

The Melayu

Customary Rights, Land and Identity



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Summary

Peoples who self-identify as ‘indigenous peoples’ in Indonesia, either through the Constitutional term ‘*masyarakat hukum adat*’ (customary law communities) or through vernacular terms, such as *suku asli* (original tribe) and *masyarakat adat* (customary communities) - the term preferred by NGOs and the main indigenous organisation in Indonesia (AMAN) - commonly do so to make clear that they retain customary rights to their lands and territories and claim the right to self-determination, in accordance with international human rights law. Yet other ethnic groups may choose not to use these terms to self-identify even though they may also continue to access their lands and resources through customary law.

This study explores this puzzle with reference to the *Melayu* (Malay) peoples of Sumatra and Kalimantan. Based on a literature review, field experiences, interviews and focus group discussions with a cross section of communities in Riau and beyond, the report assembles and distils the available information on *Melayu* systems of land tenure. It is published as a contribution to the current phase of implementation of the Forest Stewardship Council’s (FSC) Remedy Framework, which requires companies that have cleared lands for plantations between 1994 and 2020 to make remedy for any social harms caused by this ‘conversion’, paying particular attention to those with customary rights to their lands.

The term *Melayu* (Malay) appears to originate in the 4th or 5th century of the current era (CE) in reference to early Buddhist kingdoms that emerged in southern Sumatra seeking to control and contribute to the intercontinental trade between China and India and the Middle East. Originally a term that referred to the royal families of these sultanates, which rapidly spread their network across maritime Southeast Asia, only later was the term applied to the various subject peoples they ruled and then more widely to all speakers of a family of languages spread across the region. Today, the term is used by many different peoples to self-identify those with a history of connections to these sultanates who have adopted Islam as their religion.

The study shows how – based on sampling rather than an exhaustive survey - many of the various peoples who now think of themselves as Malay still uphold their relations to their lands and environments in terms of traditional concepts that may pre-date their adoption of Islam. We thus find ‘Malay’ communities that have land tenure systems akin to the matrilineal Minangkabau of West Sumatra, or the Bathin forest peoples of eastern Sumatra, the Dayak peoples of Borneo and so on. They may have adopted Islam and sharia law, they may consider themselves ‘modern’, but when it comes to how they govern and relate to their territories, lands and resources, they retain modified versions of customary law that have much deeper roots.

These findings have major implications for how these peoples’ rights are now taken into account by government, development agencies and companies – and voluntary certification systems like FSC. The report concludes with a series of recommendations on how these peoples should be more justly engaged with in the future.

Methods and rationale

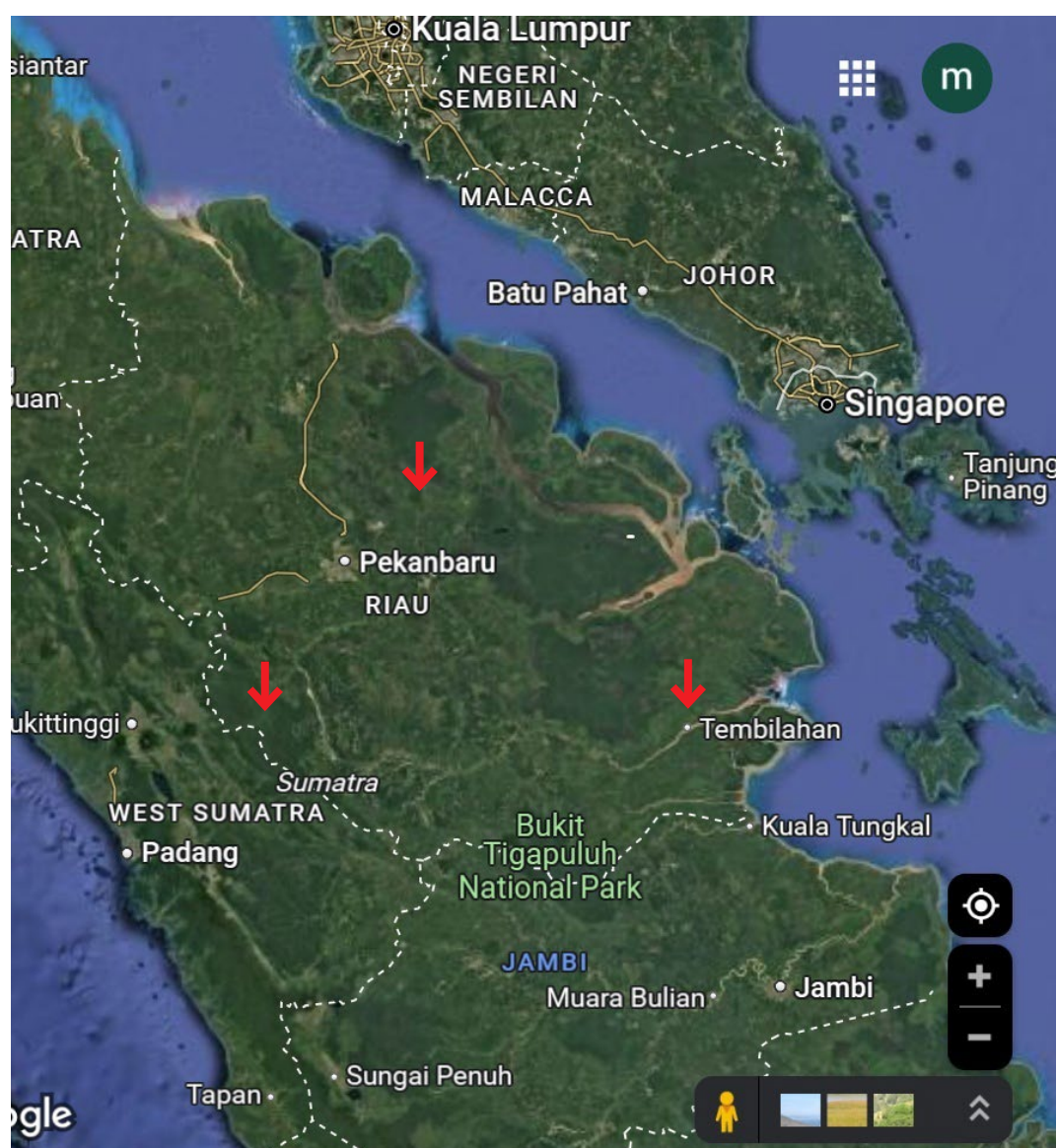
This study builds on several years of collaboration between Forest Peoples Programme, based in England, Bahtera Alam, based in Riau, and Yayasan Masyarakat Kehutanan Lestari, based in Jakarta, in support of ‘forest peoples’ – by which we mean communities long-resident in and near forested areas, who claim customary rights to their lands.¹ Two of the three authors self-identify as *Melayu*. The field programmes of our various organisations in support of the *Melayu* peoples in Kalimantan and Sumatra over the past two decades have brought us to realise that while *Melayu* peoples claim a common identity and profess the same faith – Islam – they often differ greatly in the way they relate to their lands and claim rights to them.

In contrast to the literature on Dayak peoples in Kalimantan and others such as the Minangkabau of West Sumatra, relatively few NGO and academic studies of *Melayu* peoples have sought to document their land tenure systems or, even less, to articulate their claims and expectations about their lands and resources in their dealings with governments and the private sector.

This study constitutes a modest effort to correct this imbalance, spurred to urgency by the fact that a major transformation is getting under way in Indonesia which aims to provide remedy for any ‘social harms’ suffered by communities due the impacts from the pulpwood sector between 1994 and 2020,² in line with the Forest Stewardship Council’s (FSC) new Policy to Address Conversion, revised Policy for Association and its recently adopted Remedy Framework.³ The FSC offers a procedure by which self-identified indigenous peoples and other ‘traditional peoples’ with customary rights, whether or not these have yet been recognised by statutory law, can get remedy for any harms caused to them by companies seeking to associate with and then become certified in accordance with its standards.⁴

The study is based on a literature review, a reflection on our institutions’ field experiences over the past thirty years, as human rights and support organisations working with peoples self-identifying as *Melayu*, and on a short series of field visits to a transect of *Melayu* peoples in Riau undertaken by the co-authors in May 2024. We visited the communities of Batu Songgan, on the western edge of Riau in the foothills of the Barisan Nasional mountain range, Lubuk Jering, in the plains to the north of Pekanbaru in the centre of the province, and Teluk Meranti, at the mouth of the Kampar river to the east (see Map 1).

The field survey was carried out by travelling to, visiting and staying briefly with these communities, where we asked residents to participate in interviews and to join discussion groups to explain their relations to their lands and discuss the challenges they face today in securing their rights. We consider this work to be illustrative rather than definitive and encourage others from both academe and civil society to deepen this area of knowledge.



Map 1. Map with red arrows showing villages visited, from left to right Batu Songgan, Lubuk Jering and Teluk Meranti. Based on googlemaps.

Historical sketch

The Malay peoples of Southeast Asia comprise a very wide range of ethnic groups with particular histories, traditions and aspirations, who share an identity through self-identification as *Melayu*. The term *Melayu* and variants, including the English translation 'Malay', has been used by many different actors with diverse meanings since the 4th or 5th century of the current era until today and has been used to refer to peoples as far apart as Madagascar and the Philippines. This includes ethnic groups within countries that are now referred to as Thailand, Malaysia, Singapore, Brunei Darussalam and Indonesia, where peoples who self-identify as *Melayu* still live today.

Used in its broadest sense to refer to the western branch of the Austronesian or Malayo-Polynesian language group, the 'Malays' are thought to have emerged from Southeast China and Taiwan as long as 3,000 years BCE and gradually spread out by migration and cultural assimilation to encompass the archipelago from Madagascar in the west to the Philippines in the north and east as far as the Torres Straits Islands.⁵

Intercontinental trade between China and Africa and the Mediterranean, by way of the South China Sea and Indian Ocean dates back to the 2nd century BCE or even earlier.⁶ The first historical record of the use of the term 'Malayo' comes from the 5th century of the present era and refers to two rivers in eastern Sumatra, in what are now South Sumatra and Jambi provinces, where kingdoms using or being referred to by the same term, Malayo, were emerging to claim control of the trade passing between the Malacca Straits, the South China Sea and the Java Sea.⁷ Boosted by Buddhist rationales honoring commerce and by Hindu beliefs sanctifying kingship, a trading region emerged over this huge area, stretching along the coasts of Thailand and the Thai-Malayan Peninsula in the north to those of Java in the south, later referred to as the Srivijaya 'Empire', which endured until the 13th century.⁸ Perhaps more a congeries of different sultanates modelled on those in southern India than a single polity or centrally controlled Empire, these trade entrepôts emerged in many places along the coasts of Sumatra, the Thai-Malayan Peninsula, the western Philippines, southern Vietnam and Borneo.⁹ As early as 644 CE the Malay sultans of eastern Sumatra were sending tribute to China in order to assure their place in this lucrative two-way trade.¹⁰

Historians have found very few written accounts that illuminate how these coastal trading statelets related to the lands and the forest peoples of the interior. What we do know is that the trade between China and India and the Levant was enhanced by the addition of a wide range of prized luxury items from the surrounding seas and forests:¹¹ pearls, sea cucumbers, gold, pepper, spices, camphor, benzoin, feathers, skins, animal horns and ivories, birds' nests, basts, rattans, choice timbers, wax and honey, which were exchanged by the sea and forest peoples with the coastal sultanates, who conferred titles and recognition on the upland and island peoples.¹²

By the 13th century, Islamic beliefs were beginning to be adopted by the western sultanates in Sumatra, the Thai-Malayan Peninsula and Borneo and, at least in some instances, this new religion was imposed on the sultans' direct subjects (*hamba*)¹³ by force.¹⁴ Leading the way were the sultanates of Johor and Melaka. In their own annals

they celebrated their descent from the Malay of Palembang, using the term *Melayu* to refer exclusively to their royal families and not to their subject peoples, which were and remained ethnically diverse.¹⁵ Persian merchants had been travelling to China by sea from at least the 7th century. Chinese were settling in the sultans' ports to manage their own commerce. Bugis from Sulawesi were prominent as the soldiery and harbourmasters required to enforce taxes on traded goods and the local sea peoples were crucial in policing the sea lanes and making sure trading ships would not bypass the ports and taxation points.¹⁶

In order to consolidate their authority and control of the sea lanes, the coastal sultanates formed alliances consolidated by inter-marriage, so the extent of the *Melayu* royal families gradually reached out across to the western coast of Sumatra, both sides of the Thai-Malayan Peninsula, east to Borneo and even as far as the Philippines.¹⁷ The ruling elites may have been 'Malay' but their subjects were very diverse. By the time the Portuguese arrived in force by way of the Indian Ocean, in 1511,¹⁸ seeking to control this lucrative trade, there were no less than 84 different languages spoken in Melaka alone.¹⁹

However, while at this early time the term Malay may not yet have been applied to refer to the common people (*rakyat*), the Malay language was apparently already widely used as the trade language of the archipelago and mainland coasts. Indeed this language was so prevalent and prestigious that when Magellan first reached the Philippines by way of the Atlantic and Pacific in 1521 on behalf of the Spanish crown, he had with him Malay-speaking interpreters through whom he communicated with the coastal Filipinos.²⁰ Consequently, Malay was the term the colonial powers came to apply to all the peoples of south east Asia, at least initially and until they came to discern the differences.

Historians, linguists and anthropologists hold diverse opinions about what led the subject peoples of the Malay sultanates to confidently self-identify as Malay: was it the general use of Malay as a language of commerce; the imposition of the term Malay by the Europeans to refer to the subjects of the Malay sultanates; or did the term emerge locally to apply to the common people through endogenous processes; or even was a response to the global rise of nationalist discourses in the 19th century? Probably all these tendencies were at work. What seems clear is that as the Malay sultans deepened their authority over the peoples in the hinterlands, they recognised them increasingly as their own people, who were related to them 'as leaves on the same tree'²¹ and they encouraged their conversion to Islam so that they could 'live as brothers'.²² Malay identity was thus extended from the immediate family of the sultans to embrace their subjects who had voluntarily or perforce converted to Islam.

In the modern era, this process of asserting a Malay identity continues in multiple directions. For some it is important to emphasise people's historical connections to the (now abolished) sultanates.²³ For others, being Malay is now about reclaiming democratic rights and freedoms,²⁴ or redefining Malay identity in relation to multicultural nation states.²⁵ While, for some others, resurgent Malay nationalism is seen as a means to reassert stronger forms of regional autonomy or even local sovereignty.²⁶ Yet, even so, there remain more conservative Malays, who insist that the only true Malays are the descendants of the royal families and not the populations that they ruled.²⁷ Indeed, the 'Paradoxes of Malayness' are widely cherished.²⁸

In Borneo, this process of 'becoming Malay' (*masuk Melayu*), is very obviously still underway. As indigenous Dayak peoples convert to Islam, they shed their local identities and self-identify as *Melayu*,²⁹ but, as has long been noted, this does not mean that, in accepting sharia law, they abandon all their own traditions and cultural values.³⁰ Indeed, there are numerous cases, from the Minangkabau of West Sumatra in the west,³¹ to the Pasir of East Kalimantan, where indigenous peoples have embraced Islam but retained their identities and customary laws, notably in relation to their land. And, as this study shows, this process of 'becoming Malay' through religious conversion and the partial loss of 'pagan' customs is not just underway in Borneo but is also a common experience among the indigenous peoples of Sumatra.

Becoming Malay, it turns out, does not mean a wholesale shedding of identity and rights. Rather the very varied nature of Malay societies generates diversity not uniformity. It is the variety of these peoples' customary rights in relation to their forests, lands and resources that this study aims to elucidate, to show how deeply held these connexions are and why they need to be taken into account by those who would now provide remedy for past social harms.³²

Case studies from Riau

According to government statistics, Riau has a mixed population of over 6.6 million people, the majority of whom are Malay (45%), followed by migrants from Java (25%), Bataks (12%), Banjar (4%), Chinese (2%) and Bugis (2%).³³ People identifying as Minangkabau make up 8% of the population and are the largest ethnic group in the regional capital, Pekanbaru, a reflection of the pre-colonial history of the region when the highland Minangkabau were for a time a dominant force in the area and colonised west and east from their mountain homeland, in a process referred to as the *rantau*. As field studies show, Minangkabau customary land tenure systems still prevail in many parts of the lowlands, even among groups who now self-identify as *Melayu*.

In the province of Riau today, a vernacular classification of the ethnic diversity in the province makes a distinction between *Melayu Tua* and *Melayu Muda*, which we gloss as the 'original Malay' and the 'new Malay'. The 'original Malay' include peoples such as the indigenous Sakai, Suku Anak Rawa, Akit, Talang Mamak, Talang and Bonai peoples,³⁴ who retained their customary laws and religions until today, or into recent times, but who rarely self-identify as *Melayu* and who nowadays more often identify themselves as an 'indigenous people' (*masyarakat adat*).³⁵ The 'new Malay' includes all the other long term residents of the province who long ago adopted Islam. This study aims to help answer the question: how do these 'new Malay' peoples relate to their lands and forests?

SEBARAN MASYARAKAT ADAT DI RIAU



Map 2 Ethnic groups of Riau: Melayu groups are widely spread across the province

Batu Songgan

Origins

The *Melayu* people of Batu Songgan (Batu Sanggan in Indonesian) recall that, according to their elders, their village was founded by two persons, one from Muara Bio, downstream, and one from the highland Minangkabau people. In those early times, which preceded their adoption of Islam, their main connection was with the Minangkabau *raja* and they would obtain rice from Pangkalan Serai on what is now the border with West Sumatra, as in those times the rice yield from their *ladang* (shifting cultivation plots) was not sufficient for their needs. They recognise that most of their ancestors came from the Minangkabau people.³⁶ Initially they were settled at Bukit Bono but this was considered a dangerous place infested with wild animals so they moved to their present site.³⁷

They cleared some of the forest and burned the felled trees to create an open space for their farms and village site and had to negotiate with the surrounding communities to establish their rights to their territory (locally referred to as *luhak*, but as *wilayah* in Indonesian), which they also refer to as their *ulayat*. In their conception of their *luhak*, it extends up both sides of the steep-sided, narrow river valley to the watersheds and so is a bounded domain with known extent. Their territory was celebrated as it contains multiple locations each with a story that goes with it, for example there are areas notable for: their association with certain animals; suitable for hunting; as a source of honey; suitable for upland farming and; as sources of timber for making the *perahu* (canoes) that they rely on for access to the markets, from which they used to get their salt, mainly in exchange for dried fish.³⁸ Fishing is regulated by customary rules whereby, subject to a village agreement, the river is opened for a day to all the villagers to collectively harvest all the fish they can, the proceeds from the catch then being used to pay for village facilities and the repair of the mosque.

Culture

In past times, the whole area of what is now the sub-district (*kecamatan*) of Kampar Kiri Hulu, was considered part of the Rantau Andiko, subject to the rule of the Minangkabau highlanders. Indeed the social organisation in Batu Songgan is very similar to that of the Minangkabau and is organised on a matrilineal basis, with descent being traced from mothers to daughters. Each matrilineal descent group, here referred to as a *marga* (or sometimes as a *suku*), is subdivided into smaller matrilineal families each with its own head, a *ninik mamak*. Marriages are by custom contracted between members of different *marga* and exact a brideprice from the groom payable in water buffalo (*kerbau*). In Batu Songgan there are four *marga*, but in other villages nearby there may be three or five, depending on the size of the village and the marriage arrangements.

According to the villagers' traditions, after Islam was adopted, each customary territory (*negerian*)³⁹ in this upland area had its own ruler (*khalifah*), who had authority over the people and their land. Only later, with the gradual decline of Minangkabau authority, did lowland sultanates emerge to assert their control over these *khalifah* and the *negerian* that they managed. In the case of Batu Songgan, they considered themselves along with five other villages, to be subject to the Raja of Gunung Sahilan. The *raja* would make an annual visit to the villages and stay the night with them, after which a formal meeting was held to review their situation and make decisions of importance for the region.



Official signboard in front of the palace of the sultanate of Gunung Sahilan. Photo: Harry Oktavian



The Palace of the Sultanate of Gung Sahilan. Photo: Harry Oktavian

Despite this hierarchy of *raja* and *khalifah*, the main authorities in each village were the seniors of each lineage, the *ninik mamak*, who maintained knowledge of who had rights to which area of land and thus could authorise where village members could open new land for farming. The *ninik mamak* divided up their responsibilities according to named roles, with one charged with fisheries, another with the mosque, another with marriages and another with land. The sultan's authority was not to deal with the land but to oversee the application of custom. On the rare occasion that disputes could not be resolved within a village by the *ninik mamak*, then they could be escalated to the *khalifah* for adjudication. Likewise should the *khalifah* be unable to resolve disputes between different villages, these could in turn be appealed to the *raja*.

In common with Minangkabau customs, customary law in Batu Songgan does not allow the buying and selling of land, although downstream this customary law is weakening and extensive areas are beginning to be sold to investors who are establishing oil palm holdings along the river banks.



The settlement of the indigenous people of the negerian of Batu Songgan. Photo: Harry Oktavian

Role of Government

The authority of *ninik mamak* was replaced after 1979 by the imposed administrative system, which instituted a unitary system of government across Indonesia in which each administrative village was under the authority of a village head (*kepala desa*). Lands, too, progressively became subject to greater government control. According to the villagers we interviewed, they only became aware that their area was classed as a State Forest Area in 1996, although they now know that the Ministry of Forests had imposed this classification on the area by 1982. After a period in which the area was opened up for logging by forestry companies, in 1986 the Ministry decreed 136,000 ha. of the forest, encompassing the majority of the village territory, to be a wildlife reserve (*suaka margasatwa*).⁴⁰ Apparently, this was in response to the fact that the villagers were hunting tigers in the surrounding forests. The unilateral way that the area was first categorised and gazetted as a State Forest Area, leased to loggers, and then decreed to be a Wildlife Reserve, without any consultation with the villagers or local authorities to ascertain which areas were subject to settlement and prior rights, is questionable and not in accordance with the procedures set out in the Forestry laws.

Since 1996, when the existence of the wildlife reserve was explained to villagers – ten years after its establishment on paper – their economy and the population has declined dramatically, as they are prevented from expanding their farming areas and even their fishing is restricted. They are heavily restricted from cutting timber even for the construction of their customary wooden houses and canoes and make the majority of their

income from their remaining rubber gardens. A large proportion of the population has had to migrate downstream to find work and raise their families elsewhere.

Despite these restrictions, the people of Batu Songgan mobilised to assert their identity and their pride in being a traditional *Melayu* community that continues to honour customary law and respect their ancient ties to the sultanate. In 1999, the district legislature passed a regional regulation (PERDA – *peraturan daerah* – 12/1999), which recognised the existence of indigenous people in the district. However, the regulation was not followed up effectively and it was not until 2018, after a long negotiation with the local government, that Batu Sanggan, along with five other *Melayu* villages in the vicinity, was recognised as a customary village (*kampung adat*) by an administrative decree (*Surat Keputusan* – literally, a decision letter) issued by the regent of Kampar District.⁴¹



The honorable Khalifa of Batu Songgan (in shirt with red stripes) alongside the customary authorities of the negerian of Batu Songgan. Photo: Harry Oktavian

Prospects

Batu Songgan currently comprises some 420 persons. The community would like to regain control of their lands through the recognition of their area as a customary forest (*hutan adat*) by the Department of Forestry, but this is currently not legally possible so long as their area is classed as a wildlife reserve and controlled by the Conservation Department (BKSDA). Recognising that today, certain wildlife species need to be protected, they would be happy to observe and also themselves enforce restrictions on hunting. An independent study of the area carried out by local researchers with the World Resources Institute-Indonesia, found that customary laws do effectively regulate forest use, do maintain large areas as untouched primary forest and also limit overexploitation of the local fisheries.⁴²

With the active support of local NGOs, the community was able to carry out a participatory mapping exercise of their territory which was then registered with the parastatal Body for the Registration of Customary Territories (BRWA), which has recorded their area as encompassing 5,817 ha.⁴³

Lubuk Jering

Origins, Land and Culture

Lubuk Jering is one of the oldest villages in Sungai Mandau sub-district, in Siak District. According to the *Melayu* residents of Lubuk Jering, interviewed in this study, they are descendants of the once nomadic Suku Antan Antan who were '*the founders in the area, before the calendar, before the sultanates, and before Islam*'. In those times, they recall, they used to move around a lot, subsisted on sago and had shifting cultivation (*ladang*) for the cultivation of rice and cassava. At that time they had their own belief system and system of customary law. They had no external rulers and it was the custom that when a leader died, they would relocate their villages and start their lives anew in a new area.

The people belonged to numerous 'tribes' (*suku*) - perhaps better understood as lineages or clans - each of which was under the authority of its own Bathin. Each *suku* had its own territory and these included the Suku Antan Antan, Suku Hamba Raja, Suku Geronggang, Suku Botung, and Suku Pandan. Marriages tended to be undertaken between members of different lineages, in which descent was reckoned matrilineally (ie from mothers to daughters). The majority of the people who settled in Lubuk Jering are from the Suku Antan Antan and the earth-covered grave site (*makam berlumut*) of some of the 'original' members of tribe who settled there, dating back to a time prior to the extension of the authority of the sultanate, is still preserved today. Their lives were very dependent on the river waterways: the Mandau River was the main artery of transportation for the Lubuk Jering indigenous people before development entered the village area. This river flows into the Siak River and was the route linking the community with the Siak Sultanate.



Traditional khasida dessert of the indigenous people of Lubuk Jering. Photo: Harry Oktavian

In these early times, we were told, the people lived widely dispersed across the forests and were not numerous. They lived from the land and its resources but later also cultivated rubber which they marketed along the local rivers. On marriage a man would move to live in his wife's area and a family was expected to farm lands within the territory of the tribe (lineage). A considerable body of customary law was held by oral tradition and used to order social life and resolve disputes. Today these territories are referred to as *wilayah* or using the Minangkabau term for communal customary lands, *ulayat*.⁴⁴ Participatory mapping, carried out by the villagers of Lubuk Jering with the help of the NGO, Scale Up, establishes that they still claim a territory of about 7,000 ha.⁴⁵

They recall that, some time later, they came to have a relationship with the Sultan of Siak who recognised their Bathin as their *penghulu*, their chiefs, who administered affairs through a hierarchy of authorities down from the sultan (*raja*), through the *penghulu* and his deputy, the *tungket*, down to the clan elders, still referred to by the Minangkabau term, *ninik mamak*. In those times, hunting was an important part of their way of life and it fell to these *ninik mamak*, the matri-clan heads, to share out the game with all the families of the local tribe. The *penghulu* were accorded great respect, as the local representatives of the *raja*, but were selected by the village (*kampong*) and had the combined role of being the village' representative, protector, judge and mediator in discussions of matters of concern.⁴⁶

History of change

Those we interviewed have no memory of ever being linked to the Pre-Islamic coastal sultanates at the time historians refer to as the Srivijaya Empire (5th century to 13th century). Rather they associate their links to the sultanate (*kerajaan*) of Siak to the very same time that they adopted Islam. As subjects of the *raja* they were expected to yield tribute to the sultanate, to whom they communicated only tenuously through long-distance travel along the major rivers and forest paths. The *raja* would periodically send his *upe* to collect this tribute in the form of resins, rice and other goods.

Even during the Dutch colonial era there were no roads and communication was only possible by river or along tracks through the forests. Road building in the wider region did not really get underway until the discovery of the oil fields in the 20th century but Lubuk Jering itself was not much affected as the main oil fields were further north and west of where they live.

As for when they started to call themselves *Melayu*, that only came about once they became subjects of the sultanate and adopted Islam, but notwithstanding they still recognise themselves as descendants and members of Suku Antan Antan and other clans. They accepted the authority of the sultan as a way of securing protection against war-mongers from Aceh or other parts, even though it meant having to provide tribute and even women, who were taken to serve the *raja*. They recount that they were relieved when the sultanates were abolished as this meant they no longer had to yield such tribute, and during President Sukarno's time taxation was minimal.

Imposed land use

However, during the *Orde Baru* (1966-1998), they recall, they again began to experience exploitation. The government issued logging licences to companies to extract timber from their forests. The trees were felled and floated down the rivers to the mills. People moved their houses to get away from these operations and they recall some conflicts which arose as disputes over timber, which led to the police being called in to protect the companies' operations.

PT Riau Andalan Pulp and Paper (PT RAPP) first got a concession in their area in 1997 and it was at this time that they got informed that their lands were classed as 'State Forest Areas' and had been allocated to the company as a *Hutan Tanaman Industri* (HTI - Timber Plantation). There was no kind of discussion with the people prior to the issuance of these permits and the clearance of their lands and forests and establishment of plantations of *Acacia* and later *Eucalyptus*. These plantations, and also oil palm, had quite severe impacts on their livelihoods and seriously reduced their land base and access to forest resources. In the following years, they also found that about 600 ha. of their lands had been handed over to the Surya Damai Group for oil palm plantations and a further 300 ha. was overlapped by a HTI concession awarded to PT Arara Abadi of the Sinar Mas group.

In 2006, the conflict between Lubuk Jering and PT RAPP reached its peak, when the pulp company opened an even bigger concession of forest land overlapping the community territory. The community mobilized its members to protest through publishing a statement of their concerns objecting to the presence of PT RAPP on their traditional territory. They also staged street demonstrations and blockaded the road to prevent the company having access. PT RAPP responded by publishing a letter of warning, sending a report to the Government alleging 'land occupations' by some community members, and distributing its own press releases.

The dispute became a national controversy because that same year, PT RAPP was awarded a certificate of sustainable forest management by the Bogor-based Indonesian Ecolabel Institute (LEI). LEI stated that the certificate was issued because the company was successfully resolving conflicts with local communities. This was disputed by the NGOs working with the community.

As a consequence, the local NGO Scale Up, based in Pekanbaru, was accepted by both parties to mediate a resolution of the land conflict, with the assistance of an anthropologist and local academics. By November 2008, the community and PT RAPP reached an agreement whereby Lubuk Jering would be recognized as the owner of 1,024 hectares of the 1,627 hectares of disputed territory. In compensation for loss of access to these lands, 224 hectares were to be made available for community gardens, while the community was also to receive financial compensation for those parts of the disputed territory on which the community had agreed that RAPP could plant *Acacia* trees. PT RAPP also undertook to establish 160 ha. as community oil palm plantations, while the remaining community territory was to be allocated to two social forestry schemes of 240 ha. and 400 ha.

Of the agreements, only the first two had been accomplished by the company by 2010, namely the 224 ha. enclaved for the community's gardens and the financial compensation, while the oil palm allocation and social forestry schemes were not realised. This was owing to the election of a new village headman who objected to the agreement.⁴⁷

Teluk Meranti

Origins

According to the people of Teluk Meranti interviewed as part of this study, they also trace their origins back to the inland, Bathin peoples where they were organised, like the other Bathin peoples of the interior, into a number of tribes (*suku*). Just when and why they moved east out of the interior to settle on the south bank of the Kampar river is not recorded. They note that the long-term residents also include some descendants of Orang Laut (sea people), some of whom continue their mobile way of life at the mouth of the Kampar and in the Riau archipelago.⁴⁸ The various *suku* who made up the community of Teluk Meranti when they settled by the river continued to intermarry and were substantially self-provisioning and independent.

Just when the Teluk Meranti people first became connected to the sultanates is not recalled either: it is likely to reach back into pre-colonial times,⁴⁹ but their ancestral connections to the Sangar Sultanate were a formative part of their identity as *Melayu* and this connection is still remembered. It is noted that some descendants of the royal family still reside in the lower reaches of the Kampar river. They recall that the royal families of Sangar, Siak and Pelalawan were also closely related through descent and intermarriage and were also connected to the royal families in what is now Malaysia.

Culture

As explained to us, the original customs of the *Melayu* of Teluk Meranti derive from the time that they were subject to their Bathin. Each *suku* had its own Bathin who exercised authority over the people of their tribe. Then, later, the Bathin were recognised as the legitimate authorities by the sultanate.

We were told that Islam came to the community quite a few generations ago but even as late as the 1970s there were still some people who followed the older pre-Islamic beliefs of the Bathin peoples from whom they see themselves as descended. However, these beliefs were increasingly discredited. When they were being instructed in Islam, they say, they were taught to reject these old beliefs as they were connected to witchcraft.



Front of the wing of the replica palace of the Pelalawan sultanate. Photo: Harry Oktavian

Land

Prior to Indonesian independence, the majority of residents made their living as fisherfolk, supplemented by forest products and subsistence farming in the extensive peat swamps that cover the major part of the Kampar peninsula and the south side of the Kampar river where this lowland village is situated. The land was not considered suitable for wet rice cultivation (*sawah*) but, as the population was sparse and their access to lands and forests unimpeded, they had ample areas for growing bananas and other crops, including rice, in their shifting cultivation plots (*ladang*). The forests were also a source of game, rattan, and honey and they had small rubber gardens from which they extracted latex to exchange for trade goods.

In these earlier times, the lands and forests were overseen by the Bathin, each of whom had authority over a more or less discrete territory. Members of the tribe sought agreement from the Bathin to open up lands for farming within this communal territory. Family lands were not mapped but were recorded in the memories of the authorities. Older members of the community can still recall where the boundaries of these territories were, although they are no longer applied.

Once they became subjects of the Malay sultans, this system of land ownership or control began to change, but at first only slightly. Although rights in land were not formalised nor claimed by the sultans, the villagers were expected to provide food to the sultanates as a tithe on their land, and they were also subject to quite strict rules of behaviour. Such formality was expected as a show of loyalty to the sultan and to demonstrate their faith in Islam.

Despite the family connections between the rajas, they also competed amongst themselves and there are stories of at least one bloody war between the Sangar and Siak sultanates, which, in one instance, resulted in a blood bath (*banjir darah*).

History of change

We were told that the abolition of the sultanates at the time of independence was not a cause of regret. Tithes were ended and the people had more freedom in their personal lives and were no longer subject to the formal rules imposed by the sultans. Marriages are no longer contracted as exchanges between the various *suku* and people feel freer to marry whom they choose, including incomers.

In the past few years, the population of Teluk Meranti has increased greatly due to its connection to the rest of the province by roads, which have caused an influx of settlers - Javanese, Batak and even Dayak from Kalimantan. The *Melayu* of Teluk Meranti say that they feel as if they have become a minority in their own village and now make up barely half of the population, which is becoming increasingly mixed.

Consequently, the *Melayu* of Teluk Meranti no longer observe customary law except in the ceremonies associated with marriage. Whereas in the past, they would resolve disputes and land conflicts according to customary law under the authority of their Bathin, today such matters are addressed by the local government or, in serious cases, by appeal to the police.

Role of Government

The institutions of the new government of the independent Republic of Indonesia were introduced gradually in the 1960s and 1970s. Instead of being subjects of the sultans, they became subject to the new forms of administration – district regents (*bupati*), sub-district heads (*camat*), and village heads (*kepala desa*). However, customary heads (*kepala adat*) retained respect, although their actual authority became largely ceremonial. Outboard engines connected the village to the authorities inland and thus led to a village-school being established. Medical services began to be provided in the 1970s and village clinics in 1980s.

Imposed plantations

The villagers we interviewed were not sure when their wider area was first classed as a forest. The Kampar Peninsula, which is made up of large, forested peat domes, was opened to logging in the 1970s, which resulted in large canals being dug to allow logs to be floated out to waiting ships. From the point of view of the community, the biggest change came about when, in 2004, the government issued plantation licences to the pulp-and-paper companies PT RAPP of APRIL, part of the Royal Golden Eagle (Raja Garuda Emas) group, and to PT Arara Abadi of Asia Pulp and Paper, part of the Sinar Mas group. Some of these changes were not unwelcome: road links were established and some jobs were created. But the planned plantations also encroached on villagers' farmlands and forests and took no account of their customary rights.



The livelihood of the people of Teluk Meranti depends greatly on their forests and rivers.
Photo: Harry Oktavian

When the community learned of the company's plans, in 2008, the villagers did raise objections to their marginalised situation with the local government and then with the companies. In the case of PT RAPP, the villagers raised concerns about the restrictions imposed on their fishing and their access to forest resources on the Kampar peninsula. With the help of the local NGO, Scale Up, in 2009 they developed a map of their village territory, showing how it was overlapped by the company's concessions.⁵⁰ The map showed how extensive parts of the 21,000 ha. of customary lands were being taken over by PT RAPP's operations and how their access to fishing and forest resources would be further affected by the establishment of a proposed conservation concession in the centre of the Peninsula. A rapid HCV assessment carried out for PT RAPP by the Dutch organisation, Tropenbos, showed that the plantations would have a significant impact on the local peoples' livelihoods, including their basic needs, and recommended the company improve its engagement with the villagers.⁵¹ APRIL's association with the Forest Stewardship Council was terminated in 2013 due to its operations causing deforestation

and human rights abuses. This also led to the company being expelled from the World Business Council for Sustainable Development.

After extensive negotiations,⁵² in 2010 PT RAPP agreed to provide the village of Teluk Meranti with 2,300 ha. of land as their own cooperatively managed 'livelihood plantation' (*tanaman kehidupan*), which the villagers wanted to plant with rubber. In the event, according to our interviewees, only some 500 ha. were actually planted with rubber, while a further 700 ha. were established as *Acacia* plantings under the government-mandated partnership scheme (*kemitraan*). A similar arrangement was negotiated by the village with PT Arara Abadi, which agreed to allocate about 2,400 ha of *Acacia* from their concession to a *kemitraan* scheme.

Under these partnership agreements, the companies manage the lands on behalf of the village in the same way as any other part of their plantation but then transfer the profits, after deducting all the costs of management, harvesting, transportation and processing, to the village fund.

Prospects

The rapid changes in lifestyle, land use and land administration in Teluk Meranti, mean that few of the villagers currently assert their customary rights. Customary laws relating to lands are no longer applied. As one interviewee noted: *'Now that the government owns everything, we don't use this system anymore'* but another pointed out: *'We still feel a connection with our land because of our custom, even though the government says that this is now all government forest.'*



Author, Marcus Colchester, visiting the palace of the Pelalawan sultanate. Photo: Harry Oktavian

Other cases

Kampung Tengah, Riau

This customary *Melayu* village, also in Riau was visited and interviewed by the authors during 2023 and then again, later that year, as part of a 'Field Dialogue on Forest Restoration' organised by The Forests Dialogue.⁵³ The village traces its origins back to the time of the pre-Dutch sultanate of Siak, the palace of which is situated on the other bank of the river Siak, directly opposite the village. During the Sultanate, officials of the Siak Kingdom inhabited Kampung Tengah as royal advisors. In line with the Dutch colonial policy of 'indirect rule', the Dutch recognised the Siak sultanate and its authority over its lands and peoples, meaning that customary law was applied right up until the time the Dutch left. After independence, the Siak sultan's powers were transferred to the Government of the Republic of Indonesia.

The community, however, retains its traditional leadership and institutions and is officially recognised as a customary village. The villagers are clear that under their customary laws, they retain rights to their lands and forests, which they consider their communal lands (*tanah ulayat*) and also to their farmlands, which they consider to be owned by families under customary law (*tanah adat*). However, despite the government recognising that the village is a customary village (*kampung adat*), their land rights have not been formally titled by the district or provincial government.⁵⁴

Like many Malay villages, the people of Kampung Tengah rely on fishing and wet rice cultivation for their livelihoods supplemented by small trades and employment in local enterprises. The majority are devout Muslims. Several businesses have acquired licences from the government to operate within the village domain. The village is in a yet unresolved dispute with one palm oil company, which has been granted a concession over their lands without their agreement.

Sambas, West Kalimantan

The *Melayu* village of Senujuh in Sambas District in West Kalimantan Province found itself in dispute with a palm oil company, a subsidiary of Wilmar Plantations, in 2006. The company had begun to clear lands and plant oil palm seedlings on their customary lands without the communities' agreement or any kind of compensation. The community objected and pointed out that the concession agreement only applied in the neighbouring sub-district and not in their own sub-district. The case was taken up by local and international NGOs,⁵⁵ and then raised as a complaint with the Roundtable on Sustainable Palm Oil and the International Finance Corporation's Compliance Advisory Ombudsman.⁵⁶

The community is proud to self-identify as Malay and celebrates its historical connections to the pre-colonial Sambas sultanate which, under the Dutch policy of indirect rule, retained authority over the area until 1951. However, interviews with community members quickly reveal that the people retain a pre-Islamic land tenure system. Like many Dayak peoples across Borneo, in Senujuh rights to farmlands are inherited equally by men and women, descent is reckoned cognatically, and collective rights are asserted by the whole community to their wider lands, forests and fisheries. The village exemplifies a common pattern in Borneo, whereby indigenous communities ('Dayak') who become Muslim and then choose to self-identify as Malay (*masuk Melayu*), nevertheless retain their traditional land tenure system and associated customary laws.

A far more complex situation was revealed by a team of NGOs seeking to document and support the land claims of Dayak and Melayu communities also in Sambas District whose lands had been taken by PT Agrowiratama a subsidiary of the Musim Mas palm oil group. In this case while the Melayu people in Mekar Jaya and Beringin villages did retain claims to land based on custom and use, their lands were also claimed by a family claiming descent from the family of the sultan of Sambas. According to this family's claim, disputed by the farmers on the land, they had authenticated documents signed by the *raja* granting them rights over the area, although the document, when we examined it, seemed unclear about the location and extent of this grant. In the event, PT Agrowiratama had paid compensation to this family claiming *ahli waris* rights in order to get access to the land for developing their oil palm plantation, while ignoring the claims of the villagers who actually farm and otherwise use the land.⁵⁷ However, after the case became publicly disputed, the *ahli waris* claimants agreed to relinquish their claims.

Jambi

The struggle of Melayu communities in Jambi against land dispossession has led to various forms of legal recognition, shaped by both customary and national legal frameworks.⁵⁸ Unlike the Minangkabau, whose matrilineal inheritance system is firmly institutionalized through local legislation in West Sumatra recognising *nagari*,⁵⁹ the Melayu of Jambi have a land tenure system that is both community-based and yet heavily influenced by national law. This dual structure reflects both traditional governance and the state's legal framework in shaping land rights and compensation mechanisms. Much of this change was caused by the implementation of the 1979 Administration Law, which abolished customary village governance systems and imposed the uniform *desa* system.⁶⁰ The reclassifying of customary territories as Forest Areas (*kawasan hutan*), followed by the issuance of logging and forestry plantation licenses, further eroded community tenures and governance.

Notwithstanding these impositions, the concept of land ownership among many Melayu in Jambi still extends beyond mere possession, and includes a well-accepted system of compensation and communal justice. Among the Melayu communities in Bungo regency, for example, customary law dictates that if theft (*samun*) occurs within individually owned or communal lands, even inside areas now classed as forest, compensation must be made based on the institution of *Induk Nan Duo Belas*. These regulations detail the mechanisms for the redistribution of wealth and for compensation, ensuring that land-related disputes

are resolved within a plural legal framework that seeks to combine adat law, sharia law and state-imposed regulations.⁶¹

One such Melayu community in Jambi, which Forest Peoples Programme has supported, along with WALHI-Jambi and the Jambi Network of Peatland Communities, is the village of Rukam in Muaro Jambi regency. The community dates back to at least 1830, as one of 10 communities belong to the *Marga Jebus* clan, with strong customary laws and other institutions relating to group membership, land rights, territorial management, decision-making and associated ceremonies.⁶²

Like many other Malay communities in Jambi, Rukam is located on the banks of a major river, in their case the Batang Hari river, which is a source of livelihood, both for transport and to fulfil their daily needs. The Malays say that the rivers are the lifeblood of their culture. In Rukam, land rights are allotted to community members according to customary laws through agreements among the customary leaders; these decisions are not recorded in writing but are memorised by the village members who witness the granting of the land. Farms are then opened in these agreed places by groups of collaborating community members. Most rice farms are opened in the *rimbo*, the forested lands, along the river banks by first cutting and clearing the trees and then burning the piled timbers. When burning, the farmers create fire breaks. Many of the forested areas around Rukam are in peat swamps, which may also be cultivated for swamp rice (*padi semang*). Once farmlands lose their fertility, they are then commonly planted with treecrops like durian, langsat and rambutan or other perennials.

In 2000, an oil palm company obtained a license from the government to develop lands overlapping Rukam community's customary territory. Heads of household were required to surrender their lands at a rate of about US\$100 for every three hectares released, while being promised two additional hectares per family for their use. This promise, however, was never fulfilled. In 2002, the National Land Bureau (BPN) sent a letter to Rukam village recognising their prior use of 3,720 ha. of their farmlands. The oil palm company refused to return the area to the Rukam community, stating that it had already paid compensation for these lands.

Then, in 2003, a subsidiary of Asia Pulp and Paper, PT Witakarya Sakti (PT WKS) began clearing their forests and farms, without any prior socialisation, request or communication with Rukam village. Up until that point the majority of Rukam households still obtained their daily needs from the forests, lakes and streams within their village territory, through fishing and forest product gathering as well as farming. Today, Rukam's 460 households have lost access to these essentials of their livelihoods and estimate that they have lost about 70 per cent of their customary lands.

South Sumatra

Field work undertaken in 2015-2017 by Forest Peoples Programme in South Sumatra in association with the Palembang-based NGO, Hutan Kita Institute, and social scientists from the local University, funded by the British government through the Zoological Society of London's Kelola Sendang Project,⁶³ was aimed at helping communities near forests secure their land rights and so stabilise the forest frontier. The extended field work showed that most of the rural peoples in Musi and Musi Banyuasin Districts who self-identify as *Malayu*, actually speak a wide variety of dialects, retain their sense of territoriality and also self-identify as members of defined patrilineal *marga* (clans), with hereditary rights to land. Some of these groups, the study found, have 'become Malay' (adopted Islam) only in the last two generations.⁶⁴

These surveys found that self-identified *Malayu*, were also variously identifying themselves as Kubu Lalan, Rambang, Sirah Pulau, Palembang, Meranjat, Komering, Bayat and Pedamaran. The communities explained that their traditional 'animistic' beliefs have been overlaid mainly with Islam but also with some Christian and Hindu elements. Even among groups who had adopted Islam, important elements of their traditional beliefs remain. These beliefs shape the way communities conceive of their relations to land and to property, and underpin work-sharing traditions, which remain widely observed for community enterprises.

According to this investigation, under the traditional land ownership systems, lands were held collectively by *marga* and accessed by individuals subject to the authority of the local clan leaders. The *raja* of Palembang had recognised these local systems of land ownership and control, although he extracted a levy (*tiban tukon*). Under the Dutch, the traditional system continued to function although it became more formalised and taxes and corvée labour were extracted. Towards the end of the Dutch period, communities were obliged to plant crops at the behest of the colonial administration.⁶⁵ These extractive forms of land control were intensified during the Japanese period. However, although resentment against traditional leaders grew, as they were seen as being agents of the colonial powers, the traditional systems of land ownership and resource allocation were maintained.

However, after independence land ownership systems were subjected to greater State control. As in Jambi, major change came with the imposed *desa* system, made law in 1979, which broke up collective *marga* territories into smaller administrative units and replaced the traditional authorities. Although land titles were not granted, lands have become increasingly individualised with the issuance of semi-formal letters from the village administration, while huge areas were lost to concessionaires. Even so, in some areas, the customary notion of *marga* lands continues to be locally recognised.⁶⁶

The community of Pulau Gading illustrates the way government policies have impacted these marginalised peoples. Under the remote communities (*komunitas terpencil*) programme of the Department for Social Affairs, target communities were obliged to resettle from scattered hamlets in the forests, encouraged to do so by the armed forces. A notable weakness of the programme was that the resettled people, even where they adopted permanent farming, were not provided with land titles. The people who now predominate in the village of Pulau Gading were exposed to this policy in 2004, having been previously living as a widely dispersed and mobile, hunting, gathering and fishing people living in their customary territories along the Lalan river.

Under the DEPSOS programme, each household was allocated a house plot and rice-farming area, which however was not titled. This left both the communities' prior territories and their new lands vulnerable to dispossession. In the first place, the lands and forests that they had previously used were allocated to timber plantation companies and oil palm estates. Then, even parts of the area which had been designated and cleared for the rice farms were re-classed as forests and allocated as HTI. This overlap included some 200 transmigrant families who had been brought in to boost the number of people in the settlement so that it could be re-classed as an administrative village (*desa*). The residents of Pulau Gading claimed that, as a result of all these interventions, some 90% of their customary lands had been handed out to concessionaires.⁶⁷



Kelola Sendang team members examine a map of Pulau Gading with a local leader: imposed policies and boundaries disqualify customary use and create land conflicts. Photo: Marcus Colchester

Conclusions and Recommendations

Historical sources reveal that the term *Melayu* (Malay) emerged as the identity of a social group by the 7th century of the current era, at the latest, and linguistic studies suggest that it emerged, possibly, two centuries earlier. In the earliest written sources, it was associated with the Sumatran sultanates which dominated what later came to be called the Srivijaya Empire. The term initially referred to two rivers in what are now the Indonesian provinces of Jambi and South Sumatra and to the royal families of the sultanates located there. As these entrepot statelets proliferated along the coasts of Southeast Asia, to control and engage with the regional trade, driven by intercontinental exchanges between China and India, the royal families intermarried. The term *Melayu* was thus extended to include all these inter-related royal families, a process that intensified as the Malay language became the main trade language of the entire region including the Philippines. However, most of the very diverse peoples who were subject to the suzerainty of these coastal sultanates retained their own languages, customs and identities, including their traditions of self-governance and management of their lands and forests.

By the time western colonial powers sought to take over this trade, most of these sultanates had converted to Islam and, whether through coercion or voluntarily, many of the local peoples also converted. This process of conversion was one among several drivers that extended Malay identity to include many of these peoples, and this process of 'becoming Malay' continues up until today. Malay was gradually expanded from the identity of the royal families of the sultanates to include their subjects and then also other communities which adopted Islam and were linked to the sultanates, through tributary relations. This extension was also variously driven by: the spread of Malay as the regional trade language; the colonial powers' simplified and imposed classification of the peoples of South East Asia; growing awareness of identity politics; and, later, self-determination processes within independent post-colonial countries.

It has long been noted that adopting Islam and 'becoming Malay' does not necessarily mean that local peoples have rejected or lost all their traditions and culture. Even where local peoples now self-identify as *Melayu*, many retain important elements of their traditional beliefs, rituals, clothing styles and material culture, customary law and much more. However, relatively little attention has been paid to how these communities relate to their lands.

This study shows that many – not all – self-identified Malay communities retain relations to their customary lands, not just in Borneo but also in Riau, Jambi and South Sumatra, just as has been the case with the Minangkabau of West Sumatra. The cases reviewed show that communities, some of which have been recognised by local government regulations as customary villages (*kampung adat*), conceive themselves as possessing rights to their customary, collectively-owned territories, which go beyond their farmlands and fallows.⁶⁸ In some cases, customary laws prohibit the alienation of these lands to outsiders. Often protracted land conflicts arise when the government and companies ignore these rights and impose development plans without respecting customary authorities and laws. On the other hand, a variety of forces – changing values, legal frameworks, land classification, cash cropping, the need for collateral for bank loans, informal land markets, land titling, migration and resettlement – are driving a shift to the conception of land as an individualised, alienable commodity.

The authors recognise that this survey is partial and is far from being a detailed inventory of *Melayu* tenures. On the contrary, our purpose has been to demonstrate that much greater attention needs to be paid to the great variety of *Melayu* relations to land. FPP, YMKL, Bahtera Alam and other local partners also note that our ‘sampling’ has been skewed by the fact that we have mainly worked with *Melayu* communities, who have found themselves in conflict with government-imposed land users and have sought support from local NGOs to help them address their situation. In the course of our field work, we have also encountered other *Melayu* who assert that, since historically they were *hamba* (‘slaves’ or subjects) of the sultans, the lands and resources that they farmed and otherwise used belonged to the sultan. At independence, and with the abolition of the sultanates, they consider that these assets became State lands. As such, they do not claim rights to land based on custom but seek land security through statutory tenures. Yet even if they only claim use rights (*hak pakai*) to their lands, many feel that these should be respected by government and companies.

Recommendations

This study has multiple implications for local governments, development and conservation agencies and private companies, as well as for support NGOs and indigenous peoples, and, not least, for the diverse peoples who self-identify as *Melayu*.

The first lesson is that while *Melayu* peoples may think that their land tenure systems are well-known and obvious to outsiders, this is not often the case. Therefore, in making claims to their lands and territories - or for remedy for damage and loss - the peoples themselves need to make purposeful efforts to clarify the basis of their rights in line with their customary laws and their own conceptions and beliefs.⁶⁹

For the Forest Stewardship Council, the companies now applying the Remedy Framework and for the third party organisations assisting this process, it is clear that they need to devote much greater attention to local communities’ land tenure systems, customary law systems and their history of links to their lands. Superficial surveys which seek to identify the social harms these peoples have suffered and for which they now require remedy will be unlikely to be complete or adequate without first getting an understanding of the nature of their rights and the areas over which they extend. Instead, land tenure surveys, participatory mapping and detailed interviews with impacted peoples are required. No results should be considered acceptable or complete without detailed discussions, negotiations and the Free, Prior and Informed Consent of the affected peoples.

More broadly, it is clear that social movements and supportive NGOs active in Indonesia, also need to pay much more attention to the customary rights of all those local communities who may not self-identify as ‘indigenous peoples’. It is the authors impression that the majority of communities in rural Indonesia still access the lands and resources that their livelihoods depend on through custom, albeit these customary systems are themselves in transition.⁷⁰

Most obviously, this report points to the urgent need for the Indonesian government to overhaul its systems of land administration so that the rights of both indigenous peoples and local communities can be recognised, respected, protected and, where necessary, remedied by local government, investors and developers.

Endnotes

- 1 The recent field survey, the literature review on which this study is based, and the publication itself were funded by the Sobrato Foundation whose support we gratefully acknowledge. The findings and recommendations are those of the authors and the communities we have worked with and do not necessarily represent the views of Sobrato. We are grateful for the advice and comments on earlier drafts by Emil Kleden and Astrid Ningtyas.
- 2 <https://www.forestpeoples.org/en/report/2023/customary-rights-april-plantations>; <https://www.forestpeoples.org/en/the-sakai-asia-pulp-paper-samatra-indigenous-people>
- 3 Policy to Address Conversion <https://connect.fsc.org/document-centre/documents/resource/1445>; Policy for Association https://fsc.org/sites/default/files/2022-03/FSC-POL-01-004%20V3-0%20D5-0_EN_FSC%20Policy%20for%20Association_0.pdf; Remedy Framework <https://connect.fsc.org/current-processes/fsc-remedy-framework>
- 4 FSC Principles & Criteria <https://connect.fsc.org/document-centre/documents/resource/392>; National Interpretation for Indonesia <https://connect.fsc.org/document-centre/documents/resource/456>
- 5 See for example: Peter Bellwood, 1991, *The Austronesian dispersal and the origin of languages*, *Scientific American* 265(1):70-75; Peter Bellwood, 2017, *First Islanders: prehistory and human migration in Island Southeast Asia*, Wiley-Blackwell, Oxford. It has been proposed that the Malay language and tradition of kingship emerged on the west coast of Borneo before it was transferred to Southeast Sumatra, see: James T. Collins and Awang Sariyan (eds.), 2006, *Borneo and the Homeland of the Malays: four essays*, Dewan Bahasa dan Pustaka, Kuala Lumpur.
- 6 Crops from SE Asia had found there way to India by around 1000 BCE, while the spice trade was reaching the Mediterranean and influencing Ancient Greek and Roman culture and cuisine by 320 BCE. See also: Jane Taylor, 2001, *Petra and the Lost Kingdoms of the Nabataeans*, IB Tauris, London.
- 7 Anthony Milner, 2011, *The Malays*, Wiley-Blackwell, Oxford, dates the Malayo kingdom to the 7th century but others place the origins two or three centuries earlier: see for example Mohd Arof Ishak, 2007, *The Malay Civilization*, Persatuan Sejarah Malaysia, Kuala Lumpur.
- 8 William Dalrymple, 2024, *The Golden Road: how ancient India transformed the world*, Bloomsbury, London.
- 9 OW Wolters, 1970, *The Fall of Srivijaya in Malay History*, London: Lund Humphries; Nicholas Tarling (ed.), 1992, *The Cambridge History of Southeast Asia, Volume One, Part One from early times to c. 1500*, Cambridge University Press, Cambridge; Paul Michel Munoz, 2006, *Early Kingdoms of the Indonesian Archipelago*, Edition Dillier Millet, Singapore.
- 10 Milner 2011:17.
- 11 Barbara Watson Andaya and Leonard Y. Andaya, 1982, *A History of Malaysia*, Macmillan, Basingstoke.
- 12 Dalrymple 2024: Jane Drakard, 1990, *A Malay Frontier*, Cornell.
- 13 The term *hamba* can be variously translated as 'subject', 'serf' or 'slave'.
- 14 Milner 2011:15.
- 15 Milner 2011:91 citing Virginia Matheson, 1979, Concepts of Malay Ethos in early Malay writings, *Journal of South East Asian Studies* 10(2):353-371.
- 16 Cynthia Chou, 2010, *The Orang Suku Laut of Riau, Indonesia*, Routledge, London.
- 17 Anthony Reid, 1988, *Southeast Asia in the Age of Commerce 1450-1680, Volume One: The Lands Below the Winds*, Silkworm Books, Bangkok.
- 18 Richard Hall, 1996, *Empires of the Monsoon: a history of the Indian Ocean and its invaders*, Harper Collins, London.
- 19 Milner 2011: 47.
- 20 Milner 2011: 84.
- 21 Leonard Y. Andaya, 2008, *Leaves of the Same Tree: trade and ethnicity in the Straits of Melaka*, University of Hawai'i Press, Honolulu.
- 22 Barbara Watson Andaya, 1993, *To Live as Brothers: southeast Sumatra in the Seventeenth and Eighteenth centuries*, University of Hawai'i Press, Honolulu.
- 23 Elmustian Rahman, Tien Marni and Zulkarnain, 2003, *Alam Melayu: sejumlah menjemput keagungan*, Unri Press, Pekanbaru.
- 24 Ariffin Omar, 2015, *Bangsa Melayu: Malay Concepts of Democracy and Community, 1945-1950*, Strategic Information and Research Development Centre, Petaling Jaya; Anthony Reid, 1976, *The Blood of the People: Revolution and the End of Traditional Rule in Northern Sumatra*, Oxford: OUP.
- 25 Ibrahim Zawawi (ed.), 2008, *Representation, Identity and Multiculturalism in Sarawak*, Dyak Cultural Foundation, Kuching
- 26 Nicholas J. Long, 2013, *Being Malay in Indonesia: histories, hopes and citizenship in the Riau Archipelago*, NUS Press, Singapore and NIAS Press, Copenhagen.
- 27 Milner 2011: 233.
- 28 Mohamad Mazna and Syed Muhd Khairudin Aljunied (ed.), 2011, *Melayu: the politics, poetics and paradoxes of Malayness*, NUS Press, Singapore.
- 29 Faisal S. Hazis, 2008, Contesting Sarawak Malayness: Glimpses of the Life and Identity of the Malays of Southwest Sarawak, in: Zawawi Ibrahim, *Representation, Identity and Multiculturalism in Sarawak*, Dyak Cultural Foundation, Kuching:263-293.
- 30 Milner 2011:83 citing Victor King, 1979, *Ethnic Classification and Ethnic Relations: A Borneo Case Study*, University of Hull, Hull: page 41; Emily Harwell, 2000, *The Un-Natural History of Culture: Ethnicity, Tradition, and Territorial Conflicts in West Kalimantan, Indonesia, 1800-1997*, PhD Dissertation, Yale University.
- 31 Renske Biezeveld, 2002, *Between individualism and mutual help: social security and natural resources in a Minangkabau Village*, Eburon, Delft
- 32 See also: Anthony Reid, 2001, Understanding Melayu as a Source for Diverse Modern Identities' *Journal of SE Asian Studies* 32(3): 295-313.
- 33 <https://en.wikipedia.org/wiki/Riau>: percentages dated 2010, total population dated 2023. See also Junji NAGATA, W. Sachilo ARAI and Gulat M. MANURUNG, 2014, Social Map of Riau, Indonesia: Frontier Development and its Outcomes, *Komaba Studies in Human Geography* 21: 101-134.
- 34 Marcus Colchester, Patrick Anderson, Harry Oktavian, Rudiansyah and Hasri Dinata, 2023a, *The Sakai: Asia Pulp and Paper and the Indigenous Peoples of Sumatra – towards remedy?* Forest Peoples Programme, Bahtera Alam and YMKL; Marcus Colchester,

Patrick Anderson, Harry Oktavian, Rudiansyah and Hasri Dinata, 2023b, *Customary Rights in APRIL plantations: findings from a field investigation*. Forest Peoples Programme, Bahtera Alam and YMKL.

35 The Indonesian constitution recognises the rights of *masyarakat hukum adat* (customary law peoples), 'so long as they still exist', but the social movement of indigenous peoples of the archipelago prefer to use the shorter *masyarakat adat* (customary peoples). We translate both as 'indigenous peoples'. Other groups such as the Batak Mandailing, of the north of Riau Province, may also consider themselves indigenous.

36 A previous study suggests this migration occurred in the 1600s: Wahyudi, H., L. Supartmanono, E. Jusman, A.A. Ilyas, et al. 2017. "Profil Masyarakat Adat Kekhalifahan Batu Sanggan Kampar-Riau." Kampar, Indonesia: Aliansi Masyarakat Adat Nusantara Kampar, cited in: Dwiki Ridhwan, Carolina Astri, Alif Azadi Taufik, Dean Affandi, Muis Fajar, and Julius Lawalata, 2020, *Improving the lives of indigenous communities through mapping: a case study from Indonesia*, WRI-Indonesia.

37 A second account of their origins states that they are descended from a Javanese from Kuntu called Gagajauk, who named the locale batu songgan which is the local vernacular means a rattan binding.

38 Research corroborates the importance of forest resources in the livelihoods of Batu Songgan village. See:

Ikhsan Matondang, Sri Endarti Rahayu and Ritchi Y.H.L.T., 2022. Ethnobotany of Societies Tanjung Belit, Muara Bio and Batu Sanggan Around the Wild Reserve Bukit Rimbang Bukit Baling Riau, Pekanbaru Indonesia, *Journal of Tropical Biodiversity* 2(2):107-116.

39 The local term *negerian* (statelet) is cognate with the Minangkabau term *nagari* and refer to the autonomy of villages with their associated territory.

40 The Suaka Margasatwa Bukit Rimbang Bukit Baling was established through Surat Keputusan Menteri Kehutanan No. 173/Kpts-II/1986 Tanggal 6 Juni 1986 based on SK Gubernur Kepala Daerah Tingkat I Riau No. Kpts 149/V/1982 tanggal 12 Juni 1982.

41 SK Bupati Kabupaten Kampar No. 660-490/X/2018.

42 Dwiki Ridhwan, Carolina Astri, Alif Azadi Taufik, Dean Affandi, Muis Fajar, and Julius Lawalata, 2020, *Improving the lives of indigenous communities through mapping: a case study from Indonesia*, WRI-Indonesia, https://wri-indonesia.org/sites/default/files/PN_Lives-of-Indigenous-Communities_FINAL.pdf. According to this study the Wildlife Reserve covers 141,000 ha. and fully overlaps the customary territories of six villages including Batu Songgan.

43 <https://brwa.or.id/wa/view/V29ZLThuOUItNWM>

44 The two terms are cognate and both derive from the Arabic *walayah* (ولاية) which refers to a bounded domain, territory or family under the rule of a *wali*, being a person subject to another's authority, such as a sultan.

45 Perkumpulan Bahtera Alam, 2019, *Laporan Asesment Masyarakat Hukum Adat Kampung Adat Lubuk Jering*, ms.

46 Perkumpulan Bahtera Alam, 2019, *Laporan Asesment Masyarakat Hukum Adat Kampung Adat Lubuk Jering*, ms.

47 See The Forests Dialogue, 2010, Field Dialogue on FPIC Riau, Indonesia | October 12, 2010, available at: https://theforestdialogue.org/sites/default/files/tfd_fpic_tour_1.pdf

48 Cynthia Chou, 2010, *The Orang Suku Laut of Riau, Indonesia*, Routledge, London; Berenice Bellina, Roger Blench and Jean-Christophe Galipaud (eds.), 2011, *Sea Nomads of Southeast Asia: from past to present*, NUS Press, Singapore.

49 Dutch colonial rule was not imposed in this part of Sumatra until the mid-19th century. Dutch maps from 1936 show settlements on the left bank of the lower Kampar river where Teluk Meranti is today: <https://www.forestpeoples.org/en/topics/pulp-paper/publication/2010/pulp-and-paper-giant-april-continues-look-impose-its-expansion-pl>

50 FPP and Scale Up, 2009, *Indonesia: indigenous peoples and the Kampar Peninsula*, Forest Peoples Programme, Moreton-in-Marsh available at: <https://www.forestpeoples.org/en/tags/april/publication/2010/indonesia-indigenous-peoples-and-kampar-peninsula>

51 <https://www.forestpeoples.org/en/topics/pulp-paper/publication/2010/pulp-and-paper-giant-april-continues-look-impose-its-expansion-pl>

52 See The Forests Dialogue, 2010, Field Dialogue on FPIC Riau, Indonesia | October 12, 2010, available at: https://theforestdialogue.org/sites/default/files/tfd_fpic_tour_1.pdf; FPP, 2010: <https://www.forestpeoples.org/en/topics/pulp-paper/publication/2010/pulp-and-paper-giant-april-continues-look-impose-its-expansion-pl> and 2011: <https://www.forestpeoples.org/en/topics/pulp-paper/publication/2011/communities-again-demand-april-renegotiate-land>

53 <https://www.forestpeoples.org/en/report/2023/customary-rights-april-plantations>; the site was also visited as part of the 2023 Field Dialogue on Tree Plantations in the Landscape organised by The Forests Dialogue: https://theforestdialogue.org/sites/default/files/tpl_indonesia_field_site_description_final_english.pdf

54 Peraturan Daerah (Perda) Kabupaten Siak No 2 Tahun 2015 tentang Penetapan Kampung Adat di Kabupaten Siak. See also: Bahtera Alam, 2023, *Perda Kampung Adat Tunggu Pengakuan*

<https://bahteraalam.org/2023/10/03/perda-kampung-adat-tunggu-pengakuan/>

55 Milieudefensie, Lembaga Gemawan and KONTAK Rakyat Borneo, 2006, *Policy, Practice, Pride and Prejudice: Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District*,

West Kalimantan (Indonesia) <https://milieudefensie.nl/actueel/policy-practice-pride-and-prejudice.pdf>

56 <https://www.cao-ombudsman.org/cases/indonesia-wilmar-01west-kalimantan>; see also Marcus Colchester, 2017, Do Commodity certification systems uphold indigenous peoples' rights? Lessons from the Roundtable on Sustainable Palm Oil and Forest Stewardship Council, *Policy Matters* (21):149-165; Marcus Colchester, 2021, Reforming commodity certification systems to respect indigenous peoples' rights: prospects for the Forestry Stewardship Council and Roundtable on Sustainable Palm Oil, in: Daniel Brinks, Julia Dehm, Karen Engle and Kate Taylor (eds.) *Power, Participation and Private Regulatory Initiatives: Human Rights under Supply Chain Capitalism*, University of Pennsylvania Press, Philadelphia: 74-95.

57 Colchester, Marcus, Sophie Chao, Emilola Kleden, Norman Jiwan, Andiko, Hermawansyah and Intan Cinditiara, 2013, *PT Agrowitama and the Melayu and Dayak Peoples of Sambas, West Kalimantan*. In: Colchester, Marcus, and Chao, Sophie (eds.), 2013, *Conflict or Consent? The oil palm sector at a crossroads*. Forest Peoples Programme, TUK-Indonesia, SawitWatch, Bogor: 28-53.

58 Harun, Hermanto & Irma Sagala, 2013, Dynamic Model of Government in Jambi Malay Islam Society: a case Study of Bungo Regency, *Kontekstualita* 28(1): 64-85 sourced at: <https://media.neliti.com/media/publications/145321-dinamika-model-pemerintahan-dalam-masyar-fe91db03.pdf>. See also: <https://www.walhijambi.or.id/hutan-adat-durian-rambun/> and <https://www.mongabay.co.id/2014/12/24/tiga-hutan-desa-tanjung-jabung-timur-terima-sk/>

59 Afrizal, 2006, *The Nagari Community, Business and the State*, SawitWatch and Forest Peoples Programme, Bogor and Moreton-in-Marsh.

60 Harun, Hermanto & Irma Sagala, 2013, Dynamic Model of Government in Jambi Malay Islam Society: a case Study of Bungo Regency, *Kontekstualita* 28(1): 64-85 sourced at: <https://media.neliti.com/media/publications/145321-dinamika-model-pemerintahan-dalam-masyar-fe91db03.pdf>

[pemerintahan-dalam-masyar-fe91db03.pdf](#)

61 Harun, Hermanto & Irma Sagala, 2013, Dynamic Model of Government in Jambi Malay Islam Society: a case Study of Bungo Regency, *Kontekstualita* 28(1): 64-85 sourced at: <https://media.neliti.com/media/publications/145321-dinamika-model-pemerintahan-dalam-masyar-fe91db03.pdf>

62 FPP field trip report 18 September 2016.

63 <https://www.zsl.org/what-we-do/projects/kelola-sendang-project>

64 Marcus Colchester, 2016, *Understanding Malay Tenures: interim findings from a literature review*, Kelola Sendang Project Deliverable, Forest Peoples Programme.

65 See for example Cornelis Fasseur, 1992 (1981), *The Politics of Colonial Exploitation: Java, the Dutch and the Cultivation System*, South East Asia Program, Cornell University, Ithaca.

66 Yenrizal and Tareh Rasyid, 2016, *Baseline Survey Penguasaan dan Pengelolaan Lahan di Lanskap Lahan dan Dangku*. Hutan Kita Institute, Palembang and Forest Peoples Programme, Moreton-in-Marsh; Asep Yunan Firdaus and April Firdaus, 2016, *Laporan Kajian Hukum Tahap Persiapan Proyek 'Lanskap Sembilang- Dangku'*, Forest Peoples Programme, Kelola Sendang Project Report.

67 Marcus Colchester, 2016, *Understanding Malay Tenures: interim findings from a literature review*, Kelola Sendang Project Report, Forest Peoples Programme, Moreton-in-Marsh.

68 See also: Marcus Colchester, 2019, Legal obstacles to territorial rights recognition, sustainable commodity production and forest conservation on forest peoples' lands in South-East Asia with a focus on Malaysia and Indonesia, *Hunter Gatherer Research* 4(1): 81-112.

69 Too often we hear the cheap explanation: 'These peoples have no rights. When the sultanates were abolished all their lands became the property of the Republic.'

70 Adriaan Bedner & Yance Arizona, 2019, Adat in Indonesian Land Law: A Promise for the Future or a Dead End?, *Asia Pacific Journal of Anthropology* 1-19. DOI:10.1080/14442213.2019.1670246

