

CONCLUSION

I have asserted in the preceding chapters that the resettlement of Kampung Tampasak has been a disruptive and painful process. From the beginning, the voices of those who opposed the Babagon Dam and the resettlement of Kampung Tampasak were ignored. The state government went ahead with the project. Lands were acquired for the dam and people were displaced in what was claimed to be in the interest of the state and development. The summary of findings and critical issues from the study in Kampung Tampasak are outlined below.

Summary of Main Findings

The Babagon dam project had resulted in the acquisition of 169,860 hectares (419,732 acres) of land compulsorily. The Kadazandusun village of Kampung Tampasak was entirely submerged and this involved the transfer of about 200 people from 30 families to a new resettlement site near the lower fringe of the old village.

The study found that the resettlement outcome was unsatisfactory. This was due to several factors, most of which centered on land and compensation. Social infrastructure was provided but they were generally similar to the situation prior to resettlement. This included the provision of gravity-piped water, electricity supply and a bitumen approach tar road. Other facilities fell short, namely a grazing pound, a community hall, a church, a primary school and an income-generating project.

The findings of the study confirmed that the human and gender aspects of resettlement are not adequately addressed. Instead of improving the lives of the

people, the resettlement has caused major changes in their livelihood and other socio-economic changes. These changes can be seen in the switch from a subsistence-based to a cash-based economic system; the decline of traditional and community values such as the practice of *gotong royong* and indigenous religion; the emergence of more defined gender relation, roles and responsibilities at the household and community levels; and the widening of gender and social disparity between the families.

Critical Issues of Concern

Subversion of indigenous tenureship

The traditional concept of land and forests held by the Kampung Tampasak community was ignored by the acquisition of land for development authorized by the Sabah state government. The corporate investors of the state and private agencies not only ignored the indigenous tenureship but also curtailed the community's rights and access to the resources that they had traditionally managed and used for their subsistence. Hence, the process of resettlement ignored the customary rights of indigenous peoples. Women were especially vulnerable as they were especially dependent on the land.

Economic vulnerability and invisibility

Prior to their resettlement, land and forest resources provided many families with a high degree of economic independence and cultural integrity. Subsistence agriculture mixed with small-scale cash cropping had traditionally been a way of life for many women and men in Kampung Tampasak. However, the loss of land and their means of livelihood resulted in subsistence agriculture being replaced with waged employment and other forms of monetised jobs, making the self-sufficient Kampung

Tampasak dependent on money to buy food and other necessities. The dependency on money has also given rise to phenomenon of migration of men, thus making the women remaining behind bear the greater burden of sustaining families and at the same time subjecting them to the informal and subcontract labour sector. Instead of moving forward in the community, women have lost a degree of control of resources they previously held. This results from the switch to a monetary economy wherein what is recognized and valued tends to be mainly remunerated work. Women's reproductive and community roles remain unremunerated.

Disintegration of social relationships and indigenous values

With the breakdown of the traditional way of life, community practices such as mutual cooperation and support especially where women and men had complementary, if not equal roles, had been affected. Previously, decision-making were by consensus in accordance with their customary law or *adat*. Today, these practices and values are no longer integral to their lifestyle. The break-up of the community and family is escalated by the payment of compensation monies, which further changed the traditional values of these peoples. Social problems and indulgence in drinking and gambling have resulted. Families and individuals have become more competitive and self-centred.

Changing gender relations

After resettlement, many women including the elderly were largely housebound and seen as 'fulltime housewives' prompting one woman to comment in jest: "Many of us wait at home for our husbands to return from work." Life in the old village was more egalitarian. Increasingly, men are seen as the 'heads' as they are the ones who migrate to work and bring home wages – the critical role in a cash economy –

whereas women are left behind to run the household, an unremunerated task. This reveals a change in gender relations within the family and in the community with a diminishing effect of women's decision-making powers, status and respect. Nevertheless, women who are separated, divorced or single mothers have no choice but to head their families and thus are in a better position, so to speak, to make decisions about their households in the absence of men.

Space, privacy and physical layout of the housing site

The villagers claimed that in their former village, there was ample space around their houses to enable them to carry out a host of activities such as growing vegetables in the yard, husking paddy, drying fish, and cooking especially for celebrations and feasts. After resettlement, however, there had been a massive decrease in space. The 24 by 30 square feet house does not augur well for extended families, making it impractical for family members to gather during feasts and celebrations. The proximity of the houses is an added stress to women who have become more conscious of watchful neighbours.

Definition of development

This study shows that, instead of benefiting from the Babagon Dam project, the lives of the Kampung Tampasak community had been made worse. It is not just in Kampung Tampasak, but indigenous peoples across Sabah and in Sarawak and Peninsular Malaysia who are often asked to 'sacrifice for the nation, for development'. Indigenous peoples in particular often end up becoming victims of development. There is a need to challenge the development paradigm and to advocate for a more human-centered approach to development.

Looking At Alternatives

The principal law dealing with land matters in the state is the Land Ordinance 1930 which went through several amendments over the decades. A legislation that has been specifically mentioned in the Land Ordinance, which relates to land, is the Land Acquisition Ordinance (Cap. 69). The Land Ordinance was enacted at a time when the British administered Sabah, first through the North Borneo Company and later the British Crown. Thus its provisions are obviously not in consonance with the social-economic development of the state and the complexity of society today.

However, experience has shown that the state government has been making increasing use of the provisions of the Land Acquisition Ordinance to acquire land for public purposes as the construction of dams, development of a large-scale plantation scheme or construction of roads. In many cases the acquisition involves the displacement of an entire village or groups of villages as, for example, in the case of Kampung Tampasak.

In view of the above, it is recommended that the Land Ordinance and related legislations be reviewed, particularly the sections that undermine NCR rights to land of the indigenous communities of Sabah. Land use policy not benefiting the people should not be encouraged as it only serves to alienate them from their land, which is an important resource for their livelihoods.

Crucial to the issues related to claims of NCR land is the Land Acquisition Ordinance (Cap. 69). The gravest shortcoming of the Ordinance is that it does not provide for the compensation of native customary rights (NCR) land or other land without documents of title. Additionally, the Ordinance does not contain any

provision for compensating the loss of earnings and cost of moving from a person's residence or place of business, other than the loss of land. It neither provides alternate land of a comparable quality to those whose land were acquired nor obligates the authority acquiring the land to assume the responsibility of resettling properly those displaced by the acquisition. The responsibility of the state ceases once the payment of cash compensation for titled land had been completed, or other 'promises' fulfilled.

Payment of compensation in cash to an indigenous person dependent on the land for her or his livelihood, which may be the only security for the family, is an inadequate solution to the problems faced by a displaced person. Other measures need to be adopted in order to effectively resettle those whose land has been acquired under the Land Acquisition Ordinance. Moreover, the squandering of this sudden flush of cash was demonstrated, with the displaced people often becoming destitute.

This then brings into question whether there is a need to formulate a comprehensive national policy or legislation, that should be binding on all the state governments, on the subject of resettlement of those displaced on account of the compulsory acquisition of their land by the state?

Thus far, only two states in India, namely Maharashtra and Madhya Pradesh have their respective laws governing the rehabilitation of project-displaced persons. These laws are the Maharashtra Project Displaced Persons Act, 1976 and the Madhya Pradesh Pariyojana ke Karan Vishthapit [Punahsthapan] Adhiniyam, 1987. However, according to Vaswani (1992), the Maharashtra and Madhya Pradesh statutes are not binding which means that they are not automatically applicable to all projects in

these two states. It is still left to the discretion of the state government to decide whether or not it is necessary to apply the provision of the Act to a particular project (Vaswani 1992:161).¹

However, the formulation of a comprehensive national policy or legislation on the subject of resettlement of those displaced on account of the compulsory acquisition of their land by the state is by no means the solution to problems faced by displaced people. Nor it is for advocating further resettlement programmes especially within indigenous and marginalised communities in the rural and urban areas. The presence of a national policy is basically to ensure that resettlement plans and their implementation, or for that matter, all development projects that result in the displacement of villages or groups of villages, abide by certain principles. Even at this moment, indigenous communities are continually under threat of resettlement and displacement from their ancestral lands by dams and other mega projects in the name of development. For example, the Temuan Orang Asli from Kampung Gerachi and Kampung Peretak in Kuala Kubu Bahru have been asked to sacrifice their homes and lands for the construction of the Sungei Selangor Dam, which is the perceived solution to the water shortage in the State of Selangor. Thus, resettlement and displacement of indigenous communities are continuing.

To this end, I would propose that a policy on development and resettlement be adopted and that it should include the following principles:²

¹ For an analysis on these two statutes, see Vaswani, Kalpana, "Rehabilitation Laws and Policies: A Critical Look" in E.G.Thukral, *Big Dams, Displaced People: Rivers of Sorrow, Rivers of Change*. Sage Publications, New Delhi, 1992, pp.155-168.

² This section benefited greatly from the contributions in the volume edited by E.G.Thukral, *Big Dams, Displaced People: Rivers of Sorrow, Rivers of Change*. Sage Publications, New Delhi, 1992.

- a) Ensure that all the alternatives are explored and properly evaluated so that the selection is one that has the least impact on the people and environment. In the case of Kampung Tampasak, there were other more viable options to the Babagon Dam but these were never explored such as gravity pumps and water pumps.
- b) Before embarking on any new project, especially one that will displace people, the scheme should be prepared well in advance with knowledge and direct participation of the community or communities within the identified site. Should the people decide not to go ahead with the project, the project has then to be immediately halted without repercussion for the said community or communities.
- c) Should the community or communities be amicable to the proposed project, there should be provisions in the scheme for:
- i. A comprehensive environmental and social impact assessment (EIA and SIA) to be carried out by independent consultants, and the detailed findings be made accessible for public scrutiny and communicated especially to the community or communities concerned in a language that is understandable to them;
 - ii. The social and intangible costs involved must be evaluated with a view to balancing the advantages of the project as advocated by its proponent; and
 - iii. In the final analysis, decisions must be made in the interests of the concerned community or communities as well as the larger segments of society.

- d) An integrated and coordinated institutional mechanism involving national and state machinery must be set up to oversee the resettlement processes with representation coming from the governmental, private, non-governmental and community sectors. The policy proposals of this body must be fully convergent with the welfare and needs of the would-be displaced community or communities. Furthermore, the proposals of this body must be observed by the state and private sectors to ensure that the principles are applied uniformly to all projects. While adhering to the basic principles, there must also be flexibility to accommodate changes that might be needed on the ground.
- e) The resettlement policy should cover all categories of persons who will be affected by the project, that is, the landowners, the landless workers, women, children, the elderly, the first generation of displaced persons as well as the second and subsequent generations. Adequate information, guidance and support must be provided for the affected groups in preparing them for transfer to the new site.
- f) The resettlement and compensation package should ensure:
- a. that land is available for farmers to cultivate;
 - b. that ample space is allocated for the privacy of individuals and families, and especially for children to play; and
 - c. that there is transparency in the compensation package and evaluation of payment, both in kind and cash to the affected individuals and families.
- g) Cash compensation must come with provision of supportive measures including training, ancillary units, assistance to set up micro-businesses or community

projects, alternative sources of income and safeguards that the money is not misused or squandered. There must also be options for the affected people who desire compensation in the form of 'land for land' and other provisions.

- h) Infrastructural development, layout of houses and amenities must be of a standard on par or higher than in the old community.

- i) Non-governmental organisations should be recognised for their role in providing mechanisms of support and capacity building for the affected community. A case in point is the construction of a pre-school and community hall, a project jointly collaborated between KMPGG and PACOS, under the latter's Community Education Programme for Rural Communities.

The above principles are not exhaustive but I have attempted to develop some guidelines based primarily on the need to advocate for a more human-centred approach to development.

Recommendations for Policy Action and Suggestions for Kampung Tampasak

This section concludes with suggestions and recommendations at both policy and implementation levels on how the Kampung Tampasak resettlement site can be improved so as to benefit the community, both women and men. Based on the study's findings, some of the actions can be implemented directly while others require further planning.

Policy level

This study shows that the perception of families to the resettlement outcome is generally unsatisfactory because of the non-recognition of NCR and LA land, which effectively negated compensation claims to such land.³ It is recommended that the government give priority to cases where land held under native customary rights had been acquired for the Babagon dam and compensation had yet to be paid. The rights of the landowners, women and men alike, should be recognised and payments should be made equitably. In this connection, the Committee for the Resettlement of the Affected Families by the Construction of the Babagon Dam (*Jawatankuasa Pelaksana Penempatan Semula Dengan Keluarga-Keluarga Yang Terlibat Akibat Pembinaan Empangan Babagon*) under the supervision of the Sabah Chief Minister's Department (JKM) should review the applications for compensation and ensure that genuine NCR landowners are given replacement land or cash compensation.

The findings of this study provide strong support to the need for a comprehensive and clear policy on resettlement. In relation to this, development policies and projects should respect the rights of rural and indigenous communities and should avoid displacing them. Since the resettlement site is not gazetted as a Reserve Village (*Kampung Simpanan*), it has no legal status, and consequently, the community is not entitled to all the benefits, facilities and infrastructure provided by the government for rural villages. Without the Gazette Notification (GN) certifying the resettlement site to be a Kampung Reserve, as stipulated under the Native Court

³ Native customary land rights and tenure are recognised by law, but government development policies seem to override the legal provisions especially in cases where there are competing or conflicting land use. Indigenous peoples have often not been given any documentary titles despite their applications whereas private companies and government agencies seem to obtain acquisitions, concessions and Temporary Occupation Licences (TOL) easily.

Ordinance, the Kampung Tampasak community is living in fear of being displaced again.⁴ Since the KMPGG and JKKK have submitted an application to the government for GN, the government through the Land Office should hold consultations with the Kampung Tampasak community on their application. Meanwhile, the government should excise the resettlement site area so that it will be excluded from the land area acquired by Jetama.

Implementation Level

Special needs of the Kampung Tampasak community, especially the women, should be addressed and support services should be included in development projects, e.g. land for animal grazing. The agencies involved in the Kampung Tampasak resettlement should not deny the fact that in the old village, the families had ample grazing land to raise animals such as cattle and goat.

Since cash compensation alone is inadequate to help the families to transfer and adjust to the new resettlement site, in the interim rehabilitative measures should be implemented to provide alternative sources of income. The government should therefore consider the provision of training in various trades and crafts particularly for the women and youth. The government should also assist the community in setting up petty and micro-businesses and establishing ancillary units in the vicinity of the resettlement site. Furthermore, the villagers claimed that the government had plans to provide them with handicraft-making skills after they moved to the resettlement site. This plan, however, ended prematurely when the trainer died and there was no attempt to look for a replacement trainer. Similarly, an eco-tourism

⁴ Even if the village has a GN, the government can revoke the GN and acquire the land for other purposes but to do so, the government must give compensation accordingly.

project near the dam site to be co-managed by the government and Kampung Tampasak was not developed. These plans should be assessed so that they can assist the community in income-generating projects.

Community level

At the community level, the members should try to create conditions to restore community and kinship relations and minimising the conflict between families. The experience so far has been the fragmenting of communities and families themselves over compensation and other benefits to enhance the social and economic security of resettled communities, for example, over the allocation of houses.

In cases of over-indulgence in drinking, there should be an effort to curb the problem so that the expense for alcohol, beer and local brewed wine (*tapai*, *montoko* and *lihing*) can be channelled to the family food needs and other needs such as children's education. Members of the community should try to initiate self-help projects and advocate for support from non-governmental organisations such as PACOS and from government agencies. These self-help projects can range from petty vending, sundering, handicraft-making, to agricultural projects.

The pre-school project, which is an initiative of the KMPGG with support from PACOS, is an activity that should be continued in order to provide cheap educational service to the children. It enabled the children to have access to schooling, since some schools are located in towns which deterred parents from sending their children there. In addition, this pre-school only collects 50 sen as contribution from the parents, which is affordable to most families without much income or waged work. The pre-school pupils, ranging from ages 4 to 6, are from

the Kampung Tampasak resettlement site and three adjacent villages, namely Kampung Babagon, Kampung Notorus and Kampung Timpoloun. The teaching materials are created by the teachers and PACOS staff using local inputs, including the Kadazandusun language. In addition, the teachers are from the village itself, which is an added advantage, since she or he is sensitive to the local needs and problems of their children (see Plate 12).



Plate 12

Children at school. This pre-school or tadika is managed by the Kampung Tampasak community themselves with the support of PACOS.

Thus, while the resettlement of Kampung Tampasak from the Babagon Dam has had grave implications on the community, especially the women, it is imperative that lessons be learned from it and that the observed and experienced shortcomings be immediately rectified – not only to seek redress for a gross injustice committed on the people, but also to reverse the decline of the community and its members.