

To. The UN Special Rapporteur on Poverty

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Eviction of poor communities - Malaysia – 15th August ,2019

Introduction

Pre colonized Malaya, would have had many types of land ownerships relations. As many parts of the country would not have been explored and settled by our early inhabitants. It can be assumed that under feudal Malaya, the Kings or state heads would have been the authorized owners of the lands together with their ruling nobles. The lands were however allowed to be cultivated by peasants and the general masses as long as their produce was paid as taxes to the ruling class.

Besides these lands, we have to take note of native customary land owned and managed by indigenous communities. Land was owned communally there was no clear demarcations and borders of land owned.

This all changed and abolished during the British occupation, with the introduction of National Land Code 1965 ('the Code'), which codified the concept of Torrens system which was ownership via registration of ownership, title and interest, named after Sir Robert Torrens who introduced the concept in South Australia in 1858. This system was obviously incompatible to Asian tradition and culture. Till today there are continuous land disputes between settled communities and new private landowners whom purchase these land without the knowledge of their tribal occupants from state or other previous private entities. There are cases where community occupied lands are state lands. Thus the state with its wide powers evicts the occupants and then alienates these lands for a price to private entities.

In cases where the lands have been privately owned and have exchanged hands from other private individuals or corporations to a company that seeks vacant possession of the land, the law requires that the registered land owner files a suit in court to get an eviction order. Usually the courts refuse to consider tribal issues and grant eviction order to these owners.

Amongst the affected communities are as follows;

Urban pioneers, villages.

The terminology used by the authorities to identify such communities is squatters. However from a rights perspective, these communities were occupiers of state land with permission. During the 1970's, as Kuala Lumpur and other industrial townships began to emerge, manpower was needed to work in the factories, cities and other commercial sectors. The government of the

day welcomed peoples from far away villages to occupy barren land mainly state land to build houses and establish their own villages. Thus the terminology urban pioneers.

However since the 1990's with the expansion of Kuala Lumpur as city and governments intensive effort to attract private enterprise to partner the government to build the cities, many villages were brutally forcefully evicted. These urban pioneers are majority from the working class or the bottom 40% in terms of household incomes (B40). The full force of the law was used in these mass forced evictions, where any person who unlawfully occupies, cultivates or even removes produces from such land commits an offence under Section 425 of the National Land Code and can be punished with a fine not exceeding RM5, 000.00 or imprisonment not exceeding 5 years or both.

On top of such criminalization of the urban poor, Malaysia has been implementing the Emergency (Clearance of Squatters) Regulations 1969 that legalizes forced eviction of squatters assisted by the police, Federal Reserve Units (riot police) and local council enforcements officers. Many of these forced evictions have been brutal where riot police have attacked, injured and arrested many villagers.

Although legal standing of urban villages remains the same today, the government has stopped using the Emergency (Clearance of Squatters) Regulations 1969) after much protest and public outrage. But police and riot police are still deployed to assist court bailiffs to execute the eviction orders. In such cases, urban poor families are left homeless overnight. Amongst the cases still pending dispute and possible eviction are as follows;

1. Kg Chim Lee, Jinjang - Kuala Lumpur
2. Kg Jinjang Selatan / Utara – Kuala Lumpur
3. Kg Padang Jawa – Shah Alam
4. Kg Seri Kesinai, Padang Besar – Perlis
5. Tanah wakaf Kg Mengkuang – Penang
6. Kg Kastam, Penang
7. Rumah Panjang Kg Bunga Raya – Subang , Selangor
8. Kg Batu 19, Padang Besar, Perlis
9. Kg Jalan Reko, Kajang
10. Kg Bukit kuda, Klang
11. Kg Chubadak, Kuala Lumpur
12. Kg DBI , Perak
13. Kg KTM, Perak
14. Kg India, Pulau Carey, Klang
15. Kg Seri Tanjung, Dengkil
16. Kg Pinang, Kalumpang , Hulu Selangor
17. Kg Pusing, Tanjung Malim, Perak .
18. Kg Bengali, Perak

19. Kg Perak Hydro, Perak
20. Kg Veerasamy, Perak
21. Kg Belakang Chin Chung, Perak
22. Kg Jalan Lintang, Perak
23. Kg Gopal, Perak
24. Kg Bahar
25. Kg Hakka, Negeri Sembilan.

There could be more cases, but the above are the ones whom have brought out their matters to challenge .

Eviction from estates /plantation.

Plantation indentured labor has been brought in since the mid-19th century to toil the rubber plantations and enrich the British empire during colonial rule. Estate live was structured where the workers (predominantly Indian labor from south India) were housed in laborers quarters as long as they worked in the plantations. These practice has continued for generations, but when they are retrenched or when plantation operation ceases , these workers whom have resided as a community within the estate for generations are evicted.

They do not own the estate houses nor any of those infrastructural facilities like childcare crèches, temples of worship, community hall, sports facilities they enjoyed while in employment with the estate. During eviction, overnight they are thrown out to the streets.

The plantation industry for generations has used their cheap labor and justified low wages by claiming that the industry has indirectly '*paid* 'the workers by providing them housing and basic amenities. But due to their low wages these workers are unable to buy a roof over their heads or establish a decent safeguard to continue their life after being retrenched .

Besides losing an income, their poverty stricken condition is further multiplied when they lose all basic needs to support their livelihood.

The cases we are directly facing such situation are as follows ; (Ladang means estate)

1. Ladang Padang Meha, Kedah
2. Ladang Mary, Selangor
3. Ladang Nigel Garden, Selangor
4. Ladang Minyak, Selangor
5. Ladang Berjaya, Selangor
6. Ladang Bagan Serai (5 divisions)Perak
7. Ladang Bukit Beruntung, Selangor
8. Ladang Belata River, Kalumpang, Selangor
9. Ladang Victoria Kedah
10. Ladang Kirby Negeri Sembilan
11. Ladang Bukit Jalil Kuala Lumpur

12. Ladang Changkat Salak Perak
13. Ladang Elphil Perak
14. Ladang Sungai Tinggi , Selangor
15. Ladang Elmina, Selangor
16. Ladang Gedung
17. Ladang Jin Seng
18. Ladang Tali Ayer
19. Ladang Ulu Bernam
20. Ladang Batang Kali.

Blatant eviction of farmers by Perak state government, Malaysia

Even with the ever looming possibility of a world food crisis, the Malaysian government seems insensitive to the issue. Furthermore both the private and government sectors seem to be on a land grabbing spree, evicting productive farmers from their lands.

Food crisis is a real phenomenon as demand may outstrip supply when basic necessities such as land and water are fast becoming scarce. The equation of food has shifted to a supply constraint one. We have not learned from the food price crisis that occurred in 2008.

In a capitalist economy, even though the capability to enhance food production exists in terms of technology and science but it is not reflected in the volume of food produced for consumption.

Malaysia has seen a clear underinvestment in agriculture in since the 1990's. The government's budgetary allocation for agriculture declined from 17%in 1990 to 5.8% in 2005. Furthermore Malaysia inherited the export commodity driven agricultural model from the colonial masters in comparison to investing in actual food for consumption for the people.

The growing dominance of palm oil and other commodity crops for export has taken a significant portion of land usage in comparison to food crops. In 1990, industrial crops consumed 68.5% of land use compared with 31.5% of food crops. In 2005 it was 83.7 % land use for industrial crops and only 16.3% land used for food crops! This is a reflection of a conscious decision by the policy makers to shift the agricultural direction to specialize in cash or export crops at the expense of investing in food for local consumption to enhance food security. It was a regrettable decision to depend on food imports to feed the population.

Malaysia has been the net importer of food in the last four decades, with a widening deficit in food trade from 1 billion in 1990 to 9.7 billion in 2007 and a staggering 13billion in 2013!

As pointed out by the United Nations Special Rapporteur on the Right to Food, Oliver De Schutter in 2014 that *“Good land is being used for non-agricultural purposes,” he pointed out. “No amount of money spent can make a difference unless we use our natural resources constructively.”*

The worst of disasters destroying our food security is currently taking place in **Perak state**. It is done by none other than the State Government of Perak.

A total of 22 farms and livestock areas are being threatened by eviction from the Chief Minister Incorporated company, (Menteri Besar Incorporated, **MBI**) and its subsidiaries .The affected locations are Tronoh, Chenderong, Tg.Tualang, Tanah Hitam, Kanthan, Malim Nawar, Batu Puteh (Kampar) , Batu Gajah, Kuala Kuang, Kg. Bali, Temoh, Kg Banir(Tapah), Sungai Kroh (Tapah), Sungai Siput, Biovalley Kampar, Pusing, Papan, Changkat Kinding, LawanKuda, Mambang Diawan, Chenderiang and Ampang(Tambun).

The total size of land cultivated is estimated to be around 10,000 acres comprising of vegetable, fruits, livestock barns and fish farms. The farmers are regular’s suppliers to most wet markets around the State of Perak and Selangor. They are also engaged in contract farming arrangements with several key supermarkets. Revenue in total is estimated to be approximately 30 million ringgits per year. Case examples of farmland forcefully facing eviction from the state power are as follows;

1. Trench farm land.

1500 acres cultivated by the locals’ farmers since the 1960’s, when their fore fathers developed an abandoned government mining land for their use. Even though the farmers have a lease agreement with a private company known as Bumi Bertuah Sdn Bhd till 2019, but the MBI has taken ownership over the land in 2012. MBI has issued notices to evict the farmers.

2. Ampangan Buah Limau Bali Fruit farm land.

Perak is well known for its Bali Lemons known as Limau Bali . The farmers in Ampangan area have received various state and federal awards in recognition of their efforts to cultivate this very special Limau Bali. But now this land whom they have been toiling since the 1960’s has been given ownership to an Ipoh City Councilor, Dato Hj.Mohd.Raduan b.Mohd Kasim under a registered company Arash Kukuh Enterprise Sdn Bhd.

3. Vegetable farms in Changkat Kinding Chemor, Perak

A total of 247 acres were cultivated by the farmers since the 1940's in the areas of Changkat Kinding and Tanah Hitam. In 1987 the state land office offered the farmers land under a special project known as the State Vegetable Cultivation Project in Tanah Hitam, Chemor. The farmers were trained by the governments Federal Agricultural Marketing Authority, FAMA in 1988 to enhance their marketing skills on the products. The farmers were convinced of the state government's recognition of their efforts and hoped to continue farming in the location. The land was then owned by the small farmer's cooperative, but suddenly the land was sold to a private housing developer company known as Eternal Class Sdn Bhd. Farmers are now threatened by eviction to give way to a housing project.

4. Kanthan Baru Farms (near Lafarge Cement Factory)

800 acres of farm land has been cultivated by 100 over farmers for more than 80 years .The previous Chief Minister of Perak, Tajol Rosli promised the farmers that their farms will be protected and they can continue to work the land. Later the land was not given to the farmers but alienated to the State owned company known as the State Secretariat Incorporated.

5. Sungai Kroh farming area

A total of 55 farmers are working on over 300 acres of land, cultivating fish ponds, vegetables and livestock since the year 1975. Even though the farmers have applied for land titles for their farm land, but they were only given temporary occupation licenses. Their applications for land titles have been rejected. Now the land is owned by the State Agricultural Development Authority (SADC) and the farmers have to pay rent to cultivate on the land. The SADC plays the role of a rent collection agent without any value added assistance to the farmers.

6. Kantan Industrial area Farms

293 farmers were shocked to find out the 1200 over acres of land that they have been cultivating for the last three generations would be converted to a Hi Tech park. Even though they have appealed to the state government, but the state development cooperation PKNP has only decided to lease the land to the farmers with no guarantee of ownership.

7. Chenderong Farms

For the last 40 over years, 50 farmers cultivating various vegetables, fruits, fresh water fish, and other livestock in the areas of Chenderong. They have applied many times to the land office since 1987 for permanent land titles and permission to continuously farm in the area. Suddenly in November 2014 their farms have been alienated to the Chief Ministers Incorporated Company, MBI. Now the farmers are facing eviction.

These inconsiderate evictions of farmers by the state government subsidiaries and government sanctioned private companies have to stop! The State seems completely oblivious to its responsibility to ensure sufficient domestic food supply, and the Federal Government Minister in charge of Agricultural pays no attention to the issue as land matters fall under the purview of the respective State Governments.

The Chief Minister Incorporated Company, MBI and its subsidiaries are adamant to evict the farmers of their long toiled lands in view of converting the agricultural lands to more profitable commercial property prospects.

It is a blatant misuse of power as the interested entity, the Chief Minister Incorporated Company is chaired by the Chief Minister and the government authority that approves the land alienation is also the Chief Minister himself!

The affected farmers from the 22 areas have established a working committee to protect the farms from eviction. They have campaigned actively demanding that the State immediately abandons its plans and grant them land titles enabling them to continue to farm the land. They now seek the assistance of various organisations local and international to highlight their issue and support their struggle.

Thank you.

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