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Issues and Policies on the Aftermath of Squatters Resettlement: A Case Study on Kg. Desa Hormat Tambahan, Selangor

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Abstract

Squatters have existed in Malaysia since Malaya (as it was then called). There were turning points for the massive migration of Malays to Kuala Lumpur. The objectives of the paper are the issues and policies regarding the aftermath of resettlement of squatters in Kg. Desa Hormat Tambahan, Selangor. The methodology of the research involves a pilot study and a qualitative study where exploratory and case study analysis methods were used. A questionnaire was prepared and interviews were conducted in the resettlement area. The primary reasons people became squatters were based on economic and social reasons, followed by legal reasons.

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1. Introduction

In 1977 the City Hall of the Federal Territory, under the suggestions of the then Deputy Prime Minister Datuk Dr. Mahathir Mohammed, established a unit named the squatter Control And Resettlement Unit. This was the landmark that started or instigated the phenomenon of squatting in Federal Territory. In the Third World countries, among the reasons that have contributed to the existence of squatters can be related to the occurrence of dwellings that have been erected on unutilized land within and surrounding the city boundaries. Somehow, with massive increase of numbers of squatters in urban areas, it developed social ills and obstacles to the government in proceeding with rapid development, for example, as to develop new townships for certain areas, or to have proper settlement areas for all citizens. With the implementation of “Zero Squatters” (“Setinggalan Sifar”) by the Government of Malaysia, somehow, it has led to success. The Bar Council of Malaysia somehow raised their concerns and comments pursuant to this policy, according to the President, Miss Ambiga Sreenevasan (Press Statement: “Zero Squatters”, Malaysian Bar, at www.malaysianbar.org.my), in implementing this policy, negotiations and the willingness to give settlers affordable and decent alternative housing is of the utmost importance. The Malaysian Bar firmly stressed that it is the responsibility of the state government to ensure proper resettlement in such circumstances. This paper aims to highlight issues and policies faced by settlers on the aftermath of the re-settlement from urban squatters to better housing areas.

2. Literature Review

According to The Concise Oxford Dictionary, a “squatter” is a person who settles on new, especially public land, without title: a person who takes unauthorized possession of unoccupied premises. That means a residential area occupied by squatters becomes a squatter settlement. For Wan Abd Halim (1982), the definition of squatters must include both land and house status. For him a house can be considered as a squatter hut because its renovation has not been approved by the local authority.

Squatters have been defined under the National Land Code 1965 (Section 425) to include any human occupation of land without approval of the local authorities. Under the Emergency (Essential Powers) Ordinance no. 1 of 1969, another subsidiary regulation was established to govern the squatters. The Essential (Clearance of Squatters) Regulations 1969 interpret that any erection of house, hut, shed, shelter, roofed enclosure or any extension of premises and buildings without approval of the local authorities can also be considered as a squatters hut. This interpretation was later extended in 1974 to also include that usage of land without approval of the local authorities or the landowner is an offence. Even an agreement between private individuals will not help in keeping the demolition of the squatters hut by the authorities from happening (Gurdial Singh Nijhar, 1979). Review (Hari Srinivas, 1991) also revealed that most residents belong to the lower income group, either working as wage labour or in various informal sector enterprises. Sometimes, their income levels may be high due to many income earners and part-time jobs. Most squatters are predominantly migrants, either rural-urban or urban-urban.

The squatters who refused to vacate the land commonly argued on their equitable or even proprietary interest over the land (Azlinor and Nor Asiah,2009). According to Section 41 of the National Land Code 1965, it provides that the state authority has all powers and rights to dispose property vested in it under Section 40 of the National Land Code. In Section 48 of the same Code, it provides that no title to State land shall be acquired by possession, unlawful occupation or occupation under any licence for any period, whatsoever. Therefore, the provision in Section 78 of the Code is clear when it mentions that alienation of State land shall only take effect upon the registration of a registered document of title thereto.

The landmark case of squatters is the case of *Sidek bin Haji Mohamad & 461 Ors v The Government of Malaysia* ((1982) 1 MLJ 313)) where Raja Azlan Shah FJ held that by making reference to Section

48,78, 341 and 345 of the National Land Code 1965, the only way to obtain State land is by way of the Code and that the statements made by Bernama as well as the State Director did not bind the State government. Even though the plaintiffs were the first to occupy the land, that did not give them a legal possession of the land.

In the case of *Kabra Holdings Sdn. Bhd. v Ahmad b. Shahlan & Ors* ((1992) 2 CLJ (Rep) 609) the plaintiff applied to recover possession of the disputed land on the ground that the plaintiff is entitled to possession and the defendants are in occupation without licence or consent. Based on the authority of the Sidek case, the High Court held that the defendant could only have the right to occupy the disputed land only if they had obtained the right to occupy the said land by way of the National Land Code, 1965.

Ishak Shari (1979), in his research, took 250 residents of Kg. Kelantan (Kg. Pasir Dalam) as a sample, and found that the urban poor Malays were caused by the migration of the Malays from outside of Kuala Lumpur to Kuala Lumpur after the implementation of the New Economic Plan (Dasar Ekonomi Baru, or DEB). For Ishak Shaari (1979), the reasons why squatters exist is due to the imbalanced process of development between the urban and rural areas. After Independence, the amount of squatters had increased, particularly in Kuala Lumpur, due to the rapid urbanisation and industrialisation (Friel-Simon and Khoo, 1976).

Other reasons that form a consensus in previous studies (Wan Abd Halim, 1982; Hanis Musalman, 2007; Hari Srinivas, 1991) engage to the fact that some unattended or abandoned land are found to be suitable for farming, animal rearing or even house construction activities. Those who are squatters have the skills to maximize the usage of land. This has opened up an opportunity for them in deciding on the survival of their family. Squatters have no ownership of the land parcel on which they have built their house. These could be vacant government or public land, or marginal land parcels like railway setbacks or “undesirable” marshy land. When the land is not “productive” by the owner, it is appropriated by a squatter for building a house. These studies also agree that some squatters have anticipated the nearness factors in deciding where to reside. Nearness to their daily location of activities such as the place of work, access to the public transport and other basic facilities has become the main consideration that affected their decision.

It was found that 91.2% came from outside of Kuala Lumpur. Hanis Musalman (2007) further agrees on the same scenario that squatters’ settlement normally appears in big cities in Malaysia, for example, Kuala Lumpur, Ipoh, Johor Bharu and so on. Abdul Aziz Husin (2004) stressed that the existence of squatters in urban areas was a common phenomenon in Malaysia. Back then between 1960s till 1980s not many policies created to curb the increase of squatters’ area in big cities. A lack of enforcement from the authorities or the landowners has in a way made them feel complacent with their illegal activities of squatting.

Hari Srinivas, (1991) commented that since a squatter settlement has a non-legal status, it has services and infrastructure below the “adequate” or minimum levels. Those services are both network and social infrastructure, such as water supply, sanitation, electricity, roads and drainage, schools, health centers, market places and others. The quality of life in squatter settlements is less adequate in terms of clean water, electricity, drainage, rubbish dumping, communication systems and so on (Azizah Kassim, 1982).

These could be vacant government or public land, or marginal land parcels like railway setbacks or “undesirable” marshy land. When the land is not “productive” by the owner, it is appropriated by a squatter for building a house. The quality of life in squatter settlements is less adequate in terms of clean water, electricity, drainage, rubbish dumping, communication systems and so on (Azizah Kassim, 1982). The reviews on this matter develop a scenario on the sufferment faced by squatters. Despite this revelation, many claims have been put forward by the squatters to remain being squatters. It was due to the disclosure made by previous studies on the sufferment of squatters that has light up policy of resettlement. The following reviews will list down other reasons supporting the resettlement policy.

Abdul Aziz Husin (2004) reported that the existence of squatter settlements had a bad effect on the physical outlook, but for the economic factors, squatters equally had a commitment to upgrade the country's economic development. According to the United Nations for Human Settlements (HABITAT, 1988) re-settlement is one way for physical improvement that is costly, but at the same time it can provide basic facilities to be utilized by all poor settlers for survival in urban life. Further according to De Rooy (1978), the research was done in 30 places in the United States of America, where the author found that education, investment and the existence of an international airport are among the factors to increase income in overcoming poverty and jobless problems.

The above reviews are at consensus that the previous policies and environment created by the administrator have contributed to the underlying reasons for the existence of squatters. It's within these policies that had invited the rural citizens to migrate to the developing part in a country and lack of policies to restrain the squatters has led to the mushrooming of its kind. Many studies were later conducted to disclose the inadequacy of quality of life suffered by the squatters. This later leads to the reformation of policies from impliedly allowing the erection of squatter's area to the policies of resettlement. To date there is no study that has been conducted to address the aftermath of the resettles'. This study aims to fill in the gap on this area by looking at the issues arising on the aftermath of the resettlement and recommendations to future drafting policies.

3. Methodology

This study adopts a qualitative research methodology. It anticipates two stages, which will draw upon primary and secondary sources. Exploratory study was adopted during the first stage which is confine to the library-based research. Primary sources, which consist of laws of Malaysia, policies of the government, the state and the judiciary were critically analysed. The second stage embarks on field work of interviewing and observing the re-settlers' in their natural settings. The interviews were conducted on 50 re-settlers' in Kg. Dato Hormat Tambahan, Sungei Way, Selangor. The data were later analysed using graph and percentage elaborations. The collected data will be analysed using logical and content analysis.

4. Findings

4.1. Issues and challenges of the squatters

4.1.1. Multi-racism

The confrontation of May 1969 had an impact on the breakage in the multiracial relationship within the squatter communities. In Kg. Cendana the Chinese and the Indian families had been reported to have left before the outbreak of the violence despite no pressure from the Malay neighbours. While in Kg. Bakar Batu, the Chinese had moved after 20 houses were burnt and in Kg. Bumiputra and Kg. Panco, the Chinese had left out of fear towards the Malay community in the squatter area.

4.1.2. Water and Electricity Supply

Access to water supply is more vital than the electrical supply. Due to large numbers of households the water supply was not adequate and resulted in internal conflicts within the community. In a multiracial squatter community the beliefs on the usage of water had become the barrier to their harmonization. According to the literature (Abd Halim 1982), bathing, washing and washing cooking utensils may not have been acceptable by the Malays, who wanted the water supply to be as clean as possible. The authorities for the electricity supply have been said to have allowed the supply of electricity within the squatter areas.

4.1.3. Politics and squatters

The squatter/respondents felt insecure as there is no protection for squatters under the existing laws. This has made the squatters particularly preoccupied with the problem of survival. Simultaneously, the politicians have viewed this as an opportunity to enhance their political party or individual political career. With this consensus and a win-win situation, the squatters potentially sided on all promising offers to their advantage. The squatter issues have been inviting continuous controversies within society due to the exaggeration of the political agenda. This seems to be an unavoidable circumstance. Recently the issue on squatters has been the center of battle between political parties. The approach that has been fought for are the policy of ‘zero squatters’ that is said to symbolise a developed state. Yet the ground would be different for the opposition party as they would stand to protect the rights of the squatters. Nevertheless, in percentage many squatters have been offered various housing schemes to cater for all categories of squatter income (Azlinor and Nor Asiah, 2009).

Sometimes, squatter settlers have been very affirmative in defending their squatter settlements. In a report in *Utusan Malaysia* (15th March 2007), the Court had refused to grant the approval of the squatter settlers that were asking that a demolition order be removed from their settlement. The Dewan Bandaraya Kuala Lumpur (DBKL), which is the local government of the city of Kuala Lumpur, succeeded in their attempt to proceed with the plan of constructing the Duta-Ulu Klang Highway (DUKE). Even though the settlers gave reasons similar to the case of *Sidek bin Haji Mohamad & 461 Ors v The Government of Malaysia* (of which they had settled there for more than thirty years), the Court affirmed the decision in the *Sidek* case and confirmed that squatters have no legal rights to the “so-called land of their own”. Laws in Malaysia never recognize trespassers; therefore, the actions taken by the DBKL were done according to laws that allow that to happen.

4.1.4. Drainage and sewage systems

From the research, the authors found out that the drainage and sewage systems are not in satisfactory order; drains are always clogged with garbage and rubbish.

5. Results and Discussions

5.1. Age Structure

The age of resettled people varies in a wide range from as low as below one year old to the older citizens. The older citizens have experienced squatters’ lives for more than 30 years before they were shifted to temporary accommodation for 2 years, and finally, 8 years living in the resettlement areas.

5.2. Ethnicity

Most of the 8 blocks of resettled people accommodating a population of 1600 from different squatter areas surrounding Selangor previously were Indians. It was reported that 65% of the re-settlers are Indian and the rest are Malay ethnic groups. The whereabouts of the Chinese squatters were not known and the question on why the Chinese squatters were not gathered together within the 8 blocks in Kg. Desa Horat Tambahan was left unanswered.

5.3. Dwellings and Living Conditions

The majority of the resettled people cling to the memories of their lives in the squatter village. Not only are they are burdened with lesser financial liabilities, but also the peaceful environment and harmonization of society that used to surround their squatter village. The harmonious enjoyment had ceased since the resettlement due to the poor dwelling structures and maintenance. The burden had escalated with the never-ending financial distress.

The permanent accommodation offered was not attached with any compensation. This resulted in the resettled arranging and bearing the transfer cost individually. The accommodation was offered with a purchase with loan facilities of RM 35,000 per house. That imposes a liability of RM 289.00 per installment per month. The majority monthly income per household is around RM 1500 to RM2000 per month. The monthly expenditure was calculated to be in excess of the income for the resettled, where the majority of the households had an average of 4 to 8 children per family. The financial depression was made worse with other informal payments of maintenance, donations, security and undisclosed costs.

Some of the ex-squatters had to earn extra income 24 hours a day in order to survive. Some had to undergo medical treatment that was indirectly caused by the overburdened minds and tremendous usage of energy. Some were forced back to the village where cost of living was not so high, yet this has impacted the schooling of the children of the family. To some unfortunate ends, many children needed to potentially postpone their studies due to the inability of the parents to cope with their cost of study.

6. Issues And Challenges Of The Former Squatters at the New Settlement

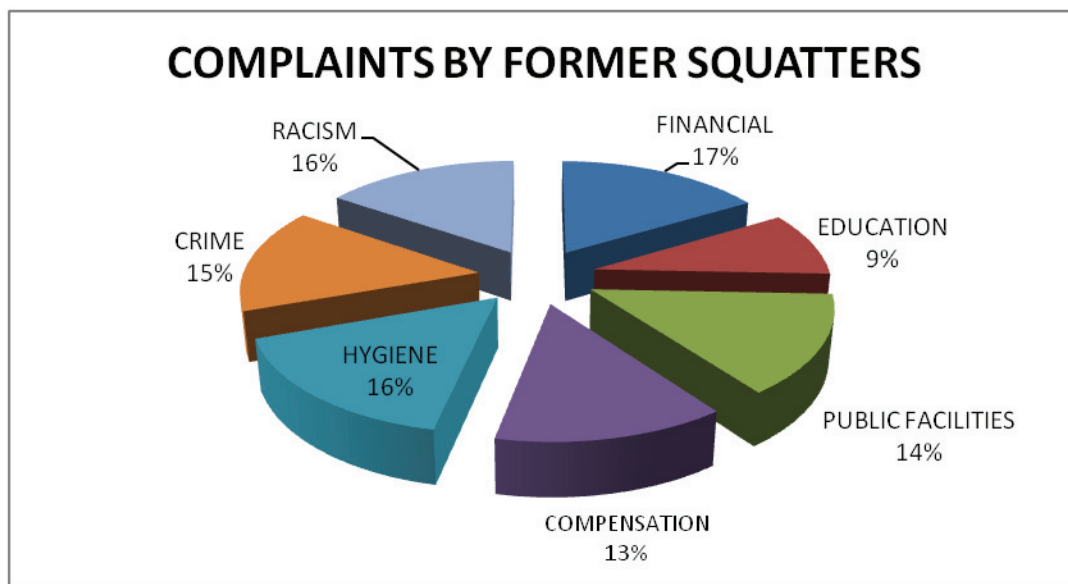


Fig. 1. Complaints by Former Squatters

6.1. Racism

The social issues have alarmed the new resettled community. Reasons were put up front to the racist environment that resulted from the inadequacy of facilities that had invited wars for the usage of those facilities. The complaints were made by the Malay population on the disturbance of their surau, and other social issues that involved uncontrolled activities relating to sexual misconduct.

6.2. Financial and compensations

The former squatters preferred to be reimbursed in a monetary form, yet the authorities in most cases had provided accommodations, instead of the former. The dilemma of squatters is in financial constraints. By providing accommodation, this helps in solving only a part of their problems, where the other half burdened them and acted as a drive for them to re-squat. In the resettlement area, financial burden increased uncontrollably to the extent that it had an impact on the whole household. Sacrifices were made for all, including innocent children of the squatter families. With monetary compensation, this would ease their burden in overcoming the financial problems and would hinder them from future poverty.

6.3. Education

The education for the respondents' children is average, though sometimes there are even high achievers amongst the children. The future of some respondents' children are at stake, as they are facing difficulties in going to school, as their parents are facing financial problems. A few apartment units at the site are in the process of being auctioned off by the banks. Parents who cannot afford payments to the banks are always risking their childrens' future by indirectly putting them into the financial problems faced by their parents. Some have already dropped out of school, have no jobs, and are on the verge of being influenced badly by peers. Education is important, and with the help of the Rakan Muda programme, headed by Encik Badlishah, this would enhance the importance of education for all. By being close to the children and teenagers, the Rakan Muda programme would help them to realize the need to excel in life, through good education and for future endeavours.

7. Considerations while Drafting Policies Regarding the Squatters

7.1. Resettlement

The literature has stated that the main concern of the squatters is for them to obtain a piece of land, and not so much on the acquisition of a house. Most of the squatters are capable of erecting their own houses. Offering them alternative accommodations would defeat their natural need. The process of resettlement should not create too much hardship, as most of the squatters faced enough complexities under the two-tier resettlement from the original squatters' dwellings to the temporary location and to the permanent area of accommodation.

The other important factor that was emphasized by the squatters is that the location of the temporary dwelling before their permanent resettlement should be nearby to their places of work and schools of their children. Abandoning this factor would result in other difficulties that might contribute to another establishment of a squatter village.

The issue surrounding the permanent resettlement project is the prices offered to the squatters. Even though all squatter projects are subsidized, yet the total amount fixed by the developer is not within their capable budget. For example, for the ex-squatters of Kg. Chow Sow Lin, the compensation awarded was

not adequate to buy and plan for resettlement. Resettlement and compensation should not lead to the occurrence of re-squatting. This sometimes implied shifting the burden from the jurisdiction of one local authority to another local authority.

It has been suggested (Sanusi Othman, 1979) that the development of the economy should be balanced between the rural and urban areas. The focus on developing the economy in the urban areas has invited migrants from the rural area to the town. The inadequate infrastructure to cater for the flooded population results in the mushrooming of the squatter villages.

8. Conclusion

There are many ways to overcome issues with regard to the aftermath of re-settlement of squatters. According to Berita Harian (20th February 2007), the best approach is to re-allocate settlers to the Low-Cost Public Housing (Perumahan Awam Kos Rendah). From the findings, somehow, we opined that many settlers from squatter settlements preferred living in their previous settlement, i.e., the original squatter settlement. These are due to many reasons, which are amongst others the comfortable living in squatter settlement was better compared to living in the new surroundings (new settlement). For old folks who have been living in squatter settlements for most of their lives, living in high-storey apartments or low-cost flats are very difficult, for example, if lifts are not functioning or been vandalized, they have to use staircases, which are not convenient at all. Apart from that, there were no people throwing garbage or urinating at their own pleasure in squatter settlements, but this issue is common in low-cost apartment settlements.

Law in Malaysia provided that squatters are considered as trespassers who occupy the land illegally. They have no legal rights. Even though some settlers know the laws pertaining to squatters, some could never be bothered at all. Their justification as to this is that the government must look into this matter more seriously and provide them with better homes. The worst is that some said that they want both, compensation in monetary form and very comfortable homes to live in. By law, by being trespassers, they have no rights to uphold at all, what more to claim those rights! Whatever situations existed, if in the process of eviction or re-allocating of settlers, human rights are important to be safeguarded. Even though these people are and were squatters, they are still human. According to the Human Rights Convention, in Article 6, every human being has the inherent right to life, and so is Article 5 of the Malaysian Federal Constitution, of which is that the liberty of the person is protected. The need for more laws with regards to squatters is needed in order for further implementation of the government policies.

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