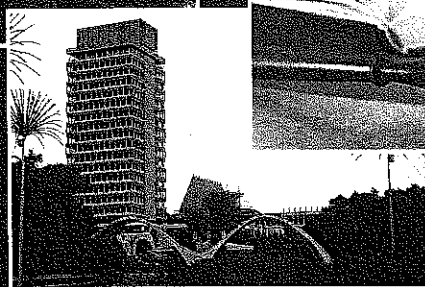
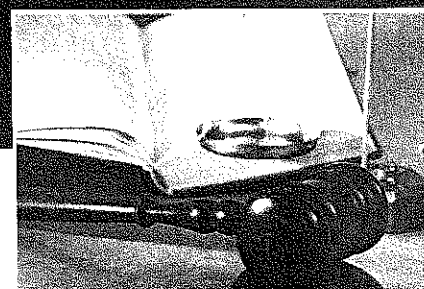
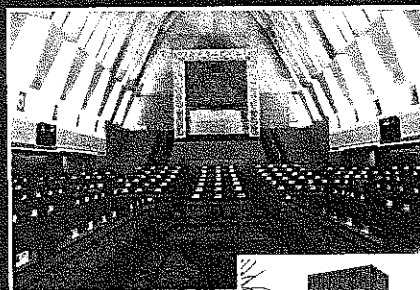


Constitutional Law and Human Rights in Malaysia

Topical Issues and Perspectives

Editor

Khairil Azmin Mokhtar



SWEET & MAXWELL ASIA

Constitutional Law and Human Rights in Malaysia

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Rights of the Orang Asli under the Federal Constitution

Hamimah Hamzah and Hunud Abia Kadouf

21.1 INTRODUCTION

Malaysia is a federation of 13 states.¹ It has a total land mass of 329,847 square kilometers separated by the South China Sea into two regions, namely, Peninsular Malaysia and Malaysian Borneo.² Malaysia has a diversity of races in a population of about 28.5 million in 2010 of which 22.5 million are in the Peninsular, 2.5 million in Sarawak and 3.2 million in Sabah.³ In the Peninsular, the population is made up of three main ethnic groups, viz; Malays, Chinese and Indians. On the other hand, the Orang Asli form only 0.6% of the country's population, which renders them as an ethnic minority. According to the 2006 census, the entire population of Orang Asli was a mere 141,230.⁴

Ramy pointed out that in context of Malaysia, one of the important indicators of ethnic identity lies in the division between those considered indigenous and non-indigenous.⁵ This division commonly denoted by the terms *bumiputera* and *non-bumiputera*.⁶ However, Sharon and Leo argue that this term does not have a legal basis but could be considered

1 Wan Arfah Hamzah and Ramy Bulan, *An introduction to the Malaysian Legal system* (Penerbit Fajar Bakti Sdn Bhd, 2003), p 3.

2 For general information about Malaysia, see Wikipedia, the free encyclopaedia, <http://en.wikipedia.org/wiki/Malaysia> (accessed July 12, 2011).

3 Department of Statistic, Population Quick Info at <http://www.statistic.gov.my/portal/> (accessed July 12, 2011).

4 Department of Development of Orang Asli, at <http://www.jakoa.gov.my/web/guest/programjabatan> (accessed on July 12, 2011). Unlike in Peninsular, in Malaysian Borneo the majority population communities are the natives that are the Iban in Sarawak and the Kadazans in Sabah.

5 Ramy Bulan and Hannah Dayang Maran, "Understanding native identity and its implications: Some contemporary issues in Sabah", unpublished Conference Paper presented at *United Nation Declaration on The Rights of Indigenous Peoples: Implementation and Challenges*, Faculty of Law University of Malaya, Kuala Lumpur, Nov 9-10, 2010, p 1.

6 The word *bumiputera* literally means "Prince of the soil". In the Peninsular Malaysia the Malays and the Orang Asli are considered as *bumiputera*. Whereas, in Sabah and Sarawak this term is known as *pribumi* referred to the natives of the states respectively.