninsula. These polities, which sometimes comprised only a few thousand people, were led by a *raja* who had authority over certain subjects (Milner, 2002). As Milner notes, there was no "supreme Malay sultanate" over the whole Peninsula (p.14), although the polities of Johor, Perak and Pahang were, in different ways, linked to the earlier Malaccan sultanate. Through a series of engagements with authority figures, the British extended their influence across the whole Peninsula. In 1826, Penang, Malacca and Singapore were declared a Crown Colony (the 'Straits Settlements') and came under direct British administration. Almost fifty years later, in 1873, the first British Resident was 'invited' by a Malay Sultan in Perak to provide 'advice' concerning all general administration in his State, on the condition that his sovereignty as ruler was acknowledged, and autonomy maintained in matters concerning Malay customs and religion.

Perak, Selangor, Negri Sembilan and Pahang were jointly administered after the Federation Agreement of 1895. Over time, many of the powers held by the Malay rulers, British Residents

and State Councils were gradually transferred to a central authority. In this process, and with the introduction of British law and order, the absolute powers possessed by the Rulers under the feudal structure were held in check (Soenarno, 1966). This more unified and direct control was seen as efficacious to colonial authorities in the light of economic downturns and developments at the turn of the century. In 1909, the establishment of a Federal Council resulted in official transfer of powers from State to Federal Government.

Further reforms introduced in 1927 meant that the Rulers no longer retained control over general policy and finance. During this time, the numbers of immigrant groups increased significantly, and eventually Chinese, European and Indian 'unofficial members' were added to State Councils, to sit with Malay and British members, in order to broaden representation across the 'races' (Malayan Union, 1946). This was, at least rhetorically, not aimed at undermining the sovereignty of Malay Rulers, although this was a repeated complaint voiced by some Malay subjects. As High Commissioner Sir Hugh Clifford stressed to the Federal Council in the same year, the States were, and were to remain, *Malayo-Muslim monarchies* (Emerson, 1937 cited in de Vere Allen, 1970, my emphasis).

A different genealogy applied to what was later known as the Unfederated Malay States (UMS) – Kedah, Kelantan, Trengganu, Perlis, and Johor – where significant Malay populations were to be found. Advisors were duly appointed to each State between 1910 and 1923. In these territories, State Governments held executive powers, with the participation of a substantial number of Malay officials under a Chief Minister (*Mentri Besar*). British influence was substantially more limited, and the Governments of these States were "set out instinctively to preserve, as far as they could, the Malay way of life and the considerable degree of self-government which they had" (Malayan Union, 1946:4). These Rulers consistently refused proposals for a Peninsula-wide union, seeing the management of the Federated States as having disregarded Malay interests. This cohesion was not to happen until the British regained control of the Peninsula after World War II.

While the Malay polities were the primary entities with which the British Empire held negotiations, it is important to note that these centres of influence were not established without the earlier support of tribal communities. Tomé Pires, a Portuguese administrator writing between 1512 and 1515, noted that certain communities such as the *Celates*, otherwise known as the *Orang Selat* – a fighting force to be reckoned with – contributed to the establishment of the royal houses of Malacca and Johor-Riau (Cortesaõ, 1944; also see Andaya, 1975). Key positions in political hierarchies of Malay polities had also been held by people of tribal communities (Lewis, 1960, Newbold, 1971), including the historic *Hang Tuah* (Juli, 1990). Some writers argue that early Malay polities were, in fact, legitimized by ancestors of the Orang Asli (e.g. Nicholas, 2000), although this type of influence waned over the course of time.

In terms of economic contribution to the polities, the trade of the "strange and the precious" (Jacq-Hergoualc'h, 2002:64) from the jungles depended in large part on the labour of tribal peoples (Dunn, 1975; Wheatley, 1961). This ranged from rare and scented woods, rattan, gums, resins, wild rubber (*jelutong*) and camphor, to ivory, rhinoceros horns, decorative birds, tortoise and cowrie shells, monkeys and elephants (Wheatley, 1959). These extractions were often exchanged with Malay or Chinese middlemen before being sent to entrepots, such as Malacca and Penang.

In addition, the tribal communities were often labourers for local chiefs and European entrepreneurs. Thompson (1875), for example, records that the *Jacoons* [Jakun] were used by the Temenggong of Johore to cut wood and clear routes, while Leech (1879) comments that the "*Sakeis* are the coolies here [in Slim and Bernam, Perak], in fact they take the place of elephants further North as beasts of burden" (p.41). Slavery, too, was a means by which the aboriginal groups contributed to the establishment of Malay polities. Newbold records in 1839 that "slavery… is invariably their condition" (1971, vol. II:106), and McNair, about forty years later, noted that "Sakais, or Jacoons are literally hunted down, captured, sold and made slaves" (1878, p. 193). Iskander Carey noted that initial contacts between the Malays and aboriginal groups

were “characterized by cruelty and mutual hostility”, the latter “often hunted and captured as slaves, to be sold to the ruling sultan as curiosities, in the same spirit as some people nowadays keep wild animals as pets.” (Carey, 1976b:53; also see Endicott, 1983 and Dodge, 1981). The labour of aborigines, free and enslaved, contributed to the daily operations of the Malay kingdoms of old.

A sense of difference was retained between settled, coastal communities of Malay-Muslims and groups of people living further inland, which has carried on into the present. Writers such as Newbold (1971) and Favre (1848), observed that mid-19th century Malays on the Peninsula held themselves as being different from surrounding tribal communities, whom they collectively termed *Orang Binua*. Both Europeans and Malays tended to view these groups as being relatively more ‘primitive’ and ‘uncivilised’. “This was an age when small and supposedly savage minority groups were not regarded as human…” comments Carey (1976b:53). He further suggested that “[historical enslavement] explain the… aborigines’ remarkable refusal, in view of their wide-spread knowledge of Malay customs and language, to assimilate into the majority community” (p.53). In summary, the relations between Malay communities and tribal societies have geographically and historically been quite varied, ranging from trading relationships, political incorporation, and military alliances, to slavery, cheating and exploitation (Couillard, 1984; Leary, 1994).

The Race-d Peninsula: The Rise of *Bangsa Melayu* and Other Races

> …the politics of ethnicity have their roots in modern times, not ancient history, and their shape has been largely determined by colonial policy.
>
> Anderson (1987:9-10)

Milner (2002) argues that while Europeans were of the impression that the subjects of the main polities on the Peninsula constituted ‘Malays’ and were part of a large *single* community, many ‘Malay’ individuals did not see themselves as members of a common ‘race’, even though they

would describe themselves as being subjects of a ruler[20]. However, the idea of 'Malay' being a bounded ethnic category – having unique origins, genealogy and language, and spanning land masses across the Archipelago – took predominance in European imaginings. Reid (2001) suggests that Stamford Raffles was a key figure in projecting the idea of the unified 'Malay' race or nation, communicating this 'scientific classification' to both Europeans and Malays in his renaming of a classic Malay text as *Sejarah Melayu* (or 'Malay Annals'), thus showing it to be a "story of a people" (p. 303). Milner (2002) credits Munshi Abdullah (1797-1854) as being influential in shaping the way Malay intellectuals conceptualized their own *bangsa*. In *Hikayat Dunia*, likely to have been authored by this respected teacher, a panoramic view was taken of the regions around the Peninsula[21]. In this account, Milner points out, Malays were set out as being different from other races in the same geographical landscape, such as the *Jakun* of the Peninsula, the *Rejang* and *Batak* of Sumatra, and the *Dayaks* of Borneo.

From 1870 to 1930, there was a sharp influx of economic immigrants, particularly in the Federated Malay States, sponsored by British colonial authorities and drawn primarily from India and China (Anderson, 1987). This led to growing unease among 'local' communities. Among the 'Malays' who were culturally, linguistically and physically distinct from the fast-growing immigrant communities, new senses of 'Self' as being ethnically/racially different developed, mediated through a rise in printed materials such as *Utusan Melayu* (Milner, 2002). As Milner states, Malay intellectuals began to talk about themselves as 'a Malay race' (*bangsa*), rather than as subjects of individual sultanates or as members of a wider Islamic community. The 'Chinese' groups – who were economically successful in a number of industries – were seen as a 'danger' to them. It was felt that the Malay *bangsa* had to unite together, across the geo-political boundaries of nation-states, to defend their position in 'their land'. As a writer expressed in *Pelita Malaya*, the official publication of the Malay Nationalist Party (*Parti Kebangsaan Melayu Malaya*, PKMM), using an analogy worthy of note,

[20] For reviews of pre-colonial conceptions of Malay (*Melayu*) identity, see Milner (2002, 1982) and Reid (2001).
[21] Munshi Abdullah also served as an assistant to Raffles. This relationship is likely to have contributed to his intellectual conceptualizations of 'race' and 'place'.

> …if Malaya is not united with Indonesia in the future, then political and economic power will fall to the hands of foreigners (*bangsa asing*) and with this fall of political power, the Malays in Malaya will become left out in their own land (*melukut di tepi gantung di tanah airnya sendiri*), just like the fate of the Red Indians [sic] in the United States (*Pelita Malaya*, 31.03.1946, my translation).

The 'Aborigines': Differentiating the Marginal Native-Other

In the racial language employed by administrators, scholars and travellers, the term 'aborigines' gained currency as signifier employed to refer to the 'pagan races' or 'wild tribes'. Interrogating the use of this signifier raises interesting questions, a matter brought up by Iskander Carey (1976b). Pointing out that tribes in Thailand and Borneo are *not* called 'aborigines', he writes,

> Perhaps the clue to this problem lies in the fact that in this part of the world, the word 'aborigines' is applied only to the Orang Asli of Malaysia and to the aboriginal population of Australia. In both cases, we find a situation where the 'aborigines' do not only form a very small proportion of the total population, but they are also economically and socially backward when compared to the other races. It is surely significant that in Australian New Guinea, the Papuans are not called aborigines, although they are racially similar to the aboriginal populations in Australia. The reason for this difference in usage is due, undoubtedly, to the fact that in New Guinea the natives form the vast majority of the population, whereas in Australia, they constitute only a very small minority. For similar reasons, the Borneo tribes are called 'natives', but never 'aborigines'; there also, the mountain tribes make up a majority of the total population. (p.5)

His comments point to a possible important ideological distinction between Malays and 'aborigines', which, while seemingly arbitrary and interchangeable, may signal specific ways in which 'indigenous' groups were viewed in eyes of empire-builders in England. To borrow Benedict Anderson's phrase, these signifiers carry different "semantic load" (1991:122), with meanings and inferences specific to the groups represented through them. In other words,

aborigines were indigenous people of a *certain sort*, the kind of 'primitive people' different to the Malays whose 'inevitable fate', as H.D. Noone (1936) expressed, was cultural extinction[22].

Indeed, in the Malay Peninsula, the Malay sultanates were sufficiently established and influential enough to merit negotiation for colonial economic gain, unlike the small tribal communities who tended to stay deep in jungle areas or at the fringes of economically-driven settlements. Both were treated differently, recognized as separate classes of people, but simultaneously understood as being people 'indigenous' to the land. "The Malays have at least as much right to be regarded as the aboriginal people of Malaya as the English have to be called the aborigines of England", Richard Windstedt declared (1948:16). As de Vere Allen aptly summed up, indirectly signaling the resounding absences of the aboriginal groups, "political power in Malaya was the prerogative of the British administrators and the traditional Malay establishments alone" (1970:153). In common usage, little emphasis was given to distinguish between the 'original Malays' and the 'foreigner Malays', which Geoffrey Benjamin (1966) notes, was a distinction recognized explicitly among the Temiar groups with whom he did fieldwork.

The Question of Sovereignties and Subjects

Were the aborigines subjects of the Malay Sultans? Should the assumptions of the British Government in treating them as such be maintained? These were questions raised by H.D. Noone (1936) when he outlined a policy for the administration of aboriginal peoples. As he pointed out, concerning the Ple Temiar groups he studied in detail, they held themselves – and were held – as communities apart from the central polities. The only authority they recognized, he wrote, was the hereditary offices of '*mikong*' that had been disregarded by the British Government (p. 66). He observed among them "a violent antipathy against becoming 'Malays'" (p. 56), and narrated a story of how a particular group refused to comply with the wishes of a

[22] Noone is careful to emphasise: "It is not peoples, but cultures, that may become extinct" (1936:72). Numerous writers have already established that in the case of Australia, certain territories were treated as *terra nullius*, lands practically uninhabited, abandoned, or at the most, recognized as being inhabited only by 'scattered unorganized tribes', who were deemed unable to conduct negotiations with the Europeans (Frost, 1994). These fragments of indigenous peoples, without significant political and social structures (read: 'aborigines'), were seen as being unlikely to obstruct settlement, people likely to die out in the 'natural' progress of time.

Malay Ruler (whose help they desperately required) when he bid them to "…leave their jungles and come and settle down in the kampongs as Malays" (p.57). *If* they were to be held as full subjects of the Rulers, he emphasized, they should be extended the same rights and benefits enjoyed by other subjects.

Noone argued that this would be achieved through legal provisions that established parameters over the administration of the aborigines and their lands. Noone's ideas were finally implemented through the passing of the Perak Aboriginal Enactment in 1939 – the precursor to the present Aboriginal Peoples Act (see Chapter 4) – which was subsequently extended to the rest of the Federated Malay States of Selangor, Negeri Sembilan and Pahang. The aborigines were thus officially treated by the colonial government as 'subjects' in the same way as other Malays, a recognition that came with some security over their own customary lands, whether or not they personally recognized themselves as subjects of the Sultans. This status was officially extended to all the aborigines across the whole Peninsula when the Federation of Malaya Agreement was drawn in 1948 (discussed below)[23].

In summary, we can see that in the decades prior to the Second World War, the recognition of the sovereignty of particular rulers mutually re-enforced the supremacy of the 'Malay' peoples and the control of British administrators in the Peninsula. The aborigines – insignificant demographically, economically and politically – were not included in discussions concerning the changing shape of the body politic. Instead, they were constituted in vague terms as being subjects of the Rulers, if administrative decisions concerning them had to be made. The British had other challenging political issues with which to concern themselves. Not only was there a significant rise in anti-colonial sentiments across various ethnic/racial communities, new forms of nationalism emerged with vigor (Roff, 1967). In 1941 the British had their hands full with the Japanese assault in the Peninsula, a 'hurricane' that swept aside over a century of careful political negotiations.

[23] Under these changes, however, they were still treated as "State subjects", and had to be "administered on State lines". See Letter from the Chief Secretary, Federal Secretariat, Federation of Malaya, Kuala Lumpur, dated 18th October 1950 to State Secretaries, Settlement Secretaries and British Advisors. BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924.

The Rising Sun: 'Asia for the Asiatics', and Into the Jungles

The Japanese invasion of the Peninsula was swift and destructive. Japanese leaders articulated their position as bringing 'liberation' to Asian countries from European colonial imperialism. This was an argument that convinced some Malay nationalists, who saw them as a vector for advancing their visions of an independent nation-state (Said Zahari, 2001). The Japanese interacted with the local populace in terms of racial difference, isolating in the process many Chinese communities whose members subsequently fled into the jungles to avoid their harsh pogroms. Even for those who initially struck alliances with Japanese forces, enchantment with such 'liberation' did not last long.

The fight against the Japanese necessitated previously-unthinkable partnerships among parties that had very different ideological platforms. Although British intelligence officers had been wary of Communist groups prior to the outbreak of war (due to their open denunciations of British imperialism), they were now valuable allies against the new threat. An alliance formed between the British and the Malayan People's Anti-Japanese Party (MPAJA), the military arm of the Anti-Japanese Union controlled by the Malayan Communist Party (MCP). Training of the anti-Japanese soldiers commenced quickly and in December 1942, H.D. Noone was brought in to act as a liaison between the Communists and the aborigines (Holman, 1958). Noone was responsible for establishing and maintaining aboriginal agents in settlements, so that messages could be passed without comprising security. During this time, many Communists established trustworthy relationships with aboriginal groups in the jungles. As the Chief Secretary of the Federal Secretariat later noted in an administrative document in 1950[24], the MPAJA rescued many of the aborigines from the terrors of the Japanese and bandit gangs, while the British government had mostly ignored them.

[24] Chief Secretary, Federal Secretariat, to State Secretaries, Settlement Secretaries and the British Advisers, Federation of Malaya, dated 18th October 1950, FSY 1189/49 (in BA Selangor 70/1950).

The Post-War Struggle for Sovereignty

In the aftermath of the hostile Japanese takeover, British officials who returned to regain control saw an opportunity to decrease the complexity of managing multiple political entities. They proposed a new form of government, known as the Malayan Union, which would integrate legislative and administrative arrangements across all the States on the Peninsula (with the exclusion of Singapore). Their vision was for a "united nation" in which plural communities shared a "common Malayan outlook and purpose" (MacKenzie, 1951:7). However, strong reactions arose against these proposals by Malay nationalists[25]. Their chief objections were the manner in which the proposals were presented, the perceived loss of rights and powers of the Malay Rulers, and the inclusion of other races as equal citizens[26]. It was felt that the Malay States would merely become a Crown Colony, with the sovereignty of the Rulers – along with the relative autonomy of States – lost.

In response, the British capitulated to more collaborative efforts in defining a future body-politic in the Peninsula (Malayan Union, 1947). A tripartite Working Committee was formed in July 1946 to critically examine possible constitutional arrangements. This comprised representatives of three parties: the British Government, the Rulers of the Malay States, and the vocal United Malays National Organisation (UMNO). Such an arrangement systematically privileged the voices of the Malays, and ensured some recognition of past feudal structures[27]. Among the general principles followed by the Committee was,

> that, as these States are Malay States ruled by Your Highnesses, *the subjects of your Highnesses* have no alternative allegiance or other country which they can regard as

[25] As historian Alex Healy writes, the British underestimated the extent to which 'Malays would never have allowed their predominance to be jeopardised' (1991:149).

[26] It is interesting to note that Temuan spokespeople were involved, along with UMNO, in the protests against the Malayan Union (UMNO, 1956). In 1946, UMNO took 3 Orang Asli as representatives in a gathering aimed at calling for independence from British colonialism (see Memorandum Pembangunan Orang Asli dalam Konteks Wawasan 2020, Jawatankuasa Bekerja POASM/Senator Orang Asli, Kuala Lumpur, 1991).

[27] An important point of agreement was that the new Constitution would not be made by an by Order signed by His Majesty King George IV alone, but through an Agreement signed between him and the Malay Rulers as equal, contracting parties. This principle of joint delegation of powers was important in signaling the recognition of the sovereignty of the Rulers. Furthermore, the title chosen for the new federation, 'Federation of Malaya', had a strict translation of *Persekutuan Tanah Melayu*, a name acceptable to the Malay representatives. One of the alternative titles, 'Malayan Federation' was rejected on the basis that ""Malayans" had come to mean people who had some association with Malaya, but did not include Malays, and that Malays took the strongest objection to being called or referred to as Malayans." (Malayan Union, 1946:9). These indicate the tensions that existed concerning whether Malaya was for the Malays, or for all the 'races' in the Peninsula ('Malayans').

> their homeland, and they occupy a *special position* and *possess rights* which must be safeguarded. (Malayan Union, 1946:7, my emphasis).

In relation to discussions over citizenship, the anxieties of the 'Malays' were considered with great care. Arguments surrounding the geographical imagination of 'homeland' were employed in securing the 'Special Position of the Malays'. As the Report outlines,

> In approaching the subject of Citizenship, it must be remembered that there is a very real fear on the part of the Malays that they may steadily become submerged in a country in which (*except for the aborigines*) they are the indigenous people…. the Malays have no alternative homeland, whilst the remainder of the population, with few exceptions, retain in varying degree a connection with their country of origin and, in very many cases, regard that country and not Malaya as the primary object of their loyalty and affection" (Malayan Union, 1946:23, my emphasis)

The acquisition of citizenship, and what this meant, was a matter of great import in these discussions. Some Malays had already expressed their dissatisfaction with the proposal that equal citizenship be extended to all who resided within the territories, thus erasing the difference between "indigenous" and "immigrant" groups. The Committee agreed that all who "regard(ed) Malaya as their real home and the object of their loyalty" should be given citizenship (Malayan Union, 1946:24), but created a distinction between "citizenship by operation of law" and "citizenship by application". It was decided that "subjects of the Rulers" *automatically* be given citizenship (by operation of law), and that these included, *inter alia*, "(a)ny person who belongs to an aboriginal tribe resident in that State" and "any Malay born in that State or born of a father who is a subject of the Ruler of that State" (p.25)[28]. This was incorporated into the 1948 Federation of Malaya Agreement (Federation of Malaya, 1952). It was thus officially established that aborigines

[28] "Malay" was also defined here as, "a person who (a) habitually speaks the Malay language; and (b) professes the Muslim religion; and (c) conforms to Malay custom" (Malayan Union, 1946.:25). Automatic citizenship was also granted to certain other groups including "British subjects, born in a State or Settlement", "second generation of persons born in Malaya" and "(c)hildren whose fathers are citizens at the time of their birth", each category holding more specific caveats for qualification.

would be constituted as Federal citizens. Nevertheless, it was emphasized that citizenship "was not a nationality, neither could it develop into a nationality." (Malayan Union, 1946:23).

The centrality of indigeneity as a basis for privilege had already prompted some debate on the position of the aborigines in the body-politic. This was sometimes merely dismissed as a strategy for disuniting the Malays. As a writer for *Utusan Melayu* articulated in December of 1946 (the same month the Report of the Working Committee was released), "The people who pretend that Malaya belongs to the Sakais are trying to deny that Malaya belongs to the Malays" (cited in Harper, 1999:86). Arguments concerning who the 'true sons of the soil' constituted continued to unfold, leading to the questioning of whether Malays should be privileged above all other ethnic/racial groups on the basis of indigeneity, including the aborigines[29].

The Communist Turn

Yet, a serious threat still loomed on the horizon, in the form of nationalistic Communists. Previously allied with British forces against the Japanese, they now protested the deprivation of a promised Independence and took their war into the jungles of Malaya yet again. This was necessary, as they were being hunted down and arrested in towns and villages for their subversive and violent acts. The Communists rebuilt their relationships with the aborigines, seeking their help once again. Aborigines were persuaded (sometimes forcefully) to relay secret messages, to guide Communist soldiers through uncharted jungle territories, to gather intelligence about security forces, to give warning of the presence of troops, and to provide essential food supplies (Carey, 1979; Holman, 1958; Leary, 1989; Noone and Holman, 1972).

In order to mobilize the aborigines, the Asal Co-Progressive Association was set up, which operated through a cell structure led by aboriginal headmen and Communist leaders (Miller, 1972). This choice of the term 'Asal' was significant, for it communicated to the wider public the

[29] Harper notes that some Malay politicians took on the question of the socio-political position of the aborigines. He records, citing a letter by Zainal Abidin bin Haji Abas to the Deputy Chief Secretary on 6th of April 1948, that "…the UMNO Secretary-General argued that the Orang Asli 'have no one to plead their cause', and argued for their rights as 'the original inhabitants of the country'" (1997:17).

recognition of the aborigines as 'original people' of the land, when they had not been given this official recognition before (Jimin et al, 1983, Carey, 1979). In this organizational structure, each area was under the responsibility of an Asal organizer, who, assisted by experienced guerrillas, would recruit and train aborigines to form a unit of the Asal Protection Corps (Park, 1965). Through the Asal cells, the aborigines were provided with medical assistance, seeds, and valuable equipment. They were also promised certain special benefits when the Communists took control of the nation-state (Holman, 1958). According to Jimin et al (1983:38), "by 1951/52, almost the entire jungle population of about 20,000 Orang Asli came under effective control of the [Communist Terrorists]". The British Government quickly observed that without the help of the aborigines, the Communist fighters would not have been able to survive, much less fight, in their jungle environment.

Early efforts at dealing with them, however, were clumsy and disastrous (elaborated in greater detail in Chapter 3). For example, attempts made to resettle the aborigines to keep them away from the Communists resulted in demoralizing failures, with the tremendous loss of lives provoking enmity and despair (Carey, 1979). Furthermore, air attacks (organized to flush out the Communists) dropped bombs into known aboriginal clearings, destroying valuable crops and homes. Unsurprisingly, initial tactics such as these were not successful in winning aborigines over to the British Government. A shift in policy was introduced in 1953, and for the first time in political history, the government placed the control of the aborigines on high priority[30].

Forging Postcoloniality: The Reid Commission

When the Commonwealth Constitutional Commission (also known as the Reid Commission) was established in 1956 to make recommendations concerning a Constitution for the soon-to-be independent Malaya, its members were expressly charged to include provisions surrounding "the safeguarding of the special position of the Malays and the legitimate interests of other communities" (Malaya Constitutional Commission, 1957:1), among other points of import.

[30] Short (1975:443) notes that "by the beginning of 1951, control of the aborigines was third on the list of government priorities, and half a million dollars had already been set aside to supply resettled aborigines".

Consultation was undertaken with many different (political and civil society) groups, representing the needs of minority groups. With reference to original treaties with the Malay States, they concluded that the special position of the Malays was to be recognized and safeguarded in relation to Malay Reservation land, and the provision of quotas. They proposed that these preferences be continued, "but that in due course the present preferences should be reduced and should ultimately cease so that there should then be no discrimination between races or communities" (p.72).

Consultations were held with various communities about the Constitution, and on such an occasion, Dr Haji Mohammed Eusoff spoke for the 'aborigines', recommending that they be considered along with other communities in terms of land rights, legal protection from missionaries, and representation on State and federal councils (Harper, 1999). However, as a commentator of the times noted in the *Singapore Standard*, "…in this rush by the peoples of the federation to stake their claims in an independent Malaya, the aborigine – better known as the Sakai – has been left out in the cold." (The News as it Strikes me Column, 28.8.56, in Nicholas et al., 1989). This was true in certain respects. The Constitution that shaped the form of Independent Malaya *did* recognize 'the aborigines' as being a separate group of citizens[31]. However, they (along with all other non-Malay communities granted citizenship) were not accorded the same level of special privileges that the Malays were under Article 153. Tunku Abdul Rahman maintained that a difference existed between the concept of 'citizenship' and *bangsa* ('nationality'). Non-Malays could never be 'nationals' in the *bangsa* sense, as this meant that they belonged to the politico-cultural entity based on original sovereignty that was the 'Malay nation' (Harper, 1999). However, they were given 'citizenship', which was "merely a legal guarantee of specified privileges" (p.350).

[31] The final Constitution agreed upon differed from the version proposed by the Reid Commission. Instead of instituting a specified time period for the special privileges of the Malays, as it recommended, these privileges would carry on without a time limit.

In short, Malaya was still positioned as the land of the Malays (legally termed the "Malay Peninsula" in Article 160(2) of the Federal Constitution) and their special position as indigenous people secured. The Malay Rulers retained symbolic sovereignty of their individual States (now guided by State and Federal level Constitutions), of which one would be appointed every five years as the Supreme Head of the whole Federation, the 'Yang Di-Pertuan Agong'. State Governments, with attendant Legislative Assemblies, were given limited autonomy, with specific freedoms to legislate upon matters of religion (Islam) and land. In relation to the primacy of Malay sovereignty and indigeneity as compared to other inhabitants of the Peninsula, Tunku Abdul Rahman, was to say later,

> …there could be no doubt that the Malays were the indigenous people of this country because the original inhabitants did not have any form of civilisation compared with the Malays…. [These] inhabitants also had no direction and lived like primitives in mountains and jungles" (*The Star*, 6 November 1986, cited in Nicholas, 2002:122-123).

In this nascent body-politic, it was Islam that was declared the religion of the Federation (Federal Constitution, Article 3(1)), and the Malay language given primacy (Article 152(1)), becoming the nationalist 'emblems of nation-ness' (cf. Anderson, 1991:133).

Orang Asli in Postcolonial Malaya

After the declaration of Independence in August of 1957, there was continued focus on the aborigines, as they were still a crucial part of the war against the Communists. Federal budgets continued to support the programmes of the Department of Aborigines, and speakers at Parliament articulated their support of the aborigines as a 'community' to be given equal recognition with other communities. At the Legislative Council on the 12th of December 1957, Mohamed Khir Johari said,

> It is the responsibility of the Government to protect the interests of the Aborigines and to introduce measures for their social, economic and cultural betterment. They are one of the several communities which together make up the population of our country and our

> aim should be their progressive integration into the life of the country so that they will owe the same duties and loyalties to the nation as other communities and so that they can benefit equally with others from the rights and opportunities in this newly-independent nation (Federation of Malaya, 1959:4004-4005).

In the same meeting, Tok Pangku Pandak Hamid appointed in 1957 as the first Orang Asli Senator, articulated:

> This is the first time that my community gets proper recognition which I think is appropriate to our national aspirations…. We are beginning to realize that we are not a minority scattered about as we thought it to be, each in his own way, but we are a community with the same aspirations as the others…. We now ask to be recognized as a community along with the others, who comprise the population of this country, with the same privileges and treatment as accorded to other communities (p.4020-4022).

The idea of all tribal groups across the Peninsula being institutionally represented as a single Community had taken hold. In years to come, the Orang Asli would be represented by series of appointed Senators, charged with the task of speaking up for their needs (See Figure 2.1).

Figure 3: Orang Asli Senators from 1957 to the Present

Year	Orang Asli Senator
1957 – 1983	YB Senator Tok Pangku Pandak Hamid bin Itam Jali *Temiar*
1984 – 1991	YB Senator Hassan Nam *Semelai*
1991 – 1996	YB Senator Itam Wali bin Nawam *Semai*
1997 – 2003	YB Senator Dato' Long Jidin *Jakun*

Attempts to 'win the hearts and minds' of the aborigines continued, with special efforts to communicate their inclusion in the body politic. They were renamed Orang Asli in one of these measures, as Iskander Carey (1976a:3) explains,

> The Malaysian Government, some years ago, felt that the word 'aborigines' had certain pejorative connotations; it was associated with concepts such as backwardness, under-development and primitiveness. The Malay words 'Orang Asli', however, do not have these connotations. The word '*orang*' merely means 'people' and the term '*asli*' comes from the Arabic word '*asali*', meaning '*original*', '*well-born*' or '*aristocratic*'. It was decided accordingly that the Malay term, 'Orang Asli', should be used even in English correspondence.

Enter the *'Bumiputera'*: The Birth of Malaysia and the Extension of Privileges

When Sabah and Sarawak joined Malaya in 1963 (along with Singapore for a brief moment), Malays could not be the only ones accorded 'special status' on the basis of their indigeneity. Thus, the Federal Constitution was changed to include the 'natives' of these States, officially extending to them the same privileges given to the Malays. A new term was introduced in political discourse – *bumiputera* – to denote these indigenous groups, who were 'deserving' of special rights. The Orang Asli, however, were not included in this Constitutional change (see Chapter 4 for more detailed discussion).

The contest between nationalist Malays and non-Malay communities in the Peninsula (primarily 'Chinese' and 'Indian') continued. Widening economic and political divides between ethnic groups exploded in the oft-narrated 13th May 1969 riots. In response to this event, the New Economic Policy (NEP) was proposed and implemented, couched in terms that suggested the attainment of greater equality for all segments within Malaysian society. Dubbed "one of Asia's most ambitious social and economic programmes" (*Insight*, March 1979:3), the NEP was devised with two major goals: "to reduce and eventually eradicate poverty… irrespective of race", and to "[accelerate] the process of restructuring Malaysian society to correct economic imbalance, so as

to reduce and eventually eliminate the identification of race with economic function" (Malaysia, 1971:1).

It was through the implementation of the NEP that political recognition of groups as being *bumiputera* took on wide-scale material realities. *Bumiputera* groups were seen as 'lagging behind', as being poorer and less-educated communities compared to the richer 'immigrant' Chinese. What irked Malay leaders was that this comparative disempowerment meant that the 'true' indigenous people did not have economic control in their 'own' lands. With the aim of expanding *bumiputera* ownership of capital, specific programmes were introduced under the NEP. This included facilitating *bumiputera* business development through the preferential distribution of licenses, concessions, contracts, and credit; requiring the restructuring of companies to include *bumiputera* partners and shareholders; and the generous provision of scholarships and local university places to *bumiputera* students. A significant proportion of NEP activity was administered by federal authorities such as Federal Land Development Authority (FELDA), Federal Land Consolidation and Rehabilitation Authority (FELCRA), and the Rubber Industry Smallholders Development Authority (RISDA)[32].

Are the Orang Asli *bumiputera*, or are they not?[33] This was a question I posed to Orang Asli individuals, who provided me with varied responses. Some confirmed that they have been extended *bumiputera* privileges, for example, being included in *bumiputera* schemes such as the *Amanah Saham Nasional* (ASN) unit trusts, *Majlis Amanah Rakyat* (MARA) scholarships, and poverty eradication programmes such as the *Skim Pembangunan Kesejahteraan Rakyat* (SPKR)[34].

However, other Orang Asli individuals were less convinced of this, stating that the Orang Asli have not been recognized in Article 153 of the Constitution as having special privileges. The

[32] FELDA is the agency responsible for the implementation of the National Agricultural Policy.
[33] See King (1995) for discussion on the Sarawak *bumiputera* groups.
[34] According to the Eight Malaysia Plan, the projects under the Integrated Development of Remote Villages Programme are targeted at addressing the extreme poverty among the Orang Asli (Economic Planning Unit, 2001:74).

belief that they are not '*bumiputera'* has also to do with the way in which the term has been used in political discourse. As I suggested earlier, the idea of *bumiputera* was an extension of earlier ethno-nationalist arguments that Malaya belonged to the Malays, and as such, are sometimes logically surmised by Orang Asli individuals as not including them, even though they are acknowledged as being indigenous to the land. This ambiguity has to do with slippages in meaning, which I explore in the next section of this chapter, before continuing further discussion on the political involvement of the Orang Asli in postcolonial Malaysia.

Bumiputera Debates

> (T)here are Muslims who are neither Malays nor *bumiputera* (Indians, Arabs, Chinese, Burmese, etc.); Muslim Malays who are not *bumiputera* (Acehnese immigrants, for example); Malay *bumiputera* who are not Muslims (including certain *asli* groups and at least one recent convert from Islam to Christianity); *bumiputera* Muslims who are not Malays (such as the Melanau and similar peoples in the east Malaysian states); *bumiputera* who are neither Malays nor Muslims (which includes both ethnic Thais and also various *asli* groups on the peninsula as well as some of tribal populations in the eastern states); and Malays who are neither *bumiputera* nor Muslims (including various Javanese and Batak Christian immigrants). What, for example, is the status of a (probably illegal) Bugis immigrant in Sabah? A Muslim, but a Malay and *bumiputera*? The situation is by no means simple.
>
> Clive Kessler (1992:139-140)

For the sake of conceptual clarity, in discussing a topic fraught with ambiguities and slippages, it is necessary to focus on three issues of import. First, there have been debates concerning the appropriate recognition of individuals as *bumiputera* with attendant extension of special rights and privileges, what I term the *recognition* of *bumiputera status*. This may be markedly different from the *actual enjoyment* of these rights and privileges, a second issue I raise as being worth examining. Slippages between the two are related to a third issue concerning *bumiputera*

discourses, that is, the loose use of the term *bumiputera*, which reinforces ambiguities and uncertainties and which have led to differentiated social, political and material realities.

In relation to the latter, the loose use of the term *bumiputera*, the socio-political context and purposes of articulation lend specific and differential meanings to the signifier *bumiputera*. In certain discourses, *bumiputera* is used interchangeably with 'Malay', particularly when used in reference to Peninsula Malaysia (Siddique and Suryadinata, 1981/1982). However, in the Malay version of the Constitution, *bumiputera* has a specific and exclusive reference to the "natives of Sabah and Sarawak", with no inclusion of both the 'Malays' and 'aborigines'. In other official blueprints, such as the Malaysia Plans, National Census Reports, and JHEOA official statements, *'bumiputera'* explicitly includes the 'Orang Asli' as well as the 'natives of Sabah and Sarawak' along with the 'Malays'[35].

Who then, is recognized as having *bumiputera status*? An answer was attempted by (then) Attorney General Tan Sri Abdul Kadir bin Yusof at Parliament on the 17th July 1974. He stated, with some self-contradiction,

> The word "bumiputera" is not defined in any law, but this word is used to point out the Malays and also the natives of the Borneo states. The words "Melayu" and "bumiputera" are each defined in Articles 160 [sic] and 161A of the Constitution…. [People] must fit this definition in order to be classed as bumiputera" (Dewan Rakyat, 1974:1691).

He further clarified: "[people that] fit the definition of "Melayu" or "bumiputera" as defined in the Constitution, can be classed as bumiputera" (p.1691). No mention is made of the Orang Asli in this specific instance, although they were included as being *bumiputera* in an earlier Parliamentary speech in 1969 (Siddique and Suryadinata, 1981/1982:674). Datuk Hussein Onn,

[35]For example, the 'Guidelines on the Development of the Orang Asli' released by the JHEOA in 1978 states. "Orang Asli are a group of *bumiputera* that are the most backward (*yang agak ketinggalan sekali*) in social economic terms" (Ministry of Home Affairs, 1978). Also see the 8th Malaysia Plan (Economic Planning Unit, 2001:60, 74).

as the Prime Minister of Malaysia, was later to state that membership of an "indigenous race" was necessary for the qualification of "Malay-bumiputera" status[36].

Officially, two identity groups, whatever their 'actual' criteria for membership, clearly hold *bumiputera status*: the Malays and the natives of Sabah and Sarawak. Privileges that come with this status are clearly provided for in Article 153 of the Constitution. Although official documents produced by government agencies such as the JHEOA and the Statistics Department also recognize the Orang Asli as being *bumiputera* (see also Jimin et al, 1983), their rights and privileges have not been *formally* recognized in Article 153 the Constitution, as it has been for the Malays and the natives of Sabah and Sarawak[37].

This must be differentiated from the *actual enjoyment* of *bumiputera status*. On one hand, this has been extended selectively to certain minority groups falling outside the three *bumiputera* identity groups already mentioned, such as the Indian Muslims, Thais, and Portuguese-Eurasians. For example, in the 1980s, some Thai individuals – while still officially designated 'non-Malay' and 'non-Muslim' – were given access to a *bumiputera*-only investment scheme, the *Amanah Saham Nasional* (ASN), prompting other minorities, such as Portuguese Eurasians, to argue for such privileges on the basis of their genealogy in Malaysia and their claims to (non-Muslim) Malayness (Goh, 2002).

On the other hand, *actual enjoyment* is often dependent on other criteria, such as socio-economic resources and social capital, which can serve to preclude the involvement of certain groups such as the Orang Asli. *Bumiputera* discounts on housing schemes are one such example. Although Orang Asli individuals qualify for special discounts through such projects, they are often still unable to afford the already-expensive payments. Another matter, as raised by POASM, is the fact that Orang Asli students often cannot qualify for special university quotas given on the basis

[36] It may be that they are extended specific *bumiputra* privileges without being acknowledged as having *bumiputra status.*
[37] In its report entitled 'The Human Rights of the Orang Asal' released on the 11th of February 2004, The National Human Rights Commission (SUHAKAM) called on the Malaysian government to amend Article 153 of the Federal Constitution in order to include the Orang Asli as being *bumiputera*.

of *bumiputera* status, for they find it difficult to compete with Malay students for these allocations. This is related, in no small part, to the differential quality of education experienced by Orang Asli children as compared with other ethnic groups. This is in turn, related to psycho-social experiences of education, geographical location, as well differential quality levels of teaching and facilities in rural schools (Chong, 1995; Hasan, 1997; Nagata, 1995). A third matter is participation in *bumiputera* economic endeavors, such as FELDA and FELCRA schemes, which are seen by some Orang Asli as being Malay-centric with few opportunities for Orang Asli small-holders[38]. Several individuals I interviewed during fieldwork alleged that *bumiputera privileges* tend to be extended preferentially to Muslim Orang Asli, a common everyday perception that merits further investigation.

In summary, there are certain inconsistencies in the way this term in used, slippages which result in misunderstandings as well as disjuncture between *status* and *enjoyment* of *bumiputera* privilege. Speaking wryly concerning such disparities, some have commented on there being different *bumiputera* 'classes', the 'first class *bumiputera*' being the wealthy Malays, who tend to emerge out of these confusions more privileged than other *bumiputera* groups (Devanesan, 1997).

Whatever the case, the Orang Asli are able to demonstrate extended histories in the land, have been recognized by administrative officials as being *bumiputera,* and should therefore be *entitled* to the rights and privileges distributed on that basis. This has occurred for some individuals, although it does not extend to all Orang Asli. This recognition, as elaborated earlier, does not necessarily link to *enjoyment* of privileges, as Orang Asli often find themselves systemically precluded from a full enjoyment of associated privileges depending on other factors.

[38] FELDA and FELCRA have included the Orang Asli in some of their schemes, but access seems to be dependent on top-down decisions rather than individual application for privilege enjoyment.

The Way Forward: From Bangsa Melayu to Bangsa Malaysia

In 1991, Prime Minister Mahathir Mohamad unveiled 'Vision 2020', a "roadmap" to a "fully developed country" by the year 2020 requiring the maturation of the nation "economically, politically, socially, spiritually, psychologically, and culturally" (Mahathir, 1992). Emphasis (at least in principle) was placed on moving away from Malay-centricity to a more symmetrical pattern of multiethnic citizenship. Listing nine central strategic challenges, Mahathir began by stating:

> (t)he first of these is the challenge of establishing a united Malaysian nation with a sense of common and shared destiny. This must be a nation at peace with itself, territorially and ethnically integrated, living in harmony and full and fair partnership, made up of one *Bangsa Malaysia* with political loyalty and dedication to the nation (p. 1)

In this proposed move away from the *Bangsa Melayu* of the past, he called for a time when "Malaysians of all colours and creeds [will be] free to practice and profess their customs, cultures and religious beliefs [while having the] feeling that they belong to one nation" (Mahathir, 1992:2). Ethnic-based discrimination was repositioned to having been a 'temporary' measure for the purposes of diffusing racial tensions, seen as a necessary but temporary stage of a longer journey towards national unity (Mohamed Jawhar Hassan, 1997).

Mahathir's calls for a more inclusive definition of nationality, while widely supported among non-Malay communities, have been contradicted through some of his own later speeches. For example, in September 1999, *Suqui* (a body representative of 2,095 Chinese organizations) urged the government to concretize the move towards *Bangsa Malaysia* through institutional and policy reform. Mahathir's responses were ambivalent, swerving from initial agreement in principle, to declaring in Parliament on 11th December 2000 that their demands were "tantamount to abolishing Malay rights, a move which will result in chaos and will paralyse the country's progress" (Cheah, 2002:69). Cheah pragmatically concludes that "Malay political primacy is likely

to continue in Malaysia for a long time", even as it is "ingeniously presented as *bumiputera* political primacy" (p.72)[39].

The Jagged Logic of Proportionality: Orang Asli in Election Machinery

In the political present, according to Bah Tony Williams-Hunt, "politics is a numbers game", in which the Orang Asli, as ethnic/racial minorities in a plural landscape are immediately disadvantaged (Interview, 03.12.02)[40]. As he states, "many do not see the Orang Asli as a people that have voice; they are scattered, their numbers are small." Indeed, in Malaysia's political regime – still structurally and ideologically premised on 'racial' representation – communities continue to be obsessively enumerated according to their ethnicity/race and their numbers nervously compared in percentage terms. Anxious attempts are still being made to gain race-based votes in territorialized constituencies[41]. In the reasoning of such democracy, racial profiling is of more concern than political philosophy, exacerbated by historically-sedimented communal fears of being inadequately represented by 'Others'.

Yet, because of the uneven logic of the electoral machinery – particularly with its 'first past the post' system with state assembly and Parliamentary seats awarded according to specific constituency wins – it is still possible for the Orang Asli to gain some attention in regard to their social issues. As Bah Tony pointed out to me, in several constituencies, Orang Asli votes are able to function as deciding votes, tipping fine balances and thereby contributing to ensuring final outcomes. This is particularly evident during political crises when *bumiputra* votes are needed. In 1987 for example, a crisis within UMNO led to an internal split, with some of its members leaving to form another political party, *Semangat 46*, under the leadership of Tengku Razaleigh.

[39] Cheah (2002) outlines the paradox that all Prime Ministers of Malay(si)a have faced in nation-building initiatives. While their rise in power has always occurred through climbing the ranks of the Malay-centric party, UMNO, their legitimacy as leaders of a multi-ethnic nation must be secured after their appointment as Prime Ministers (Koo, 1996). This requires 'reinventions', if not pendulum swings, between their being 'exclusivist' *Malay* ethno-nationalists and 'inclusive' *Malaysian* civic-nationalists.

[40] This was a perspective raised by Iskander Carey when he talked about certain Orang Asli groups living in rapidly urbanised areas. He states: "The trouble is that their numbers are so small, which means that they have no political clout. What "berhormat" [Member of Parliament] cares about a few hundred votes, when his only concern in life is to retain his lucrative position in parliament?" (1979:160).

[41] Talk among political parties, for example, still revolve around how a 'Malay' should be fielded in order to get the 'Malay votes', or a 'Chinese' to get the 'Chinese votes', depending on the racial profile of the constituency in question. This was evident in the 2004 Elections.

For legal and administrative reasons, UMNO was deregistered, and required to obtain over 600,000 members to retain control over its assets. In order to bolster its numbers, formal invitation to join the party was extended to the Orang Asli in March 1989 (Nicholas, 2000). In the 1990 General Election, efforts were made to woo Orang Asli voters in Gua Musang where Tengku Razaleigh ran as incumbent. In order to keep Orang Asli sentiments on the side of UMNO, they were promised land-titles, visited by Prime Minister Mahathir Mohammad, and their village-heads given increased annual allowances. "There was also talk of an annual Orang Asli public holiday, and the inclusion of blowpiping as a national sport" (Nicholas, 2000:159). This sort of political attention, often short-lived and conditional, was repeated in the 1995 and 1999 Elections.

Political Membership

In terms of party membership, Orang Asli are currently allowed to join UMNO, although this membership is denied to certain other non-Malay/Muslim communities, who have not mounted claims to indigeneity[42]. While a number of Orang Asli have opted to become members of this party, there have been no significant changes in leadership that alters UMNO's Malay ethno-nationalist trajectory. Some have commented that UMNO remains a channel that is not very effective for gaining ground on Orang Asli issues, although support of the government has been beneficial in certain respects. As a POASM leader said to me: "By supporting UMNO, we support the government. Some issues can be settled through UMNO, such as development. But some cannot, such as land." Another person expressed his personal thoughts, saying: "*[Di UMNO] Orang Asli tak bunyi langsung*" (In UMNO the Orang Asli [can] make no direct sound).

In mid-1999, there were efforts to start an Orang Asli political party (called *Parti Orang Asli*, POA). This was seen to be an efficacious way of articulating the needs of the Community, instead of having to depend on other existing channels, which have produced fewer results than desired. As formal registration of the party could not be secured before the 1999 Elections, individuals

[42] When UMNO expanded into Sabah in February of 1991, non-Malay, non-Muslim *bumiputras* were also included in its membership, such as '*bumiputra*' of Sino-indigenous and Portuguese descent (Harper, 1996; Goh, 2002).

were fielded as independent candidates – Norya Abas for the state seat of Jelai, Pahang, and Arif Embing for the Parliamentary seat of Lipis. Although Arif Embing was disqualified on technical grounds, Norya Abas was accepted for the Jelai seat (Nicholas, 2000)[43].

As Nicholas documents, Norya's campaign arguments for Jelai included the need for the Orang Asli to have elected (rather than appointed) representatives in government[44]. However, counter campaigns ensued with vigour, and included attempts to play on identity issues sensitive among the Orang Asli. As Nicholas writes,

> (t)he Orang Asli voters were told not to vote for the Orang Asli independent candidate as he was not of the same ethnic subgroup and did not reside in the area. There were even suggestions that… [he], going by his name, was a Muslim and so suspect in his motive for participating in the elections (2000:199).

While Norya was unable to secure this seat, these efforts were unprecedented ways of thinking about Orang Asli political engagement. Yet, strategies of gaining support on the basis of 'supra-tribal' identity are not easy to mount, particularly when existing fractures within this Community can be employed as ways of demobilizing support.

To date, *Parti Orang Asli* has still not been registered officially. Speaking about this to me in April 2003, Norya expressed the opinion that he no longer sees this as an effective means of foregrounding the needs of the Orang Asli community within the nation-state. Instead, he has turned his attention to the leadership of Peninsular Malaysia Orang Asli Association (*Persatuan Orang Asli Semenanjung Malaysia*, POASM). As a political party, he says, "you have to either support or be an opponent to the Government. Now, as an Organisation [POASM], the Orang Asli are able to get help from both sides" (Interview, 27.4.2003). Creating another political

[43] One person to whom I spoke was quite pessimistic about fielding Orang Asli candidates through UMNO. As he said: "There is already a long list of Malay contenders for each seat. How can the Orang Asli have a chance?"

[44] The only representative so far has been the Orang Asli Senator, an *appointed* position at Parliament. Some are cynical of the effectiveness of this role in advancing the cause of the Orang Asli. As a POASM leader pointed out to me, "if you ask him to keep quiet, he does. He is a government servant." Voiced another individual, "the Senator is an appointed position, there is no political clout…. But, if he plays his role well, he can do something. Now it is a coveted position. Last time, people didn't care about this role, but now many people want it because of the salary; the prestige."

channel, through establishing a party, may create further problems, he explains, resulting in a confusing plurality of voices for the Government. By focusing on POASM, he expresses, the Orang Asli "remain solid, under one roof". Nevertheless, Norya emphasizes, participation in elections has drawn the attention of the ruling political parties, resulting in material gain (e.g. new roads) for constituencies where Orang Asli votes tip a balance. As such, he expresses the hope that the Orang Asli may continue to field independent candidates in certain constituencies. Furthermore, he articulates, it may be possible for POASM to one day transform into a political party of strength.

Conclusion

"(M)inorities", Benedict Anderson reminds us, "came into existence with majorities", born of changes that established postcolonial nations (Anderson, 1987:318). It is as minorities that the Orang Asli were imagined under colonial rule, and it is as minorities that they now negotiate their political position in the nation-state. As reviewed in this chapter, British influence over the Peninsula entailed the recognition of local elites rather than their conquest or subjugation. This resulted in the strengthening, consolidation and modification of specific power structures that were crucial for economic control, while eliding those inconsequential for such goals. These moves formed the basis for discussions over the form of the postcolonial nation, resulting in the establishment of the 'special position' for Malays in Malaya. This became the basis of *bumiputera* privileges in the reconstituted Malaysia, benefits which were extended constitutionally to the natives of Sabah and Sarawak while remaining withheld from the undeniably-indigenous Orang Asli. Until now, enjoyment of *bumiputera* privileges remains ambiguous.

Struggles to win the Orang Asli from the Communists during the Emergency Period led to their administration and affirmation as citizens of the State. The Orang Asli were placed under the close supervision and control of the *Jabatan Hal-Ehwal Orang Asli* (JHEOA), a government department given wide powers to administer the affairs of the Orang Asli. This close management continues to have powerful ideological impacts on the Orang Asli. As I discuss in

the next chapter, JHEOA programmes have required the systematic transformation of the Orang Asli psychologically, socially, economically and spiritually. These are disciplinary mechanisms that work to transform them into ideal postcolonial indigenous subjects in the Malaysian nation-state.

CHAPTER 3: ADMINISTRATION AND THE DISCIPLINE OF DIFFERENCE

> The first time I met another Orang Asli was when I worked for the British, as a porter. It was the 1950s, and I was about 20 years old. I met with Temiar, Jakun, Temuan, Chewong, Jahut, and others. Before that, we were quite afraid of these other groups. We thought they would eat us up if they caught us! The elderly people would tell us stories about these people. We feared one another. But anyway, I hardly came across any of them as I was growing up. These were just stories we heard from the elders.
>
> Conversation with an elderly Seng-oi/Semai man,
>
> May 2003

We used to live in very small groups, only about 3 to 4 houses each. We would open a dry field (*buka ladang*), plant corn, cucumbers, tubers (*ubi*), rice, and so on. We would hunt with blowpipes and traps. We would catch wild pigs, the mousedeer, and deer, and catch fish in the river. We still do that now, but only very little. Now you need a license to set a trap. You also cannot catch and sell animals [as you like], although you can catch them for your own food. We were also told not to plant our fields any more, because we burn our land in order to clear the area. They are afraid that we will destroy the jungle. So we have stopped that now.

We didn't have to worry so much in those days. We were more at ease (*senang hati*). Not that everything was easy, but all we had to do was find dishes to eat with our rice (*cari lauk*). But nowadays, we must think about all sorts of things – electric bills, water bills, money for our motorbike, for the driving license, and so on. Now, we work in town. The *Jabatan* (Aboriginal Affairs Department) tells us to send our children to school, to get jobs in towns, to be a clerk, and so on.

> *Batin* of a Seng-oi/Semai village in Perak,
>
> telling me how things have changed since the 'old times',
>
> September 2002

While other ethnic groups were subject to bureaucratic procedures much earlier (introduced throughout the late-1800s and 1900s in order to track their movements, locations, and socio-economic activities for the purpose of managing taxation, commodity production, and exports) comprehensive administration of the Orang Asli did not begin until the 1950s. For the most part, the 'aborigines', particularly those in the deep jungle, were left to their own devices. As noted in Chapter 2, it was only when they became politically significant in the fight against Communism that greater measures were taken to ensure their inclusion, and loyalty, as citizens. The administrative watershed during the Emergency Period transformed the way the Orang Asli have been constituted in the nation-state. As their personal accounts suggest, this has changed how they think of themselves as well as how they negotiate their lifestyles, relationships, and social practices.

A Short History of Colonial Administration

The British were first involved in the administration of the Federated Malay States in 1874, before they were so united and renamed in 1896 (de Vere Allen, 1970). In 1919, the Malay States Civil Service and the Straits Settlements Civil Service were amalgamated into the 'Malayan Civil Service', and Malay civil servants were gradually (albeit selectively) included into these government structures. Political power was enacted through administrative procedures, providing officers with the mandate and legitimacy for structuring change[45].

The science and scope of bureaucracy enabled power to be territorialized, localized, and exerted over specific spaces and bodies. In the drawing of borders, categories and systems, the racial constitution of subjects was a defining feature in determining 'just' administration. This powerful organizing principle was applied in managing social, political and economic life, for example, in the allocation of migrants into labour pools in the early to mid-1900s, the planning of working and living spaces, and in the development of government policies (Milner, 2002, 1998; Harper, 1999).

[45] As outlined in Chapter 2, British officers had different levels of authority across the Peninsula, depending on the political negotiations they conducted with recognized heads of States.

With significant flows of people from China, the Indian sub-continent and Europe, British administrators were aware of the growing anxieties of Malay communities. They felt it their duty to 'protect' the Malays from being overrun by 'avaricious' immigrant communities, and a result, took specific measures to ensure that the 'special position' of the Malay natives was guarded[46].

The first attempt at establishing administrative contact with aboriginal groups was undertaken by the Perak state government, with the appointment of G.B. Cerutti as 'Superintendent of the Sakais' for the Batang Padang district (Cerutti, 1908; Jones, 1968). Early colonial attitudes towards the aboriginal groups, as Iskander Carey notes, tended to waver between treating the 'savages' with patronizing benevolence, and attempting to 'protect' them from the harshness of modern living (Carey, 1979; also see Jones, 1968). As stated in Chapter 2, the 'aborigines' were seen as very different types of natives to the Malays, the latter often viewed as being more 'civilized', and possessing, as Stamford Raffles expressed, "character which is congenial to British minds" (cited in Wright and Reid, 1912:314). Aborigines were often cast as the pagan, primitive, jungle-living 'Other', in comparison to the more settled, visible, peasantized Malays (Rambo, 1988).

H.D. Noone, ethnographer for the Perak Museum, was the first significant figure in terms of the development of aboriginal policies. His recommendations, outlined in his 1936 report, were drawn upon in crafting the Perak Aboriginal Tribes Enactment Act of 1939. It was through this piece of legislation that the legal concept of the 'aborigine' was first introduced (see Chapter 4 for further discussion). Major P.D.R. Williams-Hunt was appointed as Adviser on Aborigines to the Federation of Malaya in 1949. During this initial period of administration, decisions that concerned aboriginal groups were still considered to be State matters, and it was only in 1961, after the Independence of Malaya and during the war against the Communists, that the welfare of the aborigines was declared a Federal matter (Jimin et al, 1983).

[46] For example, through the introduction of legislation to secure reservation land for the Malays in 1913.

JHEOA administration of the aborigines / Orang Asli can be conceptualized in three main 'phases' – pre-1960, 1960–1978, and from 1978 towards Vision 2020.

The Early Years of the Department of Aborigines

The Federal Department of the Adviser of the Aborigines, established in 1949, was the earliest administrative body mandated to advise the government on the position of the aborigines in Malaysia. According to P.D.R. Williams-Hunt, the policy of the Department was "...not to de-tribalise the aborigines, which would make them lose pride in themselves...", but "to get them to improve their own way of living and make them proud of their race" (*Sunday Mail*, "Aborigine Handicraft are Dying Out", 19.2.50).

Advising the Government on how it should deal with the aborigines was no easy task. As noted in the memorandum on a 'Suggested Policy for Aboriginal Advancement' dated September 1950,

> In view of the present almost complete lack of information it is extremely difficult to advise on advancement policy except in the broadest terms. The Federal Department of the Adviser on Aborigines is charged with the task of instituting research into aboriginal life and custom, collating information on a Federal basis and advising measures that might be taken…[47]

Of great import was the basic question: *who were the aborigines'?* There was a lacuna waiting to be filled concerning exactly who constituted 'the aborigines', where they were located, and what their origins were. Most 'aborigines' had been hard to track down, escaped enumeration in censuses, slipped between ethnic categories, and generally confused British administrators.

[47] Circular Memorandum No. 15: Some Notes on a Suggested Policy for Aboriginal Advancement, September 1950, in BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924. It continues "…. It goes without saying that in the present emergency very little research work can be undertaken…"

The 'aborigines' were also not just docile subjects ready to be administered. Previous engagements with government officials from other departments had already left a mark. As the Chief Secretary of the Federal Secretariat noted in October 1950,

> In the past they have received little assistance from the Government and their main contacts with the Government through the Forest and Game Departments and the Mukim Penghulus have been to their disadvantage rather than the reverse…. Even now when the Communists are placing exacting demands on aboriginal communities the latter are reluctant to turn to the Government that, to their way of thinking, has treated them so badly in the past[48].

Thus, the first task of the Department was to 'find' their subjects; to establish basic knowledge about them, including their numbers, locations, and lifestyles. It was also to design strategies to 'manage' these populations, which meant devising ways of tracking, controlling and influencing them. It was hoped that the efforts of the Department would result in the aborigines being 'won over' to the side of the British government so that the menace of Communism could be curbed.

'Finding' the Aborigines: Ethnography, Category and Belonging[49]

Up to this point, the topic of aboriginal lifestyles and populations had been more the preoccupation of anthropologists and scholars than colonial administrators. Theories already abounded on the ways in which they should be classified and known. Opinions had been published about their 'racial origins', the manner of their 'evolution', their 'breeding', their 'stocks' and 'strains'. However, As R.O.D. Noone, who became Adviser to the Aborigines in 1953, noted "(t)o trace the anthropological discoveries in the Malayan jungles from the time the British first

[48] Letter from the Chief Secretary, Federal Secretariat, Federation of Malaya, Kuala Lumpur, dated 18th October 1950 to State Secretaries, Settlement Secretaries and British Advisors. BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924.

[49] In this section, I reconstruct the ways administrative categories were formed over who "the aborigines" constituted. This does *not* suggest, however, that those who fell into this category did not already consider themselves to be "indigenous" to the land (i.e., this was not just an externally introduced concept). The *Seng-oi* for example, as Juli Edo (1998:22) explains, claim to be *mai pasak*, indigenous inhabitants of Peninsular Malaysia. However, this sense of indigeneity is not restricted to 'the aborigines' alone. Other groups, such as (those who have become known as) "the Malays", as well as some Eurasian descendants (see Goh, 2002), also claim to be "indigenous". However, they were not considered "aborigines".

began opening up the Peninsula in the 1880s is to wade through a mass of confused theorizing based at times on the flimsiest evidence" (Noone and Holman, 1972:6).

Scholars whose works on 'native' communities became key texts in understanding the Malayan aborigines (e.g. Skeat and Blagden, 1906; Schebesta, 1927; Evans, 1937), adopted a panoramic gaze, surveying all that lay within the Peninsula and setting out for the reader the different categories/groups within which the 'aborigines' were placed. The curly-haired 'Negrito' tended to be described first, followed by the 'more-settled' 'Sakais' and some mention of the 'Proto-Malays', communities that were very similar in social organization to the 'Malays'. Emphasis, in such description, was placed on 'race', physical attributes, 'level' of 'civilization', rituals, taboos, and religious beliefs.

By June 1950, as documented in their "Note on Aboriginal Nomenclature"[50] the Department of the Adviser on Aborigines had already decided upon the existence of "three very distinct racial groups amongst the aborigines each divided into a number of ethnic groups or tribes which usually possess distinctive names." These "main racial divisions" were noted as the Negritos (which he noted comprised "Malay, Semang, and Pangan"), Sakai (comprising "Malay and Sakai") and Proto-Malay (including "Malay and Jakun"). Ethnographic surveys were conducted by the Department with greater intensity in order to estimate population sizes and fill in gaps in information. Enumerators were trained to record the reported locations of the groups they came into contact with, and to judge their ages, racial stocks, and ethnic groups of belonging. As recorded in a Memorandum dated 25th June 1950, enumerators were instructed,

> If a specific ethnic group is mentioned an attempt should be made to give the group name – i.e. what the aborigines call themselves – *if* this can be ascertained but it is emphasized that many groups will not give their group name. Vague general terms such

[50] 'A Note on Aboriginal Nomenclature', Letter from the Adviser on Aborigines, Federation of Malaya, dated 25 June 1950, BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924.

> as “orang bukit” [person of the hill] or “orang paya” [person of the marsh] should be avoided…. [my emphasis][51]

Attempts were made to devise a fixed system of categorization that would fit in with administrative needs[52]. After much deliberation, the three ‘racial groups’ were retained, which further subdivided into 18-19 ‘ethnic groups’ (depending on the date of the text). All the different groups encountered – with varying linguistic affinities, material cultures, economic practices, and cultural and social organizations – were made to fit into a fixed grid that contained these categories[53]. The present classifications used are set out in Figure 2 in Chapter 1).

How were the aborigines categorized in relation to other ‘native’ populations during this period? This was the subject of M.V. Del Tufo (1949)’s comments concerning the 1947 Population Census. As he informs us, enumerators were quite vexed about how to categorize ‘the aborigines’. Great difficulty was already faced in ascertaining the precise members of the politically significant ‘Malays’. The Malay populations were quite diverse, with different waves of immigrants crossing the seas from across Indonesia, “ethnographically indistinguishable”, as he writes, from the local Malays. As such, two categories were allowed – “Malays” and “Other Malaysians”[54], the latter referring to those with greater affinities to being called “immigrant Malays”, or who recognized themselves (and were recognized by others) as “Indonesians”. While

[51] Letter from the Adviser on Aborigines, F.M. dated 25 June 1950, BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924. This desire for greater ‘specificity’ was echoed in other census forms, when concerted attempts were made to collect statistics related to birth and death rates, in order to correct the 1947 Census. An example of these exercises was one targeting the “resettled aboriginal groups in Malay kampungs” circa 1950. In relation to “race of group” (“race” seems to have been used interchangeably with “ethnicity”), enumerators were asked to “try and give the name these people call themselves – i.e. Blanas, Orang Kanar, Semai, etc., – and avoid vague general terms such as Sakai, Orang Bukit or Orang Darat.” (Census of Resettled Aboriginal Groups in Malay Kampungs, c. June 1950. BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924).

[52] Williams-Hunt (1952) noted the complications inherent in trying to establish distinctive names for each aboriginal ethnic group, saying, ‘a group may have three names, one used by itself, one by which it is called by the Malays and one or more by which it is known to adjacent Aboriginal groups. Furthermore, many tribes will conceal their group name to outsiders’ (p.19).

[53] To this day, the rationale behind this categorization has eluded the everyday understandings of many Orang Asli individuals, who are puzzled by what these labels mean. In my fieldwork, I have found that most Orang Asli individuals do not place and know of themselves through the “three broad racial groups” so inherent in all descriptions of the Orang Asli. Some still do not personally use the names given to their own ‘ethnic groups’, although they are aware of the need to identify themselves as such to others. Yet, these terms *are* employed by Orang Asli to refer to other Orang Asli. *Seng-oi* individuals for example, use the labels Jakun, Mah Meri, Temuan to refer to other Orang Asli.

[54] This should not be confused with the *present* use of the term “Malaysian”, which refers to one’s citizenship. To identify individuals more specifically, it is common to refer to them by both ethnic group and citizenship, e.g. Chinese Malaysian, or Indian Malaysian.

the 'aborigines' were returned in the 1931 census as "Other Malaysians", in 1947 "the aboriginal stocks" were deemed to have "more affinity" with the 'Malays' than the 'Other Malaysians', and thus they were reassigned to being 'Malay'. Del Tufo explains additionally, that it was difficult to distinguish between them and the 'Malays' as a considerable number of the settled aborigines had already been recorded as Malays[55].

The ways in which the aborigines were constituted drew upon existing norms for establishing difference. As we can see from Del Tufo's writings, among others, the aborigines were often understood *in relation to* the more prominent 'Mohammedan Malays'[56], who were seen as being more civilized natives. We also get a glimpse of how the aborigines were conceptualised by the Department in a memorandum entitled "Some Notes on A Suggested Policy for Aboriginal Advancement", issued in September 1950. It stated,

> The *natural evolution* of the 100,000 [sic] or so aborigines in the Federation of Malaya is to *graduate* from pure wandering hunting communities to shifting agriculture then to a more and more settled way of life until they become closely similar to the Malays, eventually embrace Islam and disappear into the Malay population (my emphasis)[57].

In an undated document (issued circa 1950), the Protector of the Aborigines of Selangor described the difficulties of administering the aborigines as one of "developing a backward Malay population", and advocated that the Department continued its work so that "in ten years all the Selangor Aborigines should be firmly settled down and administered on exactly the same lines as

[55] This highlights the 'problem' the Orang Asli grapple with up to today; that of maintaining a separation of their identity from that of Malays. From an administrative perspective, it has been of great importance to focus on the 'Malays' because of their socio-political positioning. This has often resulted in the 'marginalization' of the Orang Asli, represented in censuses in the ways they have been 'subsumed' into the 'Malay' ethnic category.

[56] Logan (1880) for example, writes of the "Binua tribes", another "native race", whose "dialects are Malay… (with) non-Malay words", their civilization being the "ruder Ultra-Indian and Malay kind", their huts "ruder than those of the Malays" (p.86). Ivan Polunin (1953) also writes the following, "Typical modern Malays differ from the Aboriginal Malays in that the former are mixed with other Malaysians from Indonesia, with Indians and Arabs and with female Chinese adopted by Malay families" (p.62). Such juxtapositions (that evaluate the aboriginal groups against social understandings of 'the Malays') are repeated throughout the literature. This is also evident in archived memorandums and letters issued by the Department of Aboriginal Affairs (e.g. see BA Selangor 70/1950: Aboriginal Matters (National Archives of Malaysia, Call Number: 1963/0000926). This comparison is also informed by the dealings of "the Malays" with the "tribes" in question, and by the relationships between these two "racial groups".

[57] Circular Memorandum No. 15: Some Notes on a Suggested Policy for Aboriginal Advancement, September 1950, in BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924.

the Malays"[58]. Thus, from an early stage, there were already ideas in the Department that aboriginal lifestyles were less desirable, and more 'backward' than those of 'the Malays', and that 'advancement' meant gradual transformation of the aborigines to be similar in lifestyle to Malays.

Aborigines and the Emergency Period

For the purposes of security, it was insufficient to merely create categories, divisions and name titles for the aborigines. The war against Communism required the movements of each person, including of each aborigine, to be tracked. This was considered necessary as warfare included cutting supply lines to the 'guerillas', while keeping non-Communists fed and sufficiently provided for. To this aim, identity and ration cards were issued for every person in the Peninsula. In this manner, as Tim Harper writes, "the state became a presence in the lives of many Asians for the first time" (1999:8).

For the aborigines in Perak, where the presence of Communist guerillas were strong, metal identity disks were provided by the state government, which detailed his/her name, registration number and personal particulars. Rules were established that required that the reporting of all births and deaths, and metal disks were required to be returned posthumously. 'Tagging' each and every aborigine was not an easy task, as the Adviser on Aborigines, Major P.D.R. Williams-Hunt, notes in a Memorandum dated July 1950, when these procedures were considered for implementation across the Peninsula:

> The initial problem in undertaking registration of this nature is the staff required, the difficulty of contacting some groups and the subsequent difficulty of maintaining contact. Many groups in Malaya follow a wandering life and there is little doubt that there are many aboriginal groups who still remain unknown. For example, no one has yet contacted the wild Semaq Palong in the SW of Pahang and until some of their houses

[58] Notes from the Protector of Aborigines for Selangor, undated *circa* 1950, BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call No: 1963/0000924.

were discovered by Security Forces a short time ago there was some doubt as to whether they existed.[59]

In order to prevent the aborigines from supporting the Communists, programmes such as resettlement of whole communities were also attempted, with disastrous effects. Thousands of aborigines were brought out of jungles, transported to resettlement sites, and kept behind barbed wire. Carey (1979) described these sites as hastily constructed villages that "resembled miniature concentration camps" (p.161)[60]. By the end of 1953, it was quite clear that this was an ineffective policy. An alternative strategy was proposed by Sir Gerald Templer to ensure their compliance. He declared: "The control of the aborigines in deep jungle will be achieved by taking protection and administration to them rather than resettling them in new areas" (Miller, 1972:132). In order to cope with this reformulated mandate, an expansion and reorganization of the Department of Aborigines took place, with the number of officers employed growing from 10 to over 200 in the space of two months (Carey, 1979).

Jungle forts were built, serving as posts where the aborigines could get access to schooling, medicines, and trade supplies (Short, 2000), which some were already obtaining through Communist channels. 'Civics courses' were held to expose headmen to the workings of British government, entailing displays of fire-power, exposure to urban life, and the demonstration of impressive new technologies (Nicholas et al, 1989). Radio broadcasts concerning health and security were made, specially directed to the aborigines, the beginning of what is presently the radio channel 'Voice of the Orang Asli' (*Suara Orang Asli*), FM91.1. Intelligence networks were set up, and Senoi Praaq, a fighting squadron comprising aborigines, was established and trained to be part of the campaign.

[59] The Registration of Aborigines: A Note on the procedure Adopted in the State of Perak, June 1950. BA Selangor 70/1950: Aboriginal Matters, National Archives of Malaysia, Call Number: 1963/0000926.
[60] According to Nicholas (1990), this project resulted in the death of about 7,000 people, and was abandoned in May 1953. Those that managed to escape warned their friends and family, causing greater suspicion among the aboriginal groups of the intentions of the government (Carey, 1979).

Slowly, the multiple programmes and generous funding pumped in as part of the Emergency effort achieved its desired effects. As detailed in the Report of the Standing Committee on Finance dated 18th August 1954, officers were to continue the task of "[gaining] the confidence and assistance of aboriginal groups" (Federation of Malaya, 1954b:26). The Report estimated that "(s)ince December [1953] a total of about 1,600 aborigines have been definitely won over and are now firmly on the side of the Government, mainly in North-West Pahang and the adjacent area of Perak", which was seen as being only about "30 percent of the task".

The reorganization and expansion of the Department resulted in it taking comprehensive responsibility for the administration of the aborigines, including their medical needs and education. It became the agency through which all government initiatives for aborigines were implemented. In 1961, the aborigines were made the responsibility of the Federal Government under the Ministry of the Interior, when they had been considered matters of state jurisdiction before (Jimin et al, 1983:41). A statement released in the same year spelt out the policies that would be taken concerning the Orang Asli:

> they are an indigenous community whose social, economic and cultural development prevents them from sharing fully in the rights and advantages enjoyed by other sections of the population. It is right therefore that the Government should adopt suitable measures designed for their protection and advancement with a view to their ultimate integration with the Malay section of the community (Ministry of the Interior, 1961, p.3)

Activities by the Department were varied in size and scope (see Jimin, 1972), and special consideration was provided for the needs of the Orang Asli. The education system it managed included the maintenance of schools and hostels to accommodate Orang Asli children. The medical service it supervised incorporated the support of jungle medical posts, a Flying Doctor Service (which made it possible to evacuate patients from deep jungles), as well as an Orang Asli

Hospital in Gombak[61]. Its social and economic development initiatives included the construction of 'model settlement' schemes, which involved the planning and construction of home-sites, the clearing and planting of land, and the implementation of animal husbandry projects. Research activities were supported (and monitored) in order to build more data on Orang Asli groups. The Department also maintained a wireless communication network in order to keep in contact with administrative and medical posts in deep jungle areas[62].

Advancement in Times of Peace: Modernity and Transformation for Progress

> In line with the principles of the *Rukunegara* and the New Economic Policy, the objective of the Government has been to ensure that the Orang Asli enjoy development and prosperity that are equitable and from there on to unite or to integrate them with mainstream society.
>
> Guidelines on the Development of the Orang Asli in Modern Malaysian Society
> *(Panduan Tugas Pembangunan Orang Asli*
> *di dalam Masyarakat Malaysia Moden*)
> Ministry of Home Affairs (1978:1, my translation)

In 1978, a shift in policy took place with the publication of the 'Guidelines on the Development of the Orang Asli in Modern Malaysian Society', and further emphasis was placed on their socio-economic development – specifically, their resettlement and their participation in agricultural projects "located with or nearby projects for other *bumiputera* so that the process of integration can be accelerated" (Ministry of Home Affairs, 1978:1). Orang Asli have been encouraged to be involved in new initiatives organized by agencies such as FELDA, FELCRA and the Pahang Tenggara Development Authority (DARA), which have focused on developing massive projects to transform land into cash earning plantations.

[61] This site, where Orang Asli from all over the Peninsula are brought together for medical treatment, is likely to be a social space in which the realities and significances of Orang Asli identity are experienced.
[62] More details about the Department's activities can be found in financial budgets and reports published over the years (e.g. Malaysia, 1970:389-477; Kementerian Kewangan Malaysia, 1980:1269-1281, 1987:287-289). It must be noted however, that a common complaint among the Orang Asli is that they have not seen the full benefits of such activities in terms of their economic and social well-being.

Administrative activities of the JHEOA for the Orang Asli continue to address a plethora of issues, from medical services, education, resettlement, and land schemes, to the provision of housing, school supplies, water, asphalt roads, electricity, community buildings and bridges. The JHEOA is the only Federal body that has responsibility for a specific ethnic/racial target group, functioning as a 'one stop shop' in everyday issues. The heavy accountabilities that the JHEOA currently holds not only require considerable manpower, but a wide range of skills, as it caters for communities facing very different needs and requirements. Over time, some of these functions have devolved to other ministries, such as education (which came under the purview of the Ministry of Education in 1995), health, and agricultural development. It has been contended that such administrative load is inefficient, unnecessary, and curtails the autonomy of the Orang Asli in making decisions for themselves (Nicholas, 2000). The JHEOA represents the Orang Asli in official capacities, and acts as the point of connection between the Orang Asli and all other government agencies. Such close management has been a point of frustration for Orang Asli leaders, one of whom commented to me,

> The JOA is successful in instilling paternalistic control over the Orang Asli. Certain Orang Asli look at the JOA as a force that they have to listen to, that they must follow, and [whom] they cannot go against. It's ridiculous! Even when I wanted to bring a friend to see a *kampung*, in order to study their language, we have to ask the JOA for permission first! (Interview, December 2002)

The problems that Orang Asli have with such state-sponsored development initiatives are often effaced. Contrary to explicit goals, such projects have sometimes contributed to the increasing deprivation of the Orang Asli (Zawawi, 1996). Ajas of Pahang, for example, commented in a letter to a newspaper,

> [The] JHEOA with its regroupment schemes indirectly becomes the primary cause of poverty of the Orang Asli in Pahang. Many of the RPS [Regroupment Schemes, *Rancangan Penempatan Semula*] were introduced and established in traditional villages

> with the destruction of fruit orchards and primary produce (rubber) which have given equitable returns to Orang Asli individuals without indemnity and compensation on the 'loss' of their source of income…. Our resources around the village are destroyed and we are forced to travel far in order to find resources for livelihood which makes us roam for months and this is what causes the JHEOA to interpret that we always refuse development (*Berita Harian*, 19.06.1990, my translation).

Studies also indicate that the RPS projects for the Orang Asli have not been as successful as hoped, leading to reduced health and nutrition levels (Khoo, 1977; Chee, 1995), dependency on the market economy, and increased proletarianization (Endicott, 1979)[63].

Land Matters

> For a colonised people the most essential value, because the most concrete, is first and foremost the land; the land which will bring them bread and, above all, dignity.
>
> Frantz Fanon
>
> *The Wretched of the Earth* (1965:36)

> Land is the most important issue for the Orang Asli today, for without it, we have no rights. Until now, the Orang Asli are still unprotected in this matter.
>
> Majid Suhut,
>
> President of POASM
>
> Interview, July 2003

> We have been told for a long time that the land we live on is State land. The OA themselves already say this. Historically they have followed the customs of the land, but they have been brainwashed [to think it is State land]. Now we are trying to create

[63] The frustration, ambivalence and tension with the JOA/ JHEOA is expressed in the alternative ways in which Orang Asli describe the Department. Some interpret the acronym 'JOA' to mean *Jual Orang Asli* - 'selling out the Orang Asli' (Nicholas, 2002:126) and others call it the 'Department of the Malays' (Dentan, 2002).

> awareness that we are 'indigenous peoples'; that these are our own lands. But the process to know our own rights is a difficult one. People are still afraid of the JOA, the police. They want to move, but they are afraid of getting arrested. The function of the authorities is not clear to them. They only know that the police are government, and the government can have them arrested.
>
> Semai Orang Asli
>
> Leader of a civil society group
>
> Interviewed June 2003

Control over customary lands and, correspondingly, over their own livelihoods and lifestyles, is one of the key struggles for the Orang Asli. Operating on the legitimacy of the Torrens system of land tenure introduced in the late 1800s by British officials (in which all unalienated lands are, by default, 'Sultanate land'), land development programmes were launched on an unprecedented scale in order to accelerate the extraction of resources and to push for aggressive economic growth. The relationship of the Orang Asli to their customary lands changed not only through the resettlement programmes organized by the JHEOA[64], but also as a result of State appropriation of land for 'development', purportedly in the interests of the nation[65].

While certain sections of 'Sultanate land' have been gazetted as 'aboriginal reserves' and 'aboriginal areas', this has been a slow process, and, certainly, does not reflect actual occupation patterns (Williams-Hunt, 1995). Such arrangements give the Orang Asli some rights over the management of the land, but these are not as secure as the status of Malay Reservation Land (see Chapter 4). With the rise of capitalist modes of exchange, rapid urbanization, the expansion of areas deemed suitable for 'development', the land upon which many Orang Asli communities

[64] As reported in the 8th Malaysia Plan, land development and resettlement projects for the Orang Asli involved about 19,800 hectares of land and 8,100 Orang Asli families during the 7th Malaysia Plan period. Furthermore, measures to "improve the welfare and economic well-being of the Orang Asli" have meant resettlement into areas developed by RISDA and FELCRA, training in vocational skills, and vegetable farming. This regroupment involved 3,350 households being moved onto 9,939 hectares of land.

[65] While Act 134 requires that the Orang Asli be given compensation for fruit trees and housing structures in the event of any eviction from their villages, it (read alongside the National Land Code) does not recognise their ownership over the land itself, and therefore frees developers and new owners from the burden of *purchasing* the land at market value. This changed when the Sagong Case was brought to Court, as elaborated in Chapter 4.

have settled has become a prized commodity with high commercial values. On many occasions, land has literally been transacted from under their feet to private developers or businessmen, requiring their relocation time and again. Dispossession of Orang Asli from their customary lands has already occurred for projects such as the Temenggor (Tan, 1993, cited in Lim, 1997), Linggiu Valley and Sungai Selangor Dams, the construction of the Kuala Lumpur International Airport (Bunnell, 2004; Nicholas, 2003a), the development of University Kebangsaan Malaysia in Bangi, and the building of residential homes and commercial complexes at Bukit Lanjan.

A recent concession to granting Orang Asli individuals with title to their lands is the provision of 99-year leases according to the Group Resettlements Act. Under the scheme, each family is provided with 6 acres of land for cultivation, and 10 acres of land for their houses. However, this provision has been unsatisfactory to Orang Asli leaders. As Norya Abas commented during the POASM Annual General Meeting in April 2004, "our identity is forever, not just for 99 years". In addition, restrictions are imposed on the management of these lands; they cannot be transferred, leased, or mortgaged without official permission[66]. Struggles over land have also been fought through the Malaysian courts and, to date, decisions in two landmark cases have created some foundation for articulating Orang Asli land rights (see Chapter 4).

'Membangun Bersama Islam': Spiritual Development, Integration and Assimilation

The 1961 policy statement of the Department, quoted earlier, was not far different from the spirit of administration proposed in 1950, in which sensitive questions concerning cultural difference were implied. Baharon Azhar, Director General of the JOA from 1969 – 1986, noted during his appointment that "(m)ost Malays and indeed many other Malaysians as well have been inclined to

[66] According to conversations with older Semai villagers, the JHEOA constantly insists that they stay fixed in one location rather than move about. Although it was previously common for families to tear down their house and to construct a new one some distance away, this practice has been discouraged. Because of the intervention of the JHEOA, the Semai in Perak now live in larger villages with a greater concentration of people than they did before. A community development worker of a Malaysian NGO said to me, "to the JHEOA, the Orang Asli being settled in fixed villages in a sign of progress" (Interview, 24.11.02).

interpret “integration with the Malay section of the community” as meaning *masuk Melayu* or ‘becoming Malay’, in short embracing Islam (1972:7)[67].

The desire to have the Orang Asli Islamizised is currently not a hidden one, although it was initially kept a secret for a number of years (COAC, 1997; Dentan and Endicott, 2002). In 1983, the JHEOA published its “Strategy for the Spread of Islam among Orang Asli Society” in which a RM14,214,500 programme was discussed to achieve “the spread of Islam across the whole of Orang Asli society”, and “the integration/ assimilation among the *Orang*-Orang Asli with Malay society” (JHEOA, 1983). Ten years later, in a newspaper article dated 24th July 1993, the “efforts of the government to Islamisize 80,000 Orang Asli in the next 10 years” were openly declared. Quoting the Head of Islamic Affairs Division at the Prime Minister’s Office, Zainal Abidin Abdul Kadir, the article reported that “until this point, around 8,000 or 10 percent of the 82,000 Orang Asli in the whole country have accepted Islam and this total is unsatisfactory (*kurang memuaskan*)”. Short and long-term strategies were announced, including the placement of ‘religious officials’ (*pegawai agama*) in Orang Asli villages, and the expenditure of RM20 million in 1992 by the Special Unit for the Proselytization of the Orang Asli (*Unit Khas Dakwah Orang Asli)* for the building of community halls and religious schools in OA villages (also see Nicholas and Williams-Hunt, 1996)[68].

Islamisization is often couched in terms of being able to develop and modernize the Orang Asli, to improve their level of living, rather than leaving them ‘backward’. Government activities to Islamisize the Orang Asli have been conducted through partnership and coordination among State bodies, including the JHEOA, special proselytisation agencies and State Islamic Affairs Departments. As Zakuan Sawai (1996/97) records, this has included conducting Islamic courses in Orang Asli villages, holding Islamic classes for Orang Asli children in JHEOA schools, Islamic leadership classes among JHEOA school teachers and workers, as well as communicating

[67] He further adds, “It is largely because of this somewhat general Malay attitude to the whole problem that they often resent the Christian Missionaries’ proselytizing activities among the Orang Asli groups, since it is argued that such activities would prevent the Orang Asli from being ‘integrated’ with them” (p.7).
[68] In addition, special scholarships have been provided for Muslim Orang Asli, for example by the Majlis Agama Islam Negeri Sembilan (“30 peratus murid Orang Asli kandas”, *Berita Harian*, 31.10.1998)

Islamic principles to villagers at a local level (see also Mohd Sabri, 1999/2000; Wazir, 1995). In addition, proselytization activities have been carried out by civil society groups in coordination with State bodies (further elaborated in Chapter 5).

The process of Islamisization carries meanings far beyond theological principles of faith. This is especially heightened by everyday perception among the Orang Asli that to *masuk Islam* is to *masuk Melayu* (see Nicholas, 1996; Dentan et al, 1997; Dentan, 1997). This conflation between religious and ethnic identity causes great anxiety among some individuals, particularly parents, who are afraid that if their children convert (for example, by marrying Malays) their grandchildren will, by default and inevitably, be declared 'Malay' to the loss of their Orang Asli identity. This has been seen as a way in which the Orang Asli can be 'colonised'. As an Orang Asli leader said to me,

> They think that their religion is complete, [that] if the people convert, they can totally change their life. They believe that their life will become better…. Their intent may be good. They really believe that 'Islam is the perfect religion'. [But] from that they have the power to conquer other people, using religion to conquer. In the long run, there will be no more Orang Asli."

A repeated theme in conversations with people is a perception among Orang Asli of being pressured to *masuk Islam*. In the course of my fieldwork, I came across such stories again and again. According to one story, members of a village were invited to a *kenduri* organized by "the Jabatan" (it was unclear exactly which one), after which, they were handed two *sarongs* and declared a Muslim. In another story, villagers were asked to surrender their identity cards for the registration of some land, and then found themselves registered as Muslims. Most of these stories I was unable to substantiate to ascertain their accuracy, and without first-hand observation I am disinclined to present these stories as 'facts' of what happened. However, they are indicative of the indignation, feelings of outrage, and sometimes helplessness of villagers, in the face of the pressure to convert to Islam (also see Howell, 2002). I have been told that some

Orang Asli even ascribe to other faiths (Christianity, Bahai) in order to escape the pressures of such conversion (also see Benjamin, 1996; Dentan, 2002)[69].

'World-class Bumiputera'

> Thus, a collective reference to them as 'primitive', 'backward' or as having social characteristic [sic] which are not conducive to social development have to dropped. For today, there are [a] few of them in the universities and institutes of techonology, bureaucrats, executive [sic], businessmen and professionals spread out in the government service and private sector….
>
> *Who are the Orang Asli*
>
> plaque on display at the Orang Asli Museum, Gombak
>
> viewed December 2002

> …we have hardly begun to realize the full potential of Orang Asli as citizens of the country. We must give them the full benefit of the best education; that they may soon complete [sic] with us on equal footing…
>
> *Reasons why we need to know the Orang Asli Arts*
>
> plaque on display at the Orang Asli Museum, Gombak
>
> viewed December 2002

In the Malaysia Plans and in government documents, the Orang Asli are categorized as being *bumiputera*, and have been included in *bumiputera* schemes[70]. In the 8th Malaysia Plan, special programmes have been unveiled for the Orang Asli, for example a Comprehensive Development Plan under the aegis of the *Skim Pembangunan Kesejahteraan Rakyat (SPKR).* The Orang Asli

[69] It is reported that up to 1998, 2000 of the 6000 Orang Asli in Kelantan had *masuk Islam*, 500 of whom converted in 1997 ("Orang Asli ikut arus perubahan", *Berita Harian*, 4.11.1998). In Selangor in 1999, 1,123 Orang Asli were registered with in the Jabatan Agama Islam Selangor ("Program keagamaan Orang Asli", Minarni Mat Saad, *Berita Harian*, 4.3.1999)

[70] For example, the Orang Asli have been given a special allocation of RM100 million in the *Amanah Saham Bumiputera* (ASB)-PPRT scheme. RM79 million was disbursed by the end of 1999 for 15,820 households (Economic Planning Unit, 2001, p.60). In the Third Outline Perspective Plan (OPP3), to be implemented from 2001 to 2010, poverty eradication programmes are to take on a more "target-specific approach", with particular focus among the Orang Asli and *bumiputera* minorities in Sabah and Sarawak (Halipah Esa, 2002).

are also included in several national poverty eradication schemes, such as projects under the Development Programme for the Hardcore Poor (*Program Pembangunan Rakyat Termiskin, PPRT*), the Integrated Development of Remote Villages Programme organized by the Ministry of Rural Development, and those launched by agencies such as FELDA, FELCRA and RISDA.

Education has also been prioritized in the programme of progress set out for the Orang Asli. This is perhaps most evident in two magazines produced by the JHEOA '*Orang Asli Berjaya'* (JHEOA, 2002) and '*Orang Asli Berjaya: Edisi II*' (JHEOA, 2003) featuring 'successful' Orang Asli. It does not take much analysis of the text of these booklets to see that the Orang Asli are encouraged to reproduce themselves in specific ways. For example, they are told: "All cultural laws (*hukum adat*) and taboos synonymous with Orang Asli society must be overcome by contemporary students in order to follow in the footsteps of those who have succeeded" (JHEOA, 2002, p.2). In these narrations, the role of the JHEOA is put forward positively, and emphasis is placed on their contributions in terms of funding and support.

Struggles over Orang Asli land and lifestyles, I argue, must be seen as a continuation of the colonial project begun by British administrators prior to Independence[71], and in relation to the broader direction set by the Government of Malaysia for *all* the peoples under its jurisdiction. The ambitious programmes embarked upon by the postcolonial government have required transformations not only of the Orang Asli, but of other groups that do not fit in with Vision 2020 aims for the Malaysian population, including rural Malays. Urban and rural populations feel the effects of such required 'development' differently. In relation to rural populations, the ideals of the government towards Vision 2020 can be seen in a speech delivered by Dato' Annuar Hj. Musa (then Minister of Rural Development) in 1995, in which he called on rural communities to "change their paradigm" so that they would be in line with another "transformation". He stated, "Rural

[71] As Tim Harper (1999) records, colonial projects from the 1950s onwards transformed the lives rural Malays dramatically. Malay villagers were resettled, 'modern' medical services introduced, health campaigns were launched, and traditional medicines with associated 'primitive superstitions' scorned by a growing number of 'native' professionals. Mass education, large scale cash cropping and the spread of technology changed the demographics and lifestyles of the rural population. These initiatives were to continue, as economically driven nation-building plans scripted industrialization, and then 'knowledge work', as suitable activities for modern Malaysians.

transformation that is attractive, progressive, and profitable will not happen if its people are not dynamic, creative, and participative" (INFRA, 1995, p.8). He further elaborated that "The new philosophy (*matlamat falsafah baru*) for rural development is to develop (*membangun*) rural people who are capable of achieving pure values (*menguasai nilai murni*) so that they would be able to use the factors of time, information and resources optimally" (my translation, p.9).

As we can see in government plans and programmes, it is not in the interest of the Government to promote the collecting of forest produce, swidden farming, subsistence crops, or hunting and trapping, as viable economic initiatives for rural Orang Asli communities. Instead, it is preferred that Orang Asli communities be permanently settled and working on plantations (particularly palm oil or rubber) extended on a large scale to traditional lands. These are activities that may indeed "bring them into the mainstream of economic development", but does not necessarily lead to their overall well-being. Not only is subsistence farming on fixed plots of land unproductive over the long-term because of poor soil quality, palm-oil and rubber prices are subject to world commodity prices[72].

The introduction of aggressive development projects is to continue under the 8th Malaysia Plan. Not only has land targeted for replanting more than doubled, from 234,423 hectares to 532,354 hectares, and land sought out for consolidation and rehabilitation been increased from 292,724 to 422,057 hectares, but '*new*' land will be opened, mostly for palm oil cultivation. Targets for 'new land' have been raised to 365,269 hectares, with the Aborigines Affairs Department responsible for 12,774 hectares (Economic Planning Unit, 2001:208).

In short, it is hoped that the Orang Asli will transform themselves, first to abandon their traditional lifestyles in favour of the development options already introduced for (other) rural Malays, and

[72] The 8th Malaysia Plan states that the price of crude palm oil fluctuated from RM1,472 per tonne in 1995 to RM2,377.50 in 1998 to RM1,000 per tonne in 2000, "due to the increase in world production and build-up in stocks as well as competition from other vegetable oils" (8MP, p.209). Export earnings have been on a decline, by 3% per annum from 1996 to 2000. The price of rubber has also fallen, from RM3.90 per kg in 1995 to RM2.50 in 2000 "due to increase in production from other major producer countries and failure of the international stock piling mechanism" (p.209).

eventually, following the logic of the 8th Malaysia Plan, to take their place along other Malays to be "world-class Bumiputera"[73]. Seen through the lens of economic efficiency, this is a plan that makes more sense than to gazette huge tracts of valuable land as aboriginal reserves, when these can be used for logging, cash cropping, or as sites for commercial or industrial properties.

It is important to emphasise, as Orang Asli leaders have frequently pointed out, that the Orang Asli are not 'anti-development' (see also Zawawi, 1996). In fact, most are desirous of economic 'development' that leads to their overall well-being. However, many have long become disenchanted with this possibility, having experienced 'poverty eradication' programmes that do not fulfill their purposes. "The Resettlement Scheme", as an Orang Asli leader said to me, "is a social control mechanism. They think it will solve the [Orang Asli] problem, but it solves it for the government, not the Orang Asli".

Conclusion

> The JHEOA and the Orang Asli can be likened to a 'bird' and the 'keeper' of its nest. The birds can actually fly like other birds, if they weren't contained in a nest by its keeper. The time has come when a group of Orang Asli feel that it is better that the birds just be released. And the nest dissolved. The JHEOA is now 42 years old. It has reached adulthood and sufficient maturity. Sadly, it is still unproductive (*mandul*) and is not effective in protecting the rights of the Orang Asli; particularly from intense forces that come in the name of development.
>
> Majid Suhut
>
> Presidential speech at the 8th POASM Annual General Meeting in 1997
>
> (POASM, 1997a:6-7, my translation)

In this chapter, I have focused on three themes which are directly relevant to the present experiences that Orang Asli have in postcolonial Malaysia. The first has to do with the way in

[73] *Melayu Baru* (the new Malay) is term recently introduced to refer to the entrepreneurial, middle class and hardworking Malays (see Shamsul, 1999), in 'contrast' to the racially 'lazy' Malays theorized by Mahathir (1970).

which the ‘aborigines’ – which existed in an ‘ideal form’ in the minds of British officials – were ‘found’, categorized, and constituted. Through everyday administrative practices such as census-taking and mapping, a new category of people was created in order to account for the variety of minority groups who held themselves (and were held) apart from the lifestyles of other ethnic groups. This resulted in the melding together of communities whose members were previously either unaware of, afraid of, or who (even deliberately) avoided one another. In this administrative manner, their lives have been tied together and their experiences systematically unified. The categorizing and classification of people also provided an official conceptual framework through which the aboriginal groups are now known, as well as how they know about and refer to themselves. This has been normalized, repeated through official accounts, and taken as commonsensical when referring to the Orang Asli.

The second theme concerns the ownership (by proxy) and management of lands under administrative systems. “Colonial intervention”, as Mohideen Abdul Kader (2000) writes, “led to the concentration of power over land and its uses in the hands of colonial authorities” (p.13). Under the Torrens system of land tenure, lands previously handed down for generations were commoditized in titles, becoming assets that could be alienated, transacted, and owned. This system gave powers to both the colonial and postcolonial regimes to control resources across the Peninsula. Transformation of land use under the sovereignty of the latter quickly surpassed that introduced by the former. This has resulted in the frequent dispossession and displacement of Orang Asli communities, their required inclusion into ‘resettlement’/ ‘regroupment’ projects, and the seizure of their customary lands (Nicholas, 2000).

Third, I highlight that administration continues to transform and reposition the Orang Asli, moving them towards normative, modernist notions of ‘progress’ and ‘development’, as their lives are rendered calculable and comparable to other Malaysians. Administration has been the most intense and direct operational mechanism for effecting such change, working through a variety of initiatives carried out by organisations that operate in concert. These (continue to) include the

Department of Aboriginal Affairs (*Jabatan Hal-Ehwal Orang Asli*, JHEOA), the Ministry of Education, the Ministry of Rural Development, the Islamic Affairs Department, as well as 'development' agencies such as the FELDA, FELCRA, and RISDA.

Administrative aims for the Orang Asli have been made explicit over the years. As expressed through the JHEOA – and repeated in the 5 yearly Malaysia Plans, newspapers, conference speeches, political campaigns, and numerous other government documents – the Malaysian government is intent on efforts to "modernize the Orang Asli… because they are considered as Bumiputeras that are still backward in the [sic] socio-economic standing" (JHEOA, undated). This communicates a sense of their placement and displacement in the nation-state, reinscribing an implication of their 'lack' *vis-à-vis* others. These arguments – which we can see expressed innocently in government statistics, and effected through nation-building plans that explicitly desire the 'restructuring of society' – are rooted in normative comparisons that equate and flatten out all citizens onto a singular, economically driven, numerically-coded base. Such comparisons are also what produce Orang Asli *narratives of themselves* as being 'lacking', and wanting to be 'equal with the other races'. These are hegemonic, powerful gazes upon/of self that are created, sustained and reinforced both subtly and overtly, and that operate such that the Orang Asli are disciplined and, whether consciously or not, discipline themselves to live up to notions of the 'ideal Malaysian citizen'.

'Modernization' through administration, as I have detailed above, does not just include a change in the economic activities of the Orang Asli. Rather, it encompasses integration into mainstream society, which (in a Malay-centric, postcolonial nation enraptured with 'developed status') includes their transformation into 'ideal subjects', based upon the economically-productive Malay Muslim Modern Citizen. Orang Asli, as the quintessential *bumiputera* 'unmodern', must remake themselves in line with the latest nation-building plans that seek to produce the "world-class Bumiputera". Indeed, the government works hard not to 'leave the Orang Asli behind', and

continues to strive so that they take their place “equal to other *bumiputera*”[74]. This has meant not only requiring changes in their economic practices, but in their psychological, spiritual, and social transformation.

[74] In “Musa ingatkan JOA jangan bersikap ketuanan”, *Utusan Melayu,* 16.09.81.

CHAPTER 4: ORANG ASLI IN MALAYSIAN LAW

The present structures of the Malaysian legal system are the culmination of changes, amendments and developments over the past several centuries, since British colonial administrators introduced principles of English law in the 1800s. In this period, the execution of these laws took into account the religions, manners, and customs of local inhabitants, giving legal recognition to *selected* customary practices (Hooker, 1976). As the colonial government recognized the plurality of the peoples under its jurisdiction, it allowed/ required their identities to be established before the relevance and role of 'customs' in the colonial legal system could be evaluated. Specifically, several types of identities became relevant to the legal system: those constructed on 'racial' grounds (such as 'Chinese' or 'Malay'), religious grounds (e.g. 'Muslim'), or on a combination of both (for example, a 'Hindu').

In understanding the way the laws of Malaysia operates for the Orang Asli, it is useful to reflect on how cultural differences and 'local' customs have been included in legal systems around the world. Jacob T. Levy (2000) argues that there are three broad ways in which customary forms of administrating justice (what he calls 'indigenous law') have been incorporated by modern nation-states. Each of these modes – customary law, common law, and self-government – he argues, operate according to different internal logics, hold dissimilar implications, and result in varying legal rights for indigenous people. Customary law inclusions, he explains, happen when States recognize laws based on the customary rules of native populations, creating room for social practices to continue after colonization. 'Traditional laws' are thus in operation, sitting alongside general laws, guiding legal decisions within Constitutionally prescribed limits. Customary laws may be incorporated through the development of statutes and applied in specific cases in both special native courts and general courts.

Common law inclusions, on the other hand, do not recognize customs as 'laws' in the full sense of the term, but give weight to them in the consideration of social situations. That is, customary practices may create legal facts that trigger certain existing general laws. As examples,

customary marriages may gain legal status through the concept of common law marriage, and customary land rights gain legal status through the concept of adverse possession. Levy explains that common law inclusions are accorded less status than customary law; for they are neither the recognition of customary ways of *making* law, nor do they focus on the *content* of customary law. As such, native people remain subject to the same laws as other citizens of the nation-state, their customary practices merely given the same weight/ status *as other equivalents* in general law. In the third mode, that of self-government, the sovereignty of indigenous/ native peoples is recognized, and thus they are allowed to be *lawmakers*. That is, they are given the "right to give themselves laws rather than simply to live according to their laws" (p.306). These approaches have been used in Malaysia in specifically different ways, and through separate mechanisms[75], which I shall discuss at the end of this chapter.

As stated earlier, the development of the colonial legal system in the Peninsula gave selective recognition to the customs and practices of distinct groups of people. This legacy has continued (albeit with amendments as the corpus of law developed), and in contemporary law the principle of *lawful discrimination* operates for certain legally defined categories of people[76]. This is not deemed to be in contradiction with Constitutional guarantees of equality before the law for all Malaysian citizens. For the Orang Asli, I suggest that three types of identity definitions have implications for their legal position: their ethnic/racial difference, their religious ascription (in particular, in defining Muslims versus non-Muslims), and, because of the persuasiveness of international law for Malaysian legal judgments, their identification as being minority indigenous people according to United Nations definitions. In the present legal system, there are three sources of legal rights for the Orang Asli: those provided for in the Federal Constitution, those

[75] As Levy (2000) emphasizes, nation-states may adopt all three modes, rely more heavily on one type, or adopt various mixtures of all these approaches. The self-government approach he sees to have had greater significance in the United States and Canada, while South Africa relies almost exclusively on customary inclusions and Australia on common law inclusions. He argues that lawmakers and analysts often do not see these as being distinctive approaches, a matter he contends, leads to inconsistencies and incompatibilities that may inadvertently dis-privilege indigenous groups.

[76] For further discussion, see *Datuk Haji Harun bin Haji Idris v. Public Prosecutor* [1977] 2 MLJ 155, which establishes the principle that discrimination is permitted within clause (5) of Article 8 and Article 153 of the Constitution. Also see *Public Prosecutor v. Khong Teng Khen* [1976] 2 MLJ 166, and *Chandra Sri Ram v. Murray Hiebert* [1997] 3 MLJ 240. In the latter, Judge Low Hop Bing reviews various Federal and Supreme Court decisions and concludes that there is lawful discrimination in the Malaysian legal system.

established through statutory law, and those developed under common law. In this chapter, I deal with these in turn[77].

Orang Asli in the Federal Constitution

A strict hierarchical ordering of texts exists in the Malaysian legal system, in which the Malay version of the Federal Constitution is held as the "supreme" authority (Federal Constitution, Article 160B). It is to this that all political and legal developments are – in principle if not always in practice – required to adhere. The Constitution sets out the roles of Federal and State governments, placing confines on the powers of the Executive[78]. It not only divides the Executive, Legislative and Judiciary authorities[79], but delimits the powers held by Parliament, and (at least ideally) regulates/ protects the freedoms of the peoples of the Malaysian nation-state. Because of the separation of powers, some space is constructed for the Courts to arbitrate in an impartial manner, among citizens, organizations, and members of the Executive.

Nevertheless, there are limits on the supremacy of the Constitution. These include provisions that allow for it to be amended, that is, through obtaining a two-thirds majority vote in Parliament and the assent of the Yang Di-Pertuan Agong, and indeed, numerous changes have been made to its initial form in 1957 (Lee, 1995). Furthermore, the lived reality of the Constitution, that is, what it means in terms of the material lives of citizens in Malaysia, requires the interpretation of the written text. In this matter, judges play a significant role, particularly when these interpretations are contested through the courts (Tun Mohamed Suffian, 1976)[80].

[77] The subject of Orang Asli in the law has been discussed by Nicholas (2000), Hooker (2001, 1996), Hood (1990), Lim (1997), Liow (1981), Nair (2001), Rachagan (1990), Sullivan (1998) and Williams-Hunt (1995), among others.
[78] That is, the whole machinery of the government including the Yang Dipertuan Agung, the Prime Minister and his Cabinet, civil servants, ministries, departments, the armed forces, and the police.
[79] This allows for the Judiciary to decide upon cases where the Executive – for example, the Federal Government and all State Governments – are plaintiffs or defendants.
[80] As Gopal Sri Ram JCA eloquently articulated, in *Repco Holdings Berhad v. Public Prosecutor [1997] 3 MLJ 681*, "Our Federal Constitution is a living document written for all time. Its language compresses within it ideas that are manifold and concepts that are multifaceted. The task of the judicial interpreter of such a document is not to place it in a coffin and nail the lid but to breathe life into it and to give effect to the full breadth and width of its great language."

In the current version of the Constitution, the "aborigine" (in the Malay text, *orang asli*) is recognized as a separate legal entity from the "Malay" (*Orang Melayu*) and the "native (*bumiputra*) of Sabah and Sarawak" (see Appendix A for definitions). As such, 'aborigines' may not claim rights given to 'Malays' and vice versa[81]. The 'aborigine' is defined in Article 160(2) of the Constitution as "an aborigine of the *Malay Peninsula*" (my emphasis). Apart from the geographical imagining of their positionality, the legal implications of this brief and tautological definition have been considered by several scholars. Rachagan (1990) points out that a change in definition may thus be effected without the usual safeguards and procedures required for all other changes to the Constitution. In addition, it places greater emphasis on the Aboriginal People's Act (Act 134) definition of 'aborigine'. Indeed, as we can see in court judgments such as Koperasi Kijang Mas Bhd & Ors v. Kerajaan Negeri Perak & Ors [1991] 1 CLJ (Rep) (hereafter referred to as the *Koperasi Kijang Mas* Case); and Sagong Tasi & Ors v. Kerajaan Negeri Selangor & Ors [2002] 2 CLJ 543 (the *Sagong* Case), it was the Act 134 definition that 'gave life' to this identity. For the *Sagong* case in particular, the Temuan Orang Asli who brought their case to court had their identity, *within the meaning of Act 134*, challenged[82].

When comparing the definitions of various indigenous groups in the Constitution (as supported by relevant statutes), therefore, it becomes quite apparent that they are based on different criteria. While the definition of 'aborigine' relies on the Act 134 definition, and 'native of Sabah and Sarawak' requires proof of ancestry (thus being more 'racial' in tone), the definition of 'Malay' (in Article 160 of the Constitution) is a purely socio-religious one (see also Mohd Salleh, 1986). This has implications for the citizens of Malaysia in general and the Orang Asli in particular. *It is possible* that individuals can be legally reclassified as 'Malay' when they convert to Islam, take on 'Malay customs', and demonstrate a proficiency in the Malay language. As Tun Mohamed

[81] This was a matter emphasized in Sagong Tasi & Ors v. Kerajaan Negeri Selangor & Ors [2002] 2 CLJ 543, a landmark case for the Orang Asli described below.

[82] Specifically, they were recognized as aboriginal Temuan people, but were challenged as to whether they still practiced 'Temuan culture', as evidenced through their speaking an aboriginal language, following 'an aboriginal way of life' and adhering to 'aboriginal customs and beliefs', which are requirements stipulated in the Act 134 definition. Qualifying for the Act 134 definition thus established the plaintiffs' rights under statutory law. It is interesting to note that in the *Koperasi Kijang Mas* Case, the *Sagong* Case, and the *Adong* cases (documented in Adong Kuwau & Ors v. Kerajaan Negeri Johor & Anor [1997] 1 MLJ 418 and Kerajaan Negeri Johor & Anor v. Adong Kuwau & Ors [1998] 2 CLJ 665, administrative recognition of the plaintiffs by the JHEOA (evidenced through its prior dealings with them), was *part* of how their identity as Orang Asli was 'proven'.

Suffian (1976:291) explicates, "to be a Malay for the purposes of the Constitution you need not be of Malay ethnic origin. An Indian is Malay if he professes the Muslim religion, habitually speaks Malay and conforms to Malay custom". In contrast to this, no one can 'become' an 'aborigine' or 'become' a 'native' of Sabah and Sarawak by changing their socio-religious practices alone[83].

The 'aborigines' are mentioned three times in the Constitution (See Appendix A). Firstly, the "welfare of the aborigines" is outlined as a "federal" subject, and therefore a matter over which the Federal Government has responsibility (see Article 74 and 77, Item 16; List I – Federal List, Ninth Schedule)[84]. This means that the role of law making in relation to the Orang Asli lies in the hands of Parliament rather than the Legislature of any State. Secondly, the Yang di-Pertuan Agong can appoint members to the Senate who "are capable of representing the interests of aborigines" (Article 45(2))[85]. It is under this provision that the role of the Orang Asli Senator was created, significantly, an *appointed* role (see Chapter 2 for further discussion).

Thirdly, the Constitution allows for special provisions to be given to all Orang Asli. In Article 8(5)(c), these special provisions are stated as not jeopardizing the principle of equality before the law. This Article was discussed in two different significant court cases. In Adong Kuwau & Ors v. Kerajaan Negeri Johor & Anor [1997] 1 MLJ 418 (hereinafter the *Adong 1* Case), the presiding judge Mokhtar Sidin JCA interpreted Article 8(5)(c) to mean that "the aboriginal people of Malaysia [enjoy] a special position" (p. 431). In the *Sagong* Case ruling, Mohd Noor Ahmad J noted that this Article, along with other Constitutional and statutory provisions, supported the claim that both State and Federal Governments owe *fiduciary duties* to the Orang Asli (p.555), for which losses in consequence of the breach "must be made good" (p.575).

[83] The social, political and legal permeability of Malay ethnicity creates unease among the Orang Asli, who are wary that ascription to Islam (with concomitant changes in lifestyles) potentially results in a change of identity from 'Orang Asli' to 'Malay', a matter that is recognized and allowed for in the legal framework.
[84] Significantly, it is important to note that the 'welfare of the aborigines' under the aegis of the Federal Government does not extend to matters concerning land, over which State Governments continue to hold authority. This creates legal difficulties for the Orang Asli in relation to land, a matter covered in greater depth in subsequent paragraphs, as well as in Chapters 3 and 5.
[85] In addition, he can appoint other representatives of racial minorities to the Senate, as well as individuals seen to have performed distinguished public, professional or social services.

Absences in the Constitution

Of great import are the ways in which 'the aborigines' are *not* mentioned, when 'Malays' and the natives of Sabah and Sarawak are. For example, there are restrictions on Parliament as to the making of laws that touch upon Islamic law and Malay customs, as well as to native customs or laws in Sabah and Sarawak (Article 76, Article 150 (6A)), but not with regard to aboriginal affairs. For the natives of Sabah and Sarawak specifically, the Legislatures of the State Governments of Sabah and Sarawak are allowed to make laws with respect to native law and custom, as well as to native procedure of native courts (see Article 74(20) and the Ninth Schedule, List IIA, Item 13), while the legislature of States in the Peninsula, where all the Orang Asli are found, are not. This has allowed the natives of Sabah and Sarawak some recognition over their customary lands that the Orang Asli did/do not enjoy[86].

As detailed in Article 89(6), both 'Malays' and 'natives' are also given special privileges with regard to Malay Reservation Land that the 'aborigines' are excluded from[87]. Malay Reservations Land, unlike 'aboriginal reserves', 'aboriginal areas', or 'aboriginal inhabited places' as legally recognised in Act 134, are specially protected in the Constitution. Specifically, Malay Reservations Land can only be de-gazetted by State Enactments passed by a two-third majority vote in State Legislative Assemblies *and* two-thirds majority vote approval by resolution of the Parliament (Article 89(1)), which offer these lands stronger protection[88].

Perhaps the most symbolically significant absence of the 'aborigines' in the Constitution, when compared to 'Malays' and the natives of Sabah and Sarawak alike, is Article 153 of the Federal Constitution, which reads,

[86] This does not mean that they enjoy security over their native lands (see King, 1995).
[87] This was confirmed in the *Sagong* case, in which the judge specifically ruled that: "Article 89 when read as a whole does not include the aboriginal people of the Malay Peninsula because the word 'natives' appearing in sub-art. (6) is defined in art. 161A(6) to mean the natives of Sabah and Sarawak. If it is meant to be otherwise the word 'aborigines' would have been used in the sub-art." (p.576).
[88] Not only are 'aboriginal reserves', 'aboriginal areas', or 'aboriginal inhabited places' not given Constitional recognition, Act 134 also stipulates that they may be gazetted and that the gazettement can be revoked by State authorities (i.e. without the involvement of the Parliament).

> It shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.

"The aborigines" are noticeably missing in this provision, an absence repeated in State-level Constitutions which hold parallel Articles. This is significant, for it is this Constitutional provision that is the basis for justifying positive discrimination for the *bumiputera*. As discussed in Chapter 2, this absence has created some ambiguity and debate over whether the Orang Asli are, in fact, *bumiputera*.

Other Constitutional Provisions: Religion and Property

Freedom of religion is guaranteed in Article 3(1) and Article 11 of the Constitution for all non-Muslims, as is freedom of peaceful assembly in Article 10(1)(b), and the right of individuals not to receive instruction or take part in any ceremony or act of worship other than his/her own (Article 12(3))[89]. Orang Asli who have converted to Islam become subject to Islamic law, over which the Legislature of State Governments have jurisdiction (Federal Constitution, Ninth Schedule, List II, Item 1), which is vested in respective Syariah Courts[90]. In addition to this, the Constitution allows for State and Federal laws to be passed that control or restrict the propagation of non-Muslim religious doctrines among Muslims (Article 11(4)). Furthermore, each State has laws that empower State Islamic Departments to regulate the activities of Muslims, a significant one being the observation of the fasting month, *Ramadan*[91].

Last but not least, proprietary rights are protected under Article 13, of which sub-article 1 reads: "No person shall be deprived of property save in accordance with law" and sub-article 2 reads:

---

[89] In relation to Article 12(3), parental/guardian consent must be obtained for those under 18 years of age, as stated in Article 12(4).

[90] Islamic law, when implemented judicially, is largely confined to matters of family law and land practices. However, there are socio-legal effects of Islamisization that are often not considered by Orang Asli when they embrace Islam (see Dentan and Endicott, forthcoming).

[91] Because Orang Asli are often mistaken as Malays due to their similarities in physical appearance, there have been many occasions where they were (almost) arrested by State Islamic Departments for not fasting during *Ramadan*. This is a matter discussed in Chapter 6.

"No law shall provide for the compulsory acquisition or use of property without adequate compensation". These have been interpreted in recent judicial decisions such as *Adong* and *Sagong* to encompass the protection of 'native title' (further discussed below).

Statutory Rights: The Aboriginal Peoples Act

> Aborigines are human beings with human reactions, and the idea of this [1953 Aboriginal Peoples] Bill is to provide for their protection as human beings and not as museum pieces or exhibits.
>
> Dato' Onn bin Ja'afar
>
> Speech to the Legislative Council of the Federation of Malaya
>
> 25th November 1953
>
> (Federation of Malaya, 1954a)

Also known as Act 134, The Aboriginal Peoples Act came into force in 1954, when war against the Communists was still intense[92]. As outlined in Chapter 2, the loyalty of the aborigines was deemed crucial to the outcome of this confrontation, and measures were taken to extend 'protection' to aboriginal groups. When initial drafts of this Act[93] (then known as the Aboriginal Peoples Ordinance) were first reviewed by the Select Committee of the Legislative Council on 27th of January 1954, its main principle and aims were outlined as follows:

> to ensure that the aborigines were protected from unscrupulous exploitation, to safeguard their tribal organization and way of life from the too rapid advance of civilization and to remove any obstacles which might hinder their gradual advancement along the lines best suited to them in accordance with their changing environment. (Federation of Malaya, 1954c:1)[94]

[92] Act 134 was later revised in 1967 and 1974.
[93] The content of the law was based on the Perak Aboriginal Enactment of 1939, which was extended, under British administration of the Federated Malay States, to Selangor, Negeri Sembilan and Pahang.
[94] The Select Committee comprised Onn bin Ja'afar, Bukit Gantang, H. Zainal, Tengku Muhammad, Shamsudin B. Nain, A.H.P. Humphreys, Ismail Rahman, and H.M. Eusoff. Invited to the meeting was (then) Adviser on Aborigines, R.O.D. Noone, and the Assistant Legal Draftsman, A.M. Webb.

The introduction of the Ordinance in 1954 was, as Jimin et al (1983) note, a significant milestone in the administration of the Orang Asli, for this was the first time that the Federal Government officially declared its responsibilities toward them[95].

In addition to giving meaning to the precise definition of 'aborigine' (see Figure 1, Appendix A), this Act gives extensive powers to the JHEOA. For example, it has ultimate authority to decide if a specific individual is deemed an 'aborigine' (Section 3(3)), it must approve all dealings in land by aborigines (Section 9), it can prevent any person or class of person from entering aboriginal areas and reserves (Section 14), it may detain individuals in such areas which are deemed to conduct activities detrimental to the welfare of any aborigine(s) (Section 15), and to appoint hereditary headmen of aboriginal communities to office (Section 16).

The JHEOA is also given powers to impose regulations on a number of practices. These include those related to land use, the entry of individuals as well as the circulation of information (in a variety of media) into aboriginal spaces, the appointment of headmen, the registration of aborigines, the activities of aborigines within jungle areas, their education and employment, transactions of liquor, as well as the terminology by which aborigines are referred to (Section 19).

Act 134 also reaffirms the role of State Authorities (State Governments) in matters relating to land, giving them supreme powers to gazette *and to revoke* land as 'aboriginal reserve' (Section 7), 'aboriginal area' (Section 6), or 'aboriginal inhabited place', which is in stark contrast to the multiple Constitutional protections instituted for Malay Reservations Land, as described above. State Authorities may also order any aboriginal community to leave Malay Reservations Land (Section 10)[96], and have powers to excise, alienate, grant, lease and otherwise dispose of land

[95] However, the introduction of this statute is bittersweet, for it imposes many restrictions upon contemporary Orang Asli, even as it codifies some statutory rights for them. Act 134 has been criticized validly and repeatedly, as being irrelevant, paternalistic, and restrictive. Civil society actors have repeatedly called for its review if not outright repeal. It is not difficult to see that certain sections of Act 134 create conditions in which the autonomy of Orang Asli is eroded.

[96] In the first Adong judgment, the presiding High Court Judge interpreted that: "By virtue of [section] 10 [of Act 134], the rights of the aboriginal peoples to occupy and/or collect forest produce overrides Malay reserve land, forest reserve or game reserve. Section 10 reflects the legislature's intention to allow the aboriginal people to lead the type of life they have always led, which has been nomadic and always looking for greener pastures." (p.431).

which aboriginal communities have used, with only compensation for fruit and rubber trees (Section 11).

Nevertheless, certain protections and 'special rights' *are* offered to Orang Asli under this Act. For example, they have a right to be present in lands gazetted as 'aboriginal areas' and 'aboriginal reserves', a right not to be excluded from schools, a right not to be obliged to attend any religious instruction without prior parental/guardian consent (Section 17), and not to be adopted by non-aboriginal parents except with the consent of the JHEOA (Section 18). Furthermore, the identification of the JHEOA – represented by the Commissioner – as being "responsible for the general administration, welfare and advancement of aborigines" (Article 4), has been turned around to argue that the Federal Government owes a *fiduciary duty* to all Orang Asli. As argued in the *Sagong* Case, this has become a matter enforceable through the judiciary[97].

The 'aborigines' are also mentioned in other statutes, which give them special rights and privileges. The Law Reform (Marriage and Divorce) Act 1976 (also known as Act 164), for example, allows for the marriage and divorce of 'aborigines' to be governed by native customary law or aboriginal customs, if that is their choice. Furthermore, in the Protection of Wildlife Act 1972, an aborigine is allowed to shoot, kill, or take protected wild animals and birds "for the purpose of providing food for himself or his family", when other Malaysians are not given such freedoms (section 52). Thirdly, as stated in the National Forestry Act 1984 (Act 313), aborigines can all be exempted from holding licenses for the removal of forest produce from certain classes of land (Section 40(3)). Lastly, a certain type of aborigine ("nomadic aborigines") is mentioned in the Employee Provident Fund Act 1991, which stipulates that they are, by default, not considered "employees", unless the Director-General of the Department of Aborigines recommends otherwise.

[97] Orang Asli rights under Act 134 have more explicitly demonstrated through court judgments, which I will elaborate upon further below.

Common Law Developments

As stated earlier, the precise definition and scope of (even Constitutionally guaranteed) rights are only established through specific cases, which require direct application of general principles established through codified laws. In understanding how common law operates, it is important to note the principle of *stare decisis*, that is, the hierarchical system of binding judicial precedent. In Malaysian law, as in English common law, the decisions of higher courts are binding upon lower courts, such that the Federal Court is the ultimate authority, followed by the Court of Appeal, and the High Courts of Peninsular Malaysia, Sabah and Sarawak[98]. Specific contests over land are judged by the High Court in the first instance, and may be brought for appeal to the Court of Appeals and thence to the Federal Court. Tried as civil cases, judgments in High Court are ruled on a balance of probabilities, with judges required to establish the 'real' facts of the case.

In the past decade, several important cases have come through the courts, which have established legal rights for Orang Asli (see also Hooker, 2001; Nicholas, 2003b). The most significant have been the establishment of *native title* and *usufructury rights* in the *Adong* Case judgments, and the development of these to include proprietary rights *in* the land, under the *Sagong* Case ruling. These developments, which draw upon international law, I will deal with in turn. This follows consideration of a less well-known case, *Koperasi Kijang Mas*, which demonstrates how Orang Asli have claimed special privileges on the basis of their identity in ways not possible for other Malaysians.

Exclusive Rights to Commercial Activities in Aboriginal Places: The Koperasi Kijang Mas Case

The plaintiffs sought declaration that the land in question, Kuala Betis, was an 'aboriginal area' and not just 'State Land'. Therefore, they claimed, only 'aborigines' had rights over forest produce from that area. They argued that the actions of one of the defendants, the Director of

[98] These are followed by the Subordinate Courts, which, in the case of Peninsular Malaysia, are the Sessions Courts, Magistrates' Courts, Small Claims Courts, *Penghulu* Courts. In addition, Syariah Courts are subordinate to the Superior Courts (Lee, 2001).

Forestry (a Federal agency), to offer the land to a private limited company (another defendant) was unlawful because the latter had no connection with the aborigines. The plaintiffs argued that this company had therefore no right to conduct logging activities in the area.

The presiding Judge, Abdul Malek Ahmad H, made these declarations and ruled that only aborigines, as specified under Act 134, had rights to harvest forest produce from these areas. He agreed that "logging conducted by any body, organisation, foundation or representative and their agents that are not owned by aborigines are in violation of s. 6(2)(iv) of the Aboriginal People's Act 1954" (p. 651)[99]. In this court case, we see how Orang Asli have been able to claim special rights and privileges by virtue of their legal identity.

Introducing 'Native Title': The *Adong* Rulings

In this court case, 52 plaintiffs of the Jakun tribe living in Linggiu Valley were displaced from their traditional and ancestral land upon which they foraged. This occurred when the land was alienated by the Johor State Government and the Johor Director of Land and Mines for the building of a dam in agreement with the Government of Singapore. The plaintiffs claimed that the compensation they received as recommended by the JHEOA (in accordance with sections 11 and 12 of Act 134) was inadequate. New judicial concepts were introduced in this landmark case, in particular, that of *native title*.

The Judge laid down his understanding of 'native title', drawing upon precedents in the United States, Southern Rhodesia, Canada and Australia, stating that "it is the right of the native to continue to live on their land as their forefathers had done", a right "acquired in law" and not based on any document or title (*Adong 1*, p.428). That also meant that "future generations of the aboriginal people would be entitled to this right of their forefathers" (p. 430). Specifically, he defined this "right *over* the land" (my emphasis) to include,

[99] Article 6 (2iv) states that "no licences for the collection of forest produce under any written law relating to forests shall be issued to persons not being aborigines normally resident in that aboriginal area or to any commercial undertaking without consulting the Commissioner and in granting any such licence it may be ordered that a specified proportion of aboriginal labour be employed."

> the right to move freely about their land, without any form of disturbance or interference and also to live from the produce of the land itself, but not to the land itself in the modern sense that the aborigines can convey, lease out, rent out the land or any produce therein since they have been in continuous and unbroken occupation and/or enjoyment of the rights of the land from time immemorial. (p.430).

He ruled that compensation had to be given not just for rubber and fruit trees, as required in Act 134, but "for what is above the land over which the plaintiffs have a right" (p.431), that is compensation "for the loss of *livelihood* and hunting ground" (p.431). These, he established, were protected under Article 13 of the Federal Constitution (concerned with proprietary rights to land), and could not be excluded by Act 134. Compensation was thus given for five types of deprivation: of heritage land; of freedom of inhabitation or movement; of produce of the forest; of future living for the plaintiffs and their immediate families; and for the future living for their living descendants (valued at RM26.5 million for 53,273 acres of land). When this was reviewed in the Court of Appeal (Kerajaan Negeri Johor & Anor v. Adong Kuwau & Ors [1998] 2 CLJ 665), the presiding judges upheld the decision, and reaffirmed that "deprivation of livelihood may amount to deprivation of life itself and that state action which produced such a consequence may be impugned on well-established grounds" (p.158).

Proprietary Rights *in* and *to* the Land: The *Sagong* Case

Eight months before the first *Adong* judgment was released, a portion of land upon which several Temuan families lived was acquired for the construction of a portion of a highway that joined the Kuala Lumpur International Airport to the North-South Highway. These families were evicted, with only minimal compensation given for their loss of fruit trees, crops and homes – *not* for the value of the land upon which they resided. They brought the Selangor State Government, Federal Government, the highway authority and the private construction company to court, and argued for the recognition of native title with attendant full compensation.

The presiding judge, Mohd Noor Ahmad J affirmed that the plaintiffs held 'native title' as recognised in the *Adong* judgements, which included *usufructury rights*, that is, right *over* the land, as well as *interest in* and *to* the land. This, he decided, were proprietary rights under common law which were protected in Article 13 of the Federal Constitution, and thus liable for compensation under the Land Acquisition Act[100]. Specifically, the Judge ruled

> Apart from the orang asli and the native people of the Borneo states, there are no other classes of people in Malaysia who occupy the said lands on the basis of customary right except the lands occupied under the tribal adapt in Negeri Sembilan and Malacca…. Thus, the Act speaks of aboriginal reserve land and aboriginal occupied land. The latter refers to hereditary land or customary land (p.573).

Therefore, when 'native title' is extinguished, this warrants the same compensation awarded to other 'ordinary' title holders under the Torrens system.

While these developments in case law bode well for the Orang Asli, the wide powers of the Land Acquisition Act still permit government authorities to legitimize purchasing Orang Asli customary land. As Bah Tony Williams-Hunt commented, "We cannot stop people from taking the land. We may [through the Sagong ruling] get some compensation, but as long as the government says that it is for development, you have no say. There must be some protection for this." (Interview, 03.12.03)

Going to Court: Everyday Realities

In discussing this case with me, leading lawyer for the *Adong* plaintiffs, S Kanawagi, said that they faced many challenges. As the aboriginal communities for which they advocated were not able to bear the costs of such litigation, expenses for the first case, which took more than six years to fight, were borne by the lawyers (Interview, 29.01.03). As the case was proceeding, the

[100] He further noted, following Mabo v. Queensland [1991-1992] 175 CLR 1, that although native title was a community title, "individuals within the community could by its laws and customs possess proprietary *individual* rights over the respective parcels of land" (*Sagong*: 568).

plaintiffs were pressured to drop the case in various ways outside of the court, although the 'messengers' of such 'suggestions' often came *incognito*.

The lawyers for the plaintiffs did not desire that this case be given great publicity. When the judgment was first released, it was done without much media attention. Furthermore, as the legal system was based on colonial conceptions of land, property, and ownership, arguments for 'native title' required a rethinking of fundamental principles of justice. In this case it wasn't just that "(t)he Orang Asli are totally innocent, they don't know their rights", as Kanawagi said, but that the judges who presided on the cases, too, had to reassess the fundamental structures and premises of the post-colonial legal system, in order to decide what the rights of the Orang Asli were[101].

For the plaintiffs of the *Sagong* Case, the process of going to court was, as Ilam Senin noted, frightening and stressful for the Bukit Tampoi Temuans. As he said, "We encouraged them to be brave, to stand up for their rights as indigenous people. That gave them courage" (Interview, 15.12.02). One of the lawyers for the *Sagong* plaintiffs, Rashid Ismail noted that the legal process was quite unfamiliar to the Temuan people involved. He commented, "[The plaintiffs] were exceptionally afraid of going to court; the environment was totally alien to them, they had not been exposed to that before" (Interview, 16.08.02). This, along with language difficulties, made it difficult for them to extract 'evidence' from their own witnesses, which the lawyers needed to build their case. "What we considered relevant, they did not think was relevant…. [They were also] not comfortable with Bahasa; they had limited vocabulary, which impeded them from fully expressing themselves." Commenting on this matter, Sharmila Sekaran, also lawyer for the plaintiffs noted,

> When we asked them 'What are your customs?' they replied, 'Yes, we have our customs'. In law, we are not supposed to lead our witnesses. But they could not see the intent of what the lawyers were trying to do…. They don't know what is relevant and what is not." (Interview, 14.09.02).

[101] In July 2004, the Orang Asli involved in this case made it known that the compensation they had been awarded had not been disbursed appropriately, and lodged a police report against their lawyer, S. Kanawagi.

This, she suggested, was not unrelated to the very specific format of discourse required in the courts, which was in disjuncture with what the Temuan witnesses were accustomed to. "For the Orang Asli, their understanding is that you *discuss* problems. But in court, you need 'yes [or] no' answers. They don't know what to say [to our questions], what is relevant."

She continued to elaborate on the everyday difficulties of bringing the case to court.

> [First,] we had to have their trust; this made it easier to deal with them. Because they have a lack of understanding about the legal system, they didn't trust the system. [If they don't trust us] they can withhold information or evidence that is crucial to the case. Second, we have trouble with language. Most important information was from the older people, who don't speak Bahasa. During the question and answer sessions, the translator sometimes just gave a summary, or the translation is not in full. Thirdly, we needed help with logistics…. [the plaintiffs] had to attend every day of trial. Some of them go to work in towns because they can't work on the land [any longer], and they couldn't get leave.[102]

The judge's role in addressing some of these communication issues was important, as Sharmila explained. In this particular case, the judge insisted that the interpreters explained the proceedings to the plaintiffs, and ensured that they knew what was going on. "This shows a consideration of them as people, upholding their dignity", she said, which gave the plaintiffs greater confidence during the whole procedure. Going to court was also a legal process not divorced from social and political realities. As Colin Nicholas, who was involved throughout the court case (and who observed the reactions and responses of witnesses at the trial) noted,

[102] Similar observations were held by another lawyer who has provided legal advice to Orang Asli individuals on various issues, including land compensation. As he stated, "The Orang Asli are sometimes not able to take up the legal advice [I offer them]. They are fearful; fearful of challenging the authorities; fearful because they are not familiar with the legal system. I have advised them that it is not 'anti-government' [to file a case] but it is asserting their rights. The people who take cases to court are the ones who are more articulate, confident, aware, and have better networking. They are familiar with the systems of the outside world. [Most Orang Asli] are fearful that they won't have the financial resources; fearful that they have to pay the costs for the other side [if they lose the case]. They have no confidence that they will win." Speaking in particular about compensation for land taken by the Government, he says, "They think 'it is better to have a bird in hand than two in a bush', and they are happy with compensation for fruit trees. Most people are not happy, but they will accept rather than fight for their rights. Education is needed to overcome this" (Interview, 10.10.2002).

certain individuals were hesitant in providing evidence for the plaintiffs, as they were government servants, and felt that they couldn't say anything 'against' the government, which was among the defendants in the proceedings[103].

Bringing such a case to court was a learning experience for the lawyers involved, most of whom did not have much prior contact with Orang Asli groups. These have also been new experiences for the Orang Asli plaintiffs. The court proceedings have introduced new means by which defence against dispossession can be articulated, and have given Orang Asli greater confidence in the rights that they can enjoy in the Malaysian nation-state. Following the Sagong judgment, two communities in Sabah and Sarawak brought two companies to court for encroaching on their customary land (IWGIA, 2003). Back in Bukit Tampoi, where the *Sagong* plaintiffs resided, compensation for an adjacent piece of land, de-gazetted to make way for a radar site, was retrospectively offered at RM190,000 an acre (Interview with Colin Nicholas cited in Bunnell and Nah, 2004).

Conclusion

The Malaysian legal system, as I have pointed out, does allow some room for the practice of what Levy (2000) terms 'indigenous law', albeit in different ways for separate categories of citizens. Customary inclusions were given to Malays and 'natives' of Sabah and Sarawak under the Constitution. Specifically, for the 'Malays' the legal system recognizes and allows for certain Islamic customs/laws to be incorporated and independently decided upon in *syariah* courts. Similarly, native customs/laws in Sabah and Sarawak are recognized and allowed judicial recognition through native courts. The Orang Asli, however, have no such formal systems. All laws in relation to them are made by Parliament – with the exception of land matters which are legislated (with some restriction) by State Legislative Assemblies – and all legal cases concerning their customary practices come through the regular subordinate and superior courts. The only

[103] Seminar presented at the National University of Singapore, October 2002.

ways in which they have enjoyed any recognition of their customary practices have been through common law incorporations.

Most Orang Asli are neither aware of their rights in the written text of the law, nor are they familiar with the process of seeking justice through judicial systems. As such, they rely on interpreters of the law – JHEOA officials, civil society actors, lawyers, and judges – to help them with the everyday struggles they face. For every successful case for land rights won through the courts, there have been many more incidents of evicted Orang Asli communities whose rights to land have not been given recognition through case law. It has been the task of some civil society groups to address such imbalances – through education, organizing, and empowerment – which is part of my next chapter, 'Civil Society Alternatives'.

CHAPTER 5: CIVIL SOCIETY ALTERNATIVES

The construction of the social space termed 'civil society' is unlike earlier fields discussed in this thesis – politics, administration, and the legal sphere – as its parameters are defined by what it excludes, which shapes the activities of its actors significantly. In the first section of this chapter, I discuss the ontological construction of this field. In the second, I review how civil society activities concerned with indigenous rights in Malaysia are shaped through, and contribute to, the construction of Orang Asli identity. I do this by reviewing the activities of particular organizations and by presenting the thoughts of civil society actors as they work to organise Orang Asli groups. I proceed to discuss networks and alliances that link Orang Asli groups to transnational initiatives concerning *indigenous peoples* worldwide, a concept that is gaining increasing significance both legally and politically. In the third and final section of this chapter, I look at the efforts and impact of religious groups operating among the Orang Asli, highlighting the issues they face in relation to proselytization activities in Malaysia.

Conceptualising 'Civil Society'

Hegel (1967) proposed that 'civil society' be seen as the space between the family and the 'State' which serves to check that the latter does not violate the freedoms of individuals/communities. Gramsci suggested the need for further analytical distinction between economic organisations and civil society, seeing the thrust of capitalism as constituting a potent force in shaping the direction and aims of the former. Gramsci warned that the workings of civil society could be complicit in sustaining the ideological projects of political elites, upholding rather than upsetting the power of dominant groups. Others have hoped for the role of civil society to be a public sphere, providing a Habermasian 'ideal speech situation' in which participants are not hampered in their ability to assess situations and to enter into democratic discussions (Giddens, 1994). Under ideal conditions, therefore, 'real opinions' may be voiced, free from fear or bias. As such, this social space comes under threat when strong states act to repress articulation and action.

Some have drawn a distinction between *civil* society and *civic* society initiatives, the former constructed as being more directly engaged in establishing the status of groups through encounters with State powers, while the latter primarily focusing on goals that do not bring State actions under question. However, if we take Gramsci's conceptualization of hegemony, and consider Foucault (1982)'s thesis concerning 'technologies of power' which are precisely concerned with the way in which dominance is sustained through shaping the way everyday actors conceptualise and evaluate social 'problems', then this becomes a blurred distinction. In other words, those who may not have overt interests in pushing for socio-political change vis-à-vis the State may still (even if inadvertently) create social circumstances in which such changes in structures are wrought. In light of these debates, I propose that all actors organized voluntarily outside the auspices of the Executive, Legislative, and Judiciary authorities, be considered as constituting *civil society*.

Civil society groups that are involved with the Orang Asli or that are led by Orang Asli individuals are varied in size, objectives, and location. There are groups that are more directly concerned with lobbying for civil, political and legal rights; groups that are primarily concerned with community development activities to address socio-economic concerns; and groups whose chief aim is evangelism/ proselytization among the Orang Asli. These groups often operate quite independently, although most groups I interviewed were cognizant of the activities and presence of the others.

Securing Social Justice, Negotiating Orang Asli Rights

The first documented civil society action taken by Orang Asli actors was initiated in 1973, which led to the formation of the Peninsular Malaysia Orang Asli Association (*Persatuan Orang Asli Semenanjung Malaysia*, POASM). In response to a proposal by (then) Minister of Rural Development, Ghafar Baba, to rename the Orang Asli as Putra Asli[104], 41 Orang Asli individuals

[104] Williams-Hunt Abdullah, A. (undated) *Sejarah Persatuan Orang Asli Semenanjung Malaysia*. POASM, distributed during the POASM Silver Anniversary, on 9th August 2002.

met to formulate their response to this significant name change. Led by Itam Wali Nawan[105], this group eventually voted 40 to 1 in favour of retaining the name 'Orang Asli'.

The text of the memorandum submitted to the Minister[106] captured key concerns of the Orang Asli at that time. In particular, they articulated their resistance to the actions of non-Orang Asli in determining their socio-political identity, as expressed in the proposed name change. Significantly, the Orang Asli resisted being seen as 'objects', always acted upon, and desired greater inclusion in deciding the affairs of their own 'community'. The Orang Asli were keen to establish a more stable channel through which they could represent Orang Asli interests and, to this end, POASM was formed on the 9th of August 1977[107]. The first POASM constitution was written, modeled upon that of UMNO, and the first POASM Annual General Meeting was held on the 2nd of October 1977.

To date, POASM has more than 19,650 members spread across the Peninsula, and its numbers continue to increase. The language of communication is Malay, a matter of necessity because of the plurality of languages across Orang Asli ethnic groups[108]. It is through POASM that many Orang Asli learn about the social issues that face their communities, and it is through POASM fora that such matters are discussed and some form of united response agreed upon[109].

[105] Itam Wali was, at that time a JOA officer, who later was to become the Third Orang Asli Senator from 1991 to 1996.
[106] Unpublished document entitled "*Minit Perjumpaan Mengkaji Usul Putrasli*" dated 12.10.73.
[107] A revitalization of the organization occurred in 1989 under the leadership of Bah Tony Williams-Hunt, and its numbers greatly increased (Nicholas, 2000:153).
[108] It is interesting to consider the role that language plays in the imagining of self identity. During fieldwork, I encountered Orang Asli who felt that their home language was their 'last frontier' of being different, of being Orang Asli. To paraphrase the words of a community worker, "We dress like the Malays, live like the Malays, do what the Malays do, and speak their language when we talk to other people. Among ourselves, our own language is the way we know we are different from them [the Malays]". However, at this 'supra-tribal' level, the use of Malay is necessary, for it the *lingua franca* most common to all groups. This underscores the conditions and contexts of this articulation as an explicitly *national* one. Interestingly, the choice of language among the Orang Asli reflects the sphere of engagement within which they articulate their thoughts. Within their own communities, it would be pretentious to use any language other than their own. At the national level, Malay is used, and for global interactions, English is necessary, which makes it challenging for Orang Asli to engage at international forums without the aid of an interpreter.
[109] Membership in POASM has also become a way of 'proving' identity as an Orang Asli. As an individual stated to me, his POASM membership card became a way he proved to authorities during puasa month that he was not a Malay/Muslim.

Bangsa Orang Asli: Challenges in Representing Plural Interests

> Our first challenge is to form an Orang Asli community, united with the same shared purpose (*matlamat*). It must be an Orang Asli community that is at peace, united among villages, territories, states and Orang Asli ethnic groups, enjoying a life that is harmonious based on equal rights and justice, forming a "*Bangsa Orang Asli*" (Orang Asli Race/Nation) with loyalty and dedication to its *bangsa.*
>
> Majid Suhut, President
>
> POASM Pehimpunan Agung Tahunan ke-13, April 2002
>
> (POASM, 2003, my translation)

These were the words of the President at the Annual General Meeting of the POASM in April 2002. His word are directly reminiscent of – if not a deliberate parallel to – the speech made by Prime Minister Mahathir Mohamad when he unveiled his plans for Vision 2020 and his idea of *Bangsa Malaysia* (see Mahathir, 1992, cited in Chapter 2). In similar ways, these leaders face the dilemma of representing plural communities – segmented through ethnic loyalties, religious affiliations, and class differentials – through a singular voice.

POASM has had to deal with factionalism, sometimes fractured along 'tribal' or sub-ethnic lines. Some have accused it of being 'Semai dominated' in the past, as many of its earlier leaders were Semai. As a Mah Meri individual commented, some Semai leaders have been told "who are you to tell us what to do – you don't understand our group" (Interview, 21.08.02). According to a former POASM office-holder, a Semai, this has to do with difficulties in getting representatives from some sub-ethnic groups, such as the Batek and Che Wong. Thus, although space has been created for representation by sub-ethnic groups in the organizational setup of POASM, this is difficult to operationalize. In order to fill these gaps in leadership, it has been necessary for individuals from one sub-ethnic group to act as representatives for another group, which has not always gone down well. As he articulated, "Among the Orang Asli there is racism (*semangat*

perkauman). There is a sense of 'Orang Ulu' is different from 'Orang Bukit', and so on. And the Proto-Malays are quite critical of the Semai" (Interview, 13.08.02).

Another point of division among members is the type of relationship POASM leaders want to establish with the JHEOA. According to Bah Tony Williams-Hunt, President of POASM from 1987 to 1990, some factions are more comfortable being aligned with the JHEOA and prefer to avoid direct confrontation with them. Others are more willing to raise issues and to apply pressure on important matters (Interview, 03.12.02). As Nicholas (2000) documents, under the leadership of Long Jidin who subsequently served as Orang Asli Senator from 1997 to 2003, for example, POASM had a more co-operative working relationship with the JHOEA. JHEOA officers were invited to become associate members, and individuals from the Islamic Religious Department were invited to give short courses to POASM members (see also Nicholas, 2003b)[110].

However, POASM has not always had a 'smooth' working relationship with the JHEOA. As Majid Suhut, current President of the Association, points out, the association between the two organisations has been a varied one. He says,

> Our relationship with the JHEOA depends on the perceptions of the JHEOA officers we deal with. If they can accept our viewpoints and facts then our relationship is fine. But sometimes they cannot accept what POASM says; they think they are correct. The new officers accept the role POASM plays as an NGO. It is usually the older officers – those with 10 to 15 years of experience – and government officers from other departments that cannot accept what we say. The new officers can [more readily] accept our feedback. (Interview, 06.07.03)

POASM has become an alternative body to whom Orang Asli in trouble can turn. For example, when several Orang Asli individuals were brought to trial for murder in what is known as the 'Jeli

[110] POASM has also been seen and used as a tool for gaining political leverage, as Colin Nicholas (2000) documents.

incident'[111], according to a former POASM leader, the JHEOA and its lawyers advised them to plead guilty. The JHEOA were reluctant to provide bail, saying that they were likely to "run (back) into the forest". As this former POASM leader stated, "the Jabatan don't know how to think. If they wanted to run away, why would they have turned themselves in?" (Interview, 13.08.02). Together, the (then) Orang Asli Senator Itam Wali, POASM, the Centre for Orang Asli Concerns (COAC) and the Bar Council, gave the suspects very different legal advice, which apparently antagonized the JHEOA.

However, mobilizing a large number of Orang Asli for its activities has not been easy for POASM. Having its members distributed across the vast Peninsula has meant that organising events or meetings that allow for broad-based participation is logistically and economically difficult. As many members live below the poverty line, and are geographically distant, challenges can be very basic – such as in expecting them to incur travel costs for meetings. POASM leaders have also often found difficulty in reaching certain places and communities in their grassroots programmes. As Majid Suhut explained to me, "Our problem is that we don't have resources for the activities. We rely on individual contributions and membership fees" (Interview, 06.07.03). Furthermore, he says, the work is conducted on a volunteer basis by its leaders, and can be very challenging. "It takes a lot of energy; you must have mental strength. Sometimes, you must leave your own responsibilities, and use your own expenses."

Some of POASM's ordinary members have had difficulty grappling with its organisational setup. As a former leader explained to me, "at the village level, they don't even know how the bylaw works, don't know what the Mesyuarat Agong is for,… some don't even know how to write, don't know the function of the Pengurusi…" (Interview, 13.08.02). In 1987, POASM was in danger of being disbanded as it failed to fulfill certain statutory requirements; efforts have been made since then to simplify the Constitution, making it less unwieldy for its members.

[111] In 1993, nine Jahai men were charged and detained for the alleged killing of Malay villagers, in a dispute over land.

POASM has been called upon to 'assist' on many issues that affect the everyday lives of its members. The needs of the Community are quite varied, as Majid Suhut notes, and the work of POASM is wide-ranging:

> day by day more Orang Asli come to the advice of the Association. There are some that come to ask [for help] because their daughter has been taken by illegal outsiders and there are some that come asking help on withdrawing their KWSP [Employee Provident Fund, *Kumpulan Wang Simpanan Pekerja*] money, and so on. There are also those that ask my friends and me to come to their village, to discuss specific issues. In short, the work of the Association constantly increases; while our capacities are quite limited." (POASM, 1997b:np, my translation).

Exactly how 'assistance' can be mounted depends on the resources and abilities of its members. On some occasions, POASM have invited other NGOs and members of the media to witness demonstrations, lending organizational support to local protests. On other issues, they have assisted by providing legal advice, sending memoranda to government agencies, and maintaining pressure on the JHEOA so that they act upon reported grievances. POASM is also called upon to participate in dialogues organized by government bodies such as the Human Rights Commission of Malaysia (SUHAKAM), the Ministry of Culture, and the Economic Planning Unit.

Indigenous Peoples of the World

Acts of articulating and repositioning Orang Asli identity by POASM have included signifying practices that link Orang Asli issues to global discourses concerning 'indigenous peoples'. Thus, in POASM Annual General Meetings of the past, there have been calls for the Malaysian government to be a signatory to the Draft Declaration of the Rights of Indigenous Peoples currently being negotiated. In addition, World Indigenous Peoples Day (*Hari Orang Asal Sedunia,* HOAS) has been celebrated with great fanfare since 1998[112]. This massive organizational effort by POASM involves bringing Orang Asli from all over the Peninsula together. It is a festival that

[112] HOAS celebrations have also been organized by JOAS (described below).

connects them to a global community and to an international, transnational fight for rights and recognition.

According to Amri Jamil, who served as an elected POASM Committee Member at the time I interviewed him, the first HOAS celebration, held in 1998, was suggested by a member who had come back from an international conference (Interview, 12.10.02). This event has since become important in promoting the continuation of cultural forms of expression, and in encouraging individuals to feel proud about their identity. HOAS celebrations are 'Orang Asli' in a way that usual, village-levels celebrations are not, for the cultural symbols employed during its celebration are a combination collected from different sub-ethnic groups. Interestingly, it is through HOAS celebrations that Orang Asli sub-ethnic groups learn about the cultural beliefs of other groups. In reflecting on HOAS activities over the past few years, Majid Suhut states, "Before this, the Orang Asli had their own celebrations according to location and ethnic grouping, not as a collective whole" (Interview, 06.07.03). With HOAS, he says, "many Orang Asli celebrate together, in unity, joined together… we learn about the cultures of other Orang Asli groups".

POASM leaders have emphasized the importance of autonomy and independence in organizing HOAS events. As Amri explained to me, organizing events of this scale – requiring complex logistics, the management of large crowds, and the organization of multiple programmes – has became an indirect signal of the capacity of Orang Asli to achieve large goals independently, without assistance from 'outsiders'. Majid Suhut also commented,

> [HOAS] has significance to outsiders [*orang luar*]. They can see the uniqueness of the Orang Asli. And more importantly, the Orang Asli can celebrate themselves, according to their own abilities [*kemampuan*]. It isn't other people that arrange it for them (Interview, 06.07.03)

This sense of autonomy and independence is a matter that is emphasized by the leaders of another organization, *Sinui Pai Nanek Sengik,* SPNS, based in Kampung Chang Lama, Perak.

Sinui Pai Nanek Sengik – New Life, One Heart

For Tijah Chopil – founding leader of SPNS – building local leadership and capacity for local action is an important goal (Interview, 14.05.03). As she informs me, this group began as an idea in the mid-1980s, gaining greater momentum in 1995. Its activities are currently focused on training and education, as well as building the capacity and confidence of individuals in dealing with social issues. Special programmes are held for specific groups of people, including tuition classes for children, home teaching skills for parents, as well as annual meetings for youth and women. In the past, SPNS has organized workshops on community mapping, local organizing, legal literacy, human rights awareness, and leadership. Using a variety of methods, including drama, songs, and games, Tijah informs me that SPNS has tried to facilitate thought and discussion on the political position of the Orang Asli as well as the social issues facing their Community. As Tijah states, "The Orang Asli don't have enough information – what is happening in terms of politics, in terms of the law." This is a situation she is keen to change.

Empowerment, independence, and self-help are principles SPNS holds on to. As Tijah explains, "We don't want to be an organization that other Orang Asli communities depend upon. We want to strengthen others, to help them to run their own programmes. We don't want to push; our role is just to support them." She further adds,

> We must not just run to other organizations when we face a problem, and expect them to do everything for us. This maintains a spirit of dependency. The community themselves must do something. So, we teach people how to organize themselves, to unite together, to study the problem, and to collect solid proof for action. Our aim is to have people believe in themselves, to be bold, to hand in memoranda and to speak in front of others, to highlight when empty promises are made, to question the forms they receive before signing them. We don't need to go all the way to the Courts to fight, we start small first… focus on empowering people, and encouraging them to stand united.

Maintaining the role of facilitator rather than director is important for Tijah. "We don't want them to depend on us for everything; we want to help them stand on their own."

SPNS is part of *Jaringan Kampung Orang Asli Semai Peringkat Negeri Perak* (JKOASPNP), a network of 19 villages in Perak. Through this network, community workers and leaders meet to discuss common problems as well as to formulate joint actions. On 1st November 2003, JKOASPNP submitted a memorandum to SUHAKAM to voice their concerns that their rights to native customary land have been, and will continue to be, violated by the Perak State Government. In response, SUHAKAM High Commissioner Professor Dato' Hamdan Mohd. Adnan, released a media statement reaffirming its recognition that "land rights is the most pressing issue faced by the Semai Orang Asli and other Indigenous Peoples in Malaysia as the possibility of dispossession is putting their way of life and their culture under threat."[113]

This media statement linked the problems faced by the Orang Asli to the rights of indigenous people(s) worldwide. In the statement, Prof. Dato' Hamdan noted:

> Indigenous people and peoples also enjoy certain human rights specifically linked to their identity, including rights to maintain and enjoy their culture and language free from discrimination, rights of access to ancestral lands and land relied upon for subsistence, rights to decide their own patterns of development, and rights to autonomy over indigenous affairs.

He emphasized that the Semai complaints should be given attention by the State Government. The efforts of Orang Asli networks and groups such as JKOASSPNP in lobbying SUHAKAM, in participating in workshops organized by this National Commission, and in celebrating World Indigenous Peoples Day, have resulted in greater recognition of their rights as indigenous peoples within the Malaysian context.

[113] SUHAKAM: Resolve Land Disputes of the Semai Orang Asli, Media Statement dated 10th November 2003.

The Centre for Orang Asli Concerns (COAC)

A non-profit organization that has consistently mounted defense of the rights of the Orang Asli for over a decade is the Centre for Orang Asli Concerns (COAC), under the leadership of Colin Nicholas. As Nicholas states, COAC has a specific focus on helping those who want to practice a traditional lifestyle but who cannot exercise that choice; it is less concerned with defending the rights of those who live just as other Malaysians, such as those in towns or urban areas (Interview, 29.4.03).

Part of COAC's work has been to help communities conduct mapping exercises of their traditional lands, and to report on sites of cultural significance. In addition, COAC documents and monitors events in relation to the Orang Asli, conducts research for Orang Asli-related court cases, and publishes books on the culture and lifestyles of various Orang Asli groups. Articles written through COAC have regularly emerged since its establishment in 1989, powerful critiques of the everyday realities and penalties of 'development' and 'assimilation' that have been the declared objectives of the JHEOA. COAC has also been actively involved in raising Orang Asli issues through transnational advocacy networks that focus on the recognition and rights of indigenous peoples.

(Trans)national Networks and Alliances

An important way in which Orang Asli concerns are articulated in national and international fora is through networks and alliances formed among non-government organizations (NGOs), community-based organisations (CBOs), and other indigenous peoples' civil society groups, both within Malaysia and across Asia. One of these initiatives is the Indigenous Peoples' Network of Malaysia (*Jaringan Orang Asal SeMalaysia*, JOAS)[114]. Established in 1992, JOAS links Orang Asli groups in the Peninsula with those of indigenous people of Sabah and Sarawak. The main

[114] 'Orang Asal' is a term coined to refer specifically to *both* the Orang Asli and the native groups of Sabah and Sarawak. As Colin Nicholas explained to me, several other terms were considered and rejected (Interview, 29.04.03). These included 'pribumi', which the Sabahan groups disliked; 'bumiputra', which connoted the inclusion of Malays and was thus inappropriate; and 'asli', which translated as 'natural'. 'Asal' was decided upon as it was a closer translation to 'original'. Nevertheless, there were reservations concerning the term 'asal' as this had been the term used by the Communists to refer to the aborigines during the Emergency period.

aim of JOAS, according to Tijah, who was Vice President of JOAS at the time I interviewed her in May 2003, is for grassroots communities to share information with one another. Through annual meetings, communities from Sabah, Sarawak and the Peninsular States meet to discuss the issues that they face, and to plan joint programmes. Their activities have included organizing dialogues and workshops, submitting memoranda on specific issues of concern, and celebrating World Indigenous Peoples Day (HOAS). As Tijah explained, celebrating HOAS was important in order for the Orang Asal to "value ourselves and to gain recognition" (Interview, 14.05.03). Activities organized during HOAS celebrations "make issues faced by the Orang Asal known to the Orang Asal". During HOAS, "we foster spirit (*menanamkan semangat*) among ourselves, so that we love ourselves as indigenous peoples."

The Asia Indigenous Peoples Pact (AIPP)[115] is a transnational network that brings together groups from nation-states such as Nepal, India, Thailand, Philippines, Mindanao, Taiwan, Malaysia and Burma. Through workshops and conferences organized by the AIPP, Orang Asli struggles for land rights and recognition have been mounted alongside those of indigenous groups who face similar challenges. This network also serves as an access point to knowledge and resources that help strengthen Orang Asli participation in international dialogues. Most recently, AIPP was actively involved in organising programmes to support the representation of indigenous groups at the Convention on Biological Diversity (CBD) proceedings. At the recent 7th Conference of Parties (COP7) to the CBD held in Kuala Lumpur in February 2004, for example, AIPP acted as an 'international hub', liaising closely with national and local Malaysian NGOs to ensure that the voices of indigenous peoples were heard during official meetings. At COP7, AIPP organized a seminar discussion on 'Customary Law and *Sui Generis* Protection of Indigenous Knowledge', as well as hosted an Indigenous Peoples' Reception in conjunction with the UNDP Equator Initiative Programme. At this reception, Orang Asli representatives from groups such as SPNS teamed up with indigenous groups from Sabah and Sarawak to highlight the difficulties

[115] For more information on the AIPP see Kingsbury (1999)

faced by indigenous peoples in Malaysia in relation to land and commercial development activities.

I have previously discussed how the Orang Asli, by virtue of the social construction of their identity in Malaysia as 'original people', are well positioned to articulate their struggles as 'indigenous peoples' within the meaning assigned to it through global discourses about indigenous peoples' rights (Bunnell and Nah, 2004). Thus, Orang Asli have not been challenged on their claims to being recognized as 'indigenous peoples', whereas certain groups in other nation-states have had to struggle for such recognition (Kingsbury, 1999, 1995). This does not mean that such recognition comes with the full implementation of associated rights. As stated in previous chapters, 'Malays' have used the politics of indigeneity to argue for rights and privileges in postcolonial Malaysia, initiatives that are not fully extended to the Orang Asli. Such national politics get played out in international fora. Colin Nicholas notes, for example, that attempts have been made by Malaysian State Representatives in meetings organized by the Working Group on Indigenous Populations (WGIP) to assert that a wide range of affirmative actions *have* been planned and executed for its 'indigenous peoples', although these Representatives have in mind the Malays (Interview, 29.04.03).

This does not mean that the Orang Asli are precluded from continuously asserting their problems as 'indigenous peoples' through other government channels. In Malaysia, their rights and special circumstances as 'indigenous peoples' were reaffirmed in a landmark report released by SUHAKAM in February 2004 entitled 'The Human Rights of Orang Asal' (which comprise the natives of Sabah and Sarawak as well as the Orang Asli). In this report, a culmination of two years of consultation with various groups from the Peninsula as well as from Sabah and Sarawak, SUHAKAM emphasized the importance of the recognition of their rights as indigenous peoples in relation to land, education and autonomy. While a common complaint among civil society actors is that SUHAKAM's recommendations are frequently ignored by other government authorities, statements such as these signify the acceptance of Orang Asli as falling within the rubric of the

concept of ‘indigenous peoples’ in global discourses, a matter that has legal and political weight (see Chapter 4).

Benedict Kingsbury (1999) points out that minority groups have two strategies to choose from in order to leverage with States and elites more effectively. The first is to join other groups to form a larger ethnic identity (in the context of Malaysia, the Malays). This has been rejected by Orang Asli civil society leaders, for it means religious conversion, loss of cultural identity, and the further surrender of autonomy. Orang Asli groups have, instead, opted for the second strategy – to join the international category of ‘indigenous peoples’, and through this international movement, to gain leverage to influence the shape of national politics.

In my conversations with Orang Asli individuals, I found that those who imagined Orang Asli struggles in terms of the international movement of indigenous peoples used vocabularies and phrases that were slightly different from other Orang Asli when describing the issues they faced. Lands upon which they had been living for generations were described as “customary lands” (*tanah adat*), and the goals which they sought for were articulated in terms of “rights”. When Majid Suhut described HOAS activities, for example, he noted:

> Part of what we emphasize in celebrating World Indigenous Peoples’ Day every year is the protection of our rights – rights to land, identity, and culture – as well as to champion the needs of the Orang Asli (Interview, 06.07.03).

Among Orang Asli who have participated in fora that utilize such discourses, I found a stronger desire to resurrect cultural practices, to record myths and legends, to document oral histories, to preserve consciously inherited imaginings of the geography of the land, and to capture ‘indigenous knowledge’ before it was completely ‘lost’, as compared to non-activist Orang Asli villagers. While this merits further investigation, it is likely that joining forces with other indigenous groups around the world not only provide Orang Asli groups access to resources,

information and funding, but also contributes to shaping the way in which they think about their own problems and articulate their own struggles within the nation-state.

Evangelism, Proselytization, and Religious (re)Organisation

Another type of activity among Malaysian civil society groups involved with the Orang Asli has been the concerted efforts by various religious groups to propagate religious beliefs such as Islam, Baha'I and Christianity. These, again, are shaped through and impact upon Orang Asli identity quite significantly. The adoption (and adaptation) of these three State-recognised religions, or *ugama*[116], have had different and multiple levels of effects on Orang Asli – both in terms of their 'supra-ethnic' collective identity (as 'Orang Asli'), their 'tribal' identity, and their notions of 'self'. As I discovered through my interviews with Orang Asli individuals, conversion to Islam has had the most resounding social effects, with strong distinctions made between Muslim Orang Asli (considered by many Orang Asli as a person who has *masuk Melayu*, or 'become a Malay') and Orang Asli of other religions (whether Christianity, Baha'I, or traditional, animistic belief systems).

However, the focus of this chapter is not on the intricacies and complexities of tribal world-views and belief systems held by the different Orang Asli groups, for which detailed accounts can be found in the work of writers such as Geoffrey Benjamin (1967, 1974b), Marina Roseman (1991), Sue Jennings (1995), amongst others. I am more concerned with the propogation of Islam, Baha'I and Christianity *by civil society groups* and effects on this on Orang Asli identity[117]. As outlined in Table 5.1 there have been steady increases in numbers of converts over the past decades. Religious change has been a source of concern for many Orang Asli individuals and groups, as this is a matter that links to broader questions concerning the preservation of cultural identities, resistance to perceived assimilation, and, potentially, the validity of customary claims to

[116] Benjamin (1996) notes that the Malaysian authorities distinguish between citizens with an accepted *ugama*, that is, "a named religion, with a founding prophet, a sacred book, a clergy, and formal places of worship", and those who have "beliefs" (p.37). He points out that the Malaysian authorities tend to consider the Orang Asli as having "no religion" according to this definition.

[117] Analysis of the effects of different religious systems on Orang Asli identity could be more thoroughly treated by looking at these as a 'religious field', with each religion constituting a 'sub-field' (Bourdieu, 2005).

land. In this section, I review the activities conducted by groups propagating the three different religions, and then proceed to deal with the implications of such activities.

Figure 4: Percentage distribution of the Orang Asli population by Religion (1968, 1980 and 1991).

Religion	1968*	1980**	1991**
Tribal / folk religion	95.0	66.0	45.7
Islam	3.0	5.3	11.2
Christianity	1.3	4.3	5.1
Others	0.7	3.9	12.4
No religion	-	20.4	25.6
TOTAL	100.0	100.0	100.0

Sources:
* Carey, I. (1976b). Carey estimates that of the 53,000 aborigines of the time, 1,600 embraced Islam, 700 Christianity, 350 Baha'I.
**Department of Statistics (1997) *Profile of the Orang Asli in Peninsular Malaysia*, Population Census Monograph Series No. 3, p. 29.
Note: The sharp difference in the percentages for 'tribal/folk religion' and 'no religion' between 1968 and both 1980 and 1991 are probably due to differences in definitions.

Islam

As numerous JHEOA documents testify, Orang Asli have been encouraged to embrace Islam since the 1970s, with Islamisization activities intensifying in the early 1990s. However, the spread of Islam has not only been confined to State-sponsored activities but is carried out by non-government organizations (NGOs), often (if not always) in conjunction or partnership with State bodies. One of those has been *Pertubuhan Kebajikan Islam Malaysia* (PERKIM), established in 1960. As Zakuan Sawai (1996/97) records, PERKIM activities have included education programmes targeting local populaces emphasizing the importance of their involvement in proselytization activities particularly in relation to converting Orang Asli groups[118]. New PERKIM Chapters and Committees were set up in villages neighbouring Orang Asli settlements, with the objective of strengthening relationships between PERKIM members, local Malays, and Orang Asli villagers. Programmes by these PERKIM Chapters have included fostering Orang Asli children

[118] Three such programmes were cited as examples, e.g. one lasting for six months in Jempol, Negeri Sembilan, in 1992, another lasting a year in Malacca in 1994, and another than began in Pahang in 1995.

(in order to give them 'guidance' and 'support' so that they succeed in their formal education), as well as the formation of Malay-Orang Asli working groups aimed at strengthening relations between these communities. Muslim Orang Asli children have also been given funded opportunities to further their studies in the *Institute Dakwah Islamiah* (IDIP) in Pengkalan Chepa, Kota Bharu, Kelantan[119]. As the PERKIM Honorary Secretary Haji Mohd Ghazali Abdul Rahman stated in a speech on 25th October 2001, the objective of converting all of the Orang Asli "is in line with the ambition of our government that holds the concept of Develop with Islam (*Membangun Bersama Islam*)"[120].

Other non-government bodies that have been involved in converting the Orang Asli include *Yayasan Pembangunan Ekonomi Islam Malaysia* (YAPEIM), which has provided funds and prayer clothes for evangelical programmes[121], *Majlis Agama Islam dan Adat Istiadat Melayu Kelantan (MAIK)* and The Muslim Youth Movement of Malaysia (*Angkatan Belia Islam Malaysia*, ABIM), whose members have gone to Orang Asli villages for evangelical programmes (see Mohd Sabri, 1999/2000), and *Yayasan Dakwah Islamiah Malaysia* (YADIM), which organized workshops, courses, fora and conferences that touched on this topic. The activities of all the groups propagating Islam have obtained the support (both direct and indirect) of government bodies, in stark contrast to groups of other faiths, who have had to maintain a low profile when conducting their evangelical activities.

Baha'I

As recorded by R. Ganesa Murthi (1969) in his thesis entitled 'The growth of the Baha'I faith in Malaysia', Baha'I beliefs spread from Singapore to Malaya in the 1950s and 60s. Conversions took place primarily through mass teachings, and one of the groups focused upon by early propagators of this faith was particular aboriginal groups of the Peninsula. As Murthi notes, the earliest attempts to teach Orang Asli groups were made by Mr. Yan Kee Leong in the Tapah

[119] This writer notes that from 1984 – 1994, around 40 students completed their studies at this Institute. 52 others enrolled without completing their education. Funding for this was provided by Islamic Affairs Departments at the State-level, the JHEOA and *Angkatan Belia Islam Malaysia* (ABIM).
[120] "Perkim gerak dakwah di penempatan Orang Asli", http://www.parti-pas.org/kelantan/281001_be2.htm
[121] One such funding programme was the provision of RM200,000 through the Sungei Siput UMNO Branch.

area. These efforts at spreading Baha'I teachings resulted in the establishment of two centres in Perak: Jeram Meng Kuang, near Tapah, and Kampung Chang, Bidor. In April 1963, an Orang Asli believer, Deraoh Leman, was invited to the Bahai World Congress in London, where he "addressed the crowd on behalf of his race" (p. 30), and by the end of 1963, around 800 Orang Asli in Perak alone had already embraced the Baha'I faith.

The promulgation of Baha'I beliefs has not gone unchallenged in the Malaysian nation-state. Murthi notes that in 1964, an amendment was proposed to the section on Muslim administration of the Selangor State Assembly, prohibiting teachings "relating to Muslim religion contrary to Muslim law" (p.34). The amendment specifically identified the Baha'I faith as falling into this category, which prompted great efforts by believers to prove that the Baha'I faith was a religion independent from Islam. While this inclusion of the Baha'I faith was later dropped by the Selangor State Government, the message sent out to Baha'I believers was clear: Baha'I beliefs had to be kept separate from Islamic teachings, and could not be propagated among Muslims. The teaching of the Baha'I faith has continued to this day, particularly among the *Sengoi* (Semai). There are significant numbers of Baha'I believers in Kampung Chang, Bidor, for example, and several Baha'I 'churches' have been established in the Perak area. While the Baha'I Community is not as intensely evangelical as their Islamic and Christian counterparts among the Orang Asli, they still play a role in strengthening the faith of their existing believers.

Attempts were made during my fieldwork periods to speak to Baha'I believers about their activities amongst the Orang Asli. However, they were disinclined to discuss these matters with an outside researcher, and thus, coverage of activities of Baha'I groups can only be treated in a surface manner in this thesis. Geoffrey Benjamin (1980) however, has provided more detailed notes on the spread and influence of the Baha'I faith from the 1970s to the 1990s. He records that Temiars from Ulu Berok learned to follow the Baha'I faith from Semais in Bidor and that the first Temiar believer worked at a Baha'I centre in Tapah in the 1970s, studying under a Mr. Leong Choo (possibility the Mr. Yan Kee Leong noted above). He writes that proselytizing this faith

among Kelantan Temiars was conducted by Temiars only. Observing that Baha'I syncretised easily with existing Temiar beliefs (p.19), he also noted that the Temiars were cautious of the response of the JOA to their conversion. The Baha'I faith then began to wither, a matter Benjamin related, among other factors, to the limited contact rural Temiars had with urban-based propogators of the faith[122].

Christianity

As Figure 5.1 points out, there have been Christians recorded amongst the Orang Asli as far back as 1968. Noone (1936) noted the work of Christian missionaries amongst the aboriginal groups. Means and Means (1981) write that as a result of missionary work in the 1930s there are Semai Lutheran and Methodist believers. There have also been Catholic believers among Temuans for over a century (Borie, 1886, cited in Benjamin, 1996).

Christian church-based groups have been actively involved with various Orang Asli communities across the Peninsula, with particular emphasis on evangelism. Many church groups operate independently, visiting villages both near and far from their own geographical base, and it is difficult to estimate the extent and spread of these activities. During fieldwork and through interviews, I observed different patterns of contact between Christian groups and Orang Asli communities. The first pattern was that of periodic visits, typically once a month or once every two months, in which urbanite Christian groups (typically of 'Chinese' or 'Indian' ethnicity) traveled several hours to a village, spending between 2 hours and 1 day at a village. When relationships became stable, and a 'core group' of believers were established, the visiting Christian group would put up a local house structure that served as a Church and community centre. This led to

[122] During my second period of fieldwork, I observed the presence of 'Baha'I houses' in several Semai villages in Perak – structures made of bamboo similar to Semai bamboo houses, but with a distinctive criss-cross weave to form its walls. When I questioned several Christian and Catholic Semais about these houses, I got the impression that they served as the equivalent of Christian churches/ centres within the village, and that urban-based Baha'I missionaries would periodically come to visit and to encourage believers in their faith.

a different pattern of contact, which focused more on developing long-term relationships with Orang Asli communities[123].

Activities at the village level often begin with establishing kindergartens, usually based at the local church/community centre, aimed at developing reading, writing and mathematical skills amongst Orang Asli children. Orang Asli converts are also employed to conduct Bible-study classes in their own villages (as well as in surrounding villages) and to act as kindergarten teachers or community development workers. Christian Orang Asli leaders also encourage Christian community development organizations to introduce income generating projects and cooperative schemes in order to alleviate poverty. In addition to such activities, attempts have also been made by certain Christian organizations to preserve and document the languages of the Orang Asli[124].

Lack of coordination among churches and denominations has led to rivalry and competition among different groups. This has, as a side result, contributed to community fragmentation, particularly in villages that host more than one Christian group. Of late, there have been concerted efforts to avoid quarrel among different Christian organisations[125]. The Orang Asli Ministries Commission set up by the National Evangelical Christian Fellowship Malaysia (NECF) in 1995, has among its five objectives, "(t)o provide a medium for fellowship and effective cooperation among Orang Asli Christians…", and "(t)o provide a medium for reducing suspicions and differences and to arbitrate in the event that misunderstandings arise among churches or

[123] While this pattern of contact is increasing, it is still relatively rare. As a community development worker observed, "Christian groups still tend to take a 'shot-gun conversion approach' rather than demonstrating long-term commitment for development. Commitment is costly." (Interview, 02.11.02).

[124] "OA Language Development: A Bridge to a Changing World" seminar held in Ipoh, sponsored by the OA Ministry Commission, NECF Malaysia, 23rd September 2002. In November 2003, I met a Christian worker who had just come out of a workshop in which Semai Christians from different villages in Perak deliberated on how a writing system based on the Roman alphabet could be used for codifying the Semai language. As she explained to me, this was no easy task, as Semais from different locations pronounced words differently. Efforts were made to produce signs that would take these differences into account, and their work continues in order to produce a written script that can be taught to Semai children.

[125] In a meeting held on the 8th of September 1997 in Ipoh, pastors, church representatives and workers recognised the importance of co-operation, emphasised that unity among Christians was vital, and urged for misunderstandings to be cleared. Kampung Serigala was an example cited of how quarreling or overlap in Christian work by different parties contributed to disunity. In this meeting, it was also expressed that the traditions and cultures of the Orang Asli should be taken into consideration, and workers cautioned against the 'colonialization of Christians' over Orang Asli territories, and of 'overspritualising' matters.

organisations involved in Orang Asli ministries" (NECF, 2001:1). This has had varying levels of success over the years. As a Christian worker commented,

> it is still hard to settle certain issues…. There are different churches, different denominations, different doctrines, different personalities. Conflicts occur, especially if different churches work in the same area. If one church has already been there, and then another comes it, [the first church] feels as if [the second] is encroaching" (Interview, 18.8.02)

Because of the legal protections surrounding Muslim identity (as elaborated in Chapter 4), Christian missionaries that deal with the Orang Asli are careful of their actions. Indeed, these proselytizing activities do not go unnoticed. Christians who visit Orang Asli villagers are scrutinised by the people with whom they work, their neighbours, by other civil society actors working with the Orang Asli, and by the JHEOA. As a Christian missionary said to me (although without clarification of exactly who she meant), "they try every way to obstruct us" (Interview, 16.09.02)[126]. She narrated incidents where plain clothes officers (whose official identities are therefore masked) have questioned them on their movements, occasionally barring Orang Asli individuals from providing them with transport. They are also careful about evangelizing to Muslim Orang Asli. As she clarified, "we don't go to the villages where we see solar panels. If you see solar panels, you know that they are Muslim". Furthermore, as she explained to me, "We are very cautious with baptism. We always ask them [Orang Asli converts] to sign a form to say that they are not Muslims. When we baptize them, we give them a certificate with their photo on it. If there are Muslims who want to convert, we don't baptize them".

The Implications of Religious Change

Orang Asli individuals continue to struggle over the freedom to choose their own religion. There is still great suspicion among Orang Asli and civil society groups alike over activities related to religious conversion. Some have expressed a concern that the promulgation of various religions

[126] Because of family connections and my own socio-religious positionality, it was much easier for me to obtain interviews with Christian missionaries than it was for me to interview propagators of the Islamic and Baha'I faiths.

among the Orang Asli may lead to further community fragmentation, echoing the opinions of earlier writers such as Carey (1970, 1976b) and Noone (1936). Others are of the opinion that Orang Asli individuals should be allowed to choose what they believe for themselves[127]. Indeed, it would be simplistic and paternalistic to argue that the Orang Asli should not be allowed to convert to other religions.

Whatever the case, it is clear that religious conversion is a matter that is integral to Orang Asli identity. Of greatest concern to the Orang Asli is the implication of Islamisization, which is taken to mean *masuk Melayu* or 'becoming Malay' in contemporary Malaysia (further discussed in Chapter 3). The impact of conversion to other faiths is not as drastic, but still causes change and adaptation of identity, as this informs the practice of traditional rituals. As a Catholic Semai said to me,

> We are losing many of our rituals because the Christian beliefs tell us to abandon them. But they don't really understand. Some of the practices they say are 'black magic' are not really that way, such as the role of the *halak*. He doesn't curse people, or throw spells on them. But we are told not to practice these any more (Interview, 17.06.03).

Negotiating whether cultural practices should be abandoned because of religious conversion is a tricky matter for promulgators of different faiths as, well as for the Orang Asli believers themselves. In some villages, traditional practices and taboos continue to be practiced despite possible incongruence with world religions[128], while in others such beliefs have been gradually abandoned over time. Whatever the case, it is fairly consistent that converting to such religions has led to social change, and often to community fragmentation and strained familial relationships. As the Catholic Semai (cited earlier) said to me,

---

[127] In 1982, a group of Semai Christians submitted a memorandum to interested parties, the press, and politicians, appealing "that the freedom of religion be respected among our people and that no one be forced to accept any religion against one's own wishes" (cited in Shastri, 1989:145).

[128] Tan Swu Yi (2003) provides a different argument in relation to Christianity amongst the Semais of Perak. She argues that there has been "provision of the space for religious accommodation and syncretism between Christianity and Semai traditional religion" (p.29). In relation to healing, for example, "the Christian concept of healing is superimposed upon traditional notions without a total elimination of previous notions of healing, treatment of diseases and concepts of taboo" (p.28).

> When you become Muslim, you cannot be Orang Asli anymore. You can't eat your traditional food. They say that your traditional ways belong to Satan. When OA become Christians, your whole life must be about Christianity. You can only talk to other Christians. When OA become Baha'I, they can't get involved in politics. You can't do community work, you can't do human rights work. These [religious differences] cause fractures in the community. They compete with one another, compete to see whose religion is recognized by God, who is a better person. You cannot visit one another. [They want to see] whose religion is the better one.

A matter of serious concern relating to religious ascription and cultural change is whether these transformations have an impact on customary claims to land. Colin Nicholas, who provided evidence in the Sagong Case (discussed in Chapter 4), expressed concern that the discontinuation of traditional beliefs and practices resulting from ascription to religions such as Islam, Christianity and Baha'I, will threaten Orang Asli claims to land based on *adat* (Interview, 29.04.03). According to Nicholas, Orang Asli communities that argue for customary land rights will find it more difficult to make their case in judicial courts if they can no longer provide evidence of practicing 'traditional' customs in regard to contested lands.

Conclusion

Civil society has become the social space through which Orang Asli actors articulate their thoughts about the effects of State practices over their lives. Questions concerning Orang Asli identity are at the core of most civil society initiatives, as this identity informs the actions and articulations of organizations, and in turn, is reshaped by the engagements of such groups. As social change takes place, tensions arise which cannot easily be resolved. For example, if it is maintained that Orang Asli individuals should be given the choice to embrace the faiths of their choosing, should it be that such ascription threatens their own identities as Orang Asli or endangers their claims to customary lands?

In this chapter, I have reviewed how voluntary organizations have become channels through which Orang Asli leaders lobby for the rights of their own communities, as well as becoming significant sources of information, ideas and resources that (re)shape the way Orang Asli think about themselves. While self-organising has been fraught with difficulties, Orang Asli civil society actors remain convinced that it is the Orang Asli themselves who need to stand up to fight for their own rights. Currently, Orang Asli civil society groups are linked to other organizations in distant locales through the formation of transnational networks and alliances that span Malaysia and extend to other parts of Asia. Their efforts within the nation-state have been strengthened by positioning the Orang Asli as 'indigenous peoples', a concept that has gained legal and political significance through international fora. It remains to be seen, however, whether their struggles for rights as 'indigenous peoples' will result in greater security of land and livelihood for future generations of Orang Asli in Malaysia.

CHAPTER 6: BEING ORANG ASLI: REFLECTIONS ON IDENTITY

In this chapter, I present reflections on Orang Asli identity as narrated to me by Orang Asli individuals during interviews and conversations. The purpose of these interviews/ conversations was to obtain information about how Orang Asli individuals made sense of their place in Malaysian society; to get a sense of their assumptions, judgements, and opinions, and to see how these related to the fields examined in Chapters 2 to 5. Therefore, my initial questions tended to be broad and open-ended, focusing first on personal histories (e.g. "Tell me about your background", or "Tell me about yourself, what your childhood was like"). These were then complemented by more focused questions on particular themes (e.g. "What do you think about the *Jabatan* [JHEOA]?", "What are the main issues that Orang Asli face today?").

The interactions through which I obtained these opinions were varied in context and purpose. Some were more 'formal' interviews, conducted with recognized Orang Asli spokespeople (for example, leaders of POASM), while others were more akin to casual conversations with villagers held in informal settings. They were conducted in Bahasa Malaysia (a 'second language' for all of us), lasted between 2 to 4 hours, often continued in subsequent meetings, and took place in various locations – at *teh tarik* stalls, university halls, offices, homes, or over dinner. Throughout these interviews, I tried to allow the respondents as much opportunity as possible to structure the interviews. Thus, I refrained from taking a strong role in directing the flow of conversation, preferring instead to let issues emerge from their responses. During all these interviews, I took extensive notes, paying particular attention to the exact words and phrases used by the respondents[129].

In each of these interviews, my social position and my role during the interview influenced the way in which the opinions were voiced. When meeting Orang Asli individuals for the first time, I constantly introduced myself as a Malaysian student completing a thesis on Orang Asli identity in

[129] The decision whether or not to use a tape-recorder was a carefully considered. While I had the intention to provide close transcriptions of opinions for this chapter, I was concerned that the presence of a recording device would inhibit the expression of ideas. In many of these interviews, respondents repeatedly emphasized that they did not want their identities to be revealed. The opinions they voiced were also 'sensitive', and I did not want them to feel that the data they provided would be used as 'evidence' against them.

a Singaporean University[130]. Intuitively, I suspect that it 'mattered' that I was Malaysian, and that this created a bridge rather than a hindrance to their communication with me. Occasionally, respondents asked why I was interested in doing academic work about the Orang Asli, when this tended to be of interest to '*orang putih´*('white' foreigners) rather than to fellow Malaysians. They expressed surprise at my choice of topic, considering this to be 'unusual'.

The ways in which my body was read – particularly in terms of my 'racial' identity - signaled how issues were positioned to me. 'Chinese-ness' mattered considerably, particularly when we touched on matters concerning ethnic relations and religion. Comments such as, "Oh, you are that Chinese girl who is doing research on Orang Asli, aren't you", or "You are Chinese, right?", were frequently voiced. Respondents also felt freer to express criticisms about other 'races', and tended to speak more positively about 'the Chinese' when describing their experiences to me. Similarly, the fact that I was a non-Muslim and non-Malay influenced their openness in broaching sensitive issues such as *masuk Islam* ('becoming Muslim') and *masuk Melayu* ('becoming Malay').

The thoughts and ideas that I include in this chapter are not word-for-word transcripts of each interview conducted (although I have tried to remain faithful to the precise words/ phrases used), but are selections that I have chosen and organized according to specific themes. These are insightful, for they give us a glimpse of the ways in which development in the fields described in Chapters 2 to 5 are internalized and understood by those who live as Orang Asli in the present nation-state. These statements are a combination of opinions based on their personal experiences, as well as general comments about the Orang Asli as a whole.

The individuals I quote here comprise Semelai, Temuan, Mah Meri and Semai adults, with ages ranging from 25 to 55 years of age. Although many of them now study or work in Kuala Lumpur, they grew up in villages in Pahang, Perak and Selangor. Thus, they are people who have 'moved

[130] Nevertheless, there were confusions about my identity, and some thought that I was Singaporean, possibly on the basis of my 'Chinese' identity.

away' not just geographically, but in terms of their socio-economic positionality. Most of them are active in civil society groups and, as such, had already developed perspectives about the challenges faced by the Orang Asli[131]. The melding of their different experiences – both growing up as Orang Asli, and as advocates of Orang Asli issues – have placed them in a position where they question the 'truth effects' of Orang Asli identity, and interrogate its everyday realities.

I have assigned these voices an initial as they do not wish to be identified. In these opinions, we find reflections on how they have confronted stereotypes, how they try to challenge the restrictions they face, and how they relate to other ethnic groups. These individuals have also been open about how they deal with plurality among Orang Asli groups, how they have tried to confront 'colonized minds' among their 'own people', and what they think about the JHEOA. My aim has been to retain the purity of what was said to me, privileging the spoken thoughts of those I interviewed, while keeping my own as that of an editor of sorts. I conclude this chapter with some personal observations about their comments in light of Bourdieu's conceptualization of *habitus*.

Confronting Stereotypes

A

> There are some people who are ashamed of being Orang Asli. They hide their identity or try to deny their roots. They say "I don't speak the language". They claim that they are not Orang Asli. They are afraid that people will look down on them (*pandang rendah*); that adults and children will talk about them…
>
> […]
>
> They say we are old-fashioned (*kolot*), that we have no knowledge, that all of the Orang Asli are nonsense [*sic*], that they don't know anything, only know how to eat and sleep. Nearer [my] village (*kampung*), people were more racist. Maybe it was their knowledge,

[131] I first met some of these individuals at a dinner organized by POASM to celebrate its Silver Anniversary in 2002. I also sought out particular individuals who have been advocates on Orang Asli issues for years. Some of these already have their opinions published elsewhere (see Zawawi, 1996).

their very limited perception. They believed their elders. Their elders asked them "why do you befriend that [Orang Asli] person?" They think that the Orang Asli cannot be rich. [That they] cannot own cars and land.

[…]

But not all people are racist – it depends on the people, on what they think.

[…]

I did fight a lot when I was in school. We formed our own clique to oppose those who made fun of us. The majority of us were Orang Asli – and yes, even when I was friends with other races, I trusted them [Orang Asli] more than others. I used to fight a lot!

[…]

When you advance, then people respect you…. Going to University is seen as a good thing. They are proud of you – your future is more certain. When a village (*kampung*) is in trouble, then they ask us for advice. [I try to tell them] 'if this happens, then you do this, if they do that, then you do this'... They ask us to contribute the ideas, but they must fight the battle for themselves.

[…]

Some people don't think that I am OA. I don't know why. They don't think OA can be like that. They think I am pretending. I want to go inside their heads to find out why.

[…]

They think that the OA are very sentimental, sensitive, good, never bad. We [OA] must be more aggressive. But the attitudes of OA are, "we don't need to fight; to live is enough". [That's why other people] can still tell them to go here, do this, do that, because the knowledge of the OA is under par.

B

I was always fighting at school. Between Form 1 to Form 3 there were not many OA in my school. The majority were Malays. I didn't like them – they liked to tease (*ejek*) me,

look down on me, I felt very challenged, and I couldn't concentrate when I was trying to study.

This was a big issue, the racism (*isu perkauman*); not just a small matter. But there were Malay people who were good [to us]. It tended to be specific groups that we fought with [and not all Malays]. In order to solve the problem, the Headmaster gathered all the different groups involved, and defended us [Orang Asli]. In the end, I went to a new school to study, but I still had problems there.

C

Some people are very proud to be Orang Asli, and some are very ashamed. People think of the Orang Asli as being dirty, poor, a different class of society, at the pit, at the bottom. If someone knows you are Orang Asli, you can feel disgraced, so some people, like those in the urban areas, don't let others know. As for me, I admit who I am. I acknowledge it. Why put yourself in an identity crisis?

[…]

Once in a while, you feel lonely. Like an outcast. I was the only Orang Asli in my matriculation course. I sometimes felt inferior to the others, and alone as an Orang Asli. In school and in university, I felt that way. This is the reason why some OA children don't want to continue studying. They feel lonely, afraid, scared that they will fail. They feel that they are unable to compete, they feel pressured.

[…]

But you must try to position yourself in a new environment. It cannot be done overnight, it is not an easy thing.

D

In towns, people have not seen Orang Asli. They laugh. They think OA are below the Malays… They always make fun. They say OA are 'sakai', meaning we are slaves.

They say we eat pigs, monkeys, mice, and so on. They say OA are stupid. Even when I did well at school, they said I used black magic (*ilmu hitam*), because OA cannot be smart. Every day, OA get disturbed. If they don't know how to reply, they just stay quiet. It makes me angry when they make fun of us. I say to them 'is this what your religion teaches you to do'? I challenge them. The feeling of shame is one of the reasons why OA children drop out of school.

Challenging Difference

E

It is important for the Orang Asli to believe in themselves; to be prepared, and to be brave.

[…]

I don't want the Orang Asli to be beggars. I want them to be independent. I don't want them to have to put on a sad face (*muka kesian*), to always look for the JOA [JHEOA] for everything, even to do their own ICs [identity cards]! We have already put on this sad face for a long time. We must have more belief in ourselves…. To have a sense of self-achievement, so that even when other parties leave us – the JOA, other NGOs – then we are not in trouble. We should still think that we can stand alone.

F

The Orang Asli are proud of their myths, but they have nothing else. They need to be proud about themselves. If you are proud about yourself, then your language, your customs, and so on, will not be lost. I get angry when I see Orang Asli being proud of being Orang Asli without any cultural substance, and with no knowledge (*ilmu*). It is like standing on an empty box, being proud about your nature, but having lost a belief in yourself (*keyakinan diri*).

[…]

The Orang Asli must have awareness (*kesedaran*), and they must have spirit (*semangat*). It is not enough to just talk. You need to have money, to have friends, to read about the philosophy of other races…. Mentally, the Orang Asli are already colonized (*dijajah*). Their belief in themselves has been stolen. You don't need guns – you just tell them that they are lazy, and they weaken. They are colonized through their minds.

[…]

The Orang Asli believe what you say and do. Yet, they always feel that they are lied to, and that makes them disappointed (*kecewa*). So, they won't follow what you say again. They don't fight. They recognize that they are cheated, but they don't challenge their circumstances, or find another way.

G

Except for those who are articulate, and who can understand the implications [of change], OA just try to stay out of trouble, even if they personally don't agree with what is proposed. In fact, most of the time, they don't agree, but they don't voice it out, and they don't fight aloud. In my perception, Orang Asli tend to avoid confrontation – among ourselves and with outsiders.

In the past, when we had conflicts, we had our own court system. Our way was to have a meeting and to discuss the issues, to use language that evades direct confrontation. Sometimes our meetings would last for two to three nights! The atmosphere was very amicable. Even with outsiders, we don't fight. But in the long-term, this is not an effective way.

J

If the Orang Asli care about their own people, they can develop quickly. It depends on the individuals; some have spirit and some don't. [But those who want to help] don't have

the proper resources. Its not that the Orang Asli must leave the secular world [their jobs] to do it – its whether you want to [help] or not.

[…]

What Mahathir said about the Malays – 'Malays forget easily' (*Melayu mudah lupa*)[132] – is the same issue for the Orang Asli. They always depend on subsidies, always depend on the JOA. They feel secure because the government is always there for them.

[…]

The problem with some Orang Asli graduates are that first, they don't know the problems of the people; what they face. They don't think 'this is my people, this is my problem'. Second, they mix around with their own friends, not their own people. The more we are educated, the more forgetful we are.

[…]

The reason why graduates study is to feed themselves; to look after our own 'rice bowl'. But if you want to contribute, then you can do something. When you go back to the village (*kampung*), they respect you – you have an education and a job. They 'adore you'! Other parents tell their children to be like you. They see that education is linked to material wealth. When they see you come back to the village (*kampung*), they see the car you drive and your possessions, that in itself makes a difference. It shows them that the Orang Asli can have a real alternative. [Orang Asli graduates] must not disappear. Just be there, be present; be as you are.

Body Politics and Ethnic Relations

C

Some of my friends don't tell other people that they are OA. Most people assume that you are Malay and Muslim when they first see you. During fasting month (*puasa*) – some people are suspicious. I have to be a bit clever. For example, I don't eat openly in the *mamak* stalls; I just eat in the Chinese restaurant. When I first started work, I ate in the

[132] See Mahathir (2001)

canteen. The *makcik* [owner of the stall] didn't want to take my money, because she thought I was supposed to be fasting, and she didn't want to be a part of it.

D

During *Ramadan* we must *puasa* also. It is quite embarrassing [when we eat]; many people look at me. I have to get used to it. I have been scolded, even!

J

In a mixed marriage, the children still refer to themselves as Orang Asli. When we fill in the forms, we fill in "bumiputera" or "others". The name of our *suku* (sub-ethnic group) is irrelevant – hardly anybody recognizes the meaning. In my birth certificate I am registered as Orang Asli.

In terms of marriage, my parents let me choose freely, but they prefer me to marry an Orang Asli. Because Orang Asli have the same customs, the same origins. Their only worry is that we will become Malay (*masuk Melayu*). In Islam, there is no turning back, and the next generation becomes another race. We will change our way of life and beliefs. The eating style is all different, and we cannot believe in spiritual things. It's different if Chinese and Orang Asli marry. Even if the children are more Chinese, they still claim to be Orang Asli.

A lot of my friends become Malays (*masuk Melayu*). People [Orang Asli] look at them differently. They cannot stay in the same village (*kampung*), the Orang Asli will not respect the person as an individual.

In some villages, the people are so poor, and they find it so difficult to get money, that they just declare [themselves] to be Muslim to get some money. The government tells

them that “if you convert, then you will get help – education, development…”. In Bukit Lanjan some people got motorbikes.

They [the Muslims who try to convert the Orang Asli] think that their religion is complete. If the people convert, it can totally change their life. They believe that their life will become better. Some people are not ready, but they force them anyway. For some of the Muslims, their intention is good. They believe that Islam is a perfect religion. But some Orang Asli are scared. They believe that the Malays use religion to conquer them. That in the long-run, there will be no more Orang Asli.

Plurality among Orang Asli

H

We meet Orang Asli from all over the country – Selangor, Pahang, Melaka, Negeri Sembilan. Even though we don’t share the same language, the relationship is good as long as they know that you are Orang Asli. [This is] because they share the same sort of lifestyle, it feels like your own society, we have a similar background – for example, hunting, fishing, and so on. Because of that we can mix with one another.

A

I feel more connected to other Orang Asli than people of other races. I can depend on Orang Asli. Just like Chinese will help Chinese, Orang Asli will help Orang Asli. I too, if I help anyone, I will help the Orang Asli first. We have our own responsibility to develop the OA, because we know ourselves well, we have similar backgrounds, and so on. Our problem is quite the same anywhere in the Peninsula. There are some differences in the way that individuals elaborate, define, and deal with the problem, but the problems are similar.

[…]

However, it is still difficult, because whatever sub-ethnic group we are from, we still have different backgrounds. Our economic sources are different – some tap rubber, some work palm oil – our sources of income are from different activities, and our religions are different.

F

There is competition and fragmentation among the Orang Asli – between those who live in towns and those who live in villages (*kampung*), between those of different ethnic groups, between those who try to find jobs with the JOA [and those who don't], between the rich and the poor, between the professionals and non-professionals.

I

The Orang Asli are not strong because they are fragmented – in terms of religion, politics, NGO activity…. The greatest problem is not development, but strength in unity. We are not as strong as we were before. We share the same fate but we have different dreams. All of us try to be heroes; we don't want to unite together. Religion splits us apart. People of one religion speak bad things about those of another religion. I am not against religion, but I see that it divides us.

E

There are many reasons why we are not united, that we split apart. The first is religion. That creates fragmentation among us. The second is NGOs. They too, can create divisions. NGOs need to be careful, because they can end up destroying communities even if their intention is good. The third is the ruling authorities – the JOA and agencies such as RISDA, FELDA, FELCRA. Their way is more subtle (*halus*). For example, they may suggest a project to be done in one community, such as planting palm oil… Some of the community want it, but some don't… [Thus we are divided.]

F

There is a difference between the OA in the fringes of the interior and in the towns. Some have succeeded according to education, development, and socio-economic status: The Jakun, Mah Meri, Temuan and Semai for example. They are contractors, they own palm oil estates; they plant fruit orchards, get *Pajeros*; work as lawyers, doctors and academics…. Why do they succeed? It is usually those who have mixed blood that succeed. The JOA will come and ask "are they OA or are they Chinese?"...

'Colonised Minds'

A

Muslims guide the OA as the slave – you must be like this, like that. They know that the OA are not clever (*cerdik*). The OA think "you are majority, you are powerful; I follow along". The Malays tell them what to do, and the OA think that they are limited, [that] they have no power. The Malays are the government; they [the OA] feel they have to listen to them. Most OA feel the pressure to follow.

Before I studied, I also went along. The Malays guide our life to become a certain way, a very focused way. We need to free ourselves from this, because the vision and direction of the Malays are very narrow. They don't give you choices; they don't present you with alternatives. They just tell you exactly what to do, and if you don't follow, then they tell you the negative consequences.

F

There aren't many who fight for power. Most OA don't want to be leaders. They are afraid, and it is as if they have lost a belief in themselves. Their confidence has been eroded. They don't want to take leadership positions…. They have talk, ideas, creativity, but they are afraid when it comes to implementation.

[…]

The mental state of the people in the interior is hard to change. They can talk, but cannot do things. They lose their spirit when they face problems. They feel that they are not up to the challenge. They are scared and fearful. They can copy clothes, behaviours, and all, but they don't yet have the strength of mind. They feel they cannot match up. Mentally, they are not ready. They are stuck in the middle, they cannot reverse after having moved somewhere, but they are afraid to go all the way. They label themselves as lazy; they create their own myths about their laziness. They have to start with themselves, not just look to others to make them advanced.

J

For me, there are two main problems which are the 'internal problem' and the 'environmental problem'. [The] Internal are more to do with self assessment, attitude, lack of experience, lack of skill, [being] uneducated, laziness, [having] low confidence level [and] motivation, [having a] subsidy mentality and no interest in their own people.

'Environmental problems' as you know are like poverty, land, infrastructure – schools, houses, roads and other facilities – health and disease, school dropouts, malnutrition, lack of political voice, and so on.

The biggest problem is actually [the] internal problem. If we can solve this, I think it is not a big problem anymore. The internal problems are quite similar to what Malays had but the second one affects the Orang Asli [more]. The first one cannot be seen, [it is] intangible, but the second one is tangible and the most popular one to be voiced out.

I

Why do the Orang Asli not progress? They don't have three things – power, knowledge, money. They also like to depend on others, want to be pampered, and like to keep asking for things. Furthermore, they don't have opportunities, are not given opportunities,

and they don't take opportunities. The world doesn't give us success, but it does give us room [to succeed].

The JOA/JHEOA

B

The JOA definitely have a role to play [in the lives of the Orang Asli], they have good objectives, and if they follow these correctly, they can make a big difference. But the execution is not good – they are not efficient, they are slow. They don't work with or involve the Orang Asli. They do things *for* the Orang Asli.

The JOA says that OA don't want development, but I disagree. The government *memutar belit* (twists) the stories of the OA. They say it is the OA that *silap* (make mistakes), that they are "the problem". They can say that because they are already *maju* (advanced). But the Malays had the white men to teach them what to do so they could advance. Now, the OA are in the same position as the Malays were in the 1950s. In today's case, it is the same as the relationship the Malays had with the British. So you can't say it is just the OA's fault; it is also the Malays' fault.

JOA has money, but they don't use it effectively. Some people say the JOA should be closed, but I think that they should not get rid of it. Just change the way they work, replace the management so that OA can be administrators. The OA don't trust other people. I believe that for a people to advance, leaders from among their own people are necessary.

[…]

Management [of the JOA] is not by the OA. There is money that is spent, but it doesn't reach the people. In 1989, six officers were charged for corruption, caught by the Anti-Corruption Agency.

The JOA wants to Islamisize the OA, although they deny it when reporters ask them. If they play it right, they should not be involved. The JOA should have a mandate for economics and education, but not for Islam. I think they do this because they want to increase the number of OA who become Muslim. There is a hidden agenda, a negative motive, in my opinion. They want to exploit the OA, especially the smart people…. When they become Muslims, there is a change of thought, of mindset and behaviour. For weddings, deaths, and so on, cultural practices change to become Muslim.

The OA are afraid to break the law, so they follow. [They are] afraid of going against the authorities. If [the JOA] ask them to bury their people a certain way, they comply rather than resist. PERKIM has seminars and visits to OA villages to get them to convert.

I

The problem with the Orang Asli is that they treat the JOA like their father. They lose their own spirit. Everything they need they ask the JOA – even shoelaces! They have lost a belief in themselves. They feel that they are not humans. They don't have their own values… OA must understand; must value themselves. If you value yourself, then you won't be in this position.

A

The *Jabatan* tells you exactly what to do, and you are just supposed to follow. They don't give me freedom to choose. When they guide me, they don't give me alternatives to choose from. They want to guide us into what they want.

The *Jabatan*'s concept is very narrow. If they focus on development, then they do development only. If health, then health only. And even then, they do very little. For example, they only give a little money, and they talk as if it is a big thing. In Bukit Lanjan, they claim that the OA are millionaires, they have bungalows, etc, but their education,

their [actual] advancement is limited. If we want a house, after a few years of working, we can buy our own house. Don't say that we are developed because we have our own houses. Even the bungalows that are given to them are cheap and poorly constructed.

The government system teaches us to be shy,… we feel that we are very small, very limited… They try to help us, but it is complicated. They approach us as if we cannot survive on our own. When they help, they don't concentrate on giving us knowledge [which is more empowering]. They just give us money, food, health…. It is as if they say "we support you, you have to respect us".

If they really want to help, they can [but they aren't doing it]. We [OA] have to work too. We should not wait to be helped. We should not just depend on the *Jabatan*; wait for them to tell us what to do, wait for their instructions. Always depending on them! We also have our own feelings, respect. If they [JOA] respect us, then they know how to talk to us. We must think of ourselves, not only be dependent on the *Jabatan*…. We must break their control over the OA. We should have more people in University. In all of history, there have only been about 200 graduates. The *Jabatan* takes a directive approach. They don't leave the responsibility on the OA. They don't open up the choice to us. We must always remain in a dependent, leaning position.

E

The JOA don't educate the Orang Asli about social, political, and land issues. Their aims for us are very focused. They just want us to become Muslims (*masuk Islam*), to get very rich, to live modernised lives, and to have some education. But these are just material issues.

A World of Already Realized Ends: Same Fate, Different Dreams

> …the dominated seldom escape the antinomy of domination.... to oppose… [is] to lock oneself into one's condition of dominated.. On the contrary, to accept assimilation… amounts to being co-opted by the institution. The dominated are very often condemned to such dilemmas, to choices between two solutions which, from a certain standpoint, are equally bad ones…
>
> Pierre Bourdieu
>
> (Bourdieu and Wacquant, 1992:82)

In this chapter, I have attempted to focus on the socio-psychological accounts of being Orang Asli – what it means to individuals who find themselves interpellated as Orang Asli, and how this has influenced the ways in which they are treated, realize, and think of themselves. I do not assume these to be representative of the thoughts of all Orang Asli, but they give us clues as to the issues, thought patterns and concepts that are employed by social actors who grapple with the realities of being Orang Asli. In their texts, we see internal struggles, tensions, ambivalences, and dialectics that come with negotiating this identity.

In Bourdieu's notion of *habitus,* social ideas are internalized such that they shape the responses of actors, whether or not they are conscious of these processes of learning. Their actions, thoughts, and practices are therefore both 'determined' and have the capacity to determine, or alter, the social realities that they negotiate. The opinions expressed by the Orang Asli individuals that I record in this chapter indicate how the Orang Asli signifying themselves, their struggles, their actions, the practices of the State, as well as their responses to dominant portrayals of who they are. These statements are not just 'personal', they also indicate ideas that are circulated in the 'social' realm. As Bourdieu writes, "[t]o speak of habitus is to assert that the individual, and even the personal, the subjective, is social, collective. Habitus is a socialized subjectivity…. The human mind is *socially* bounded, socially structured" (Bourdieu and Wacquant, 1992:126).

What do the statements noted above indicate about the agency of Orang Asli actors who negotiate their identity? A repeated theme that surfaced in my discussions with them concerned the (negative) stereotypes they had to confront when in contact with non-Orang Asli actors, and how these became internalized and problematized by Orang Asli individuals. This included the perception that Orang Asli are "backward", "stupid" and "old-fashioned", lacking in knowledge and material wealth, "at the pit, at the bottom" of society. They are also perceived as being 'dirty'. In particular, Malay Muslims see their practices of eating "pigs, monkeys, mice, and so on", animals considered forbidden (*haram*) for Muslims, as contributing to their uncleanliness. In response, the Orang Asli are "[a]shamed", "scared", "fearful", people who have "lost a belief in themselves", who "lack confidence", who "lose their spirit", feel powerless and "stupid".

Such stereotyping and concomitant discrimination was first experienced for these Orang Asli individuals as children, particularly at the schools they attended, where they encountered on a daily basis, some for the first time, non-Orang Asli 'others'. Both 'A' and 'B' responded to the teasing they received at school by forming 'gangs' and fighting back ('B' eventually got transferred to another school). Others responded the way 'C' did, by keeping to himself and focusing on his work. Yet, as 'C' notes, many other Orang Asli children respond by dropping out of school. "They feel lonely, afraid, scared that they will fail. They feel that they are unable to compete, they feel pressured". Orang Asli children are perceived as being very "stupid", being (racially?) unable to perform well. When 'D' obtained good marks for an exam, he was accused of using "black magic"[133]. As he states, "The feeling of shame", as a result of the teasing they receive, "is one of the reasons why OA children drop out of school". Such stereotyping creates anxieties for Orang Asli individuals, who experience both pride and shame in their identity. Some Orang Asli, as 'A' notes, "hide their identity" in urban areas (for example, by switching to the Malay language when they pass by non-Orang Asli individuals), afraid that others will look down on them.

[133] As 'F' notes, when Orang Asli "succeed', "The JOA will come and ask "are they OA or are they Chinese?".

Overcoming such feelings of shame and inferiority continues to be a struggle for most, if not all, Orang Asli. One of the ways of becoming 'on par' with the other 'races' is to accumulate knowledge. When 'A' stated "when you advance, then people respect you…", he was referring to the Orang Asli of his own village, who respected him for his ability to gain university education, a sign of his 'success'. This was read as his capacity to 'determine' his future ("your future is more certain"). He observed that he, a young Orang Asli, was deemed knowledgeable enough to be consulted by 'elders' about the problems they faced in their village. The 'problem' he referred to was a specific dispute between the villagers in his *kampung* and JHEOA officials who prevented them from cultivating their traditional lands as they saw fit; their customary practices seen to be ecologically damaging. As a person who 'mastered' modern knowledge, he was then considered to be smart enough to advise them on how they should engage with State actors. University education, as 'J' also noted, created "respect" amongst Orang Asli villagers for them, those who were perceived as having 'succeeded'. Linked to jobs and material wealth, education was seen in his village as a means of creating "a real alternative", perhaps to the dispossession and bleak futures they faced living in their own village.

The possession of knowledge, particularly knowledge that enables the Orang Asli to function in modern society, is thus perceived as empowering, as a way of being "independent". For 'E', Orang Asli having to refer to the JHEOA "for everything, even to do their own ICs" makes them "beggars", constantly dependent on others for everyday matters[134]. For 'I', asking the JHOEA for everything ("even shoelaces") makes them "lose their own spirit", "los[e] a belief in themselves". The JHOEA, as the intermediary between the Orang Asli and the rest of society, become the 'guides' who 'help' Orang Asli navigate the complexities and demands of modern administration. JHOEA officials thus represent the 'face' of the government. It is the JHEOA who bring news of government plans for the Orang Asli, it the JHEOA who reinforce the laws related to everyday practices such as hunting, trapping, and cultivation of land, it is the JHEOA who give instructions

[134] Dentan et al (1997) remark: "Given how extensive governmental control over Orang Asli is, it is not surprising that government officials, the Malaysian public, and Orang Asli themselves have come to believe that Orang Asli cannot do anything without the guidance and permission of the JHEOA" (p.71).

about what Orang Asli should and should not do. JHEOA officials, as 'B' notes, become the law. Fearful of "break[ing] the law", Orang Asli follow JHEOA instructions. It is not surprising then, that the encounters between the Orang Asli and the administration of the nation-state via the JHOEA (along with other government officers, such as police, game wardens and forestry officers; Dentan et al, 1997) – who tend to be Malay – become racialised; become encounters between the Orang Asli and "the Malays" (or "the Muslims"), as is evident when 'A' says that "Muslims guide the OA as the slave", "[t]he Malays tell [the OA] what to do", and "[t]he Malays are the government; they [the OA] feel they have to listen to them".

For 'E', knowledge about the ways of modern society needs to be coupled with a "belief in ourselves", an opinion that 'F' shares. For 'F' (who is currently documenting musical forms of cultural expression amongst different Orang Asli groups) such "belief" is based on knowledge of their own cultural heritage. This knowledge is related to the Orang Asli having "awareness (*kesedaran*)", not only awareness of their culture and history, but awareness of the "philosophy of other races", so that they can understand why the other 'races' have 'progressed' while the Orang Asli (as 'F' sees it) 'have not'. 'As 'F' states, "[t]heir belief in themselves has been stolen…. They are colonized through their minds". For 'F', Orang Asli need to have "strength of mind" which is closely related to 'F's earlier statement that they need to have "spirit (*semangat*)". Those who have "strength of mind" are those who have confidence in themselves, who are brave and action-oriented when they face problems, who are ready to stand their ground, who feel that they are equal to other 'races'. 'J' also uses the term "spirit (*semangat*)". For 'J', who contrast the Orang Asli who "care about their own people" with those who don't, the former are characterized not by their participation in the 'secular world' and their level of education but by their willingness to "contribute" to the fate of the Orang Asli. He cautions against a process of "forget[ting]" (forgetting who the Orang Asli are and what social problems they face) which occurs "the more we are educated". It is awareness and spirit therefore that brings Orang Asli out of having "colonised minds".

Orang Asli individuals who do not proactively identify themselves as being Orang Asli are often mistaken as being Malay, and therefore, automatically, as being Muslims. As 'C' notes, this requires them to be "clever", especially during the fasting month of *Ramadan*, when officials from the Religious Affairs Department patrol the streets of Malaysia to identify those who do not observe their religious obligations. As 'C' and 'D' (among many others) note, eating in front of Muslims attracts attention. 'C' therefore says, "I just eat in the Chinese restaurant"[135]. Being identified as a Malay Muslim however, extends far more than the inconveniences of being asked their identity during fasting month. As described by Nicholas (1996), Dentan et al (1997) and Dentan (1997) amongst other scholars, it is a sensitive issue amongst Orang Asli who are keen to preserve a separate identity from the Malay Muslim majority (see also Nah, 2003 and Nah, forthcoming). They do not want to "become another race".

Maintaining a sense of ethnic difference is practiced in a variety of ways. 'J' for example, when filling out administrative forms, identifies himself as either being 'bumiputera' or being an 'other' (and then writing in 'Orang Asli' if space is provided for further elaboration – because "Malaysians don't recognize the meaning of our sub-ethnic group if I write it down"), a practice also done by others[136]. In order to preserve a sense of difference, parents also communicate a preference for their children not to marry Malays and therefore *masuk Melayu*, become a Malay. As 'J' notes, becoming a Malay, either through marriage or conversion to Islam, is interpreted amongst Orang Asli as a way of "conquering" them, "[t]hat in the long-run, there will be no more Orang Asli". This is what Dentan and Endicott (forthcoming) refer to as 'ethnicide'[137].

While the Orang Asli groups speak different languages, practice different economic activities, hold different religious beliefs and come from different locations in the Peninsula, there is a shared sense of togetherness. 'A' feels "more connected to other Orang Asli", and considers

[135] Dental et al (1997), in relation to Orang Asli contact with Malays (not just during *Ramadan*), say that "Semai tend to cluster in particular shops where they can eat pork or drink beer in peace" (p.15).
[136] A Temuan Orang Asli also said to me, "You know, when I was applying for Singapore Permanent Residence, I was asked to indicate what race I was. There wasn't a category for Orang Asli, so I put myself as 'Dayak' (Interview, 11.11.02).
[137] Although I have not elaborated about it in this thesis, Orang Asli are also conscious about their personal names sounding too 'Malay' or 'Indian', a matter I elaborate in Nah (forthcoming).

them as having “our own responsibility to develop the Orang Asli”. As ‘H’ notes, “it feels like your own society”. When Orang Asli individuals such as ‘E’, ‘F’ and ‘I’ talk about “fragmentation” within the Orang Asli, they do not make allusions that some groups are Orang Asli, while others are not. The fragmentation is *internal*, within a coherent group called the ‘Orang Asli’, preserving a sense that the Orang Asli *do* exist separately from the ‘Malays’, ‘Chinese’ and ‘Indians’. As ‘I’ opines: “We share the same fate but we have different dreams”.

CHAPTER 7: NEGOTIATING INDIGENOUS CITIZENSHIP IN POSTCOLONIAL MALAYSIA

> Frantz Fanon… argued that the major weapon of the colonizers was the imposition of their image of the colonized on the subjugated people. These latter, in order to be free, must first of all purge themselves of these depreciating images.
>
> Charles Taylor, *The Politics of Recognition* (1994:65)

> We can… dispose of the idea that identity is an absolute and to find the courage necessary to argue that identity formation – even body-coded ethnic and gender identity – is a chaotic process that can have no end. In this way, we may be able to make cultural identity a premise of political action rather than a substitution for it.
>
> Paul Gilroy (1996)

From pre-colonial to postcolonial rule, Peninsular Malaysia became part of a nation-state, with geographical borders and national imaginings that turned selected peoples into 'citizens' with differentiated rights and privileges. The transfer of power at the moment of Malaya's Independence was legitimized and executed on the basis of the 'reality' that communities in the Peninsula were separable into discrete categories according to ethnicity and indigeneity. These identity categories were incorporated into legal and administrative instruments, which re-emphasized ethnic boundaries, recreating and sustaining the material realities of identity difference.

In this framework, 'Malays', recognized by the British as being 'indigenous' elites of the land, were accorded a 'special position' in the postcolonial nation-state, a recognition that was withheld from other ethnic majorities and minorities in the Peninsula. The 'aborigines', who played no significant role in the establishment of British colonial rule in the Peninsula, were left largely to their own devices during the forming of Malaya. They were neither consulted on the politico-juridical form of the nation-to-be, nor given much thought when territories were geographically segmented by State and Federal borders. It was only when they became crucial in the war

against Communism that great efforts were undertaken to bring them out from the margins of political life to become citizens of the State. It was for political reasons and through State administrative practices that Orang Asli identity was brought into being; and currently, it is as Malaysian *citizens* that this identity is most salient and continues to be necessary.

The socio-political positionality of the Orang Asli – as 'undeniably indigenous' (despite the fact that the Orang Kuala and Orang Kanaq are not strictly indigenous, see Benjamin, in progress) and yet politically and economically marginalized – allows us to interrogate links between indigeneity, ethnicity, and power in postcolonial Malaysia. I have argued elsewhere that the social construction of Orang Asli identity produces anxiety for 'Malays', for Malay claims to being essentially 'indigenous' come under questioning when Malay identity construction is set vis-a`-vis the Orang Asli (Nah, 2003). Malay elites have had to defend why the Malay populations are granted 'special position' as indigenous subjects, when this appears to be denied to the Orang Asli, who are understood as being 'more indigenous' than Malays. I argued that in order to grapple with this inconsistency, two main 'projects' are executed. The first is primarily administrative. The postcolonial government constantly demonstrates that it is pumping funds and resources into programmes designed to address the welfare of the aboriginal groups. This, it is hoped, staves off criticism that the Orang Asli are not given the attention they 'deserve'. The second, and most significant to Orang Asli identity, has to do with the social and psychological transformation of the Orang Asli so that difference between themselves and the 'Malays' is minimized and eventually eradicated. That is, Orang Asli are encouraged to take on lifestyles associated with 'Malays', to adopt 'modern' socio-economic practices, and to embrace Islam. What some Orang Asli fear is that this results in them eventually disappearing altogether by their 'becoming' Malays.

This change is effected through ideological work. In the light of hegemonic discourses about the essential good of Development in postcolonial Malaysia, the Orang Asli are produced as being 'unmodern' and 'underdeveloped' subjects, people who are 'uncivilized' according to modernist

indicators. Taboos, rituals, and belief systems of Orang Asli groups are interpreted as signifiers of their backwardness, even as 'impediments' of their ability to be 'modern'. Orang Asli are constructed as being racially and culturally inferior, this 'lack' produced in relation to an 'ideal subject', an archetype in relation to which the Orang Asli are judged. In postcolonial ethno-nationalist Malaysia, this is the economically successful *Melayu Baru* ('new Malay/Muslim'), the 'World Class Bumiputera'. Modernising the Orang Asli is couched in terms requiring not just their socio-economic development, but also their religious change. Islam, the national religion of Malaysia and the *de facto* religion of the Malays, is propagated as being a vehicle of 'progress', necessary for the civilization of the Orang Asli.

When dominant ideas concerning civilization and modernization are internalized by the Orang Asli, this produces ambivalent responses. There is resistance and acceptance, submission and subversion, ascription and denial. On the one hand, feelings of *shame* arise, as they are taught to view their 'traditional' way of life as being 'backward' and their 'race' as being inferior. These feelings create the *habitus* by which Orang Asli seek to transform themselves, so that they become 'on par' with other 'races'. On the other hand, Orang Asli identity *is* about difference, about cultural uniqueness and alternative ways of life, senses of self which Orang Asli individuals are loath to abandon. Hence, there are strong reactions to State-sponsored modernization, Islamisization and *masuk Melayu*. When this is resisted, we find Orang Asli individuals constructing their struggle by casting Malays as 'colonizers' and the Orang Asli as having 'colonized minds'.

In terms of Islamisization, resistance to this is not uniform across all Orang Asli. There are many who have embraced Islam, and who deal with the ambiguities of managing their identity as Muslim Orang Asli. As I have argued, Muslim Orang Asli occupy a contested space, a restricted socio-political location that is open, in limited ways, to negotiation (Nah, forthcoming). Some Muslim Orang Asli proudly retain their Orang Asli identity, arguing that religion does not, and should not, erode their ethnic identity. Yet others embrace the Malay way of life altogether, and

for all intents and purposes pass as Malays, and 'are' Malays. The choice to 'retain' Orang Asli identity seems to be an individually-defined matter, but something that takes extra 'work' socially in order to accomplish – one has to 'prove' to the outside world, particularly to other Orang Asli, that he/she still retains an Orang Asli sense of self after he/she embraces Islam.

A relatively new trend in identity making can be observed in the past two decades, which relates to Orang Asli struggles over rights and realities. This is the deployment of 'global discursive material' (Bunnell and Nah, 2004) concerning 'indigenous peoples', in positioning and to finding support for Orang Asli rights to customary lands and to self-determination. By re-signifying the Orang Asli and their lifestyles, civil society advocates tie the struggles of the Orang Asli with minority groups across Southeast Asia, as well as with those in far off continents. The deployment of these discourses has been most effective in court arguments, through which the Orang Asli now have a form of 'native title' and rights to land which they were never given before. In addition, national and transnational alliances with civil society groups allow Orang Asli to strengthen their position as they continue to resist State-sponsored assimilation and try to find dignity in their distinctiveness.

Reviewing Orang Asli Identity

Orang Asli identity has become a powerful focal point for establishing difference. Orang Asli identity is the manner in which individuals from various locations are homogenously and legitimately included in the mechanisms of the nation-state – the way they are politically included/excluded, administered, tracked and managed, recognized and defined in the law, and assigned benefits and privileges as members of the Malaysian polity. 'Orang Asli' is the signifier by which aboriginal/tribal/indigenous individuals currently introduce themselves to mainstream others – rather than, for example, using the names of their 'sub-ethnic' groups, their autonyms, or by giving the geographical location of their home or place of origin – as this is the point of difference most significant for everyday realities. More importantly, Orang Asli identity has become a point of unity through which individuals across the Peninsula recognize and bind

themselves together with unfamiliar members of other communities. To draw upon Benedict Anderson's (1991:188) terms, a sense of 'parallelism' or 'simultaneity' exists, powerfully connecting distant individuals across the terrain of the Peninsula[138].

Orang Asli identity isn't as straightforward as it appears in an everyday sense; that is, it is not just an ethnic category that cleanly separates individuals from other citizens such as 'Malays' or 'Chinese'. On one level, as a socio-political identity, it is a collective identity in which several distinct minority groups of different languages, practices, and beliefs, are encapsulated, and thus, may be considered 'supra-tribal' or 'pan-ethnic' in similar ways to the categories 'American Indians' or 'Australian Aborigines'. As a signifier, 'Orang Asli' can also be specifically translated to mean 'tribal' or 'aboriginal'. As such, it refers to groups whose way of life and geographical imaginations are, by definition, departures from the norms of the modern nation-state (even when there are Orang Asli individuals who fully participate in modern civil and political life)[139]. As stated earlier, in local and international forums which permit the utilization of 'global discursive material', the Orang Asli have been successfully repositioned as '*indigenous people*', that is, distinct minority groups who struggle for their right to maintain cultural difference, to exercise control over their land, and to resist assimilation.

Returning to Structured and Structuring Discourses

I have attempted to show, through Chapters 2 – 5, that the (re)production of Orang Asli identity is a continuous project, a process contingent, emergent and never complete. My approach was to de-centre this identity; discussing it vis-à-vis the social construction of other socio-political identities, locating it in contextualized performative acts, and examining it within broader social

[138] In reference to Benjamin (in progress)'s arguments that there should analytical difference between *indigeny*, "inherited embodiment *by* place" (p.1) and *indigenism*, a political stance related to a broader territory ("an 'imagined' geopolitical concept defined in terms of its containing boundaries", p.5), I suggest that asserting 'Orang Asli' identity is an articulation of *indigenism*, that is, it is a *territory*- (as opposed to *place*-), and *politics*-based identity crafted through administrative practices that have been internalized by Orang Asli individuals. Nevertheless, *indigeny* is an important, though not fundamental, part of Orang Asli identity. Having said this, there are individuals who are both indigenes and exogenes (for example when they live and work in Kuala Lumpur, but go 'home' to their villages periodically, thus maintaining their connection with a concrete 'place'). In addition, Orang Asli identity does not require an individual to be indigene; there are Orang Asli who were born and grew up in cities as exogenes.

[139] That is, it refers to those whose ancestors practiced a 'tribal' lifestyle; people who "[stood] apart from the state and its rulers, holding themselves culturally aloof in a "sub-nuclear" fashion" (Benjamin, 2002:9).

and epistemic changes. Throughout this thesis I have employed Bourdieu's notion of fields and habitus, to examine how discourses, practices, and perceptions are systematically structured – and continue to structure – the way the Orang Asli are both conceptualized as well as how they conceptualize themselves. The application of these concepts to the examination of Orang Asli identity raises some important theoretical considerations.

Is the application of fields *just* a useful hueristic for organizing (or presenting) discourses about the Orang Asli, or can it function as a useful theoretical construct for analysing complex social realities? It will be apparent to readers of this thesis that I have provided numerous cross-references to indicate how I see developments in (what I deem) 'a field' to be link directly to events in 'other fields'. What does this indicate about the usefulness of this concept? Does it suggest that the use of the notion of 'fields' to answer questions concerning Orang Asli identity requires a somewhat 'artificial' separation of discourses and practices? How do we determine where one field 'ends' and another 'begins'? Does a particular discourse or practice fall only into one field, or can it be examined as a 'development' in another field? In order to reflect on these questions, it is useful to return to Bourdieu's articulation and defense of his concept of fields.

In Bourdieu's conceptualization, 'fields' do not 'exist' objectively, but is a concept that performs a particular function: it provides the analyst/ reader with a more complex and systematic 'way of seeing' (or 'reading') the social world that extends beyond the analysis of individual institutions, procedures, texts and actors, and beyond an acontextual, arbitrary or selective examination of discourses and practices[140]. Bourdieu argues that the use of 'fields' allows us to avoid employing both an exclusively 'internal reading' – reading text without necessarily referring to its context – and a crudely formulated 'external reading' – relating the text to society in general terms (Bourdieu, 2005). The application of the concept of fields therefore serves to guard us against

[140] As Brubaker (2000:41) emphasizes, "the concept and theory of fields designate *a set of dispositions* that regulate the sociological analysis of "modern", highly differentiated societies" (my emphasis). He proposes that Bourdieu's writings on habitus and fields were not aimed at creating precise concepts and definitions, but were, instead, ways of communicating a *theoretical stance* or *posture* for studying social phenomena; that is, to orientate readers with "a way of looking at the world" (p.37). Bourdieu himself describes the use of concept of fields as a "research *tool*, the main function of which is to enable the scientific construction of social objects" (Bourdieu, 2005:30; my emphasis).

focusing on the agency of actors/ institutions without considering the invisible, internalised rules that guide their thinking and action. Similarly, it cautions us against the arbitrary selection of social phenomena to 'explain' a particular discourse or practice.

For Bourdieu, each microcosm of social space, each 'field', is set within a "social macrocosm", the former "a kind of small universe caught up in the laws of functioning of the larger universe, but nonetheless endowed with a *relative autonomy* within than universe and obeying its own laws, its own *nomos* – in a word, autonomous" (2005: 32, my emphasis). The extent to which each field is 'autonomous', Bourdieu points out, is therefore relative, and each field is constituted within a broader set of external laws. Some fields, he argues, can become more heteronomous than others. The interaction and interrelation does not mean that there is no usefulness is considering them 'social spaces' for the purposes of sociological analysis, for there are still different stakes, rules, regulations, authorities, forms of capital, and methods of appropriating distinction, that suggest they each have an internal logic.

In this thesis, I argue that sufficient differences exist which justify the conceptual recognition of 'politics', 'administration', 'the law' and 'civil society' as 'microcosms of social spaces' in their own right[141]. Each field operates according to certain 'rules', sets different types of hierarchical/ bureaucratic structures, has formalized ways through which various forms of 'capital' are distributed, and functions according to logic unique to that of other social spaces. There are different trajectories to the construction and development of each field, although these are deeply rooted in common historical events. As the previous chapters illustrate, discourses and practices can be signified in diferrent ways according to the internal logic of the fields in which they are interpreted; they are often not 'bound' to just one field. Discourses and practices may 'originate' from one field and be subsequently applied (or 'countered') in another field. Each field 'allows' certain discourses and practices to be authoritative while delegitimizing others, and permits the deployment of representation(s) in specific ways. When there is concordance in the ideas

[141] Bourdieu discusses the political field in Bourdieu (2005), and the legal (or 'juridical') field in Bourdieu (1987).

produced and circulated in these fields, these ideas become powerful, impacting the habitus of the Orang Asli (and shaping their social realities) significantly. Even the struggle to challenge these ideas requires the Orang Asli (and Orang Asli advocates) to mount resistance *in the language of*, and by the parameters set by, these ideas.

In the examination of Orang Asli identity, it is very evident that there are inter-relations between these four discursive fields. Firstly, we can observe that certain actors and texts have the capacity to play a more influential role in the development and reification of particular conceptualisations of the Orang Asli, because they are held as *authorities* in the different fields within which they operate. Actors who have 'played well' (who have been credentialised; or in Bourdieu's terms, appropriated or conferred the required capital) in one field tend to get invited to participate in other fields. They may also be purposely shut out of other fields if their opinions differ too greatly from others who have better 'control' of a particular field[142]. As these authorities often operate in more than one field, this results in the repeated perpetuation of certain ideas about the Orang Asli.

In reviewing developments within the four fields discussed in chapters 2 – 5, it is evident that there are very few Orang Asli individuals amongst the influential actors that shape discourses and practices about the Orang Asli, particularly in the fields of politics, administration, and the law. This has been a point of contention amongst Orang Asli critics, leading to the establishment of civil society groups that seek to challenge the hegemony of ideas, discourses and practices produced by influential non-Orang Asli actors who make powerful decisions that affect their everyday lives (see Chapter 5). One of the points repeatedly emphasized by Orang Asli civil society leaders in the need to appoint Orang Asli to leadership positions within the JHEOA, and for the JHEOA to adopt a more consultative style of decision-making. However, they point out too, that such acts should not be merely symbolic, but result in greater participation by 'everday'

[142] So strong is the "authority" of certain actors in shaping accounts of what being Orang Asli means, that when interviewing Orang Asli individuals, I was often told "don't ask me, ask [….], (who) knows much more about Orang Asli issues than I do". Often, they would only continue in providing their own accounts after stating "well, these are just my personal opinions". They seemed to concede authority to someone else, the "expert", who "actually knows" the "real issues".

Orang Asli in managing their own affairs[143]. In Chapter 2, I also describe the efforts made by Orang Asli to participate more meaningfully in the political field, that is, by setting up an Orang Asli political party, so that their aspirations can be *legitimately* articulated and heard. I have also pointed out in Chapter 4, concerned with the legal field, that the Orang Asli have had to rely on 'mediators' with specialised knowledge about legal rules in order to argue for their rights.

Edward Said (1995), among other literary theorists, notes that it is not merely *actors* who have authority, for *texts*, too, become sources of legitimate knowledge. Said argues that texts have the capacity to determine the course of discursive formations, particularly if they are oft-cited, thus having "distributive currency" that enables them to imprint discursive formations significantly (p.23)[144]. It is important to note that texts can 'escape' the intentionality and control of authors, as they "can always be circulated, reproduced, cited, used in ways [authors] cannot forsee or intend" (Eagleton, 1996:113). They can be applied in different ways, in different 'social spaces' for different purposes. Texts, more than actors, depend on other agents to gain legitimacy. They also function to sustain/change the authority of actors who write, rework, or use the texts in their social interactions. There are varying levels of authority and relevance that texts command, and their influence depends on the construction and operation of the field within which they operate[145]. Both actors and texts are constituted within fields in an indexical manner, their level of authority contingent on social changes. At certain moments, they gain preeminence, while at other times, they lose authority, slip into obscurity, and occasionally re-emerge in importance and on different occasions[146].

---

[143] As a prominent Orang Asli individual said to me, when describing why he rejected an offer to be appointed to a leadership position within the JHEOA, "I don't want to just be a symbol that the JHEOA can use to say that they have Orang Asli in leadership positions. If I get appointed, all the people above me and below me will still the same, and the decisions they make will not change. If I cannot introduce changes in the JHEOA, then I prefer not to be in it". Nicholas (2000) has already taken the discussion about valid Orang Asli representation further, pointing out that Orang Asli representativity – being perceived to be validly representing the Orang Asli – has become a 'resource' for the State that State actors have used in order to justify their desired actions. That is, by assigning certain Orang Asli actors and organizations official *political representativity*, State actors have tried to legitimize actions and decisions that may be in sharp contradiction to the needs and desires of Orang Asli communities.

[144] Said reminds us that there are at least two sorts of 'confirmatory evidence' that can give any representation "strength and authority" (p.20); that is materiality, and the referential power between texts.

[145] Within the legal *field*, for example, the Constitution, along with statutes and the judgments of cases (local and international), are placed in strict hierarchies.

[146] As it is not the main aim of this thesis to trace the genealogy of the authority of each text and actor related to the Orang Asli, we will only gain a partial glimpse into the indexical property of these constituents.

We can see that developments in one field stimulate, shape, legitimize and even *require* developments in other fields. For example, the political need to counter aboriginal support of Communists during the Emergency Period (the political field) prompted close administration of the aboriginal groups (the administrative field), which required the creation of law that would legitimize the actions of Government and that would give them necessary powers to influence the Orang Asli (the legal field). Authorities in one field have also served to check developments in other fields. Judgments through court cases (the legal field), for example, have resulted in securing Orang Asli rights to ancestral lands, which were denied by government practices (the administrative field). Civil society actors have also tried to augment the hegemony of political and administrative elites, calling for greater autonomy and independence for the Orang Asli. This illustrates, yet again, the interconnections and tensions between fields.

Finally, the structural constitution of these discursive fields – that is, the stakes and rules needed to play the game well – require particular skills and capital that privilege the role of certain actors over that of others. Most Orang Asli are unable to participate meaningfully and powerfully in those fields, because they do not have the 'appropriate capital' – the academic credentials, influential social connections, language skills, specialist knowledge about the rules of each field, secure financial standing, etc. Thus, they have required the assistance of 'mediators' to speak/act on their behalf. These have included politicians, Ministers of Parliament, administrative officials, civil society actors, social researchers, lawyers, and judges, many of whom have had to learn, very quickly, the specific needs and the socio-political identity of the Orang Asli.

Concluding Reflections: Learning about 'My People'

During my fieldwork, I spoke to a young Orang Asli man, who spoke to me of his desire to 'interview' an anthropologist who had worked with his 'ethnic group' for over a decade. Well known among his people, this researcher was mentioned by name, and the young man said to me, "I'd like to ask [her] to tell me about what the older people said about my culture, so that I can learn what it is". This was similar to a comment made by another Orang Asli individual, who bade

me to give him a copy of my thesis so that he could learn about the problems faced 'by his own people'.

To advocate on 'Orang Asli' issues, Orang Asli individuals have had to learn about 'their problems', 'their culture(s)'. They have had to learn not only about how to evaluate themselves vis-à-vis the structures of the nation-state, but about other Orang Asli 'cultures', other communities geographically, historically and socially distanced from their own. This learning takes place in an increasingly mediated form – through representations in statistics, censuses, research reports, academic papers, and museum displays.

This research process was a journey of discovery for me, a discovery about the social realities of those whom I consider my neighbors. I thought my fellow travelers would be academics and other researchers keen to know about 'the Orang Asli'. Thus, to my naïve surprise, I found that those who journeyed with me were Orang Asli themselves – people learning about 'their own people', so that they too, would know about 'their problems' and learn how to address these in modern Malaysian society. Although we grew up in the same nation-state, under the same political regime, subject to the same educational institutions and nation-building discourses, hearing and experiencing the same myths, stories, and historical accounts, we might as well have been citizens of different nation-states, so differently are we positioned in contemporary Malaysian society. It is my hope that I have captured with some accuracy, the challenges, anxieties, struggles and joys that the Orang Asli presently face as they negotiate their identity in contemporary postcolonial Malaysia.

REFERENCES

Alatas, S.H., 1977. *The Myth of the Lazy Native: A Study of the Image of the Malays, Filipinos and Javanese from the 16th to the 20th Century and its Function in the Ideology of Colonial Capitalism*. London: F. Cass.

Althusser, L., 1971. *Lenin and Philosophy and Other Essays*. London: New Left Books.

Andaya, L.Y., 1975. *The Kingdom of Johor 1641-1728, East Asian Historical Monographs*. Kuala Lumpur: Oxford University Press.

Andaya, B. W. and Andaya, L.Y., 1982. *A History of Malaysia*. London: Macmillan.

Anderson, B.R. O'G., 1991. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso.

Anderson, B.R. O'G., 1987. Introduction. *In:* J. Clay, ed. *Southeast Asian Tribal Groups and Ethnic Minorities: Prospects for the Eighties and Beyond*. Cambridge, MA: Cultural Survival, Inc. pp. 1-15.

Ariffin, N., 1979. A Brief Introduction to the Orang Seletar of the Johor Coast with Special Reference to Kampung Simpang Arang. A. R. Walker, ed. Provisional Research Report No. 8, Social Anthropology Section, School of Comparative Social Sciences, University Sains Malaysia.

Baharon, A.R., 1973. Parit Gong: An Orang Asli Community in Transition, Ph.D. Thesis, Cambridge University.

Baharon, A., 1972. Some Aspects of the Relationship of the Orang Asli and other Malaysians, Mimeographed report, JHEOA.

Barker, G., 1969. Malaysia Today. *Pacific Community*, 3: 247-254.

Benjamin, G., 2005. Indigeny-Exogeny: The Fundamental Social Dimension? unpublished paper.

Benjamin, G., 2002. On Being Tribal in the Malay World. *In:* G. Benjamin and C. Chou, eds. *Tribal Communities in the Malay World: Historical, Social and Cultural Perspectives*. Leiden: IIAS and Singapore: ISEAS, pp. 7-76.

Benjamin, G., 1996. *Rationalisation and Re-enchantment in Malaysia: Temiar Religion 1964-1995*, Working Paper No. 130, Department of Sociology, National University of Singapore.

Benjamin, G., 1974a. *Prehistory and Ethnology in Southeast Asia: Some New Ideas*, Working Paper No. 25, Department of Sociology, National University of Singapore.

Benjamin, G., 1974b. *Indigenous Religious Systems of the Malay Peninsula*, Working Paper No. 28, Department of Sociology, National University of Singapore.

Benjamin, G., 1968. Temiar Personal Names. *Bijdragen Tot de Taal- Land- end Volkenkunde,* 124: 99-134.

Benjamin, G., 1967. Temiar Religion, Ph.D. Thesis, Cambridge University.

Benjamin, G., 1966. Temiar Social Groupings, Reprint from Federation Museums Journal, Vol. XI, New Series 1966, Museums Department, Kuala Lumpur: Federation of Malaya.

Bourdieu, P., 2005. The Political Field, the Social Science Field, and the Journalistic Field. *In:* R. Benson and E. Neveu, eds. *Bourdieu and the Journalistic Field*. Cambridge: Polity Press, pp. 29-47.

Bourdieu, P., 1995. Social Space and Symbolic Power. *In:* D. McQuarie, ed. *Readings in Contemporary Sociological Theory: From Modernity to Post-modernity*. Englewood Cliffs, N.J.: Prentice Hall, pp. 323-334.

Bourdieu, P., 1990. *The Logic of Practice*. Cambridge, UK and Oxford, UK: Polity Press.

Bourdieu, P., 1987. The Force of Law: Toward a Sociology of the Juridical Field. *The Hastings Journal of Law*, 38(5): 814-853.

Bourdieu, P., 1977. *Outline of a Theory of Practice*. Cambridge: Cambridge University Press.

Bourdieu, P. and Wacquant, L.J.D., 1992. *An Invitation to Reflexive Sociology*. Chicago: University of Chicago Press.

Brubaker, R., 2000. Social Theory as Habitus. *In:* D. Robbins, ed. *Pierre Bourdieu: Volume II*. London: Sage Publications, pp. 212-234.

Bunnell, T., 2004. *Malaysia, Modernity and the Multimedia Super Corridor: A Critical Geography of Intelligent Landscapes*. London and New York: RoutledgeCurzon.

Bunnell, T. and Nah, A., 2004. Counter-global Cases for Places: Contesting Displacement in Globalising Kuala Lumpur Metropolitan Area. *Urban Studies*, 41(12): 2447-2467.

Carey, I., 1979. The Resettlement of the Orang Asli from a Historical Perspective. Reprint from *Federation Museums Journal* Vol. 24, New Series 1979, Kuala Lumpur: Museums Department.

Carey, I., 1976a. *Orang Asli: The Aboriginal Tribes of Peninsula Malaysia*. Kuala Lumpur: Oxford University Press.

Carey, I., 1976b. The Administration of the Aboriginal Tribes of Western Malaysia. *In:* D. Banks, ed, *Changing Identities in Modern Southeast Asia*. The Hague: Mouton, pp. 43-69.

Carey, I., 1970. The Religious Problem among the Orang Asli, *Journal of the Malaysian Branch of the Royal Asiatic Society*, XLIII (part 1):155-160.

Cerutti, G.B., 1908. *My Friends the Savages Amongst the Sakais in the Malay Peninsula: Notes and Observations of a Perak Settler*. Como: Tipografia Cooperative Comense.

Cheah, B.K., 2002. *Malaysia: the Making of a Nation*. Singapore: ISEAS.

Chee, H.L., 1995. Health and Nutrition of the Orang Asli: The Need for Primary Health Care Amidst Economic Transformation, *In:* R. Razha, ed. *Indigenous Minorities of Peninsular Malaysia: Selected Issues and Ethnographies*. Kuala Lumpur: INAS, pp. 48-71.

Tan, C.B., 2000. Ethnic Identities and National Identities: Some Examples from Malaysia. *Identities – Global Studies*, 6(4): 441-480.

Chong, W.L., 1995. Masalah Pendidikan Formal di Kalangan Pelajar Masyarakat Orang Asli: Satu Kajian Kes di Bukit Lanjan, Latihan Ilmiah Ijazah Sarjanamuda dengan Kepujian, Universiti Kebangsaan Malaysia.

COAC, 1997. Response to the 31 October 1997 Statement of the (Former) Ketua Pengarah of the Jabatan Hal Ehwal Orang Asli, Subang Jaya, 10 November.

Cornell, S., 2000. Discovered Identities and American Indian Supratribalism. *In:* P. Spickard and W.J. Burroughs, eds. *We are a People: Narrative and Multiplicity in Constructing Ethnic Identity*. Philadelphia: Temple University Press, pp. 98-123.

Cortesaõ, A., 1944. *The Suma Oriental of Tomé Pires*. London: The Hak Luyt Society.

Couillard, M.A., 1984. The Malays and the "Sakai": Some Comments on their Social Relations in the Malay Peninsula. *Kajian Malaysia*, 11(1): 81-108.

De Vere Allen, J., 1970. Malayan Civil Service, 1874 – 1941: Colonial Bureaucracy/ Malayan Elite. *Comparative Studies in Society and History*, 12(2): 149-178.

Del Tufo, M.V., 1949. *Malaya Comprising the Federation of Malaya and the Colony of Singapore: A Report on the 1947 Census of Population*. London: Crown Agents for the Colonies.

Dentan, R.K., 1997. How the Malaysian Ruling Class Constructs Orang Asli*. In:* R.L. Winzeler, ed. *Indigenous Peoples and the State: Politics, Land, and Ethnicity in the Malayan Peninsula and Borneo*. New Haven: Yale University Southeast Asian Studies, pp. 98-134.

Dentan, R.K., 1975. If there were no Malays, who would the Semai be? *Contributions to Asian Studies*, 7: 50-64.

Dentan, R.K., 1968. *The Semai: A Non-Violent People of Malaya*. New York: Holt, Rinehart & Winston.

Dentan, R.K. and Endicott, K., 2002. Ideas Redeemed but Political Memories do Run Short: Islamicization in Malaysia. *Social Justice: Anthropology, Peace and Human Rights*, 3(3-4): 153-189.

Dentan, R.K. and Endicott, K.M. (forthcoming) Ethnocide Malaysian Style: Turning Aborigines into Malays*. In:* C. Duncan, ed. *Legislating Modernity*. Ithaca, NY: Cornell University Press.

Dentan, R.K., Endicott, K., Gomes, A.G. and Hooker, M.B., 1997. *Malaysia and the Original People: A Case Study of the Impact of Development on Indigenous Peoples.* The Cultural Survival Studies in Ethnicity and Change. Boston: Allyn & Bacon.

Department of Statistics, 1997. *Profile of the Orang Asli in Peninsular Malaysia*, Population Census Monograph Series No. 3, Kuala Lumpur.

Devanesan N., 1997. *Discrimination with Reason? The Policy of Reservations in the United States, India and Malaysia*. Delhi: Oxford University Press.

Dewan Rakyat, 1974. *Penyata Rasmi Dewan Rakyat: Parlimen Ketiga, Penggal Parlimen Keempat*, Dewan Rakyat, Kuala Lumpur.

Dodge, N.N., 1981. The Malay-Aborigine Nexus Under Malay Rule, *Bijdragen tot de Taal, Land- en Volkenkunde*, 137: 1-16.

Dunn, F.L., 1975. *Rain-Forest Collectors and Traders: A Study of Resource Utilization in Modern and Ancient Malaya*. Kuala Lumpur: Monographs of the Malaysian Branch of the Royal Asiatic Society No. 5.

Eagleton, T., 1996. *Literary Theory: An Introduction*. 2nd Edition. Oxford: Blackwell.

Economic Planning Unit, 2001. 8th Malaysia Plan. Economic Planning Unit, Kuala Lumpur.

Endicott, K., 1987. The Effects of Government Policies and Programs on the Orang Asli of Malaysia*. In:* J. Clay, ed. *Southeast Asian Tribal Groups and Ethnic Minorities: Prospects for the Eighties and Beyond.* Cambridge, MA: Cultural Survival, Inc., pp. 47-51.

Endicott, K., 1983. *In:* A. Reid and J. Brewster, eds. *Slavery, Bondage, and Dependency in Southeast Asia*. Brisbane, Australia: University of Queensland Press, pp. 216-245.

Endicott, K., 1979. The Impact of Economic Modernization on the Orang Asli (aborigines) of Northern Peninsular Malaysia*. In:* J.C. Jackson, and M. Rudner, eds. *Issues in Malaysian Development*. Singapore: Heinemann, pp. 37-57.

Evans, I.H.N., 1937. *The Negritos of Malaya*. Cambridge: The University Press.

Fanon, F., 1965. *The Wretched of the Earth*. London: MacGibbon and Kee.

Favre, P., 1848. An Account of the Wild Tribes Inhabiting the Malayan Peninsula, Sumatra and a Few Neighbouring Islands. *The Journal of the Indian Archipelago and Eastern Asia*, 2(1):237-282.

Federation of Malaya, 1959. *Official Report of the Second Legislative Council of the Federation of Malaya for the Period (Third Session) September, 1957 to October, 1958,* Federation of Malaya, Kuala Lumpur.

Federation of Malaya, 1954a. *Proceedings of the Legislative Council of the Federation of Malaya for the Period (Sixth Session) March, 1953 to January, 1954*, Federation of Malaya, Kuala Lumpur.

Federation of Malaya, 1954b. *Report of the Standing Committee on Finance Detailing Estimates of Expenditure Which Were Considered by the Committee at its 8th and 9th Meetings held on the 22nd June and the 29th July, 1954*, No.48 of 1954, Legislative Council, Federation of Malaya, Kuala Lumpur.

Federation of Malaya, 1954c. *Report of the Select Committee Appointed to Consider the Aboriginal Peoples Bill, 1953*, No.2 of 1954, Legislative Council, Federation of Malaya, Kuala Lumpur.

Federation of Malaya, 1952. *The Federation of Malaya Agreement 1948*, Federation of Malaya, Kuala Lumpur.

Foucault, M., 1994. The Subject and Power*. In:* J.D. Faubion, ed. *Essential Works of Foucault 1954 - 1984, Volume 3: Power.* New York: The New Press, pp. 326-348.

Foucault, M., 1982. Technologies of the Self*. In:* L.H. Martin, H. Gutman and P.H. Hutton, eds. *Technologies of the Self: A Seminar with Michel Foucault*. London: Tavistock, pp. 16-49.

Frost, A., 1994. *Botany Bay Mirages.* Melbourne: Melbourne University Press.

Ganesa M. R., 1969. *The Growth of the Baha'I Faith in Malaysia*, academic exercise, Department of History, University Malaya.

Giddens, A., 1994. Jurgen Habermas*. In:* Q. Skinner, ed. *The Return of Grand Theory in the Human Sciences*. Cambridge: Cambridge University Press, pp. 123-39.

Gilroy, P. 1996. British Cultural Studies and the Pitfalls of Identity. *In:* H. Baker, M. Diawara and R. Lindebord, eds. *Black British Cultural Studies: A Reader*. Chicago: University of Chicago Press, pp. 223-240.

Goh, B.L., 2002. *Modern Dreams: An Inquiry into Power, Cultural Production, and the Cityscape in Contemporary Urban Penang, Malaysia*. Cornell: Cornell University.

Gomes, A.G., 1988. The Semai: The Making of an Ethnic Group in Malaysia. *In:* T.A. Rambo, K. Gillogly and K. L. Hutterer, eds. *Ethnic Diversity and the Control of Natural Resources in Southeast Asia.* Ann Arbor, MI: Centre for South and Southeast Asian Studies, University of Michigan, pp. 99-87.

Hall, S., 1996. Introduction: Who Needs Identity? *In:* S. Hall and P. du Gay, eds. *Questions of Cultural Identity.* London: Sage Publications, pp. 1-17.

Halipah E., 2002. Framework of Urban Poverty Policies and Strategies for Alleviation, paper presented in the National Conference on Urban Poverty: Advocacy, Empowerment and Poverty Alleviation, Kuala Lumpur, 1 November.

Harper, T.N., 1999. *The End of Empire and the Making of Malaya*. Cambridge: Cambridge University Press.

Harper, T.N., 1997. The Politics of the Forest in Colonial Malaya. *Modern Asian Studies*, 31(1):1-29.

Harper, T.N., 1996. New Malays, New Malaysians: Nationalism, Society and History. *In: Southeast Asian Affairs 1996*, Singapore: Institute of Southeast Asian Studies, pp.238-255.

Hassan M.N., 1997. Kajian Keciciran Kalangan Pelajar Orang Asli Peringkat Sekolah Rendah, Jabatan Anthropologi dan Sosiologi, Universiti Kebangsaan Malaysia.

Healy, A.M., 1991. The Colonial Office and Decolonization. *In:* Muhammad Ikmal S. and J. Saravanamuttu, eds. *Images of Malaysia*. Kuala Lumpur: Persatuan Sains Sosial Malaysia.

Hegel, G.W.F., 1967. *Philosophy of Right*. Oxford: Oxford University Press.

Hirschman, C., 1987. The Meaning and Measurement of Ethnicity in Malaysia: An Analysis of Census Classification. *Journal of Asian Studies*, 46(3): 555-582.

Hirschman, C., 1986. The Making of Race in Colonial Malaya: Political Economy and Racial Category. *Sociological Forum*, 1(2): 330-361.

Holman, D., 1958. *Noone of the Ulu*. London: Heinemann.

Hood, S., 1978. Semelai Rituals of Curing, D.Phil. Thesis, Oxford University.

Hood, S., 1990. Orang Asli of Malaysia: An Overview of Recent Development Policy and its Impact. *In:* L.T. Ghee and A.G. Gomes, eds. *Tribal Peoples and Development in Southeast Asia, Special Issue of the Journal 'Manusia & Masyarakat'*. Kuala Lumpur: University of Malaya, pp. 141-149.

hooks, b., 2001. Postmodern Blackness. *In:* S. Malpas, ed. *Postmodern Debates*. New York: Palgrave.

Hooker, M.B., 2001. Native Title in Malaysia: Adong's Case. *Asian Law*, 3(2): 198-212.

Hooker, M.B., 1996. The Orang Asli and the Laws of Malaysia: With Special Reference to Land. *Akademika*, 48(1): 21-50.

Hooker, M.B., 1976. *The Personal Laws of Malaysia: An Introduction*. Kuala Lumpur: Oxford University Press.

Howell, S., 2002. "We People Belong in the Forest": Chewong Re-creations of Uniqueness and Separateness*. In:* G. Benjamin and C. Chou, eds. *Tribal Communities in the Malay World: Historical, Social and Cultural Perspectives*. Leiden: IIAS and Singapore: ISEAS, pp. 254-272.

Howell, S., 1989. *Society and Cosmos: Chewong of Peninsular Malaysia*, Chicago II: University of Chicago Press.

INFRA, 1995. *Transformasi Kedua Luar Bandar*. Kuala Lumpur: Percetakan Watan.

IWGIA, 2003. *The Indigenous World 2002-2003*. Copenhagen: IWGIA.

Jacq-Hergoualc'h, M., 2002. *The Malay Peninsula: Crossroads of the Maritime Silk Road (100BC – 1300AD)*. Leeds: Brill.

JHEOA, undated. *JHEOA Programme Summary*. Kuala Lumpur: JHEOA.

JHEOA, 2003. *Orang Asli Berjaya: Edisi II*. Kuala Lumpur: JHEOA.

JHEOA, 2002. *Orang Asli Berjaya*. Kuala Lumpur: JHEOA.

JHEOA, 1983. *Strategi Perkembangan Ugama Islam Di Kalangan Masyarakat Orang Asli*. Kuala Lumpur: JHEOA.

Jennings, S., 1985. Temiar Dance and the Maintenance of Order*. In:* P. Spencer, ed. *Society and the Dance*. Cambridge: Cambridge University Press.

Jimin, I., 1972. A Brief Note on the Orang Asli of West Malaysia and Its Administration, umpublished manuscript, JHEOA.

Jimin, I., Mohd Tap S., Jailani, M.D., Abd. Halim, H.J., and Mohd Razim, S., 1983. Planning and Administration of Development Programmes for Tribal Peoples (The Malaysian Setting), Kuala Lumpur: Centre on Integrated Rural Development for Asia and the Pacific.

Jones, A., 1968. The Orang Asli: An Outline of their Progress in Modern Malaya. *Journal of Southeast Asian History*, 9(2): 286-305.

Juli, E., 1998. Claiming Our Ancestors' Land: An Ethnohistorical Study of Sengoi Land Rights in Perak and Malaysia, Ph.d. Thesis, Australian National University.

Juli, E., 1990. *Tradisi Lisan Masyarakat Semai*, Siri Monograf Fakulti Sains Kemasyarakatan dan Kemanusiaan No. 16, Bangi: UKM.

Kahn, J.S. and Loh, K.W., 1992. *Fragmented Vision: Culture and Politics in Contemporary Malaysia.* Singapore: Allen & Unwin.

Kessler, C., 1992. Archaism and Modernity: Contemporary Malay Political Culture*. In:* Kahn, J.S. and Loh, K.W., eds. *Fragmented Vision: Culture and Politics in Contemporary Malaysia*. Singapore: Allen & Unwin, pp. 133-57.

Kementerian Kewangan Malaysia, 1980. *Anggaran Belanjawan Program dan Prestasi 1981*, Kementerian Kewangan Malaysia, Kuala Lumpur.

Kementerian Kewangan Malaysia, 1987. *Anggaran Belanjawan Program dan Prestasi 1988*. Kementerian Kewangan Malaysia, Kuala Lumpur.

Khairil, W.A., Dzulkifli, A. and Hasan, A., 1998. Nature-based Tourism Development Plan – Part 2: Plan and Guidelines for Tourism Development Plan, ITM, Shah Alam for WI-AP, February.

Khoo, T.E., 1977. Some Aspects of the Nutritional Status of the Semai, Ph.D. Thesis, University of Malaya.

King, V.T., 1995. Indigenous Peoples and Land Rights in Sarawak, Malaysia: To Be or Not to Be a Bumiputra*. In:* R.H. Barnes, A. Gray, and B. Kingsbury, eds. *Indigenous Peoples of Asia*, Ann Arbor: The Association for Asian Studies, Inc., pp. 289-305.

Kingsbury, B., 1999. The Applicability of the International Legal Concept of "Indigenous Peoples" in Asia. *In:* J.R. Bauer and D.A. Bell, eds. *The East Asian Challenge for Human Rights*. Cambridge: Cambridge University Press, pp. 336-377.

Kingsbury, B., 1995. "Indigenous Peoples" as an International Legal Concept*. In:* R.H. Barnes, A. Gray, and B. Kingsbury, eds. *Indigenous Peoples of Asia*, Ann Arbor: The Association for Asian Studies, Inc., pp. 13-34.

Koo, B.T., 1996. *Paradoxes of Mahathirism: An Intellectual Biography of Mahathir Mohamad*. Kuala Lumpur: Oxford University Press.

Leech, H.W.C., 1879. About Slim and Bernam. *Journal of the Straits Branch of the Royal Asiatic Society*, 4(3): 34-45.

Leary, J.D., 1994. Orang Asli Contacts with the Malays, Portuguese and Dutch in Peninsular Malaya from 1400 to 1700. *Asian Studies Review*, 18(2): 89-104.

Leary, J., 1989. The Importance of the Orang Asli in the Malayan Emergency 1948 – 1960, Working Paper No.56, Melbourne: Centre of Southeast Asian Studies, Monash University.

Lee, H.P., 1995. *Constitutional Conflicts in Contemporary Malaysia*. New York: Oxford University Press.

Lee, M.P., 2001. *General Principles of Malaysian Law*, 4th Edition. Kuala Lumpur: Fajar Bakti.

Levy, J. T., 2000. Three Modes of Incorporating Indigenous Law*. In:* W. Kymlicka and W. Norman, eds. *Citizenship in Diverse Societies*. Oxford University Press: New York, pp. 297-325.

Lewis, D., 1960. Inas: A Study of Local History. *Journal of the Royal Asiatic Society, Malaysian Branch*, 33(1): 65-94.

Lian, K.F., 2001. The Construction of Malay Identity across Nations: Malaysia, Singapore, and Indonesia. *Bijdragen tot de Taal, Land-en Volkenkunde*, deel 157(4): 861-879.

Lian, K.F., 1997. Between Kingdom and Nation: The Metamorphosis of Malay Identity in Malaysia. *Southeast Asian Journal of Social Science*, 25(2): 59-78.

Lim, H.F., 1997. *Orang Asli Forest and Development*, Malayan Forest Records No. 43, Kuala Lumpur: FRIM.

Lim, H.S., 1997. The Land Rights of the Orang Asli, paper presented at the CAP National Conference on 'Land: Emerging Issues and Challenges', Penang, 12-15 December 1997.

Liow, S.C., 1981. *The Constitutional and Legal Position of the Orang Asli in Peninsula Malaysia*, Faculty of Law, University of Malaya.

Logan, J.R., 1880. Memorandum on the Various Tribes Inhabiting Penang and Province Wellesley. *Journal of the Straits Branch of the Royal Asiatic Society*, 7(6): 82-93.

Lye, T-P., 2001. Introduction*. In:* T-P. Lye, ed. *Orang Asli of Peninsular Malaysia: A Comprehensive and Annotated Bibliography*, CSEAS Research Report Series No.88, Kyoto: Kyoto University, pp. xviii-xxx.

MacKenzie, K.E., 1951. *Malaya: Economic and Commercial Conditions in the Federation of Malaya and Singapore*. London: Her Majesty's Stationery Office.

Mahathir, M., 2001. *Malays Forget Easily*. Subang Jaya: Pelanduk.

Mahathir, M., 1992. Malaysia: The Way Forward, *Malaysian Management Review*, Sept, 27(3): 1-9.

Mahathir, M., 1970. *The Malay Dilemma*. Singapore: Times Books International.

Majid, S., 1997. Teks Ucapan President Persatuan Orang Asli Semenanjung Malaysia Sempena Perhimpunan Agung Tahumnan Kali Kelapan Persatuan Orang Asli Semenanjung Malaysia (POASM), delivered at Gombak, 26th April 1997.

Malaya Constitutional Commission, 1957. *Report of the Federation of Malaya Constitution Commission*. Rome: Food and Agriculture Organisation of the United Nations.

Malayan Union, 1947. *Annual Report on the Malayan Union for 1946: April to December*. Kuala Lumpur: Malayan Union Government Press.

Malayan Union, 1946. *Constitutional Proposals for Malaya: Report of the Working Committee appointed by a Conference of His Excellency the Governor of the Malayan Union, Their Highnesses the Rulers of the Malay States and the Representatives of the United Malays National Organisation, Revised up to the 19th of December 1946*. Kuala Lumpur: Malayan Union Government Press, HT Ross.

Malaysia, 1971. *Second Malaysia Plan 1971 – 1975*. Kuala Lumpur: Government Press.

Malaysia, 1970. *The Expenditure Budget of the Federal Government 1970*. Kuala Lumpur: Jabatan Chetak Kerajaan.

McNair, J.F.A., 1878. *Perak and the Malays: 'Sarong' and 'Kris'*. London: Tinsley.

Means, P.B. and Means, N., 1981. *And the Seed Grew.* Toronto: University of Toronto Press.

Miller, H., 1972. *Jungle War in Malaya: The Campaign Against Communism 1948 – 60*. London: Arthur Barker Limited.

Milner, A., 2002. *Invention of Politics in Colonial Malaya*. Melbourne: Cambridge University Press.

Milner, A., 1998. Ideological Work in Constructing the Malay Majority*. In:* D.C. Gladney, ed. *Making Majorities; Constituting the Nation in Japan, Korea, China, Malaysia, Fiji, Turkey, and the United States*. Stanford: Stanford University Press.

Milner, A., 1982. *Kerajaan: Malay Political Culture on the Eve of Colonial Rule*. Tucson: University of Arizona Press.

Ministry of Home Affairs, 1978. *Panduan Tugas Pembangunan Orang Asli di Dalam Masyarakat Malaysia Moden,* Ministry of Home Affairs, Kuala Lumpur.

Ministry of the Interior, 1961. *Statement of Policy Regarding the Administration of the Aborigine Peoples of the Federation of Malaya*, Ministry of the Interior, Kuala Lumpur.

Modood, T., 2000. Anti-Essentialism, Multiculturalism, and the 'Recognition' of Religious Groups, *In:* W. Kymlicka and W. Norman, eds. *Citizenship in Diverse Societies*. Oxford University Press: New York, pp. 175-195.

Mohd. Salleh, A., 1986. Traditional Elements of the Malaysian Constitution*. In:* F.A. Trindade and H.P. Lee, eds. *The Constitution of Malaysia: Further Perspectives and Developments*. Singapore: Oxford University Press, pp. 1-17.

Mohideen A.K., 2000. Land Alienation: The Need for Transparency and Accountability*. In: Tanah Air Ku: Land Issues in Malaysia*. Penang: Consumers' Association of Penang.

Mohamed J.H., 1997. Nation-building: Prospects and Pathways for the Future*. In: Malaysia Today: Towards the New Millennium*. London: ASEAN Academic Press Ltd.

Mohd Sabri, I., 1999/2000. Perkembangan Islam di Kalangan Orang Asli dari tahun 1987 – 1997: Satu Tinjauan dari Sudut Penerimaan Masyarakat Asli di Post Brook Gua Musang, Kelantan, Sarjana Usuluddin Akademi Pengajian Islam, University Malaya.

Nagata, J., 1974. What is a Malay? Situational Selection of Identity in a Plural Society. *American Ethnologist*, 7(2):331-50.

Nagata, S., 1995. Education and Socialisation in a Semang Resettlement Community of Kedah, Malaysia: The case of the Kensiu, the Kintak Bogn and the Kintak Nakil*. In:* R. Razha, ed. *Indigenous Minorities of Peninsular Malaysia: Selected Issues and Ethnographies*. Kuala Lumpur: INAS, pp. 86-108.

Nah, A.M. (forthcoming) Names as Sites of Identity Construction, Negotiation, and Resistance: Signifying Orang Asli in Postcolonial Malaysia. *In:* Lian, K.F., ed. *Race and Ethnicity in Malaysia and Singapore*, Leiden: Brill.

Nah, A.M., 2003. Negotiating Indigenous Identity in Postcolonial Malaysia: Beyond Being 'Not quite/ not Malay. *Social Identities*, 9(4): 511-534.

Nair, S., 2001. Orang Asli and Human Rights, Faculty of Law, National University of Singapore.

NECF, 2001. *Panitia Pelayanan Orang Asli NECF Malaysia.* Kuala Lumpur: NECF.

Newbold, T.J., 1971. *Political and Statistical Account of the British Settlements in the Straits of Malacca, Volume II*. London: Oxford University Press.

Nicholas, C., 2003a. Mahathir's Invisible Minority: The Orang Asli*. In:* B. Welsh, ed. *Reflections: The Mahathir Years*. Washington DC: SAIS, Johns Hopkins University.

Nicholas, C., 2003b. Orang Asli Resource Politics: Manipulating Property Regimes Through Representivity, paper presented at the RSCD Conference on Politics of the Commons: Articulating Development and Strengthening Local Practices, Chiangmai, 11-14 July.

Nicholas, C., 2002. Organizing Orang Asli Identity. *In:* G. Benjamin and C. Chou, eds. *Tribal Communities in the Malay World: Historical, Social and Cultural Perspectives*. Leiden: IIAS and Singapore: ISEAS, pp. 119-137.

Nicholas, C., 2000. *The Orang Asli and the Contest for Resources*. Copenhagen: IWGIA.

Nicholas, C., 1996. The Orang Asli of Peninsula Malaysia. *In:* C. Nicholas and R. Singh, eds. *Indigenous Peoples of Asia: Many People, One Struggle*. Bangkok: Asia Indigenous Peoples Pact, pp. 158-175.

Nicholas, C., 1990. In the Name of the Semai? The State and Semai Society in Peninsula Malaysia. *In:* L.T. Ghee and A.G. Gomes, eds. *Tribal Peoples and Development in Southeast Asia, Special Issue of the Journal 'Manusia & Masyarakat'*. Kuala Lumpur: University of Malaya, pp. 68-88.

Nicholas, C. and Williams-Hunt, A., 1996. Orang Asli. *In:* K.S. Jomo and S.K. Ng, eds. *Malaysia's Economic Development: Policies and Reforms*. Kuala Lumpur: Pelanduk Press, pp. 451-476.

Nicholas, C., Williams-Hunt, A., Sabak, T., 1989. *Orang Asli in the News: The Emergency Years: 1950-1958*, compilation, Kuala Lumpur.

Noone, R. and Holman, D., 1972. *In Search of the Dream People*. New York: Morrow.

Noone, H.D., 1936. Report on the Settlements and Welfare of the Ple-Temiar Senoi of the Perak-Kelantan Watershed. *Journal of the Federated Malay States Museums,* 19(1): 1-85.

Nowak, B., 1989. Marriage and Household: Btsisi' Response to a Changing World, Ph.D. Thesis, State University of New York at Buffalo.

Omar, A., 1978. The Orang Kanaq of Southeastern Johor: A Preliminary Ethnography, A.R. Walker, ed. Provisional Research Report No. 7, Social Anthropology Section, School of Comparative Social Sciences, University Sains Malaysia.

Park, B-J. L., 1965. The British Experience of Counterinsurgency in Malaya: The Emergency, 1945 – 1960, Political Science, International Law and Relations, Ph.D. Thesis, The American University.

POASM, 2003. Perhimpunan Agung Tahunan Kali ke-14 Tahun 2003, Kuala Lumpur, 27 April.

POASM, 1997a. Teks Ucapan Presiden Persatuan Orang Asli Semenanjung Malaysia Sempena Perhimpunan Agung Tahunan Kali Kelapan Persatuan Orang Asli Semenanjung Malaysia (POASM), Siaran Akhbar.

POASM, 1997b. Perhimpunan Agung Tahunan Kali ke-8 Tahun 1997 Sessi 1995 / 1997, Kuala Lumpur, 26 April.

Polunin, I., 1953. The Medical Natural History of Malayan Aborigines. *Medical Journal of Malaysia*, 8: 55-174.

Prakash, G., 1990. Writing Post-Orientalist Histories of the Third World: Perspectives from Indian Historiography. *Comparative Studies in Society and History*, 32(2): 383-408.

Rachagan, S.S., 1990. Constitutional and Statutory Provisions Governing the Orang Asli. *In:* L.T. Ghee and A. G. Gomes, eds. *Tribal Peoples and Development in Southeast Asia, Special Issue of the Journal 'Manusia & Masyarakat'*. Kuala Lumpur: University of Malaya, pp. 101-111.

Rambo, T., 1988. Why Are the Semang? Ecology and Ethnogenesis of Aboriginal Groups in Peninsular Malaysia*. In:* T.A. Rambo, K. Gillogly and K. L. Hutterer, eds. *Ethnic Diversity and The Control of Natural Resources in Southeast Asia,* Centre for South and Southeast Asian Studies, Ann Arbor, MI: University of Michigan, pp. 19-31.

Reid, A., 2001. Understanding Melayu (Malay) as a Source of Diverse Modern Identities. *Journal of Southeast Asian Studies,* 32(3): 295-313.

Roseman, M., 1991. *Healing Sounds from the Malaysian Rainforest: Temiar Music and Medicine*, Berkeley: University of California Press.

Roff, W., 1967. *The Origins of Malay Nationalism.* Kuala Lumpur: University of Malaya Press.

Said, E., 1995. *Orientalism*, New York: Penguin

Said Z., 2001. Dark Clouds at Dawn: A Political Memoir. Kuala Lumpur: INSAN.

Schebesta, P., 1927. *Among the Forest Dwarfs of Malaya*. London: Hutchinson & Co. Ltd.

Scott, J. C., 1998. *Seeing like a State: How Certain Schemes to Improve the Human Condition have Failed.* New Haven: Yale University Press.

Shamsul A.B., 2001. A History of an Identity, an Identity of a History: The Idea and Practice of 'Malayness' in Malaysia Reconsidered. *Journal of Southeast Asian Studies*, 32(3): 355-366.

Shamsul, A.B., 1999. From Orang Kaya Baru to Melayu Baru*. In:* M. Pinches, ed. *Culture and Privilege in Capitalist Asia*. London: Routledge.

Shamsul, A.B., 1997. Ethnicity, Class or Identity? In Search of a New Paradigm in Malaysian Studies. Paper presented at the 1st Malaysian Studies Conference, University Malaysia, Kuala Lumpur, 11- 13 August.

Shamsul, A.B., 1996a. The Construction and Transformation of a Social Identity: Malayness and Bumiputeraness Re-examined, *Journal of Asian and African Studies*, 52: 15-33.

Shamsul, A. B., 1996b. Debating about Identity in Malaysia: A Discourse Analysis. *Southeast Asian Studies*, 34(3): 467-499.

Shastri, H.P., 1989. *Christ in Tribal Culture: A study of the Interaction Between Christianity and Semai Society of Peninsula Malaysia in the Context of the History of the Methodist Mission (1930 – 1983),* Doctor of Theology, Ruprecht-Karis-Universitat, Heidelberg.

Short, A., 2000. *In Pursuit of Mountain Rats: The Communist Insurrection in Malaya*, Singapore: Cultured Lotus.

Short, A., 1975. *The Communist Insurrection in Malaya: 1948 – 1960*, London: Frederick Muller Limited.

Siddique, S. and Suryadinata, L., 1981-82. Bumiputra and Pribumi: Economic Nationalism (Indiginism) in Malaysia and Indonesia. *Pacific Affairs*, 54(4): 662-687.

Skeat, W.W. and Blagden, C.O., 1906. *Pagan Races of the Malay Peninsula*, London: MacMillan & Co.

Soenarno, R., 1966. Malay Nationalism, 1896-1941. *In:* K.G. Tregonning, *Journal of Southeast Asian History*, Vol.1, Amsterdam: Swets & Zeitlinger N.V., pp.1-28.

Sullivan, P., 1998. Orang Asli and Malays: Equity and Native Title in Malaysia*. In:* C.J. Iorns Magallanes, and M. Hollick, eds., *Land Conflicts in Southeast Asia: Indigenous Peoples, Environment and International Law*. Bangkok: White Lotus Press, pp. 57-81.

Tachimoto, N.M., 1967. A Structural Analysis of Cognatic Society: The Orang Hulu Case, M.A. Thesis, Kyoto University.

Tan, S.Y., 2003. Contestations Over Locality and Identity: The Semais of Perak, B. Soc.Sci. (Honours) Thesis, National University of Singapore.

Taylor, C., 1994. The Politics of Recognition*. In:* A. Gutmann, ed. *Multiculturalism: Examining the Politics of Recognition*, Princeton, New Jersey: Princeton University Press, pp. 25-73.

Thompson, J., 1875. *The Straits of Malacca, Indo-China and China or Ten Years' Travels, Adventures and Residence Abroad*, Singapore: OUP.

Tun Mohamed Suffian, H., 1976. *An Introduction to the Constitution of Malaysia*, 2nd Edition, Kuala Lumpur: Government Printer.

UMNO, 1956. *UMNO 10 Tahun*, Kuala Lumpur: Ibu Pejabat UMNO.

Waldroon, J., 2000. Cultural Identity and Civic Responsibility, *In:* W. Kymlicka and W. Norman, eds. *Citizenship in Diverse Societies*. Oxford University Press: New York, pp. 155-174.

Wazir, J.K., 1995. Malaysia's Indigenous Minorities: Discrepancies between Nation-Building and Ethnic Consciousness*. In:* R. Razha, ed. *Indigenous Minorities of Peninsular Malaysia: Selected Issues and Ethnographies*, INAS: Kuala Lumpur, pp. 18-35.

Wazir, J.K., 1981. *Ma' Betisék Concepts of Living Things*. London School of Economics Monographs on Social Anthropology No. 54. London: Anthlone Press.

Wheatley, P., 1961. *The Golden Khersonese*, Kuala Lumpur: University of Malaya Press.

Wheatley, P., 1959. Geographical Notes and Some Commodities Involved in Sung Maritime Trade. *Journal of the Malaysian Branch of the Royal Asiatic Society*, 32(2): 1-40.

Williams-Hunt, A., 1995. Land Conflicts: Orang Asli Ancestral Laws and State Policies*. In:* R. Razha, ed. *Indigenous Minorities of Peninsular Malaysia: Selected Issues and Ethnographies*. Kuala Lumpur: INAS, pp. 36-47.

Williams-Hunt, P.D.R., 1952. *An Introduction to the Malayan Aborigines*. Kuala Lumpur: The Government Press.

Winstedt, R.O., 1948. *Malaya and Its History*. London: Hutchinson.

Wright, A. and Reid, T.H., 1912. *The Malay Peninsula: A Record of British Progress in the Middle East*. London: T.F. Unwin.

Zakuan S., 1996/97. *Dakwah Islamiah kepada Orang Asli: Kajian Khusus Mengenai Transformasi Minda Masyarakat Semai Selepas Memeluk Islam*, Bahagian Pengajian Usuluddin Akademi Pengajian Islam, University Malaya.

Zawawi, I. 1996. *Kami Bukan Anti-Pembagunan!: Bicara Orang Asli Menuju Wawasan 2020*. Bangi: Persatuan Sains Sosial Malaysia.

APPENDIX A

Figure 1: Definitions of Identity in the Malaysian Legal System

Category	Authority	Definition
Aborigine (*orang asli*)	Federal Constitution, Article 160 (2)	"an aborigine of the Malay Peninsula"
	Aboriginal Peoples Act (1954, revised 1974), Section 3.	"(1) In this Act an aborigine is – any person whose male parent is or was, a member of an aboriginal ethnic group, who speaks an aboriginal language and habitually follows an aboriginal way of life and aboriginal customs and beliefs, and includes a descendant through males of such persons; any person of any race adopted when an infant by aborigines who has been brought up as an aborigine, habitually speaks an aboriginal language, habitually follows an aboriginal way of life and aboriginal customs and beliefs and is a member of an aboriginal community; or the child of any union between an aboriginal female and a male of another race, provided that the child habitually speaks an aboriginal language, habitually follows an aboriginal way of life and aboriginal customs and beliefs and remains a member of an aboriginal community." (2) Any aborigines who by reason of conversion to any religion or for any other reason ceases to adhere to aboriginal beliefs but who continues to follow an aboriginal way of life and aboriginal customs or speaks an aboriginal language shall not be deened to have ceased to be an aborigine by reason only of practicing that religion. (3) Any question whether any person is or is not an aborigine shall be decided by the Minister."
Malay (*orang Melayu*)	Federal Constitution, Article 160	""Malay" means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to the Malay custom and – a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or b) is the issue of such a person;"
Natives (*bumiputra*) of Sabah and Sarawak	Federal Constitution, Article 161A (6) and (7)	"(6) In this Article "native" means – a) In relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races, and b) In relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth. (7) The races to be treated for the purposes of the definition of "native" in Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits), Lugats, Lisums, Malays, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

Source: The Federal Constitution as at 10th September 2002.

Figure 2: 'Aborigines' ('orang asli') in the Federal Constitution

Article 8	"(1) All persons are equal before the law and entitled to the equal protection of the law. (2) Except as expressly authorized by this Constitution (my emphasis), there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment. [….] (5) This Article does not invalidate or prohibit – [….] c) any provision for the protection, well-being or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service;…"
Article 45(2)	"The members to be appointed by the Yang di-Pertuan Agong shall be persons who in his opinion have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of aborigines"
Article 74 and 77, Item 16, List I – Federal List, Ninth Schedule.	[Article 74(1)] "Parliament may make laws with respect to any of the matters enumerated in the Federal List [List I]…" [List I, at Item 16 reads] "Welfare of the Aborigines" *Note: Article 77 states that the Legislature of a State does not have the power to make laws to matters enumerated in the Ninth Schedule over which Parliament has power to make laws.*

Source: The Federal Constitution as at 10th September 2002.