

Aboriginal Ethnic Group Commonly Known As Orang Asli In Peninsular Malaysia: Re-Examining The Right To Take Forest Produce

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Abstract

In Malaysia, the Aboriginal Peoples Act 1954 (APA 1954) provides protection for the indigenous people. They are commonly known as the Orang Asli in Peninsular Malaysia. Meanwhile, the National Forestry Act 1984 (NFA 1984) was enacted to provide for the administration of forests within the States of Malaysia. The provision of law relating to prohibition on taking forest produce in Malaysia is made applicable to the Orang Asli. This leads to injustice as collecting forest produce has been their traditional existing way of life. This paper is extremely important and aims to highlight the social issues of whether the provision of law under the NFA 1984 is reducing the overall income of the Orang Asli community and whether the prohibition of taking forest produce should not be made applicable to the Orang Asli community. This paper adopts a qualitative research methodology and employs a doctrinal content analysis as it provides a deeper understanding of the tension between the legal protection of forests and the Orang Asli's prerogative or right to gather forest produce in Peninsular Malaysia. In the context of the socio-economic, this paper proposed that the law should be amended as it disturbs the economic stability and well-being of the Orang Asli community in Peninsular Malaysia.

Keywords: Aboriginal Ethnic Group, Orang Asli, Right, Forest, Forest Produce.

Introduction

There are more than 370 million indigenous people spread across 70 countries worldwide. practicing unique traditions, retaining social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live (United Nations

Permanent Forum). The indigenous minority peoples of Peninsular Malaysia is commonly known as the Orang Asli and the statute governing their rights is the Aboriginal Peoples Act 1954 (APA 1954). As the term "Orang Asli" translates, they are the original or the first people of Peninsular Malaysia. It highlights that the term "Orang Asli" is a collective one for the 18 ethnic subgroups officially classified for administrative purposes under Negrito, Senoi and Aboriginal Malay (Nicholas, 2000).

In Malaysia, under the National Forestry Act 1984 (NFA 1984), the prohibition on taking of forest produce from permanent reserved forest or State land is made applicable to all including Orang Asli (National Forestry Act 1984). In addition, the Orang Asli will be subjected to imprisonment if they collect the forest produce without permit from the State authority. This paper aims to highlight the extremely important issue of whether it is just to prohibit the Orang Asli from taking or collecting forest produce under the NFA 1984. The objectives of this paper are to suggest the recommendations of law regarding prohibition on taking forest produce and examining whether the law should not be made applicable to the Orang Asli in Peninsular Malaysia. Besides that, the provision of law under the NFA 1984 must be amended to include the interest of the Orang Asli to take or gather the forest produce. Also, the State authority would use their discretion not to penalize the Orang Asli who are collecting forest harvest for their daily life usage. The research questions of this paper are, firstly, whether the provision of law under the NFA 1984 is reducing the overall income of the Orang Asli in Peninsular Malaysia and has caused inequality to the aboriginal ethnic group community. Secondly, what could be the best solution and practices to resolve the issue of protecting the interest of the Orang Asli's community to take the forest produce. Finally, is it necessary that the law regarding prohibition on taking forest produce should not be made applicable to the Orang Asli community as they are surviving while trying to adopt the modernization of life in this 21st century. This is vital in order to restore the economic stability of the Orang Asli community and safeguarding the well-being and prosperity of the Orang Asli in Malaysia.

Literature Review

Social issues surrounding the Indigenous people

Many US and Canadian Indigenous scholars and activists critique and oppose capitalism as part of their decolonization efforts (Coulthard, 2014). The problem addressed by the United Nation is the indigenous people often have much in common with other neglected segments of societies. Examples given are such as lack of political representation and participation, economic marginalization and poverty, lack of access to social services and discrimination. Evidence is mounting that despite their cultural differences, the diverse indigenous peoples share common problems that are also related to the protection of their rights. They strive for recognition of their identities, their ways of life and their right to traditional lands, territories and natural resources (United Nations Permanent Forum, n.d.). Examples of social issues in claiming for damages surrounding the indigenous peoples are the issue of the real character of the native title to the land (See *Amodu Tijani v The Secretary Southern Nigeria* [1921] 2 AC 399); the issue of right of communal ownership under indigenous law (See *Alexkor Ltd v Richtersveld Community* (2003) 12 BCLR 130); the issue of traditional title not to be impaired or destroyed without consent (See *Mabo No 2 (Mabo & Ors v State of Queensland & Anor* (1986) 64 ALR 1) and the issue of duties to protect the welfare of the aboriginal people (See *The Wik Peoples v The State of Queensland & Ors* (1996) 187 CLR 1). Few observed that there was an appeal for urgent action to support the efforts of indigenous peoples and local

communities around the world to maintain their knowledge systems, languages, stewardship rights, ties to lands and waters, and the biocultural integrity of their territories (Á. Fernández et al, 2021).

In Malaysia, the indigenous people inherited a distinct usage of language and accent, as well as particular knowledge and beliefs. They also have a mystical connection to nature and valuable natural resource management strategies (Sandran, 2022). As for the indigenous people in Sarawak, they are not victims of the systems of oppression, but survivors who continue to fight for their land rights and livelihoods (Weinlein, 2017). There is no legal basis for the perception that the Orang Asli live on the State land on the benevolence of the State (Wook, 2015). On the issue surrounding the return of indigenous lands, territories and resources, the utilization of the Malaysian courts for the restitution of indigenous lands and resources can be a potentially slow and costly (Subramaniam et al, 2018). It has been highlighted that existing dams have displaced around 40-80 million people worldwide in the last fifty years, most of whom are indigenous and minority people (Lin, 2008). The Orang Asli are trapped between a protectionist law, which positions them as wards of the state with limited autonomy, rights and control over their resources (Idrus, 2011). It is high time for the government to think 'outside the box' and explores the notion that the Orang Asli's progress lies in empowering the Orang Asli over their customary lands (Hamzah, 2012; Subramaniam, 2010). The government of Selangor, Malaysia, for example, in empowering the Orang Asli, formally celebrated World Indigenous Day on August 9, 2009 and this is the first in the history of any state government in Malaysia (Nicholas, 2010). As time goes by, the Orang Asli community have also experienced some changes in all aspects. Some of which has positive and negative implications on the way of life and cultures. It is one thing to say that the people are entrapped in modernity but it is yet another to say that their experiences of modernity are essentially negative. Like most changes in the lives of people, there are both negative and positive implications. (Alberto, 2004). Article 153 of the Laws of Malaysia Federal Constitution prescribes special rights for the natives of Sabah and Sarawak but not for the Orang Asli of the Peninsular Malaysia. There has been uncertainty and variation in the way native land claim cases have been dealt with and resolved by the courts. The implementation of the UN Declaration of the Rights of Indigenous Peoples 2007 ('UNDRIP') should be a priority within Malaysia (Wood, 2021). In Malaysia, the Aboriginal Peoples Act 1954 has been enacted to provide for the protection, well-being and advancement of the aboriginal people of Peninsular Malaysia (See the Preamble of the Aboriginal Peoples Act 1954). Few issues surrounding the Indigenous people in Malaysia are the issues of acquisition of aboriginal lands without adequate compensation (*Kerajaan Negeri Selangor & Ors v Sagong Bin Tasi & Ors* [2005] 6 MLJ 289), the issue of the recognition of lands held under customary title (*Adong bin Kuwau & Ors v Kerajaan Negeri Johor & Anor* [1997] 1 MLJ 418) and the issue of involuntary resettlement compensation accorded to the Orang Asli (Bakar et al, 2022).

Social issues surrounding the livelihood of people and the conservation of forest

A forest in a given locality enhances employment opportunity for the local people for their livelihood and sustenance. Therefore, the policy initiatives should look into employment generation opportunity, apart from enhancing forest cover and regeneration of these forests (Murali, 2004). Forests especially those in the catchment areas should be preserved to ensure that there is no water shortage. The developing countries in the tropical regions depend very much on the tropical forests either for their timber industries which are a vital source of foreign exchange income, or as a land bank for agriculture, housing and industries.

Since these countries also need to preserve their water resources, the only way to solve the problem is through the transformation of technology, behaviour and the way of life. The economic development should not be pursued at the expense of the environments especially in terms of the depletion of water supply in which everybody's life depends on this (Kasmo, 2003). In respect of forest areas, a new aspect has to be taken into consideration. It is the stability of the ecosystem or plant community especially on the practicality for conservation (Miguel E. Leal, 2008). It is observed that the National Forestry Act 1984 was effective to control illegal logging. In the context of punishment, heavy punishment associated with serious offence was rated as effective compared to moderate and light punishment. Findings on specific aspects of legal provisions as identified in the previous study may provide awareness for relevant agencies for revisiting policies towards achieving sustainable timber harvesting (Noor, 2022). In Malaysia, the National Forestry Act 1984 is enacted for the purpose of promoting uniformity of the laws of the States of Malaysia with respect to the administration, management and conservation of forests and forestry development (Preamble of National Forestry Act 1984).

The provision of law

The law in Malaysia also provides that the "aboriginal ethnic group" means a distinct tribal division of aborigines as characterized by culture, language or social organization. It includes any group which the State Authority may, by order declare to be an aboriginal ethnic group. The aboriginal ethnic group is commonly known as the Orang Asli in Peninsular Malaysia. In respect of the aboriginal area, section 2 of the Aboriginal Peoples Act 1954 provides that within an aboriginal area, (i) no land shall be declared a Malay Reservation under any written law relating to Malay Reservations; (ii) no land shall be declared a sanctuary or reserve under any written law relating to the protection of wild animals and birds; (iii) no land shall be alienated, granted, leased or otherwise disposed of to persons not being aborigines normally resident in that aboriginal area or to any commercial undertaking without consulting the Director General; and (iv) no licenses 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 Director General. It is provided further that in granting any such license it may be ordered that a specified proportion of aboriginal labour be employed. However, section 3 of the Aboriginal Peoples Act 1954 provides that the State Authority may in like manner revoke wholly or in part or vary any declaration of an aboriginal area made under subsection (1). As such, in Malaysia, the Aboriginal People Act 1954 establishes a framework to recognize and protect rights of the Orang Asli.

Although the High Court in the case of *Koperasi Kijang Mas v Kerajaan Negeri Perak* [1991] CLJ 486 held that the aborigines have exclusive rights to forest produce in declared aboriginal reserves even when it is still awaiting gazette after state approval, nevertheless, all forest produce property of the State Authority situate, lying, growing or having its origin within a permanent reserved forest or State land shall be the property of the State Authority. The only exception is where the rights to such forest produce have been specifically disposed of in accordance with the provisions of the National Forestry Act 1984 or any other written law (See section 14 of the National Forestry Act 1984). The point to be considered and analyzed here is whether the prohibition of taking forest produce should not be made applicable to the aboriginal ethnic group in Peninsular Malaysia. The answer is unambiguous since the National Forestry Act 1984 provides for prohibition on taking of

forest produce from permanent reserved forest or State land unless obtaining licensed (See section 15 of the National Forestry Act 1984). Therefore, it is important in this paper to also examine the implications and legality of such fundamental rights to collect forest produce as enshrined in the Aboriginal People Act 1954 (See subsection 6(2))(iv) of the Aboriginal Peoples Act 1954).

In Malaysia, section 7 of the Aboriginal Peoples Act 1954 stated that the State Authority may, by notification in the Gazette, declare any area exclusively inhabited by aborigines to be an aboriginal reserve. Section 19 of the Aboriginal Peoples Act 1954 provides that the minister may make regulations for carrying into effect the creation, nature and regulation of aboriginal settlements within aboriginal areas and aboriginal reserves. The definition of “take” in relation to forest produce includes every activity involved in the harvesting, collecting, tapping, mining, quarrying or removing, of any forest produce, the injuring or damaging of forest produce, or the grazing of cattle upon the forest produce (See section 2 of the Aboriginal Peoples Act 1954). However, it is a provision of law under the National Forestry Act 1984 that, no person shall take any forest produce from a permanent reserved forest or a State land except under the authority of a license, minor license or use permit, or in accordance with any other written law (See subsection 15 (1) of the National Forestry Act 1984. Subsection 2 of the section 15 provides that any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years. Subsection (3) of section 15 provides further that any person convicted of an offence under this section may in addition to any penalty imposed on the conviction, be ordered to pay the State Authority in respect of any forest produce unlawfully taken.

As such, based on this provision of law, it can be argued that the Orang Asli community shall not be able to take any forest produce from a permanent reserved forest or a State land except under the authority of a license, minor license or use permit, or in accordance with any other written law. In a recent newspaper article, it was reported that there were 850 Orang Asli villages all over the country, with a majority of them located in forest reserves and they are not allowed to harvest forest produce for commercial purposes (Mahpar, 2022). As such, the provision of law under the National Forestry Act 1984 failed to address the interest of the Orang asli’s right to take forest produce.

Methodology

This paper applied qualitative research design. The qualitative research design is used as it provides a deeper understanding of social phenomena (Silverman, 2013). Also, semi-structured interview is chosen for the data collection method. This method is very effective in other to gathered more detailed information and for providing deeper insight into the underlying causes and patterns of situations (Shuttleworth & Wilson, 2008).

The target population for this study is the Orang Asli. For sampling, this research used purposive sampling to reach four respondents. Purposive sampling is a sampling approach where researchers choose participants from the community based on their own evaluation. Purposive sampling is a non-probability sample in which the respondents are chosen based on their characteristics that suits the study's objective (Dudovskiy, 2020). As a result, this study selects respondents who share the same criteria, in which all of them are the Orang Asli from the Semai tribe.

The primary sources of this paper are the Aboriginal Peoples Act 1954 (APA 1954) and the National Forestry Act 1984 (NFA 1984). The secondary sources include textbooks, journal articles, newspaper articles and online sources. For the data analysis purposes, the doctrinal approach is adopted, employing a literature review on the protection of the right of the Orang Asli to take forest produce in Peninsular Malaysia.

Findings and Discussion

Since this paper aims to highlight the issue of whether the National Forestry Act 1984 has infringed the rights of the Orang Asli in the context of harvesting and collecting forest produce, few respondents have been interviewed. The interview done in this research is very important in order to seek the solutions to the issue of allowing orang asli community to harvest and collect forest produce for their well-being and prosperity.

Participants of the study offered various and diverse descriptions of their views regarding the National Forestry Act 1984 and Aboriginal Peoples Act 1954. Their opinions and answers are structured to be aligned with the research questions of this study. The main theme of the research questions of this study are: (i) the importance of the Aboriginal Peoples Act 1954 to the tribe; (ii) whether the National Forestry Act 1984 has infringed the rights of the Orang Asli in the context of harvesting and collecting forest produce and (iii) what are the solutions to the issue of harvest and collection of forestry to restore the well-being and prosperity of the Orang Asli community.

To understand the multiple realities, the findings section will include the opinions of all the four respondents. However, the respondents chose to be anonymous. Only their positions in the society will be stated in this paper. Respondent 1 is the *Tok Batin* (leader) of the Semai tribe. Respondent 2 is a staff of the Malaysian Museum Department under the Orang Asli Arts and Crafts Museum. Respondent 3 is a lecturer and Respondent 4 is an advocate and solicitor of the High Court of Malaya, Malaysia. All of the four respondents are aboriginal people from the Semai tribe.

The importance of the Aboriginal Peoples Act 1954 to the tribe

In emphasizing the importance of Aboriginal Peoples Act 1954 to the race and tribe, all respondents commented that the Orang Asli Act 1954 is very important to protect the basic rights of the Orang Asli. However, they highlighted that the Act needs to be improved. One of the respondents commented:

"The Aboriginal Peoples Act 1954 is very important to protect the basic rights of the Orang Asli." (Respondent 1).

Another respondent explained that the Orang Asli Act 1954 is important since it is enacted to safeguard the rights of the Orang Asli privileges that cannot be denied by other nations. She pointed:

"The Aboriginal Peoples Act 1954 is important since it is enacted to safeguard the rights of the Orang Asli privileges that cannot be denied by other nations. But the act also needs to be improved, for example the recognition of land owned by indigenous people (in the indigenous areas). Because the Orang Asli community has also in the past sacrificed a lot of energy and services to the country of Malaysia." (Respondent 2).

Another respondent highlighted that the Aboriginal Peoples Act 1954 (Act 134) is the only official document in respect of Aboriginal people recognized by the Constitution. He pointed out:

“The Aboriginal Peoples Act 1954 (Act 134) is the only an “official document” in respect of Aboriginal people recognized by the Constitution. Its a main source of power which cannot be denied in any matters related to Aboriginal People in Peninsular Malaysia. Hence if there is a necessary to review the provisions of the Act, the Act must emphasize more on the definition of Aboriginal People. In this context, the way of life, culture and settlement are most relevant to be referred to.” (Respondent 3).

Another respondent stressed that JAKOA uses the Aboriginal Peoples Act 1954 (Act 134) as a guide in the discharge of its duties. He highlighted:

“JAKOA uses it as a guide in the discharge of its duties. Although the Aboriginal Peoples Act 1954 (Act 134) contains many shortcomings, it does nevertheless accord the Orang Asli with certain rights, including rights of occupation of forest reserves. In fact, in the case of Sagong Tasi, the Court of Appeal stated that the Aboriginal Peoples Act 1954 (Act 134) is a quasi-human rights legislation.” (Respondent 4).

Whether the National Forestry Act 1984 has infringed the rights of Orang Asli in the context of harvesting and collecting forest produce.

In respect of the issue of prohibiting the aboriginal ethnic group from taking or collecting forest produce under the National Forestry Act 1984, most respondents agreed that the Forestry Act 1984 has infringed the rights of Orang Asli in the context of harvesting and collecting forest produce.

In respect of this issue, one respondent highlighted about the problematic prohibition, when other interested parties now are using the Orang Asli community as a middleman for license exemption. She pointed out:

“As I read the National Forestry Act 1984, the Orang Asli are still given the privilege so that the Orang Asli community can still collect forest products without any restrictions and certain concessions for self-sufficiency. What is problematic about the prohibition is when other interested parties now are using the Orang Asli community as a middleman for license exemption.” (Respondent 2).

Another respondent explained that the Aboriginal People is too synonym with forest especially those are occupying the forest and relying on forest sources for survival. He remarked:

“In brief, in my opinion I will say “yes”. The National Forestry Act 1984 had denied the rights of aboriginal people not only to the act of harvesting and collecting the forest produce but also had create a limited roaming for the aboriginal people to move around to enjoy the natural environment as the aboriginal people is too synonym with forest especially those are occupying the forest and relying on forest sources for survival”. (Respondent 3).

Another respondent stressed that without permit, the Orang Asli are not given any privileges in trading forest produce even though the produce is one that is derived from Orang Asli enterprise. He pointed out:

“The National Forestry Act 1984 under s 40 and s 62(2)(b) provide for exceptions on the extraction forest produce by Orang Asli. However, usage is restricted to domestic purposes only. Orang Asli are not given any privileges in trading forest produce, even if the produce is one that is derived from Orang Asli enterprise, for example, strictly speaking, without permit, Orang Asli cannot sell petai and durian harvested from their own trees. There have been cases where Orang Asli were prevented from selling rattan and bamboo even these were done on a small scale basis without any risk of resource depletion, and to earn a living. Yes,

the National Forestry Act 1984 has infringed the rights of the Orang Asli to harvest and collect forest produce, particularly for sale". (Respondent 4).

The solutions to the issue of harvest and collection of forestry to restore the well-being and prosperity of Orang Asli.

In respect of matters that need to be considered in the context of forestry harvest, one respondent agreed that the law maker should have considered the rights and interests of Orang Asli community which had been provided in the Aboriginal Peoples Act 1954 (Act 134). He suggested:

"The prohibition is not suitable for the Orang Asli because they depend entirely on forest produce to support their families. Yes. The Forest Act 1984 needs to be amended and improved to provide uniformity in human rights law and the freedom of indigenous people to practice their traditional culture". (Respondent 1).

Another respondent suggested that every clause between the National Forestry Act 1984 and the Aboriginal Peoples Act 1954 related to collecting forest products needs to be firm on allowing Orang Asli to collect forest products. She commented:

"I think the poverty rate among the Orang Asli community is not related to this issue, this is because we have a variety of incentives assistance from the government under the administration of JAKOA. For some of Orang Asli, these forest products provide them with a side income other than for their own use. In order to resolve the issue, it seems necessary to have a discussion table together with the forestry department and also the Orang Asli Development Department as well as the Orang Asli community that inhabits the forest area, discretion is needed. There needs to be give and take. We the Orang Asli community also need to take care of the forest as our treasure". (Respondent 2).

Another respondent totally agreed that the National Forestry Act 1984 should refer to the Aboriginal Peoples Act 1954. He commented and suggested:

"I am totally agreed that the National Forestry Act 1984 should be referred to the Aboriginal Peoples Act 1954 (Act 134) by taking into account the rights and interests of Aboriginal People of which had been provided and underlined in the Aboriginal Peoples Act 1954 (Act 134). In fact, the due diligence process should be taken by inviting the interested parties such as JHEOA, POASM, NGOs (the nature lovers), various Aboriginal People's communities suburbs, rural area and outback area. This is in line with the UNDRIP declaration (published in 2007) which among other things stated that a prior consent is a basic requirement for matters that relate to the well-being and affairs of Aboriginal People. The impact may not significant and comprehensive, as I mentioned earlier, not all of the forest produces were collected for the purpose of economic generation. Nevertheless, there would be some Aboriginal People ethnic who completely rely on the forest produce such as rattan, bamboo and forest fruits to generate their income. Hence this will surely affect their economic and livelihood. In my opinion the needful to highlight here is that, the prohibitions under National Forestry Act 1984 may cause an indirect impact to the continuity and the sustainability of the Aboriginal People. The restrictions will limit the movement and produce of the forest collection for the purpose of their livelihood and cultures preservation. Possibly these restrictions with a strict procedure may damage/caused to disappear the culture and the traditions of Aboriginal People for a long term. It is too rigid especially toward the Aboriginal People community where the livelihood, sustainability and economic generation

are depending on these forest produce. For a long term this will generally give a major impact to the Aboriginal People cultures and traditions and may completely extinct. The National Forestry Act 1984 seems to be like an irony, enacted to protect the forest resources from being exploited by certain greedy people. However, this are the people who actually has wisely intruded the forest and exploit in their own ways. Towards the end the Aboriginal people community are being victimized by these actions. There are matters that need to be considered in enacting an Act that is friendly to the Aboriginal People. The National Forestry Act 1984 need to be reviewed, bring to a proper discussion with the Aboriginal People so that whatever being agreed is the Act that friendly to Aboriginal People, does not form any "blanket" form in nature where all actors being put in one basket with a bit of draconian restrictions especially when we refer to the minority of Aboriginal people community which were affected by this National Forestry Act 1984". (Respondent 3).

On the solutions to the issue of harvest and collection of forestry and to restore the well-being and prosperity of the Orang Asli. another respondent also agreed that the interest and rights of the Orang Asli should have be considered and built into the National Forestry Act 1984. He highlighted:

"Yes, especially for Orang Asli communities living in forested areas and who are dependent on forest resources for income, and also for Orang Asli who cultivate fruits like petai and durian in areas which are declared as forest reserves although these areas are their customary lands. This is because the Orang Asli are dependent on forest resources and have cultivations in forested areas for income. Many Orang Asli communities are not self-sufficient, so they need money from these sources to buy necessities. Orang Asli must be allowed to collect and harvest forest produce as they depend on this for their livelihood, and have been doing this since time immemorial without any consequences of resource depletion, or destruction to the environment. Such rights must be included in the National Forestry Act 1984 and clearly spelt out". (Respondent 4).

The respondents have different kinds of experience and knowledge, and ideas regarding the rights of Orang Asli in the context of harvesting and collecting forest produce. Nevertheless, the data become saturated when all of them somehow have the basic knowledge about the purpose of the Aboriginal Peoples Act 1954 to protect and uplift the First Peoples of this country All of them also totally agree that the Aboriginal Peoples Act 1954 is very important to protect the basic rights of the Orang Asli. The data in term of whether the National Forestry Act 1984 has infringed the rights of Orang Asli in the context of harvesting and collecting forest produce, also become saturated when all of the respondents agree that The National Forestry Act 1984 need to be reviewed and the interest and rights of the Orang Asli community should be considered and built into the National Forestry Act 1984. Given the findings from this study, it is reasonable to conclude that the National Forestry Act 1984 has infringed the rights of Orang Asli in the context of harvesting and collecting forest produce. Future efforts should be aimed at allowing the Orang Asli community to collect forest produce. Therefore, it can be argued that the provision of law under the National Forestry Act 1984 reducing overall the income of the Orang Asli community and caused inequality to them. As such, in order to achieve sustainable economic growth among the Orang Asli community, the prohibition of taking forest produce should not be made applicable to the Orang Asli community in Peninsular Malaysia.

It should be noted that the importance of the Aboriginal Peoples Act 1954 is highlighted in the case of *Kerajaan Negeri Selangor & Ors v Sagong Bin Tasi & Ors* [2005] 6 MLJ 289. In this case, the court decided that the Aboriginal Peoples Act 1954 as a fundamentally a human

rights statute. It acquires a quasi- constitutional status giving it pre-eminence over ordinary legislation. It must therefore receive a broad and liberal interpretation (See *Kerajaan Negeri Selangor & Ors v Sagong Bin Tasi & Ors* [2005] 6 MLJ 289).

The Aboriginal Peoples Act 1954 shall apply only in Peninsular Malaysia (See subsection 2 of section 1 of the Aboriginal Peoples Act 1954) while the National Forestry Act 1984, is applicable throughout Malaysia (see sub-section 1 of section 1, National Forestry Act 1984). Although the National Forestry Act 1984 is applicable throughout Malaysia, nevertheless it is important to emphasize that the Aboriginal Peoples Act 1954 has been enacted earlier than the National Forestry Act 1984. The significant of Aboriginal Peoples Act 1954 is that, it works as government policies in respect of the Orang Asli's affairs. Subsequently in 1955, the Department of Aboriginal Affairs (JHEOA) was set up as tool of security force and to accommodate the safety and affairs of the Orang Asli community. In the light of socio-economic, it is argued that the forest product collection by the Orang Asli is an activity that helps them to generate an income by selling to the middle trader for cash. This has been practised long before the Aboriginal Peoples Act 1954 were formulated and passed as statute. As far as the Orang Asli activities of collecting the forest product is concerned, there has been no case so far that involved a large activity which affected the forest natural source to lose. The Orang Asli community only taken a small portion of the forest natural source for usage and leaving. They did not intrude and exploit the sources of forest such as making a lodging activity. Hence, this paper recommends that the law regarding prohibition on taking forest produce should not be made applicable to the Orang Asli community in Peninsular Malaysia. This is vital in order to restore the economic stability of the Orang Asli community and safeguarding the well-being and prosperity of Orang Asli in Malaysia.

Conclusion and Recommendations

This paper recommends that the law regarding prohibition on taking forest produce should not be made applicable to the Orang Asli community in Peninsular Malaysia. This is vital in order to restore the economic stability of the Orang Asli community and safeguarding the well-being and prosperity of the Orang Asli in Malaysia.

Besides that, the provision of law under the NFA 1984 must be amended to include the interest of the Orang Asli to take forest produce. Also, the State authority would use their discretion not to penalize Orang Asli who are collecting forest harvest for daily life usage. While many Acts and policies being formulated and enacted, it is pertinent to realize that the Aboriginal Peoples Act 1954 has not been reviewed and were remained silent and stagnant to accommodate the necessity of the Orang Asli community in Peninsular Malaysia. In connection with the dynamism of law in the race within the 21st century society, this paper recommends that it is about time that the Aboriginal Peoples Act 1954 be reviewed and lay out for the safety and interest of the Orang Asli not only in respect of right to take forest produce but also to include all other aspects. In the context of socio innovation, this paper suggests that the introduction of the new policy with regards to harvest and collect any forest produce needs to be addressed by the government of Malaysia. The provision of law under the National Forestry Act 1984 must be amended by the policy makers to include the interest of the Orang Asli's right to take forest produce. The proposed recommendations in this paper promote justice and fairness to the Orang Asli community

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