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**LAW AND NATURE FROM THE PERSPECTIVE OF THE SUNGAI
TEKAI INDIGENOUS COMMUNITY**

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Abstract

The knowledge and awareness of the legal rights and limitations towards the utilization of natural resources including flora and fauna is lacking or non-existent amongst the Sungai Tekai indigenous community. Therefore, this study aims to answer the question as to whether there is any knowledge, little or otherwise, of environmental protection from any aspect including legal amongst the Sungai Tekai indigenous community. This study is quantitative in nature. The population of this study is the Sungai Tekai indigenous community in Pahang, Malaysia. Random sampling techniques was deployed in this study. The findings reveal that less than 10% of the Sungai Tekai indigenous community are aware of the rights and limitations to utilizing the natural resources in their area. Hence, there is a need to engage the Sungai Tekai communities in environmental awareness on their legal rights and constraints on environmental resources and usage.

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1. Introduction

There are an estimated 370 million indigenous people worldwide living across 90 countries. Their existence contributes to 5% of the world population (Harris, Tompkins, & TeHiwi, 2017; Jampolsky & Carpenter, 2015; Senese & Wilson, 2013). The indigenous people are defined as a nation that live in a country or geographical area prior to the arrival of other cultures. A number of researchers have reported that indigenous have become strong through conquest, occupation and settlement (Kisely et al., 2017; Mbuzi, Fulbrook, & Jessup, 2017). The United Nations describes indigenous people as those who have strong cultural ties with traditional lands and practice social, economic and religious mores ways that differ from the dominant society (Jampolsky & Carpenter, 2015).

Indigenous people live independently in their traditional territories and depend on the natural environment for food and shelter. For example, the indigenous people collect their food using methods such as hunting in the forest where they live or fishing in the surrounding rivers and lakes to secure their food (Azima, Lyndon, Mastura, Saad, & Awang, 2015). An approximate 42 million indigenous people, comprising 400 different ethnicities, live in the Americas alone. This covers almost 10% of the Latin American population where most live in Mexico, Guatemala, Peru, Bolivia and Ecuador Valdez-Santiago, Híjar, Rojas Martínez, Ávila Burgos, & Arenas Monreal, 2013).

In Malaysia, the indigenous people are divided into three main major ethnic groups which are the Negritos, Senoi and Proto-Malay. Each of these main ethnic groups are then divided into another six sub ethnic groups. Based on the Malaysian Department of *Orang Asli*¹ Affairs (JHEOA) 2014 statistics an estimated 178, 197 indigenous people are living in Peninsular Malaysia. The indigenous people of Malaysia only represent 0.6% of the total Malaysian population and are considered a minority community. There are 18 ethnic groups speaking 19 different languages among the indigenous people in Malaysia (Abdullah, Borhan, & Ahmad, 2015; Abdullah, Sayuti, Arshad, & Embong, 2016; Azima et al., 2015; Ghani, 2015). Due to racial discrimination, indigenous people around the world are severely disadvantaged which include being deprived from their landholdings and limited access to life sustaining resources such as hospitals, education, and proper shelter. In addition, the indigenous people are largely marginalized by the non-indigenous community and their traditional and cultural institutions are forced to stagnate and deteriorate (Poirier & Schartmueller, 2012). However, recently, in the last decade, several attempts have been made by countries around the world to recognize as well as integrate the indigenous people into the surrounding community and to recognize their rights of being indigenous as well as to protect their traditional and cultural activities (Lawrence & Moritz, 2018).

Nevertheless, while the rights of the indigenous have to be protected, the indigenous are expected to adhere to certain laws and regulations that govern their territories such as to protect the natural environment and to adhere to the laws of reservations and protected plants and animals. This is because when the law is enforced in the indigenous' territories, they will benefit by preventing illegal incursions into their territories. Of the particular importance of enforcing the law in indigenous areas is to stop the extraction and conversion of forest to agricultural use by cutting the trees in these areas (BenYishay, Heuser, Runfola, & Trichler, 2017).

¹ The name for the indigenous in the Malaysian language.

The right of the indigenous to having knowledge of their rights and limitations has received greater attention recently as such knowledge can affect, to certain degree, the extent to which these communities understand their rights and limitations. This is because cutting trees or starting fires in the forest can affect the global community in the form of climate change (Rye & Kurniawan, 2017). A study conducted on the indigenous people in the Philippines showed that protecting the rights of indigenous people to stay in their land and practice their cultural and traditional activities has resulted in common goals for indigenous and non-indigenous as this act has resulted in securing rights of ownership, which define the access and use of natural resources, which in turn, affect fundamentally the sustainability of livelihoods that rely on natural resource, to survive. In addition, the increased knowledge of the indigenous community of fishery rights has resulted in improving the use of local ecological knowledge and producing positive effects on fishery conservation and sustainability (Capistrano, 2010).

Conservation through cultural survival is a global issue affecting a multitude of countries beyond Australia, Canada, and the United States (Poirier & Schartmueller, 2012). The notion that indigenous communities are responsible for protecting the surrounding environment of their territories is making it difficult to define the economic as well as cultural and traditional activities that they are entitled to develop and practice inside their territories (Le Tourneau, 2015).

In Southeast Asia, the deterioration of environment can be largely related to the illegal logging of trees and timber smuggling. This has resulted in increasing the process of de-forestation and wildlife smuggling as well as the increase of the transaction and activities of the black-market. In addition, these activities have increases ozone-depletion (Kamaruddin & Marwan, 2018). It is believed that the knowledge and awareness of the indigenous regarding the legal and illegal activities and to their rights and limitations of using the natural resources in their surrounding territories are lacking. Therefore, the purpose of this study is to investigate the perception of indigenous people regarding their rights and limitations. This study **has been** conducted in Malaysia due to the lack of studies **in this area**.

2. Problem Statement

There is limited research that focus on indigenous rights and limitations. Previous studies have reported that indigenous peoples perceive their relationship with the natural environment based on respect and duty rather than on rights and claims. This indicates that indigenous people consider the natural environment is part of their life as well as tradition and culture. Their belief that nature is part of their life and spirit does not allow for the separation between their identity and nature (Kapashesit & Klippenstein, 1991). The emphasis on their environmental rights has received attention from international organizations such as the United Nations (UN) which declared in its 29(1) article that “indigenous people have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination”. Evidence has emerged recently suggesting that the environmental interest of indigenous requires special attention for two main reasons. The first reason is that the indigenous enjoy a special relationship with their traditional territories and on many occasions, the indigenous engage in activities such as hunting, fishing, and trapping due to their direct dependence on the land and resources to survive (Collins & Murth, 2010).

The second reason is to examine indigenous environmental values and practices because the push for indigenous participation in environmental governance is often not merely grounded in indigenous rights to natural resources, but also in the societal perceptions of the sustainability of indigenous livelihoods. They are sometimes said to be more environmentally sustainable than Western-oriented lifestyles, thereby justifying giving indigenous peoples more say in environmental management. There is a recent trend to transfer regulatory responsibility from federal and provincial governments to "private" entities, some of which are industry-based which adds another level of complexity to the equation. Assertion by indigenous peoples of positive rights to control activities that affect aboriginal rights, aboriginal title lands, indigenous fishing and hunting lands, or even reservation lands may conflict with these new (mainly provincial) regulatory regimes. Many activities will affect indigenous peoples because of detrimental impacts on their environment and should be subject to full environmental assessments even under provincial or federal legislation. However, many are now escaping such scrutiny. Environmental assessments might have been an opportunity for input by, and reflection of the perspectives of aboriginal peoples (Ahren, 2014).

Governments around the world are striving to integrate the indigenous with the community and provide them with education and health facilities. However, most indigenous are still isolated and governed by their traditions and culture. Little is known about their understanding of the law and legal as well as environmental issues. Previous studies related to the indigenous in general are lacking and are needed to uncover these communities' extent of knowledge of their rights and integrate them in society. The indigenous' extent of knowledge and awareness on their legal rights and limitations towards utilization of natural resources including flora and fauna is either lacking or non-existent. Thus, it is worthwhile to conduct a study to understand the extent to which these indigenous understand and practice the law in terms of natural resources as well as implications on flora and fauna.

3. Research Questions

Based on the issues discussed in the problem statement, this study aims to answer the question regarding the extent of knowledge, little or otherwise, on protection of the environment from any aspect including legal amongst the Sungai Tekai Indigenous community.

4. Purpose of the Study

The purpose of this study is to investigate the perception of indigenous people regarding their rights and limitations related to the environment. Studies on indigenous people in terms of their understanding of the law and environmental law are limited, specifically in Malaysia which prompted this study. Governments need to understand the indigenous' extent of understanding of these issues so that campaigns can be launched to support such knowledge building. The specific aim of this study is to identify the extent of knowledge, little or otherwise, on protection of the environment from any aspect including legal amongst Sungai Tekai Indigenous community.

5. Research Methods

This study is quantitative in nature. The population of this study is the Sungai Tekai Indigenous community in Pahang, Malaysia. The study employs a random sampling technique as it is the least expensive and time consuming. Additionally, the respondents of this study have similar characteristics. This study employed a face to face interview as the instrument of data collection. As this study was an exploratory study, the interview questions were self-developed and meant to identify only the extent of the understanding and knowledge of the indigenous people regarding the law, nature, and environmental issues in their community.

The researchers explained the questions to the respondents and highlighted forbidden acts such as hunting and cutting specific type of trees. For the field study, face to face interviews were conducted with a total of 131 with respondents who met the criteria of this study. Data collection took place between July and September, 2018.

The responses were entered in Statistical Package for Social Science (SPSS) version 22.0. The responses were refined and checked for missing values and outliers as well as normality. Kurtosis and Skewness less than absolute two (2) were used as criteria to assess the normality of the data distribution. A total of 131 responses were found to be usable for the description of the profile of the sample. However, only 117 managed to respond to the questions regarding knowledge of their rights.

6. Findings

This study was conducted to examine the understanding of the indigenous community in Sungai Tekai, Pahang, Malaysia. The following sections discuss the profile of respondents and the descriptive information of the variables of this study.

6.1. Profile of the respondents

The profile of the respondents is presented in Table 1. It shows their gender, age, education level, and sub ethnics. The table shows that the highest percentage of the respondents are males (56.4%) and female was (43.6%), with the majority age group of 18 to 28 years was (40.5%), followed by 26% of the age group of 29 to 39 years old, and third lowest at 13.7% was the age group between 40 to 49 years. The education level of the respondents shows that the majority of the respondents had no formal education (61.8%). Those with Primary school education was 29.8%, followed by Form Three (Junior high) at 5.3%. Only 3.1% had attained a Form five (senior high) level. In terms of the sub-ethnic groups, the majority of the respondents were the *Semoq Beri* at 91.6 %, followed by *Jakun* at 7.6% and others at 0.8%.

Table 01. Profile of the Respondents

Variable	Label	Frequency	Percent
Gender	Male	70	56.4
	Female	61	43.6
Age	18-28	53	40.5
	29-39	34	26.0

	40-49	18	13.7
	50-59	12	9.2
	60 and above	14	10.7
Education level	No formal education	81	61.8
	Primary or less	39	29.8
	Form 3	7	5.3
	Form 5	4	3.1
Sub ethnics	<i>Semoq Beri</i>	120	91.6
	<i>Jakun</i>	10	7.6
	Others	1	0.8

6.2. Descriptive Information of the variables

Only 117 of the respondents provided information for this section. A set of four questions were asked to identify the understanding of the respondents toward the rights and limitations of using the natural resources in their area. Table 2 shows the descriptive information.

Table 02. Descriptive Information of the items

Items	Yes (%)	No (%)	Not sure (%)
Are you aware that hunting is forbidden?	8 (6.8%)	11 (9.5%)	98 (83.7%)
Do you know that cutting trees is illegal?	8 (6.8%)	8 (6.8%)	101 (86.4%)
Do you know what is illegal in the law regarding fauna?	10 (8.5%)	18 (15.4%)	89 (76.1%)
Do you know what is illegal in the law regarding flora?	10 (8.5%)	19 (16.3%)	88 (75.2%)

The findings indicated that the majority of the respondents were unsure of their rights and limitations regarding hunting. A total of 83.7% stated that they were unsure while 9.5% stated that they do not know. In terms of cutting trees, the majority were also not sure (86.4%) or they do not know (6.8%). Similarly, regarding fauna, the majority (76.1%) stated that they were not sure what was legal and illegal while 15.4% indicated that they do not know the law governing the activities related to fauna. Their knowledge and awareness regarding flora were also limited among the respondents with 75.2% stating that they were not sure while 16.3% stated that they do not know.

Overall, it can be concluded that less than 10% of the respondents were aware of their rights and limitations regarding the activities pertaining to natural resources such as cutting trees, hunting, flora and fauna. This means that the respondents have limited knowledge and awareness regarding the laws that govern the utilization of natural resources which includes what they can hunt and kill due to limited access to the law regarding flora and fauna. The ability in getting the latest information regarding flora and fauna was not easy as the community did not engage with outsiders easily due to their shy personality.

The *Orang Asli* community lags behind other communities in terms of education enrolment in Malaysia as a whole (Khosro & Yew, 2015). The role of education is vital to ensure the indigenous community is aware of the laws governing usage of the forest and the legal implications of hunting. Several species are protected by the government and strictly prevented from either being killed or hunted. Increasing their knowledge and awareness could minimize their activities which are deemed illegal in the forest and crime related animal hunting could be avoided. The indigenous community should be properly educated

about law, nature as well as environmental issues. Education should be made available to them so that they can become aware of their rights as well as the limitations related to their activities in the jungle. Hence, despite all the laws governing flora and fauna, the indigenous community would still be permitted to hunt and collect food for their family as long as long they do not breach the law.

In line with this, the Aboriginal Peoples Act 1954 (Act 134) which is a specific piece of legislation was introduced to recognize the basic rights of the *Orang Asli* and to maintain cultural autonomy. Regarding education, this act mentioned specifically in Article 17 stipulated that “no *Orang Asli* child shall be precluded from attending any school only by reason of being an *Orang Asli*”. The Malaysian Ministry of Education recognised its responsibility and launched the policy in order to provide education for all and it should not be carried out selectively nor in isolation (Kamaruddin & Idris, 2008).

7. Conclusion

This study was conducted to understand the extent of the awareness and knowledge of indigenous in Malaysia regarding their rights and limitations in utilization of natural resources. The findings reveal that the majority of the respondents are not aware of their rights and limitations regarding the utilizations of natural resources. Hence, there is clearly a need to engage the Sungai Tekai communities in environmental awareness on their legal rights and constraints on environmental resources and usage. A failure to engage these communities to dispense the necessary knowledge in environmental issues concerning their livelihood would be a grave injustice to these people who, for untold generations, have lived in and subsisted off the jungles all their life. The laws governing what is essentially their home are not of their making, yet they are subject to their restrictive actions and are unfairly accused of breaking such laws when in actual fact, as this study shows, these people are unaware that such laws even exist. Indeed, for millennia, these communities have peacefully co-existed with their environment abiding by their own traditional laws. And, it is undisputable that these indigenous people have had more respect for the environment than more “modern, westernised” communities. It is ironic that these environmentally sensitive people are now bound by laws beyond their comprehension and it is the responsibility of the government to ensure that these communities are made aware of these laws and are in no way punished by them.

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