

CHAPTER 4

GENDER, LAND, WATER AND CHANGE

4.1 INTRODUCTION

Traditionally, the Semai of Kampung Chang Sungai Gepai, as with other indigenous people, were entirely dependent on land and water in their natural forms for their survival and still do so to a very large extent today. These people have a very profound historical, spiritual and economic relationship with these elements. Without these two resources, there would be no indigenous life.

With the introduction of the cash economy, villagers depended upon the land to sustain tree crops and other forest resources, which became their main source of income. As men went into simple commodity production, women were increasingly pushed into subsistence activities, which were dependent on land and water. Any degradation of these resources would have a severe impact on male villagers' ability to earn an income whilst intensifying women's daily burdens of feeding and caring for their families, responsibilities which were once shared with the men of the family. Yet, even if this were to happen, the men could often find alternative sources of income in wage labour in urban areas, but this movement would further entrench women within the domestic domain. Therefore, although the villagers would be marginalised in the development process, women were often doubly marginalised.

In alignment with the above, this chapter describes and analyses the social changes that have taken place within the community of Kampung Chang that had significant impact on their land and water. It begins by looking at the historical forces at play in the state to give an insight into the dynamics of the larger macro social forces that might, in turn have significant impact on the micro society or community that is under study here. Attention is also given to any state intervention into OA affairs, especially in terms of policies. This is important, as it will have direct consequences on the people of the study village. The chapter then examines the agents of change at the village level and the impact of these changes on local ownership (wherever relevant), use and management of land and water. Finally, responses from the community, especially those of women are documented, to see if these in turn have influenced the social realities at the local level.

4.2 HISTORICAL DEVELOPMENT AND GOVERNMENT INTERVENTION AT STATE LEVEL

Before the creation of a Malay Sultanate in Perak in the sixteenth century, the OA practiced their traditional lifestyle of hunting, gathering and shifting cultivation and had little contact with other ethnic groups. Land ownership and the use and management of land and water among the Semai were bound by their customary law or *adat*. This, in turn was to a large extent sustainable in practice and egalitarian in nature, where gender relations were concerned.

However, even in this early period, encroachment by external parties was not a new experience to these people. It had already begun from the nineteenth century and often

deeply affected the quality of land and water, which in turn created much hardship for the villagers.

The earliest type of encroachment that occurred was the enslavement of the OA. The experience of the ancestors of current villagers with regard to slavery was already discussed earlier in Chapter 3, Section 3.2.1. However, the OA also maintained cordial relations with the Malays, especially the “indigenous Malays”, some of whom had been their trading partners from the early centuries (Sullivan, 1982:2).

Meanwhile, the British took effective control of Perak in 1876 and soon introduced the Torrens Land System and with it, the concept of land titles. Through this system, the state appropriated all uncultivated land, automatically invalidating OA customary land rights. Their land was now recognised as state or “crown” land, which they used at the “clemency” of the state. The state could utilise these tracts of land as they pleased, even to sell or lease them. This was the major cause of the many OA land problems that existed throughout the decades to this very day, the impact of which would be analysed in the following sections.

On the whole, the British ignored the OA, yet Perak somehow proved to be an exception.¹ The state government appointed H.D. Noone as a field ethnographer with the Perak Museum in 1931. He later published a monograph on the Temiar and drafted the first government policy on the OA known as the Aboriginal Tribes Enactment – Perak: No. 3, which proved to be the foundation for later government policies on the OA. This document proposed that aboriginal reservations and the position of Protector

of Aborigines be created. Later, he was to fill in the very same position (Dentan et al., 1997: 60).

Not long after, in December 1941, the Japanese invaded Malaya. The British, the MPAJA and Malay nationalists retaliated by using guerilla warfare tactics. This was done from their bases in the forest, which also happened to be shelter for the OA who ran there for cover and protection. When the Japanese were defeated in 1945, the British continued colonial rule in Malaya, and the MPAJA was disbanded in December that same year. In May 1948, Communist leaders formed the Malayan Peoples Anti-British Army² and resorted to an armed struggle against the British. The communists went underground and found respite in the forest, which they were familiar with from the days of their armed struggle with the Japanese. They depended on the rural people for food supplies and information, especially the rural Chinese and the OA whom they had close contact with during the same period. The British retaliated by declaring Emergency in 1948 which would last till 1960 (Leary, 1995: 11-2, Dentan et al., 1997: 60-1, Carey, 1976a: 291).

The Emergency was a period of great upheaval and peril for the OA. They often found themselves caught between the two main opposing forces, the British (and after Independence, the Malaysian government) and the communists. They were sometimes forced to assist one party at the risk of incurring the wrath and punishment of the other. This placed them in constant physical and psychological turmoil. The experience was no different for the OA of Kampung Chang, some of whom were witnesses to a gruesome

¹ Early involvement began in 1901, when Captain G.B. Cerruti became the Superintendent of the Sakais in Perak and in between 1913 and 1932, I.H.N. Evans took the position of Director of the Perak Museum in Taiping and made it a centre of OA research (Dentan et al., 1997: 60).

² This was later renamed the Malayan Races Liberation Army or MRLA.

massacre at Ulu Kenyor.³ It was also within this period that the government began serious attempts to intervene in OA affairs, mainly as a means to achieve national security. Thus, it was at this time, that the government began its national policies for the OA. These had a tremendous impact on the OA at all levels.

Despite the declaration of Emergency in 1948, the communist threat became increasingly critical in the Peninsular. In order to combat this, the colonial government decided to ensure that the insurgents who were now based in deep forested areas, would not receive assistance from the rural Chinese nor the OA. In line with this, the DOA, which was functioning largely as an advisory body in its early stages, was enlarged in 1954 mainly to “ensure the control of the OA and to win them away from their support of the terrorists...” (Carey, 1976a: 312).⁴

Soon after, policies for the OA⁵ were created to serve the above objective and were as follows:

➤ ***Resettlement camps***

These were formulated under the Briggs Plan in 1951 to relocate communities into camps in towns to prevent villagers (Chinese or OA) from providing the communists with information or material goods. As many OA succumbed to heat, disease and mental depression, this scheme was abandoned in May 1953 for it only created OA

³ Please refer to Appendix A.

⁴ The DOA was also responsible for the administration, welfare, medical treatment and education of the OA (Carey, 1976a: 312). In November 1961, the DOA was made permanent and totally responsible for the administration of the OA. It was placed under the Ministry of the Interior (which was later renamed Ministry of Home Affairs) which was responsible for national security. The Department was renamed *Jabatan Hal Ehwal Orang Asli* (JHEOA) in 1963, some years after Malaysia's Independence, with the hope that the public would look upon the OA with more respect (Dentan et al., 1997: 67).

⁵ These policies for the OA were initially implemented by military authorities. After the Department for Aboriginal Affairs (DOA) was formed in 1953, it took over the enforcement of these policies.

antagonism towards the government which encouraged further assistance to the insurgents (Nicholas, 1985: 1-3).

➤ *Jungle forts*

Due to the failure of the above plan and for similar security reasons, jungle forts were built in 1953 within OA territories or close to them. These were built and manned by Police Field Force personnel and DOA officials were stationed there to give medical attention. Small shops were also set up to sell basic necessities to the OA. Eventually, these forts managed to gain the confidence and support of the OA. This, in turn played a significant role in ending the Emergency in 1960. The forts were finally abandoned in 1973 and were then taken over by the JHEOA, which made them into administrative and medical posts (Nicholas, 1990:69).

In addition, the Aboriginal Peoples Act was created in 1954, which had very serious legal implications on the OA. These would be discussed at length in Section 4.3.3.9.

After the Emergency ended in 1960, the government was intent on bringing about national development along the lines of the “Modernisation Theory” propounded by Rostow⁶ and popularised in the sixties. This invariably meant capitalist development for the nation. Meanwhile, the government continued with their surveillance and control of the OA as key measures to curtail the persisting communist threat. It persisted with its policies and had new ones decreed.

From 1961, there was much government emphasis on the integration of the OA into mainstream society. In that year, the Ministry of the Interior Affairs released the

⁶ Please refer to Footnote 1 of Chapter 2 for a short summary of Modernisation Theory.

Statement of Policy Regarding the Administration of the Aborigine Peoples of the Federation of Malaya which made the issue of OA integration a prime objective (Gomes, 1990: 28). The government realised that the OA had to accept a more sedentary lifestyle to achieve this and thus (through the JHEOA) created policies that stressed on both.

Meanwhile, the Aboriginal Peoples Act was revised in 1967 and later in 1974, and was to effect a major impact on OA land ownership, use and management. In spite of the many provisions that offered protection for the OA, many existing loopholes prevented their efficient functioning.

In 1973, communist forces from South Thailand encroaching into the Peninsular created government anxiety about the security of deep jungle areas. In response to this, JHEOA decreed policies to integrate and sedentarize the OA, especially in the Titiwangsa “black”⁷ areas. From 1979-94, the JHEOA established “patterned settlements”⁸ close to or within OA territory and ensured easy accessibility for JHEOA officials and security forces into these areas. This facilitated government control of the OA and actively discouraged them from assisting the insurgents in any manner (Nicholas, 1990: 69-71).

⁷ Communist insurgents were believed to be active in these areas.

⁸ Under these schemes, wooden houses, medical and educational facilities, water supply, sanitation and community halls were provided. Income generating projects (usually, rubber or oil palm holdings) were

4.3 LAND

4.3.1 The *Nenggrik*, principles of land ownership, use and management according to *adat* and its application

According to the elders of Kampung Chang, their ancestors lived and practiced their subsistence economy within a territory, which they called their *nenggrik* or homeland. This usually encompassed the catchment basin of the main river and had very clear boundaries, which were agreed upon by inhabitants of the occupant and neighbouring settlements under their respective leaderships. These boundaries were demarcated by rivers, hills and other natural landscapes (see Gomes, 1991, Carole Robarchek, 1980:90). In those days, an area became a *nenggrik* when it was occupied and used by a group of people under a main leadership for a substantial period of time, such as a couple of years or more. These occupants often inhabited a few hamlets within the *nenggrik*. As mentioned earlier, villagers could recall their ancestors having had a few *nenggrik*.⁹ However, ultimately these ancestors knew their homeland to be the area comprising the catchment basin of the Gepai River and its tributaries.

From the olden days, these ancestors have differentiated two types of *nenggrik*, commensurating with the rights to land and natural resources accorded to a villager. The first type was the *nenggrik pasak*, which means “original land”. Here founders of the *nenggrik* and their descendants, or *mai pasak*, collectively owned the land and had full rights to occupy and use the land and the natural resources within, following the

also implemented to encourage the OA to enter the market economy to facilitate further integration into mainstream society (Nicholas, 1990: 69-71).

⁹ This was documented in Chapter 3, Section 3.2.2.

principle of *cak samak* or “eating/using together”. Activities were therefore often done in groups. Thus, rights to land were usufructuary in nature.¹⁰

The second type of *nenggrik* was the *nenggrik numpong*, which means “squatter land”. This referred to the land in which persons had only partial rights in the use of land or the natural resources within. These were those persons, irrespective of sex, who have married into the land-owning group or *mai pasak* and were called *mai numpong* or “those who were squatting”. They could collect forest products and other natural resources in the *nenggrik numpong* and usually did so in the company of some *mai pasak*. However, they could not clear and cultivate the land, plant or own fruit trees or claim rights to harvest from the communally owned fruit trees planted by ancestors of the *mai pasak*.¹¹ Meanwhile, whatever right to the *nenggrik pasak* or *numpong*, had to be activated for it to be socially recognised.¹² Finally, according to the *adat*, a person should not clear more land than s/he could use, for villagers were required to “think of other people”. It was also forbidden to use the land or natural resources in another *nenggrik* without first getting permission from the *Mairaknak* or the *Penghulu* of that *nenggrik* (see Gomes, 1991:171, Williams-Hunt, 1995:37, Carole Robarchek, 1980:93 and Dentan et al., 1997:39).

¹⁰ Therefore, a person, regardless of sex automatically has full rights to the *nenggrik pasak* and becomes a *mai pasak* if one or both of his/her parents is/are *mai pasak*. As mentioned by Carole Robarchek, “The members of the band lay claim to this territory through male and/or female links” (1980:90).

¹¹ Two exceptions to these were when they do so on behalf of their spouses or children who were *mai pasak* or when the *mai pasak*, especially the *Mairaknak* and his assistants granted them such rights, with the approval of the villagers. These were only done after an assessment of the *mai numpong*’s behaviour, to see if they have broken any customary law. If the *mai numpong* has gone against any customary laws, all rights to the *nenggrik numpong* and resources within would be dissolved at once. The same would be true in the event of divorce with their *mai pasak* spouse. This applied to both men and women.

¹² Therefore, a person had rights to a piece of land only when s/he was using, working or occupying it. When a person no longer used it in such a manner, the land was open for the use of another *mai pasak*. Often, a *mai pasak* who was residing elsewhere would make long visits to the *nenggrik pasak* to activate their rights there.

All the above principles held true when it came to cultivating food crops. However, if a person has planted fruit trees, especially the *petai* or *durian* tree, or the *Ipoh* tree,¹³ the immediate area was usually not used by others¹⁴ (see Gomes, 1991:173).

As could be seen above, rights to land therefore were egalitarian in the gender context, for they allowed women to be in control of their means of subsistence. Gomes mentioned that,

“bilateral inheritance and its provision for equal access to and control over property alongside the high degree of individual autonomy favoured by Semai allows women to be economically independent and autonomous” (1991:189).

In addition, the different forms of land use mentioned above were at this period of time carried out with simple technology and powered by human labour. Most tools were hand-made from natural resources, like the *beliung* (ax) or harvesting knife. As such, this largely prevented any over-utilisation of the land and its resources, keeping land use within a sustainable mode.

A female villager commented that the customary laws mentioned above were there to prevent over-usage of the resources within the *nenggrik*. According to her, it was seldom the case where there was an excessive number of villagers within the village using more resources than was sustainable, for there were *mai pasak* who were constantly marrying out and settling in their spouses' villages and vice-versa, or cross-

¹³ It is from the sap of this tree that the poison of the villagers' blow darts was made.

¹⁴ It must be noted, nonetheless that traditionally, only the trees belonged to the person who has planted it and these could be inherited or used in the *cak samak* manner. Meanwhile, the land on which the trees stood was still communally owned and would return to the community when the trees were no longer standing. At times, other activities could be practiced on such land, but these were often limited in scope for one was not allowed to damage the trees of others.

settling in both villages. She was referring to the observation of ambilocal residence,¹⁵ which furthermore offered security to the couple as they had access to the spouse's land and resources in the event of crop failure (Carole Robarchek, 1980:95).

The very same person also gave a good insight on their traditional relationship with the land:

“The land and the forest belong to no one individual. We did not create it – only *Nyenang* (God), therefore it belongs to *Nyenang* alone. That is why our ancestors believed we should share all our resources. Nowadays, in the face of exploitation and encroachment upon our land, I often hear villagers say, “*Bo pek I hak, ayat hak Nyenang. Neng pek ki hot, men ki hot bo pek ba tok.*”¹⁶

However, changes to land ownership occurred with the introduction of rubber as a cash crop in the 1910's. As cash cropping became a very significant means of earning money which the villagers needed to buy necessities such as salt, cloth, and home utensils, more effort was taken to tend and control these trees. Eventually, there was a tendency among villagers to exclusively control the area in which their trees were planted. Soon, there emerged the concept of individual ownership of these lots, where formerly they were communally owned. As other produces became important cash crops, such as *durian* and *petai*, the concept of individual land ownership extended to a few of these tree groves as well. When this happened, these plots of land could also be inherited by or used in the *cak samak* fashion by a set of siblings. Thereby, the introduction of the cash economy has led to changes in the traditional notions of land ownership.

¹⁵ Ambilocal residence is observed when a man or woman can choose to live in their spouse's village after marriage. Carole Robarchek speaks of this practice among the Semai, “When a Semai couple marries, it is customary for them to live first with the wife's parents, then with the husband's parents, moving back and forth over the years” (1980:94).

¹⁶ Translated, this means, “no one owns it (the land and the forest) as everything is God's. God does not bother to take it back, but if God wants it then no one can get away with anything.”

Nonetheless, there was still the persistence of traditional practices in the midst of change as large tracts of *nenggrik* land were still under communal ownership.

Thus, the community has largely held the traditional principles of land ownership, use and management in the *nenggrik* from the days of old and this continued till some time after the Emergency. Although customary law would demand the above practices within the traditional *nenggrik* to this day, the extent to which it was observed or heeded has changed drastically in the post-Emergency era.

4.3.2 Agents of change at village level

The account of changes given below that have taken place at the micro level in the study village were often consequences of the more macro forces at play in the state, which were described above. The impact of these changes would be analysed in depth in Sections 4.3.3 and 4.4.3.

Before the Second World War, changes at the village level were brought about by slavery and the creation of Malay settlements, a road and rock quarry built by the British and a Chinese tin mine within the *nenggrik*. However, as much of these changes these have already been described in detail in Chapter 3, Section 3.2, brief accounts would be given below for current reference.

Firstly, encroachment into the *nenggrik* in the form of slave raids occurred even before the British colonisation of Malaya in the eighteenth century. Meanwhile, from the nineteenth century, the people of Kampung Chang faced problems with Malays settling

in their *nenggrik*. In 1926, the British built a road from Bidor to Teow Empaat (a place close to one of their hamlets) as part of a plan to build a rock quarry in that area. In that same year, the British opened the rock quarry, which only stopped operating in the 1950's. In 1936, the Chinese opened a tin mine in Teow Selaud and Kuala Teow Ngait, within their *nenggrik*, though no villager from Kampung Chang was involved here. With the onset of the Second World War, the villagers became caught in a struggle that although had little meaning for them, would nonetheless bring about a huge impact on their lives.

In 1948, the villagers of Kampung Chang heard that Emergency would be declared and feared similar consequences as that of the Second World War where many OA were killed by military forces. Eventually, the villagers in the interior hamlets decided to converge into one main settlement called Kampung Chang Sungai Gepai in the Kuala Gepai area with *Penghulu* Renjok. Their social organisation would generally remain in this form till today.

In 1954, the Aboriginal Peoples Act was created and it was to be popularly known as Act 134. Although this occurred at the national level, it had massive impact on the villagers of Kampung Chang and this would be explored in depth in Section 4.3.3.7.

From 1955 to 1988, logging was carried out in their *nenggrik* in different stages and covered the whole area. Meanwhile, between 1959 and 1962, the settlement area, villagers' rubber holdings¹⁷ and some fruit orchards were surveyed and measured for the

¹⁷These rubber groves were started by the villagers from the 1910's and ranged in size from three-quarters of an acre to sixteen acres per household.

first time by a DOA official.¹⁸ He divided approximately forty-four acres of land among twenty-two households to plant coconut, and seedlings were distributed in 1969. Ownership of these lots was designated to the male heads of the households although no official titles were given.

In 1962, a DOA official started the “Rural Project” in the village.¹⁹ Five years later, the Forestry Department opened a branch in the village which exists till today. According to villagers, the Bukit Tapah Forest Reserve was created the same year, covering 191.5 hectares and largely impinging into their *nenggrik*. In 1969, the Department began planting hardwood trees in it and built a gatepost at its entrance to deny access to non-officials. Verbal warnings were given to villagers to leave these undisturbed. In 1968, the social organisation of the community was again rearranged with the resettlement of the village to its current location.²⁰

In 1992, the *Penghulu* divided a piece of communal land among families for cultivation, telling them that lots not used would be given to those who worked their land. Meanwhile, in November 1994, FELCRA started an oil palm plantation in the *nenggrik* close to *Lubuk Degung* and two years later, another spate of logging activities took place in their *nenggrik*, near the Bukit Tapah Forest Reserve. Finally, in 1997, the villagers received news from some top POASM²¹ members that there might be an eviction of villagers to make way for a mega-industrial project.

¹⁸ Please refer to Chapter 3, Section 3.1.1.

¹⁹ Please refer to Chapter 3, Section 3.1.2.

²⁰ Please refer to Chapter 3, Section 3.1.2.

²¹ Persatuan Orang Asli Semenanjung Malaysia or Orang Asli Association of Peninsular Malaysia. This body was established to struggle for the social rights of the Orang Asli, inclusive of land rights, religious

4.3.3 Impact on local land ownership, management, use and local responses

4.3.3.1 Slavery

These slave raids did not produce much results in terms of captives for no one from the village was taken, and had little ill effect on the local environment, that not being their focus. Nonetheless, villagers often had to flee their settlements to escape the raids. During these invasions, their way of life and subsistence were disrupted significantly for they had to live on platforms up on the trees. Fortunately, slavers seldom wandered into their *nenggrik* nor caused them real harm.

4.3.3.2 Malay settlements

Confronted with infringement from Malays settling into their traditional land, the OA villagers often moved to open new settlements elsewhere, for they assumed that shared territories would invite misunderstandings and unpleasant situations. It was likely that exposure to slavery created this distrust of outsiders among the OA. Thus, villagers had to bear the extra burden of opening up new settlements by clearing the land and building new homes for themselves. As the predominantly egalitarian OA way of life still persisted in the Pre-emergency era, with the traditional principles of land ownership and use still intact, this burden was often shared between the two genders in an egalitarian manner.

freedom, self determination in planning their socio-economic development, and protection of their identity (Bah Tony, 1998:3-9).

4.3.3.3 British road and rock quarry

While building the road, hired labourers brought much destruction to the villagers' land and crops. Moreover, while the mine was in operation, villagers were barred from entering the quarry site which overlapped significantly with their main path into the forest, making it very difficult for them to cultivate their swiddens, visit relatives in the interior or hunt and gather forest resources for their livelihood.

Furthermore, the creation of a quarry in their *nenggrik* destroyed the landscape of the area involved, even if this was a concentrated area. Trees were logged, topsoil eliminated and the land was laid barren. As a consequence of this, food resources for the villagers began to diminish. The situation would remain thus for a long while²².

4.3.3.4 Chinese tin mine

Due to Chinese tin mining activities, many ancestral graves were destroyed including the grave of *Mairaknak* Mawai. Furthermore, where the land was once fertile and excellent for cultivation, the soil at *Teow Selaud* and *Teow Ngait* turned sterile, remaining so for a long while even after its closure, thus depriving the villagers of good farming, foraging and hunting land. However, this had an equal impact on OA men and women for a strict division of labour did not yet exist.

²² That piece of land is still designated as a rock quarry until today and though the forest has rejuvenated since the quarry was closed in the fifties and has become a new habitat for plants and animals.

4.3.3.5 Second World War

With the occurrence of the Second World War, villagers went about in a chaotic manner, trying to flee from the Japanese, communists and the national army, who threatened their way of life and at times, their very lives. The situation here was similar to that of the slave raids mentioned earlier. Although limited harm was done to the local ecology, the lives and subsistence of both OA men and women were seriously disrupted for a few years.

4.3.3.6 Convergence of hamlets

The convergence of all the hamlets in the *nenggrik* into one main settlement within the Kuala Gepai area during the Emergency had its consequences. As the villagers were afraid of encountering hostile forces during the Emergency, they no longer dared to freely utilise their vast *nenggrik*. Therefore, they only cultivated, hunted or foraged in the areas close to their settlement. They also stopped planting paddy in the interior areas for fear the government would accuse them of supporting the communists. The above meant a concentration of families into a reduced subsistence base which led to an over-utilisation of resources within that base. This tendency was intensified after the Emergency when villagers were permanently resettled into their current location.²³

²³ Please refer to Chapter 3, Section 3.1.2.

4.3.3.7 Aboriginal Peoples Act 1954 (revised 1967 and 1974)

a) Land ownership, use and management

When it came to the Aboriginal Peoples Act, it would seem that the government was proffering the OA land rights with one hand, yet recalling them with the other. This would apply to all OA including the villagers of the study area.

Firstly, within this Act, OA traditional rights to land were defined under Sections 6-11, but none of these clauses were mentioned in the National Land Code which was the main legislation regarding land issues in Peninsular Malaysia. Thus, it made it difficult for the use of Act 134 to solve land matters among the OA within the village and with outsiders.

Secondly, this Act allowed the state government to declare OA areas or reserves where among other things, the OA could hunt, gather and cultivate the land in a communal manner. They also need not pay taxes or rent towards land used. Furthermore, land alienation and sales were prohibited, temporary occupation by non-residents was forbidden and non-residents were not allowed the license to collect forest produce within these areas. However, this Act did not ensure the creation of these reserves. In fact state governments had been very slow in doing so for only "15% of 776 OA settlements are currently gazetted as orang asli reserves" (Tham, 1998:16). Neither did the Act ensure permanent occupation for the OA living within these reserves or areas, for the state could revoke their declaration. If the latter was done, the OA could not appeal against it for no provisions were provided for such an action. Lastly, under the

legislation, OA were only “tenants-at-will” on any land (including OA areas/reserves) even if they had been residing on it for generations. This meant that an OA could be evicted for development projects or any other reason that the state saw appropriate. In such cases, although the Act provided for compensation for fruit trees and land alienated, the amount and mode of payment were at the discretion of the Commissioner of OA Affairs and the OA were generally not consulted.

The fact that the OA were only “tenants-at-will” deterred government agencies from assisting them in development projects. This was so as these agencies as a matter of principle only offered aid, especially agricultural aid, when the land had legal owners or when the area had been gazetted as an OA reserve or area (Hooker, 1991:65-6). Thereby, government agencies tended to shy away from being involved in OA land development projects but pushed them to the attention of the JHEOA instead. However, since the JHEOA had little expertise in implementing such projects, its efforts often fell short of success (Hasan Mat Nor, 1991). In addition, even the OA within OA reserves/areas who wished to develop their land either as an individual or collectively found it very difficult to get bank loans as they did not have landed collateral to offer. In conclusion, we could agree with the JHEOA when they admitted that the problem of insecure land tenure had been a huge obstacle in implementing development projects for the OA (Williams-Hunt, 1995:45).

The above problem held true in the study village. Although the villagers have long requested for their rubber trees to be replanted when their old trees became unproductive, RISDA officials told them that they could not replant as long as their land

was not gazetted as an OA reserve or area or the villagers were not given individual grants for the land concerned.

Thirdly, the Act did not allow the OA to have any land dealings without the consent of the Commissioner of the OA. This was of course detrimental to any OA initiative to develop their land for commercial purposes.

Finally, although there was a clause that allowed the OA to live in Malay, Forest reserves, or National Parks, this was dependent on certain terms stated in the state's by-laws. Yet, these by-laws were not stated in the Act itself, or in the National Land Code or in the Act relating to forest reserves (Hooker, 1991:65-6). Such legal provisions or lack of them then left the OA very insecure tenure of their own traditional land.²⁴

b) Disengagement from land

Due to the Act above and the subsequent fact that OA customary land did not belong to them nor did they have full rights over it as shown above, many OA have disengaged themselves from the land to a certain degree, physically and psychologically. This was also much reinforced by Forestry and JHEOA officials, with the former openly challenging OA traditional rights to land by planting their trees on it which barred the OA from practising traditional cultivation. The latter meanwhile communicated the message frequently and verbally. This went against the grain of OA traditional relationship with the land where land was the very basis of their identity and spirituality.

²⁴ For further reference on the OA and the law please refer to P. Sullivan, 1992 and S. Rachagan, 1990.

This phenomenon seemed to be happening within the study village. The men, especially have somewhat detached themselves from the land, even though they were contradictorily owning and inheriting most of it. They were now less involved in cultivating the land and more concerned about earning money rapidly through simple commodity production or wage labour. In doing this, they often exploited the land in an unsustainable manner or left the land completely, ignoring traditional principles of sustainable land usage and their roles as guardians of the land. As women were much less active in the cash economy, having fewer opportunities, they were more intensely involved in subsistence production, which was very dependent on the land and its resources. Thus, women generally felt less disengaged from the land, though they owned relatively much less compared to the men.

This could be seen in the way that male villagers almost leased out their rubber land to a Chinese contractor in 1998 and did not mind doing it in an unofficial manner. However, after much discussion, women from a local group called *Sinui Pai Nane' Sengi*²⁵ knew that this might mean the loss of their land as land leased out in the past have tended to fall into the hands of those who leased it.²⁶ The women persuaded their husbands and male relatives to withhold their land and used past incidents to convince them of their error. Finally, after much effort, these husbands and relatives managed to convince other male villagers to cancel the plan.

Finally, this phenomenon of male disengagement from their land could be summed up in a female villager's complaint:

²⁵ This could be translated into "New Life, One Heart". This group was started by Ijah with some female villagers to create a platform to discuss communal issues that concerned them.

²⁶ This would be seen to be true in the case studies found in Section 4.3.3.9 (c).

"Many villagers, especially the men now do not take the issue of land seriously any more. Whether they would one day lose it or not is not a main problem to them. They do not make an effort to secure land ownership so that outsiders do not take over them. The men these days are more interested in making money. They do not see the consequences of such an attitude on their land. They no longer remember the advice of our ancestors that we should be caretakers of the forest and the land. Even the elders are finding it difficult to oversee their activities and give advice, for materialism has made them deaf to their advice. Maybe they have given up hope. The women are also beginning to think like that."

c) Encroachment

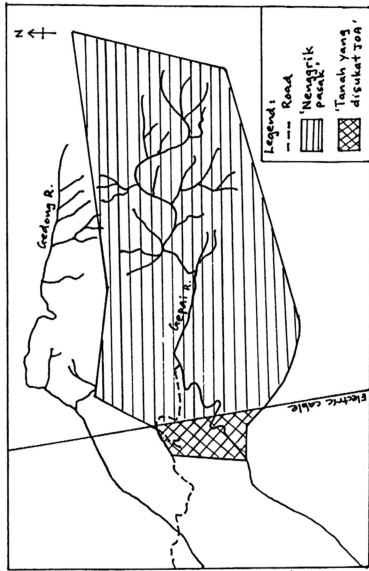
With the creation and implementation of the Torrens Land System and the Aboriginal Peoples Act, traditional OA land ownership, organisation and management were disregarded, exposing OA land to encroachment from outside forces (refer to Map 10 for a detailed look on encroachment of villagers' traditional land).

Firstly, government agencies began infringing into the villagers' *nenggrik*. In 1967, the Forestry department started a branch in Kampung Chang and created the Bukit Tapah Forest Reserve, which significantly overlapped with the local *nenggrik*. The branch office was built close to the fish farm started by a DOA official in the village. Soon, the fish began dying due to effluent from the toilets of the branch office. This reflected the level of management and planning that went into development projects for the OA.

Meanwhile, department officials asserted that they had planted *meranti* and other hardwood trees within the forest reserve, although villagers insisted they were the ones who did. A gatepost was erected at the entry to bar the entrance of non-officials and villagers were forbidden to disturb any of these trees. In retaliation and insistence that the land had been theirs for many generations, some young male villagers destroyed the

MAP 10

A SKETCH MAP OF KG CHANG SUNGAI GEPAL AND NENGGRUK
SHOWING AREAS ENCROACHED UPON



gatepost and defaced the signboards put up. Officials also discouraged villagers from cultivation within the reserve and surrounding areas and planted their trees on much good farming land within the *nenggrik*.

Furthermore, Indians who reared cattle and Chinese vegetable farmers were fast encroaching upon their land. Due to these developments, by 1980, there was very little land left to cultivate paddy and villagers were pushed to give up the activity completely as this crop needed a wider expanse of land. Soon their cultivation of other subsistence crops was also limited to small gardens near the settlement. In addition, some local paths, which led to the mining ponds in their *nenggrik*, were appropriated as new encroachments developed. Later, some of these were fenced up. This created many problems for male and female villagers alike, for these ponds were an important source of fish and both sexes were very keen on fishing. Eventually, the villagers broke open a fence that barred them access to a main path to the ponds.

Another type of encroachment took the form of *petai* stealing by Malay men from nearby areas. The latter insisted that the trees did not belong to the villagers but were spread by wild animals when in fact the villagers and their ancestors had planted them. Without this stealing, villagers could get twice or thrice more produce than they did now. In fact, there now existed severe competition between the two parties and the "earliest bird would catch the worm". Due to this villagers now harvested *petai* throughout the year and took even the young fruits. Such an act was traditionally forbidden by *adat* and any villager caught doing so would be questioned in a *bicara* or a village moot and punished. As men were the main collectors of *petai* these days, they felt this problem more keenly.

Meanwhile, in 1994, FELCRA started an oil palm plantation within the *nenggrik*, close to the village and took over some Chinese farms in the process. This had a significant impact on female villagers who depended on these farms for wage labour. The plantation eventually hired only a few male villagers. We could thus see that some forms of encroachment could offer job opportunities for villagers while others did nothing for them.

In the middle of the same year, there was news that 900 hectares of the villagers' traditional land up the Gepai River would be logged, thereby destroying their cash crops, especially *petai* and *durian*, and polluting the river. From the same source also came news that a project to rear cattle and an oil palm project would ensue after the logging. On 24 August, the *Penghulu* wrote a letter to JHEOA and POASM to complain about past encroachment²⁷ and inform them of the rumours of possible logging activities in their land. There was no official reply from the JHEOA though officials told the villagers that the state government was encouraging them to apply for individual land grants for they could receive ten acres a family.²⁸

The villagers were not very happy with the news for they wanted to own the land communally and they did not want to lose their *nenggrik*, believing this would eventually lead to a loss of their traditional communal lifestyle and culture. After a few village meetings where males' presence dominated and with advice communicated by POASM, the villagers decided to submit a Memorandum to the Land Office to apply for a communal grant for their land and for it to be gazetted as an OA reserve.²⁹ A

²⁷ Please refer to Appendix C for a copy of the letter.

²⁸ However, this would not be for all families as new families would not be able to own land.

²⁹ The Memorandum (1994) was headed with the letter of application and copies of this letter were sent to the Member of Parliament, JHEOA, POASM and the *Penghulu* of Bidor Sub-district, among a few others.

committee of three women and eight men was formed with the full support of the villagers to prepare the Memorandum, with the *Penghulu* as the Chairperson and Assistant *Penghulu* as his Vice-Chairperson. The process however was dominated by men, with two out of the three female committee members being the only women actively involved in the whole process though these two acted as the main driving force. By the end of 1994, the Memorandum was completed. When a political campaign was organised in the village for the candidate of the local constituency, the villagers took the opportunity to present him the Memorandum and explain their predicament. They also got him to sign a support letter for their cause³⁰ and the event was mentioned in the local paper.³¹ However, some UMNO men soon visited the *Penghulu* and “advised” him against being involved in subversive activities. Afraid of being deemed “anti-government”, the *Penghulu* and his assistant backed off from further involvement. Without their support, the morale of the whole group fell for they did not want to overstep the *Penghulu*’s position, having an sense of loyalty to their leader. Eventually the villagers fell into two opposing camps and nothing further came out of the affair.

In conclusion, as encroachment increased, the villagers’ *nenggrik* and their natural resources, which they heavily relied on for their subsistence and income, also diminished. Certain traditional activities too, could no longer be practiced due to resources being less available.

Please refer to Appendix D for the letter. Meanwhile, the Memorandum was to consist of the application letter, an introductory note, details of the application, the land area applied for, the list of villagers making the application, and a background of the villagers’ history, traditional lifestyle and culture.

³⁰ Please refer to Appendix E.

4.3.3.8 Logging

The logging activities that took place between 1955 and 1988 had a very serious impact on the land, especially in the Gepai hilly terrain. Whole tracts were cleared, for no discretion was made between mature or immature trees, and logs pulled across the earth destroyed the vegetation whilst animals were pushed out of their habitat. The effects were greater during the rainy season for without tree canopies to cover the topsoil and roots to retain water within the soil increased water run-off eroded and washed away much unprotected topsoil into the Gepai River and its tributaries. Due to these, the villagers' subsistence base was further diminished in quantity and quality.

4.3.3.9 Resettlement policy

a) Diminution of OA land

The resettlement scheme of Kampung Chang,³² which was launched in 1968, was in line with the policies of sedentarization and integration. It resettled the villagers into a more condensed area. Where before, villagers had claim and traditional rights to around 20,000–30,000 hectares of *nenggrik* land, they now only have official access to 244.9735 acres.³³ Much traditional land became state land or privately owned land over which villagers had no legal rights. This reflected that the above policy had only served the interest of the government and capitalists who needed vast tracts of land and

³¹ Please refer to Appendix F.

³² Please refer to Chapter 3, Section 3.1.2.

³³ This tract covered the settlement area, rubber small-holdings and some orchards over which they have limited land rights, for these areas were conferred a Temporary Occupational Land (TOL) status at that time. The TOL was given to the community at large though no one in the community received any official document of this.

resources to exploit in their drive to gain profit (Gomes, 1990:23, Nicholas, 1990:76, Williams-Hunt, 1995:38). .

However, both male and female villagers have chosen to ignore their lack of rights over most of their *nenggrik* and continued with their traditional economic activities within it. To a large extent, the government overlooked activities that were not carried out on private property or within government schemes. Nonetheless, villagers were not able to cultivate paddy in larger areas as the government actively discouraged shifting agriculture,³⁴ which they claimed, would harm the ecology of large tracts of land. This was later much challenged.³⁵

Due to such constraints, villagers stopped cultivating paddy in the late seventies, with the last family planting in 1980. This had significant effect on both sexes who were very much involved in paddy production.³⁶ However, it had a greater impact on women who played a prominent role in paddy cultivation and had a stronger spiritual bond with the crop.³⁷ Since then, villagers had to buy their rice. This pushed male villagers, especially,

³⁴ The Semai practised shifting agriculture where plots of land within the *nenggrik* were cultivated on a rotational basis, with each plot worked for at least one or two paddy crops before another was cleared for cultivation. A used swidden meanwhile was left fallow for about four to six years to recover. Different crops were planted together in a random manner.

³⁵ Nicholas (1985:74) citing Hong (1982) and Dasmann et al. (1973) mentioned that such an approach minimised topsoil erosion. This was so for the felling and burning of trees and shrubs were restricted in the dry months and the unburnt logs were left on the hill slopes to prevent precious topsoil from washing away. Furthermore, the many varieties of crops, which were planted in a random manner also, reduced soil erosion. Meanwhile, Rambo (1995:39) citing his own works mentioned that "... (slash and burn agriculture) is a system of cultivation that is well adapted to the difficult environmental circumstances of the Malaysian rainforest" (Rambo, 1980a).

³⁶ Please refer to Chapter 5, Section 5.2.1 for a sexual division of labour of this activity

³⁷ Women were the ones who harvested the first paddy or *baq nyam*. This is so for the spirit of the paddy or *ruai baq* which was likened to a baby resided in this first harvest and had to be gently handled by women. Later, this first paddy would be used to plant the crops of the following season. The women who harvested the first paddy had to undergo the taboos of a mother in confinement (although this did not include food taboos) for forty-four days, which was the usual confinement period. During this time, only these women could handle this first paddy, in drying and storing it. It was then stored in a cool remote place, which would not be disturbed. If it was disturbed, it was believed that the next crop would not be plentiful. In addition to that, it was believed that the *Jaq Bidat* or midwife, who was traditionally a woman, acted as the guardian of the *ruai baq* and cared for it. Here, traditionally the *Jaq Bidat's* role

into simple commodity production or wage labour in the market economy to earn money to buy staple food. Meanwhile, those who could not afford to buy rice had to consume tapioca.

Cultivation of traditional supplementary food crops such as corn, tapioca, sweet potato and vegetables was also affected and had to be done in smaller lots closer to the settlement, where these were traditionally planted with hill paddy in vast areas before. As these limited plots of land become frequently used, they would eventually lose their nutrients and richness, and fail to sustain villagers' subsistence needs. Again, villagers would be forced to participate further in the cash economy in order to feed themselves and their families. Moreover, at times when rice became unaffordable, families would be pushed to having cassava as an alternative staple food, although the crop consumed many nutrients and rapidly diminished the quality of the soil, compared to other crops.

Yet, supplementary crops assisted significantly in sustaining the family, especially in bad times. Traditionally and currently, women were the main cultivators of these crops. When they eventually had little access to fertile soil, their role as subsistence farmers would fade away. This would increase their burden of feeding their families, especially when they were increasingly becoming mainly responsible for childcare. On the other

included that of delivering babies and taking care of the rituals concerning delivery and its taboos. This was similar to Hew's observation among the Ibans of Sarawak: "The important work of sowing, reaping and storing the *padi pun* (first paddy) and the elaborate rituals which accompany these tasks are essentially in the women's province" (1990: 70). However, since Atuk Skuleng's time (the grandfather of a current forty year old villager), males, usually male *halaks*, could take over the role that concerned the rituals which accompanied a birth, especially that of *buang sial* or getting rid of bad luck. Atuk Skuleng, a *halak* played that role, and learned the rituals from his mother who was a *Jaq Bidat*.

hand, men have largely left subsistence farming³⁸ when they could no longer plant paddy and became more involved in the cash economy.

Finally, it should also be noted that before the Emergency, subsistence farming land was often measured in terms of *lout* or hills for the cultivated area would often cover one or more hills. Now land was measured in terms of the smaller acre, which could be a reflection of the diminution of the amount of land available to the villagers.

b) Creation of a second type of *nenggrik*: “the land measured by DOA”

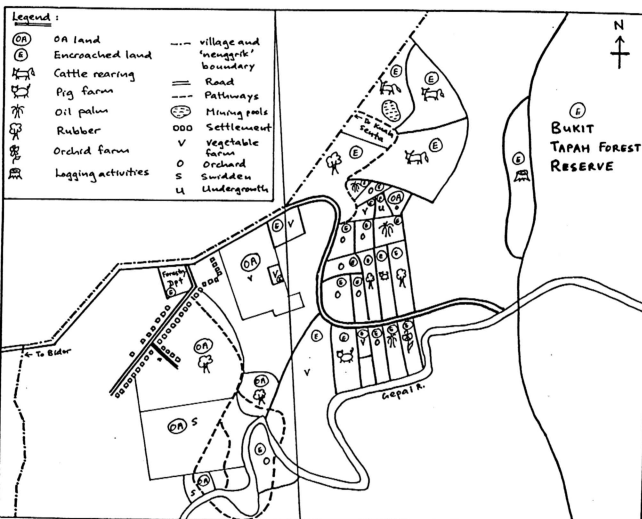
After the DOA parceled out the settlement area, rubber smallholdings and orchard land, the villagers invented a second categorisation of *nenggrik* to this land. They called it *tanah yang disukat JOA* (hereafter known as TSJ) or “the land measured by DOA”, in contrast to their *nenggrik pasak* (refer to Map 11). Land ownership, and with that full rights and control were allocated to males who were considered the heads of families, in contrast to traditional practices where both sexes had equal rights to land which were communally owned. With that, the department instantaneously deprived women of their customary rights to a large tract of land. Thambiah made a similar observation of government projects (see also Boserup, 1970):

“... certain development projects have completely ignored women, and in some cases, also disrupted complementary and egalitarian gender relations, especially among certain tribal societies” (1997a:12).

³⁸ Although a few men were recently involved in subsistence farming with their wives, these were older men who were not actively involved in the cash economy and who basically assisted their wives who did most of the work.

MAP 11

**A SKETCH MAP OF KG CHANG SUNGAI GEPAI SHOWING THE
NENGGRIK PASAK AND TANAH YANG DISUKAT JOA**



c) Land as individually owned and commoditized

This TSJ became individually owned and increasingly took on the form of a commodity that could be bought or sold, concepts alien to the traditional land tenure system. Ownership of these plots of land were paradoxically semi-recognised by the government: although it was allocated by the DOA, it was officially state land and was not gazetted as OA Reserve Land or OA Area nor conferred individual deeds. The only concession was its designation as Temporary Occupation License land for that moment in time. Meanwhile, although land deals were prohibited, they were common among villagers.

Eventually, the concept of individual ownership extended to other orchard land in the *nenggrik pasak*. Where orchard land was previously communally owned just as trees were individually owned, currently more and more individuals referred to orchard land as theirs - to use, manage or bequeath as they pleased. This trend became more pronounced as land increasingly became a prized commodity.

Moreover, where farming was traditionally done jointly by a few households, individual households or families now worked their own plots. Households with insufficient labour would eventually have to forgo the activity. This was especially true of widows with young children. Thus, labour that was traditionally shared now became individualised. However, this may also be due to plots decreasing in size, which needed less labour.

The concept of individual ownership also subsequently affected other communally owned land. This was reflected in the *Penghulu* parcelling out empty communal land

among the main families in 1990, with two acres per family. They were to cultivate their land or give it up to those who would. Since then, many families have grown very competitive, refusing to clear and tend the land together as they might in the past, but cultivated their plots separately. Able-bodied men who used to help their female or weaker relatives, especially those without able-bodied spouses or children, were now more concerned with their own plot. This might be due to villagers wanting to acquire more land. The weak and less-able thus lost out on this informal policy although they were the ones who needed the land to back up their economy in difficult times.

d) New system of ownership and use

Although ownership of the TSJ was given to male villagers by the DOA between 1959 and 1962, these men eventually devised different inheritance practices for their children that to an extent reflected their traditional system which was based on communal ownership and not gender-biased. However, this system depended much on land size.³⁹

If the plot was small, the land was inherited by his children in the *cak samak* or “eating together” manner. The offspring, regardless of sex, were expected to work the land together and divide the produce equally among themselves. Nonetheless, a member could choose to be inactive at a particular period but had to forgo his/her rights to the produce for that period of time.⁴⁰ If none of the family members were interested in

³⁹ It needs to be noted that if the owner's wife outlived him, and the children were young, she would usually inherit the land and later pass it on to her children in the manner decided by the initial owner, if he had determined such before his death. However, if the children were already adults at the owner's death, his wife and children often inherited the land in the *cak samak* (eating together) or *cak halui* (eating alone) manner.

⁴⁰ This did not stop some inactive members from expecting a part of the produce or income derived from it, though it was the prerogative of those who laboured to give or refuse. However, s/he would be deemed “selfish” if s/he did not share.

working the land, they could get someone else to work it, and the produce was often equally shared between the land owner/s and sharecropper.

If the plot was large, the male owner often divided it among his children. A daughter who married a co-villager often did not inherit any of this land, as she had the right of access to her husband's land in the same *nenggrik pasak*. Nonetheless, her male siblings who have inherited land were to share some with her or allow her access to their land and resources within it in the *cak samak* fashion.⁴¹ However, the male sibling had the prerogative to refuse, although this would be deemed selfish, a quality deplored by the community.

Daughters who married out of the village and all sons were bequeathed a share of the land. Sons usually received larger portions as males were seen in present times to be breadwinners for their families. Daughters meanwhile were to be provided for in the event of divorce. Where there were no sons, daughters would inherit the land. When a woman of the owner's generation or the generation before was divorced and lived in her *nenggrik pasak*, then her male relatives who owned land were supposed to give her some or invite her to utilise the land together with them. However, again it was the right of the male owner to do so.

Furthermore, the son who cared for his parents until their deaths usually got a bigger portion of the land and tree crops. This corresponded with his heavier responsibility. Nonetheless, any child could inherit the house and this might be a remnant of the fact that traditional houses often did not last for more than a decade or so. Here, it was sons

rather than daughters who shouldered this responsibility and any son could choose to take on the role. However, according to a female villager, recently, daughters were increasingly taking over the responsibility even though the land and trees were still bequeathed to the sons.

In addition, it was noted that fathers (and frequently mothers) often did not trust their daughters in the issue of inheritance, especially of rubber and orchard land. According to some women villagers and as mentioned by Ijah, this was so for three reasons. Firstly, women were seen to be weak and unable to care for the land or cultivate it well. Secondly, it was feared that women might marry outsiders who might take over their land and orchards, especially if the latter have helped work it. Lastly, they believed that a woman who married a co-villager had access to the same *nenggrik* and therefore needed no other source of livelihood, whilst a man was deemed the breadwinner and needed these resources.

These reasons and the assumptions behind it were non-issues in the traditional tenure system. Firstly, families worked together on communally owned land, therefore, even if women were assumed to be physically weaker, others were there to supplement with their labour. Secondly, the traditional system did not allow individual appropriation of land so the second and third reason did not apply. The land inheritance pattern described in the previous paragraph could be reflected in the case study in Appendix B.

In response to the changes in land ownership, a few women have voiced their concerns. They were worried that some women might marry co-villagers who would later divorce

⁴¹ Here it is important to note that using the land in the *cak samak* manner did not usually continue into the second generation. Those in the second generation might take some fruits or tap some rubber off the

them, at which they would be left totally dependent on the benevolence of their fathers or brothers to share land with them or allow them to use it in *cak samak* fashion. For, according to customary law, they would have no more right to live off their ex-husbands' land or orchards. Some women were also disturbed that women who chose to remain single would not be provided for.⁴² Again, they would have to depend on their fathers or brothers.

Some women felt this unfair, for men could and many did collect the communal *petai* or go into wage labour. Meanwhile women were not able to climb *petai* trees and did not have many job opportunities nearby. Secure jobs were only available in bigger towns, but women generally avoided these for they were apprehensive towards outsiders, having less exposure to them and fearing for their safety. Furthermore, the community discouraged women from working in such places for fear of being "led astray" by bad influences. Therefore, women tended to rely on limited and seasonal work such as producing rubber and working in vegetable farms nearby. In view of this, some men consciously transferred their rights to land to their sisters to provide them with a means of subsistence, stating they had better work opportunities available to them. However, these were exceptions rather than the norm.

Finally, some women have used a wise OA saying to describe current gender relationship in the village that was *Rek ha krag ku lalou*, which meant "like the *krag* plant on the tree". Here, the *krag* is a parasitic plant that would be safe adhering to a tree but would die if independent of it. These women unhappily felt pushed towards

trees on the land but they might not equally partake of the produce, as could the first generation.

⁴² This was a concern as there were a number of women in their thirties or more who were not married and some of them did not foresee themselves getting married.

economic dependency on their men, a trend that did not exist in the traditional system.

This was reflected in a woman's lamentation:

"Women no longer have any rights or power to manage the land except with their husbands. This only increases the belief that women are powerless and subordinate to men, an attitude that is spreading in the village."

This system would be bearable if they were assured of the permanence of a good marriage. However, they were well aware that marriages might not last forever. This only pressured women to get married and remain married, even when husbands were abusive. Even then, there was no guarantee that a husband would not divorce his wife or run away.⁴³

From the above discussion, we could conclude that the traditional gender-egalitarian communal land ownership and inheritance patterns have given way to a tendency towards a more male-biased system where larger tracts of land were concerned. This was mostly due to DOA's interference, with its introduction of the concept of private land ownership for male villagers. However, one could not also ignore the influence of mainstream ideology regarding this matter. Villagers, living rather close to town were aware of the male-biased inheritance and land ownership patterns found in mainstream culture and were likely to be influenced by them. Like the Chewong, "knowledge of male orientation in the public domain among Malays, Chinese and Indians has implicitly provided them with a model for their own behaviour" (Howell, 1983:67).

However, the new systems that emerged were not rigidly nor totally biased towards the males, nor were they institutionalised as *adat* or rule of law at the socio-cultural level.

Thereby, individual owners often had the flexibility to use whichever system, or combination of systems that appealed to them. This supported the fact that there was no systematic changeover from one system of land ownership and inheritance to another. Rather, there was a co-existence of contradictions in their lived realities.

e) Land conflict – a clash of two land tenure systems

Since the creation of the new land tenure, there has been much conflict between the old and new systems. Older people tended to hold on to the *adat* for the *nenggrik pasak* and use the new system for the TSJ. However, younger villagers, especially were increasingly utilising the new system even for the *nenggrik pasak*. At times, villagers used whichever system was beneficial to them at that moment in time. Even the headman was caught in this dynamics and was therefore unable to determine more systematic land tenure for the villagers. Some of these cases would be seen below.

Case 1

Some years back, Villager A allowed a Chinese vegetable farmer to lease some TSJ land belonging to Villagers B and C, insisting the land was not theirs as they did not cultivate it. The farmer initially paid Villager A RM40 a month but later stopped payment. Thereafter, Villager A wanted the land back but was too embarrassed to ask for it, feeling the farmer had invested much on the land.

⁴³ Husbands initiated most of the divorces that took place in the village. Also, husbands tended to run from their wives and children rather than the other way around.

Case 2

Villager D planted *durian* trees on his plot of land and on approximately half of the neighbouring plot, which belonged to his niece. Both plots were TSJ lands. The niece did not want to bring the matter up because she was embarrassed to do so and furthermore, she was not using the plot then. Now that his trees were producing fruits, she felt she could no longer request for the land back nor utilise it in any way because the fruit trees were there.

Case 3

Villager E wanted to use the neighbouring plot of TSJ land belonging to Villager F for cultivating cash crops, although permission was not asked. However, a group of villagers wanted to use that piece of land for a communal project, thereby upsetting Villager E who felt that her status as an “outsider” left her with little rights in the village.

Here, Villagers A, D and E have used the old *adat* system to an extent on the TSJ for their benefit, insisting that fallow land could be used by any other villager. This was in contrast to the villagers’ common view that others should not use land already parcelled out to individual owners by the DOA. Meanwhile, some villagers’ discomfiture with the new concept of “owning” land might have made them hesitant in rightfully claiming it back, for it was not too long ago when all land belonged to *Nyenang*. Here, we have observed the persistence and continuity of the traditional tenure system in spite of change.

f) Group settlement or “Kampung Tersusun”

In 1996, JHEOA officials informed the villagers that Kampung Chang was chosen for the *Kampung Tersusun* project. Their houses would make way for new ones with titled lots, although each household had to pay RM50 per month. Officials did not mention free housing although they said that consistent payers would be given ten acres of land. Officials, without any accompanying explanatory letter, were sent to collect signatures as proof of agreement. All villagers signed to secure titled land for their children's future. However, when some villagers and those in Kampung Chang Baru disagreed with the project, the villagers later told JHEOA they did not want it, as they were worried about their rights to their *nenggrik*, which was not mentioned in the deal. Also, they preferred a communal land grant, so land could not be sold to outsiders. Here, the issue was dominated by the men who were asked to sign their approval and who had done so without much discussion with their wives or female relatives.

If this project were to take place, firstly, men would have official ownership of these house lots where this did not exist before. This would only entrench the existing gender bias in land and property rights. Secondly, only the house lots would be assuredly theirs if they could pay RM50 per month. Although this was relatively little, there were times when villagers were without jobs or with little jungle produce to sell, for their main cash crops fruit according to season and wage labour was often contractual. Thirdly, if they agreed to this project, they would lose their *nenggrik*, which housed their cash crops and other forest produces they used and sold, in addition to their source of water. Lastly, the whole procedure was done in an unprofessional manner with no official letter to explain

the project or record promises made. Therefore, villagers could not be totally assured of the whole project.

4.4 WATER

4.4.1 Principles of the management and use of water according to *adat* and its application

We have seen how the villagers have shifted their *nenggrik* a few times in their history and with that their water sources. However, since the villagers and their ancestors spent most of their time in the area surrounding the Gepai River and its tributaries, these would be the focus of the discussion here.

Generally, villagers would use stream water for their daily purposes as it was considered cleaner. However, in times of drought when these small streams grew small or dried out, villagers would use the Gepai River. At that time, the river was clean and suitable for drinking, as there were strict laws against polluting the river. The villagers also spoke of a time in the nineteenth century when the Gepai River was the main mode of transport, being deep and wide enough for boats and rafts.

The Gepai River, especially at the waterfalls called *Lubuk Degung* was believed by the villagers to be a sacred place. According to the Assistant *Penghulu*, this was the centre for *keramats* (guardian spirits) with the chief-spirit, in dragon-form, being the main guardian of the village and *nenggrik*.⁴⁴

⁴⁴ According to the same source, there was also an important *keramat* at the mouth of the Bidor River, which took the form of a crocodile, who was brother to the dragon spirit. In addition, there was another

Villagers believed that spirits called *mai ngenrik*⁴⁵ or “land people” lived within *Lubuk Degung* and looked after the river, their king being the dragon-spirit. Due to this, the area was much revered by villagers who only used the place for bathing or collecting water. Villagers were forbidden to be noisy or do anything “immoral” in the premises such as indulging in sexual activities or sully the waters and surrounding areas. They were also not to brag or make fun of the spirits, at which cost the guardian spirit would bring about illness.

There were many tales of mystical happenings at the *Lubuk Degung* which have played a very significant role in further entrenching the sacredness of its waters and surrounding areas in the hearts of the villagers, demanding respect for these.⁴⁶

4.4.2 Agents of change at village level

The building of the rock quarry by the British in 1926 and the mining activities started by the Chinese from 1936 had severe impact on the water sources in the *nenggrik*. Meanwhile, logging activities by the Chinese from 1955 till 1988 too, had dire consequences on the quality of water. These will be discussed further in Section 4.4.3.

From 1964 onwards, Bidor townsfolk began to amass at *Lubuk Degung* for picnics, swimming and fishing. Meanwhile, a comprehensive account of the water situation was given by Ijah:

keramat at *Teow Ngait*, a stream close to the current village but its position could be likened to that of a soldier and therefore was not so powerful. However, these three *keramats* guarded over the village, the *nenggrik* and the people within. Of these three the dragon spirit was the king.

⁴⁵ Linguistically, *ngenrik* comes from the same root word as *nenggrik* and both take on the general meaning of “land”.

⁴⁶ These were recorded in Appendix G.

"In the mid eighties, Sungai Gepai became increasingly dirty and crowded as more "outsiders" flock to it. This created serious problems for female villagers,⁴⁷ and villagers requested for piped water from the JHEOA and Member of Parliament. Their request was denied due to supposedly low water pressure as the village was on high grounds. In 1987, the Health Ministry helped dissatisfied villagers channel water from a stream in the hills to the village with PVC pipes. Male and female⁴⁸ villagers worked on the project in a *gotong-royong* manner and were paid RM20 per family. Certain problems emerged, which villagers mentioned were due to disrespect of the guardian spirit of the waters.⁴⁹ Villagers believe that every creation has its spirit or guardian spirit and any natural resource is not to be used in a greedy manner or without first asking permission. They have a deep respect for all the different entities of nature for these are believed to be intricately interconnected and interdependent. In the initial stages of the water project, some village women had asked the men to build the dam on much higher ground for fear of suffering the consequences if water pressure was not high enough to send water to the village. However, the men paid no heed. Due to that, water pressure was often low and water was not available for many homes during the dry season."

At the same time, Chinese, Malay and even the OA army men from a nearby camp began using weedicide to stun fish in the river and mining pools within the *nenggrik* for easy catching. They took what they could and left the rest to die. Lately, some Kampung Chang villagers have also adopted the practice.⁵⁰

⁴⁷ Female villagers had by now taken over much of the reproductive chores that concerned water such as carrying drinking and cooking water into the home, washing clothes, dishes and cooking and eating utensils and bathing children.

⁴⁸ Those women who especially did not have male children and relatives or husbands to contribute in the work were required to assist.

⁴⁹ Please refer to Appendix H for details.

⁵⁰ There was a belief among villagers that explained this practice in some ways. They believed that pouring weedicide, especially of the brand name *Tengkorak* (Skull) or any other poison into the waters of the Gepai River or in the mining pools would cause the eyes of the dragon spirit who dwelled within the waters to smart terribly. In anger and retaliation, he would bring down a storm to punish the culprits. This act also angered *Nyenang* for s/he provided fish to be consumed in a sustainable manner, not to be destroyed without cause. S/he would also create a storm to punish the wrongdoers. As villagers did not like big storms, being afraid of lightning and accompanying floods, villagers were encouraged to keep their waters unpolluted and clean. However, as villagers started cultivating cash crops for the market economy (such as long beans, chillies and ladies fingers), some were found poisoning the waters to

4.4.3 Impact on local management and use of water and local responses

The creation of the British quarry in 1926 barred villagers from using their usual bathing place where they also collected water, washed their clothes or did their fishing. Men and women alike were sorely affected, for most activities were still done by both sexes either in groups or as couples. Meanwhile, Chinese mining activities on a large scale from 1936 eroded the area and caused an accumulation of silt in the waters, which made the waters shallow and in turn, endangered aquatic life.

Furthermore, as a result of logging activities, which occurred from 1955 to 1988, the waters of the Gepai River became full of silt during those years. This created the same consequences as mentioned above. Many fish species which were large and bountiful before, such as the white fish, *lanor*, *umbut*, *ruug*, *terbul*, *sebarow*, *senler telei* and *tilat*, were becoming a rarity and found to be smaller in size. This affected villagers' supply of protein and iodine. Both sexes were significantly affected as both were equally involved in water-based activities and chores.

In addition, since the use of water dammed and piped in from the hills from 1987, the villagers have started channelling their used dirty water into another stream that was once utilised as a water source. When the water from the dam dried up during a drought or when a PVC pipe was damaged due to fallen logs, strong water currents or some contractor's work, the villagers often had no other choice but to use this second water source which they had sullied. This was because there were no other effective alternatives.

provoke the anger of the dragon spirit or *Nyenang* so that they would bring down rain for their crops. It seemed even the Malays and Chinese were adopting the practice for similar reasons (Tijah, 1997b:25-6).

By this time, the Gepai River especially at *Lubuk Degung* was getting dirty due to too many “outsiders” bathing in it or throwing rubbish and food scraps into it. Also, villagers had to walk much further to the part of the Gepai River that was less spoilt by outsiders. Furthermore, Chinese farmers often bathed their dogs in the river and village children who often bathed there frequently caught skin disease due to this. There was also the danger of villagers using water tainted by weedicide used to stun and kill fish. In addition, there were cases of fish caught with the smell of soap, with lumps of soap in their stomachs, had more fat than normal, or smelt more fishy than usual. Therefore, villagers currently tried not to use water from *Lubuk Degung* nor often fished there anymore.

In addition, certain streams near the Gepai River which never ran dry in times of drought could no longer be used due to pollution from nearby vegetable, cow and pig farms, oil palm plantations and logging activities. Furthermore, at one point, the pig farms at the banks of the Gepai River directed their untreated waste into the river but after a police investigation, they directed it into a pit in the ground instead. But when it rained, the waste would often flow over into the river, polluting it. This was in contrast to the old days when their homes were close to clean water sources. This changed with the implementation of the Resettlement Scheme and encroachment of external parties.

Moreover, according to Ijah, ever since having individual piped water in the homes, the women have seldom gathered in larger groups to do their chores at a common water source, as they did before. Rather, women were beginning to form cliques. Their relationships, which have been very close and communal in nature, grew individualistic, as women only became friendly with those who lived nearby or shared the same piped

water. This attitude became more prominent during a drought when women often had to use an alternative stream nearby in large groups. As they waited for their turn to use the water, they were frequently impatient and quarrelsome. This was in contrast to past times, when women often took this opportunity to share news and stories among themselves or plan to gather forest produces or firewood together the next day.

In addition, Ijah also mentioned that since the use of piped water, whenever there were leaks in a pipe, the men had to stop all other work for a week or so to repair it, foregoing their income for that period of time. Eventually, the men no longer wanted to repair these, especially in difficult economic times. Some also felt it unfair that they should repair the pipes when friends who were using their water source did not assist them. Nowadays, when there is problem with the pipes, the women usually investigate the source of the problem in a group. They would then try to repair it especially if the dam is stuck or leaking. If they fail, they would inform the men who would repair it. This was so, as women have become mainly responsible for household chores that require much use of water. The men are not so concerned as they only need water to bathe and they could easily bathe at other streams further away, for they have bicycles or motorbikes as modes of transport.

Finally, Ijah said that villagers are now beginning to waste water, an action that has angered other villagers. There are some villagers who are in the habit of keeping their pipes flowing even after they are done with them. This might be due to the fact that they never had to shut off their water supply in the past due to the availability of a constant flow of water from streams. This could also be due to an increasing sense of individualism. Consequently, some other villagers could not receive water due to low

pressure. This problem would not have existed if there had been more foresight in the implementation of the project in ensuring that the water source was located at a higher level.