

CHAPTER 3: EVOLUTION OF MALAY RESERVE LANDS

3.1 Built up to the enactment

The British changed the economic system of Peninsular Malaya from barter system to the capitalist system. Although *laissez-faire* was the crux of the capitalist system, however the development caused a few unavoidable negative impacts. In the context of Peninsular Malaya, a lot of land which belonged to the Malays changed hand especially to foreigners.

Land codes which were standardised in Peninsular Malaya acted as a catalyst for the capitalist group to own land. Demand for land increased after rubber planting became very profitable. In fact it increased so much so that where a fertile land which was previously used for agriculture purposes was replaced with rubber planting. In the beginning the British government did not curb these 'take overs' because more land planted with rubber means more revenue for them.

When most of the fertile land have been planted with rubber, the attention was shifted to land owned by the Malays since most of their land was considered very suitable for rubber. For example, in Perak alone in 1911, 754 lots of land which belonged to the Malays was bought by non-Malays (Ahmad, 1985). Some buyers, especially the Europeans, were willing to offer a very high price for these lands.

Besides the high prices offered, the Malays were willing to sell off their land for other reasons. Some used the proceeds for performing Haj, carry out some cultural activities or just to increase their social status in their society. Sometimes they mortgaged their land to non-Malay and money lenders. The most popular one at that time was the *chettiar* (Indian money lender). The chettiers were very popular with the Malays for they are the fastest and the easiest group to borrow money. Unfortunately what the Malays did not realise was that these *chettiers* imposed a very high interest rate on their loans. A lot of Malays could not service the loan they had taken on their land, thus, leading to the change of ownership of land.

However, there are some who believe that the high taxes imposed by the British government was the main reason why change in ownership occurred. A lot of Malays found it very difficult to pay the land taxes fixed by the British. According to Kuala Lumpur's Land collection report, in 1906 and 1907, 32 pieces of land was sold by the Malays just to pay the taxes of 1905 and 1906 (Ahmad, 1985). It is quite unfair to expect the Malay land owner to pay the tax when the land they possessed does not bring any economic returns to them. Furthermore, the concept such as 'land taxes' are relatively a new phenomena for the Malays. We have to bear in mind that the Malays did not pay any 'land taxes' before the arrival of the colonials.

However by 1908, some British officers especially land officers were getting worried that the Malays were losing land ownership. They did not want the Malays to be left aside when the country was developing. At the Residents Conference in 1908, this matter was discussed officially. Two of the prominent British officers who highlighted the problem were Campbell, Negri Sembilan Resident, and Brockman, deputy Perak resident. They suggested that a land reserve area should be created exclusively for the Malays. However this suggestion was not agreed by Taylor, Resident General, on the grounds that this will devalue lands owned by the Malays and that this idea was not a practical one.

A few problems which cropped up during the sale of Malay lands forced the administrators to reconsider their earlier views.. In 1910 the secretary of the Federated Malay States directed all the residents to investigate and report problems faced by the Malays in their states regarding land transaction. He also asked the residents to suggest ways to overcome these problems.

R.J.B. Clayton, District officer of Ulu Langat recommended 4 suggestions:

- i. The government should have a campaign informing the Malays that the government does not encourage them to sell their land. To prove this point the government should not entertain any application in selling the lands which belonged to the Malays;

- ii. To reduce demand for lands (which was caused by rubber), each piece of land must be planted with coconuts along with other crops;
- iii. Tax incentive should be given to rubber planters who plant fruit trees, padi or coconuts along side with rubber; and
- iv. Create a Malay Reserve Land (MRL).

Even the famous Perak Residents, J.W.W Birch also suggested recommendations of this nature. Finally, a committee was appointed to enquire into and report on the question of the alienation of hereditary rights in land by Malays and desirability or otherwise of preventive or remedial action being taken. This committee recommended a few steps which could overcome the problems faced.

Some of them were:

- i. In each district a suitable area should be reserved for the Malays;
- ii. A confirmation from the Land revenue collector should be gained before this land could be sold to a non-Malay; and
- iii. Land tax for this special area should be less than the land tax for other land.

After the November 1911 Conference of the State Resident, Fredick Belfield the legal adviser to the Federated Malay States was ordered to draft a law to curb the Malays from losing their land. Mr Belfield when presenting the first bill in the Federal Council of the Federated Malay States stated this

“Owing to the great recent progress of this country and the demand, which has sprung up for land here, offers are no doubt constantly being made, or are likely to be made, to Malays for the purchase of their land, either of their ancestral land or land which they themselves have more recently acquired and cultivated, and the prices offered are such it is thought likely that many Malays may not be able to resist the temptation put before them. At the same time it is considered that it would be a misfortune to the country if the great bulk of the land here

at present held by Malays passed out of their possession into possession and ownership of foreigners” (Mahmud, 1980 : 53)

A draft titled “An Enactment to preserve to Malays the use of their Kampung Lands” was declared to the public in April 1912. The main objective of this draft was to prevent the non-Malays from purchasing Malay lands. Sultan Idris Mushidul A’zam Shah, Perak sultan at the time was very supportive to this type of laws.

But there was also some who opposed to this type of laws. For instance, Skinner a member of the Malayan Planters, and Eu Tong Seng a Chinese businessman felt this type of laws will hinder the Malays from developing their land and also it will be difficult for them to mortgage it (Ismail, 1979). After a few amendments the draft was gazetted on 25 November 1913 which was known as “The Malay Reservation Enactment, 1913” (Ahmad, 1985). It has 16 sections, Section 2 defines who is to be classified as a Malay, while section 3 en powers the Resident to declare or gazette an area as MRL with the permission of the Sultan. Some of the important matters like restrictions on selling the MRL were in section 7, 8 and 9 (See Appendix 1).

3.2 Content Of The Enactment

This enactment was only enforced in the Federated Malay States, which were Selangor, Perak, Negri Sembilan and Pahang. The other states followed suit Kelantan (1930), Kedah (1931), Perlis (1935), Johor (1936) and Terengganu (1941) (Malaysia,1980). The only states which did not have any laws pertaining to MRL were Melaka and Pulau Pinang.

Since any land is allowed to be gazetted as MRL, initially there were cases where land owned by non-Malays were gazetted as MRL. This brought about some confusion. It was later settled, when a land owned by non-Malay was bought by a Malay it was gazetted as MRL and from then onwards this piece of land was subjected to MRL enactment.

d. Room for revocation

In terms of size, location and classification ruler of the state has the right to alter these things; and

e. Sanctions for infringement

Any laws which contradict this enactment is automatically null and void where applicable.

(Salleh, 1989).

Although this enactment allows an area to be gazetted as a MRL but by looking at the total area gazetted as MRL , we could see that this enactment is quite rarely used. By 1955 not even 20 percent of total area of Peninsular Malaysia was gazetted as a MRL (See Appendix 2).

The main objectives of the Malay Reservation Enactment (Muhammad, 1990) were:

- i. To prevent non-Malays from owning government land which are in Malay Reserve area; and
- ii. To curb any personnel transactions which involve Malays and non-Malays which involve land owned by the Malays.

3.3 Implementation Of The Enactment

Although the objective seems to be clear but the implementation of it raises a few questions, not only during the colonial period but also after independence. This is so because the total area gazetted as MRL is not something which we can be proud of (See Appendix 3).

Before Independence only 18.86 percent of total area in Peninsular was gazetted as MRL although the Malays consisted 50 percent of total population. Kedah had the largest area gazetted as MRL i.e about 808,162 acres. Terengganu did not

Although non-Malays are not allowed to possess MRL but this did not mean that non-Malays were completely prohibited from getting involved in MRL. There were 2 clauses in the earlier enactments which showed this

- i. leasing to a non-Malay is allowed with the condition it did not exceed 3 years; and
- ii. MRL could be charged to a non-Malay with the consent of the Ruler in Council (Wong, 1975).

When the country achieved independence, article 89 of the Federal constitution legitimised these MRL enactments. Article 89 of the Federal Constitution allows a state to declare an undeveloped or uncultivated land as MRL with the condition that equivalent area is made available for general alienation, and the total area declared as MRL should not exceed the total area for general alienation. Meanwhile article 89 (3) allows a state to declare an area as MRL if the land was acquired by that government by agreement for thus purpose or the owner of the land wishes it to be gazetted as MRL.

Although there are six separate enactments used in 9 states in Peninsular Malaysia, but there are a few common characteristics among them, which are:

- a. Restriction against alienation
State government could only alienate land to the Malays;
- b. Restriction against dealing
Any sale or purchase of MRL should be only between Malays;
- c. Built in device
Certain financial institutions are allowed to indulge in MRL dealings;

have any area gazetted as MRL even though Malay Reservation Enactment was already in force. Among all the states Johor had the smallest area gazetted as MRL i.e. 49,985 acres. This statistic raises a few question about the ulterior motive of the British in introducing the Malay Reservation Enactment. In fact sometimes it seems as though the British wanted to ensure that the Malays would not benefit from the modernisation in the industrial sector and expansion of the township (Yusof, 1983).

By 1983 total area gazetted as MRL increased by 4.67 percent. After Independence Kelantan was the most prominent state where MRL area increased. If in 1947, it was only 128,786 acres but in 1983 it was 1,309,153 acres. A surprise thing in this period is total MRL in a few states decreased in size compared to before 1957. For example Kedah which had 808,162 acres gazetted as MRL in 1947 had now only 654,160 acres as MRL.

On the whole total MRL is definitely more now compared to the colonial period. But the real question which we should be asking ourselves is what type of land is classified as MRL. The First Malaysian Plan regarding land classification answers this question (Lee, 1971).

Although Kelantan has the most MRL but only 20 percent out of it is suitable for agriculture. It is worse in Perak where only about 15 percent is suitable for agriculture. Pahang has the most MRL in grade 1 class. If we were to take an overall picture only 1,244,684 acres of MRL is suitable for agriculture in other words the remaining land are grade 4 and 5 land which are less productive compared to grade 1, 2 and 3 land.

The First Malaysian Plan regarding land classification clearly shows that the British were not sincere when classifying MRL. This is so because almost all current MRL were actually gazetted before independence. This report clearly shows that three quarter of MRL are actually unproductive land.

However there could be some who may disagree with this observation. To support their argument they would quote Kampung Baru, a MRL situated in the heart of Kuala Lumpur. But one would have to bear in mind that Kampung Baru was gazetted as MRL 70 years ago and at that time it was far from the heart of Kuala Lumpur, which is known now as Dataran Merdeka (Nik, 1993).

3.4 Status Of MRL

Since many MRL are not arable land, then it is no wonder that most of them are left unattended. In fact quite a number of them has turned into secondary forest.

Table 3.1
MRL Filled With Secondary Jungle (1970)
(in acres)

State	Total MRL	MRL filled with Secondary Jungle
PERLIS	12,420	207
KEDAH	315,675	12,006
PERAK	129,1887	16,974
KELANTAN	1,773,162	53,613
SELANGOR	109,917	1,656
NEGERI SEMBILAN	97,497	6,417
PAHANG	539,235	4,554
JOHOR	185,265	1,035
WEST MALAYSIA	4,326,163	96,462

Among all the states in Peninsular Malaysia Kelantan has the most land area gazetted as MRL, which is 87 percent of its total area. It is also the state where its MRL is left idle. Table 3.1 shows that 53,613 acres, or about 3 percent of its MRL, were left idle. About half the MRL left idle in Peninsular Malaysia can be found in Kelantan. But 80 percent of Kelantan MRL is categorised as grade 5 land.

Perhaps some would argue that a grade 5 land is very unproductive and not conducive to use. However if the land is grade 5 then why was it gazetted in the first place. If we were to assume this position then we are no different from the colonial masters who usually do things just to blur the vision.

Since most MRL is in unproductive land therefore government has to intervene. For example 70.5 percent of total MRL found in Peninsular Malaysia is either grade 4 or grade 5, where this type of land is either barren land or it takes too much capital to cultivate it. Among all the states in terms of percentage Perlis has the most productive MRL. Although it is an important figure, i.e 66 percent but one will have to bear in mind that Perlis is the smallest state in Malaysia. Although they should be commended for the effort but it is no consolation when appraising the status of MRL in Malaysia. Developed states like Selangor and Johor could allocate more productive land as MRL. On the contrary Selangor has only 32,913 acres of productive MRL out of 109,917 acres of MRL.

The government tries to help out by carrying out public projects such as building roads on these idle MRL (Table 3.2).

Pahang has benefited the most from government intervention. 114,424.33 acres of its MRL was used by government. In this aspect Kelantan received less attention although it has the most unused MRL. This is due to the political difference between the state government and the federal government.

Another reason attributed to minimal government intervention is because land falls under the state government's jurisdiction. If the state government and federal government are administered by the same political party then developing a piece of land won't be affected much, but if they are dominated by different parties then land development is affected too since quite often both the governments could not come to a mutual agreement.

Only after the National Land Code was amended the federal government's powers was widened whereby a piece of land could be acquired in the name of national interest. However one would have to note that MRL has much to do about Malay community interest and it is mentioned in the federal constitution. Wherever possible the government tries not to use MRL because of the hassle involved in acquiring the land.

Table 3.2

Total MRL Used By Government For Public Use (As on 1.1.1983)

State	Area (Acre)
Perak	12,100.78
Selangor	8,720.15
Kedah	27,230.5
Perlis	2,869.65
Negri Sembilan	846.25
Johor	974.01
Pahang	114,424.33
Terengganu	18.46
Kelantan	10,115.45
Wilayah Persekutuan	29.05
Total	177,328.6

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