

## REPORT ON STUDY TRIP TO METALUN AND TEGULANG RESETTLEMENT AREAS, BELAGA, SARAWAK

### 1. INTRODUCTION

1.1 On 4 December 2013, the United Nations Human Rights Council published its Report of the Working Group on the Universal Periodic Review, in respect of Malaysia.<sup>1</sup>

1.2 At paragraphs 134 to 137 of the above-mentioned report, the Government of Malaysia stated as follows:

*“134. Sarawak State, with a large indigenous population comprising 27 ethnic groups, had for nearly two centuries had laws which recognized and protected indigenous rights to land. Official records confirm Sarawak has about 1.5 million hectares of native customary rights (NCR) land. A survey to demarcate boundaries and guarantee security of tenure of NCR land was ongoing under the Government Transformation Programme.*

*135. The current development agenda, involving the building of hydroelectric facilities, necessitated the use of NCR land. Where rights to NCR land were affected, the State Government and its utility company, Sarawak Energy Berhad: (a) adopted best international practices in engagement and consultation with indigenous peoples, which conformed with acceptable norms and standards, including principles embodied in the United Nations Declaration on the Rights of Indigenous Peoples; and (b) provided affected indigenous communities with a comprehensive compensation package, which assured them an immediate and substantial improvement in living standards, better access to basic human rights to education and health care, and better economic opportunities, whilst preserving their cultural identities and traditions.*

*136. Implementation of the resettlement action plan and compensation package for those affected by the Murum Hydro-electric Project exemplified a process that recognized the rights and well-being of the indigenous people.*

*137. In recognizing the challenges facing indigenous communities in Malaysia, the Government maintained that those communities must be afforded choice and be free to decide whether they wished to join mainstream society or not.”*

1.3 In order to ascertain the veracity of these statements, Bar Council Malaysia, through its Committee on Orang Asli Rights, Human Rights Committee and Secretariat undertook a Study Trip to the Metalun and Tegulang Resettlement Areas. The Study Trip was also to gauge the situation/living conditions of as well as to gather and document information from the Penan and Kenyah communities resettled as a result of the construction of the Murum Dam. In particular, we were interested in the implementation of the Resettlement Action Plan undertaken by Sarawak Energy Berhad (SEB), being the project proponent of the Murum Dam, and whether the said

<sup>1</sup> A/HRC/25/10, <http://daccess-ods.un.org/TMP/6194971.20380402.html>

plan had been implemented in accordance with the standards, principles and requirements outlined in the United Nations Declaration Of The Rights Of Indigenous Peoples (UNDRIP).

- 1.4 This report has been compiled by those members of the Bar Council's Committee on Orang Asli Rights, Human Rights Committee and Secretariat that participated in the Study Trip.

## 2. BRIEF OVERVIEW OF THE STUDY TRIP

- 2.1 The Penan community living in the Plieran river valley, as a result of the Murum Hydro Electric Power Project in Belaga, Sarawak, which saw the construction of the Murum Dam, had been relocated to the Metalun Resettlement Area (hereinafter referred to as "Metalun RA"). The Penan and Kenyah communities living in the Danum river valley, meanwhile, were relocated to the Tegulang Resettlement Area (hereinafter referred to as "Tegulang RA").

- 2.2 The Metalun RA comprised the following:

Long Singu	-	6 blocks of 10 units, 1 block of 8 units; 68 families.
Long Menapa	-	4 blocks of 8 units, 1 block of 10 units; 42 families.
Long Tangau	-	2 blocks of 10 units; 2 blocks of 8 units; 32 families, approximately 100 residents.
Long Luar	-	4 blocks of 10 units, 2 blocks of 6 units; 52 families, approximately 100 residents.

- 2.3 The Tegulang RA comprised the following:

Long Malim Kenyah	-	1 block of 10 units, 1 block of 8 units; 18 families, approximately 54 residents)
Long Malim Penan	-	4 blocks of 10 units, 1 block of 8 units, 1 block of 6 units; 54 families.
Long Wat	-	8 blocks of 10 units, 1 block of 9 units; 89 families.

- 2.4 The Study Trip was undertaken from 17-23 May, 2014. Details of the journey are as follows:

Day 1	16 May 2014	Travel from Kuala Lumpur to Miri by plane. Overnight in Miri.
Day 2	17 May 2014	Travel overland from Miri to Sungai Koyan, in the Sungai Asap resettlement area at Belaga <sup>2</sup> . Overnight at Uma Bawang, Sungai Asap.
Day 3	18 May 2014	Travel from Sungai Asap to Long Singu. Overnight at Long Singu.

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<sup>2</sup> This is an older resettlement area created on 30th. December, 1999 to cater to the native population that had to make way for the earlier Bakun Hydro Electric project (hereinafter referred to as "Bakun HEP").

Day 4	19 May 2014	Visit Long Singu and Long Menapa. Overnight at Long Singu.
Day 5	20 May 2014	Visit Long Tangau and Long Luar. Overnight at Long Singu.
Day 6	21 May 2014	Travel overland from Long Singu to Long Malim Kenyah. Visit and overnight at Long Malim Kenyah.
Day 7	22 May 2014	Visit Long Malim Penan and Long Wat. Overnight at Long Malim Kenyah.
Day 8	23 May 2014	Travel overland from Long Malim Kenyah to Miri. Overnight in Miri.
Day 9	24 May 2014	Travel from Miri to Kuala Lumpur by plane.

2.5 The trip from Sungai Asap to Long Singu (the largest of the villages in the Metalun RA) took 6 to 8 hours along dangerous logging routes all thick with mud due to the rainy season. Our vehicles had to churn their way up and down the hillsides. Once we arrived in the vicinity of the Murum Dam area we saw evidence of extensive logging, with barren hill slopes and cut trees piled up at the side of the road for several kilometres. The journey to Metalun RA runs through land area under the management of Shin Yang Sdn. Bhd., a palm oil/timber/housing conglomerate. They operate a ferry (actually a barge pulled from both ends by tractors) across a stretch of inundated land for which non-registered users have to pay RM150 per crossing (each way) per vehicle. The crossing takes approximately 2-3 minutes. Vehicles owned by the Penan and previously registered are exempt from this payment. Construction of a road bridge across this inundated area is on-going. The extent of environmental degradation in this area is very great.

### 3. OBSERVATIONS IN THE METALUN AREA

- 3.1 Long Singu is the largest of the 4 long house villages. The occupants of all 4 longhouses had just been resettled there from early December, 2013, i.e. barely 6 months ago. However the occupants appear settled in their new surroundings.
- 3.2 Electricity is provided by way of a generator set, supposedly from 6am to noon, and again from 6pm to midnight, i.e. 12 hours per day. However, electricity supply is usually stopped by 10am or 11am in the mornings. There is tap water available in each *'bilik'* at all 4 longhouse villages. Electricity and water supply are provided for free to all 4 villages in the Metalun RA.

### 4. OBSERVATIONS IN THE TEGULANG AREA

- 4.1 Long Wat is the largest of the 3 long house villages in the area. The occupants of all 3 longhouses had been resettled there from September, 2013. A few blocks of longhouses at Long Wat remained under construction in September 2013 and the remaining Penan families moved to Long Wat in the Tegulang RA in December 2013.
- 4.2 Electricity is also provided in the Tegulang RA by way of a generator set. However, unlike in the Metalun RA, it is only provided for 6 hours a day, from 6pm to

midnight. There is tap water available in each 'bilik' at all longhouse. Electricity and water supply are provided for free to all 3 villages in the Tegulang RA.

## 5. CUSTOMS AND TRADITIONAL PRACTICES OF PENAN AND KENYAH ON LAND

### 5.1 Penan

- 5.1.1 Penan is defined as part of native people in the state of Sarawak<sup>3</sup>. Penan were traditionally nomadic people but large majority of them have begun settled permanently in longhouse communities. Forest are essential to the Penan way of life as it provides sources of food and jungle produce such as rattan, dammar (a resin), gaharu (incense wood) and woods for construction of huts, boats and blowpipes. Forest also provides certain species of plants used by Penans as medicines.
- 5.1.2 The special bonding and strong connection between Penan and their land presents a system of Penan's customs on land tenure which is quite different from other native communities in Sarawak. Unlike other indigenous people in Sarawak who establish customary rights to land by cutting trees, the Penans establishes rights to resources within the territory they occupy. Their nomadic lifestyles have greatly influenced their claim over customary rights.
- 5.1.3 The creation of *Tana' Pengurip* was influenced by Penan's nomadic lifestyle and their customary rights claim over resources in the forest. A nomadic group of Penan lives in lean-tos called *lamin* (a dwelling place). While living in their present *lamin*, the Penans will consume fruits and other resources available at the surrounding site of their *lamin*. The surrounding site of their *lamin* is called *Tana' Pengurip* where all the available resources for food and forest produce are available. The boundary is marked by natural features of landscape such as streams, mountain ridges and similar markers.<sup>4</sup>
- 5.1.4 While occupying at their present *lamin*, fruit seed will be thrown all over *lamin* and slowly fruit trees will grow. The Penan will preserve this fruit trees until it mature and moves to other site for fresh resources and build new *lamin*. The old *lamin* is called *la'a*. Other available resources such as young wild sago trees will remain unharvest to maintain the fertility of the land at *la'a*. These trees will help future generation of a particular Penan group to identify *la'a* as their ancestors' former dwelling site. This traditional practice continues and once the fruit trees and other food resources at *la'a* became mature, the particular Penan group as a whole community will lay claim over ownership of the land. The claim of ownership of land on *la'a* also includes the surrounding forest and natural landscape available at *la'a*. The surrounding land over *la'a* is also called *Tana' Pengurip*. Hence, it is safe to

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<sup>3</sup> Article 161A of the Federal Constitution

<sup>4</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

say *Tana' Pengurip* are territorial boundaries on both *lamin* and/or *la'a*. The concept of *Tana' Pengurip* is similar to the concept of *Pemakai Menoa* of the Iban customs. If the boundaries overlap between two different groups of Penan settlement, the groups can agree to common use of an area.<sup>5</sup>

- 5.1.5 The Penans establishes rights to resources within their *Tana' Pengurip* as opposed to cutting down trees practiced by other indigenous peoples in Sarawak. The practice of laying claims over all sorts of resources within *Tana' Pengurip* is called *Molong* whereby the Penan will harvest resources and at the same time preserve forest resources for future harvest. The most common forest resources *Molong* by the Penan are wild sago and rattan. Penan will place an *oroo* (sign or mark) on a sago clump or rattan stand to indicate ownership. Such sign is known as *oroo olong* (sign claim). Once *oroo* is placed on the wild sago or rattan, the individual Penan will be responsible for its upkeep.<sup>6</sup>

## 5.2 Kenyah

- 5.2.1 Kenyah is defined under the Federal Constitution as a native of Sarawak<sup>7</sup>. The Kenyah can be found mainly in the areas like Belaga, Miri, Baram, Bintulu, Bario, Lawas and Limbang in the state of Sarawak. Living as a big community in longhouses, the Kenyah's main economic activity is agriculture mainly hill paddy although a lot do fishing along the river.
- 5.2.2 *Lepu'un* is the site of old longhouses of the Kenyah. Kenyah narrated their old longhouses by keeping it memory through oral, identification by names of streams, rock formation, and fruit trees planted around the old longhouses by ancestral pioneers.<sup>8</sup>
- 5.2.3 The Kenyah establishes customary rights land through cultivation of land, similar like other indigenous peoples such as Iban and Bidayuh. The cultivated land that is left fallow for more than 25 years are called *Jekau Baliu Emba*.<sup>9</sup>
- 5.2.4 *Tana' Kana* refers to certain land that is left uncultivated and allows the Kenyah to hunt, collect forest produce such as rattan and timber, wild fruits and jungle medicines. It is a land that provides the essentials of life. *Tana' Kana* also acts as water catchment.<sup>10</sup>

<sup>5</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

<sup>6</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

<sup>7</sup> Article 161A of the Federal Constitution

<sup>8</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

<sup>9</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

<sup>10</sup> Dr John Phua, Jay Layl langub and John Jussem, NCR Land Conflicts in Sarawak in SUHAKAM National Inquiry on Land Rights of Indigenous Peoples Indigenous Land Conflict in Sarawak

## 6. RIGHT TO INFORMED CONSULTATION, CONSENT AND NEGOTIATED SETTLEMENT; FREE FROM COERCION

- 6.1 Malaysia supported the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the United Nations General Assembly in 13<sup>th</sup> September 2007. However, it has not passed any legislation to incorporate the provisions of UNDRIP into domestic law. As such, indigenous people do not enjoy any legal rights in Malaysia arising from UNDRIP.
- 6.2 Although it is not a legal requirement for the state government of Sarawak to adopt consultation and obtain free, prior and informed consent before acquiring land over which native customary rights are claimed<sup>11</sup>, it is equally important that the state government of Sarawak through its project proponent for the Murum Dam, namely Sarawak Energy Berhad (SEB), to respect the basic principles under UNDRIP. These would be to engage, consult and cooperate with the affected Penan and Kenyah Badeng communities along the Plieran and Danum rivers through the Penan and Kenyah's own respective representative institutions and obtain free, prior and informed consent before approving the construction of the Murum Dam.<sup>12</sup>
- 6.3 SEB through its website<sup>13</sup> has stated that the Social and Environment Impact Assessment (SEIA) Study in respect of the Murum Dam commenced in October 2009. The preparation of SEIA was conducted by Chemsain Consultants Sdn Bhd (hereinafter referred to as "*Chemsain Consultants*") of Sarawak. Based on the Household Register carried out as part of the Contemporary Ethnography Study of the Murum SEIA Study, a total of 1,302 Penan (335 households) and 113 Kenyah Badeng (18 households) in three areas – Plieran, Seping and Danum, would be affected by the Murum Dam.
- 6.4 SEB also stated on its website that the consultation involved visits to the directly affected longhouses in order to discuss the proposed project and consult with them with regard to all aspects of their proposed resettlement in order to reach amicable consent between the affected communities, the government and the project proponent.
- 6.5 Based on the SEIA report prepared by Chemsain Consultants<sup>14</sup>, the consultation with the affected Penan and Kenyah communities at Long Wat, Long Malim, Long Luar, Long Tangau, Long Singu and Long Menapa focused on whether the affected Penan and Kenyah were content in staying at their old settlement along the Plieran and Danum rivers and their preferred choices of a resettlement site. Regrettably, the SEIA report omits the most important consultation on whether the affected Penan and Kenyah agreed to the construction of the Murum Dam along the Murum river which affects the valley along the Plieran and Danum rivers.

<sup>11</sup> Bato Bagi & Ors v Kerajaan Negeri Sarawak & Another [2012] 1 MLRA 1 (Federal Court).

<sup>12</sup> Article 32 clause 2 of UNDRIP.

<sup>13</sup> <http://www.sarawakenergy.com.my/index.php/hydroelectric-projects/fact-sheets/murum>.

<sup>14</sup> Social and Environmental Impact for Murum Hydroelectric Power Project, contemporary ethnography.

- 6.6 In any event, the SEIA report laid out three categories of requirements demanded by the Penan and Kenyah communities before they were willing to resettle. The three categories were:-

<b>Physical</b>	<b>Economic</b>	<b>Institutional</b>
Houses to be built Sufficient, suitable land Clinic School Near Batu Tungun Good roads / access Clean water and electricity Recreational facilities	Job opportunities Compensation payment from government Programmes for enhancing livelihoods Agriculture development programmes	Agreements with government to be signed Titles for land Assistance with documents from government (e.g. identity cards (ICs))

- 6.7 SUHAKAM in their Report on the impact of Murum Dam<sup>15</sup> stated that the affected villagers were resistant to the idea of relocation to the extent that some stated that they would stay in their present locations despite being informed that their villages would be flooded. The resettlement areas were merely an alternative site if the villagers were forced to vacate their current villages. In fact, the engagement and consultation held by SEB was an avenue to inform the villagers that they were to be relocated and that a plan was in place to facilitate their resettlement. It was not a consultation process to invite the villagers as stakeholders and obtain their views and concerns on the Murum dam project.
- 6.8 SEB devised a Resettlement Action Plan (RAP) for the affected communities. Under the RAP, each household was entitled to:-
- 6.8.1 15 hectares of land per household on the basis of one hectare per household for community purposes, and 14 hectares for agriculture;
  - 6.8.2 forest access to wildlife and forest produce - total area of up to 20,000 hectares;
  - 6.8.3 RM15,000 ex-gratia cash payment upon relocation;
  - 6.8.4 Temporary Income Support valued at RM850 a month from the time they are resettled at the new resettlement village for a period of 5 years, and RM500 for a period of 3 years thereafter;
  - 6.8.5 free housing - one unit (bilik) of longhouse of 1,300 sq. ft. per family;
  - 6.8.6 clean and stable water supply;
  - 6.8.7 electricity supply with subsidised monthly allocation of RM40 per family;

<sup>15</sup> SUHAKAM Report on the Murum Hydroelectric Project and Its Impact Towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak, 2009, pp. 9-10.

- 6.8.8 free Astro NJOI package for every longhouse;
  - 6.8.9 integrated community hall with chapel and kindergarten;
  - 6.8.10 school;
  - 6.8.11 medical assistance; and
  - 6.8.12 own garden plot per family.
- 6.9 Based on our interviews with the Penan and Kenyah of the Metalun RA and Tegulang RA, they were far happier and content staying at their old settlements in the valley along the Plieran and Danum rivers. The reasons given are stated in our discussion below. Even though the villagers were given the choice to pick the site of the new resettlement area<sup>16</sup>, the sentiment was that the relocation was merely an alternative to involuntary resettlement<sup>17</sup>.
- 6.10 In Metalun RA, we met and interviewed three male individuals from Long Singu, Long Tangau and Long Luar who had indicated their unhappiness about the relocation to Metalun RA. The three individuals stated that SEB merely came to their old settlements to explain that the construction of Murum dam would affect the villagers and a relocation plan had been drawn for the villagers to comply. The villagers held blockades to protest against the construction and relocation to the new settlement. However, the Penans lifted the blockade after they were offered an addition of RM8,000.00 on top of the RM15,000.00 which had been offered earlier. The three individuals did not want a repeat of the plight of the Penans living at Umo'Ek Penan Talun Sg Koyan, Sungai Asap Resettlement Area, Belaga who were struggling to survive and adapt in the new resettlement area.
- 6.11 In Tegulang RA, we noted that the majority of the villagers were reluctant to relocate to the new resettlement area at Tegulang RA for fear of an uncertain future and also because they did not want a repeat of the plight of the Penan living at Umo'Ek Penan Talun Sg Koyan, Sungai Asap Resettlement Area, Belaga. Many villagers relocated to the present resettlement area involuntarily because SEB had given them no choice but to relocate with the compensation package.
- 6.12 We found out later during our visit to Long Malim Kenyah that the Kenyah Badeng of Tegulang protested and objected to the development and construction of the Tegulang RA. The SEIA noted that the Kenyah Badeng of Tegulang claimed '*Temuda*' (in the Kenyah's term, '*Tanah Ka'na*') and/or native customary land over the land at Tegulang RA. Our interview with a pastor residing at Long Singu, Metalun RA aged 55 years old supported the claim mentioned in the SEIA report. Damai Wan was posted to Long Singu, Metalun Area for religious mission and he himself was a

<sup>16</sup> Sarawak State Government, 'Resettlement Action Plan (RAP) for the Murum Hydro-Electric Power Project' (22<sup>nd</sup> May 2013) Chapter 5

<sup>17</sup> SUHAKAM Report on the Murum Hydroelectric Project and Its Impact Towards the Economic, Social and Cultural Rights of the Affected Indigenous Peoples in Sarawak, (2009), 1<sup>st</sup> Ed pp. 11-12.



member of the Kenyah Badeng community from Tegulang. He claimed that the land at Tegulang RA was the *'Temuda'* and/or native customary land of the Kenyah Badeng of Tegulang and the community were now in the midst of filing their claim in court for the loss of their customary land.

- 6.13 Most if not all of the resettled Penan and Kenyah communities at Metalun RA and Tegulang RA were unhappy that their demands for the three categories of needs as stated in paragraph 6.6 above had yet to be fulfilled. We were informed by the resettled Penan and Kenyah communities that during the consultation and settlement negotiation process with SEB held at their respective former villages, SEB had made promises to provide the villagers with provision of basic home necessities such as beds, furniture, television, ASTRO NJOI (a satellite television programme package) and monetary compensation to each household at the resettlement area. SEB failed to honour its promises and the Penan and Kenyah communities were relocated to the Tegulang RA and Metalun RA into an empty *'bilik'* and they had to utilise their compensation cash payment of RM23,000.00 to purchase the basic home necessities.
- 6.14 There were some allegations that once the Murum Dam had been impounded, the community was forced into moving quickly. Each family was provided with access to one four-wheel drive vehicle to transport their belongings. If they required more transport, they had to pay for it by themselves, if it could be found. However this was scarce. As such, many families told us that they were forced to leave much of their belongings behind.

## 7. RIGHT TO INFORMATION

- 7.1 The SEIA report recommended that the affected Penan and Kenyah communities must be fully informed by SEB of what they could expect from the resettlement. Failure to do so would result in a difficult situation for the Penan and Kenyah communities to make an informed choice of resettlement. Many were unhappy with the lack of information from the SEB.<sup>18</sup>
- 7.2 The resettled Penan and Kenyah communities at both Metalun RA and Tegulang RA were in the dark about many aspects of their future. Questions about when they would receive their 15 hectares of agriculture land, when payments of RM850.00 would be made, when food provisions would be distributed and many other promises by SEB, troubled (and continue to trouble) them. Attempts to obtain information from SEB officials who did visit them were met with responses like, "*Kami hanya ikut arahan dari atas*" ("We are only following orders from above") and, "*Kamu kena tanya orang atasan*" ("You will have to ask our superiors"). Even when the Member of the State Legislative Assembly for Belaga, the Honourable Liwan Lagang visited and asked questions of these SEB officials, he was given the same answer.
- 7.3 The Penan and Kenyah communities at both Metalun RA and Tegulang RA have no knowledge of the existence of the final report on the RAP and the SEIA. They relied

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<sup>18</sup> Chapter 16.8 of the SEIA Report

on their “*Penghulu*” (community chief) and/or “*Tuai Rumah*” (village chief) to decide on any important issues that arose. They also relied on the promises made by SEB officers who came to their old settlement to encourage and persuade the villagers to relocate to the resettlement areas.

- 7.4 Under the RAP initiated by SEB, a Murum Penan Development Committee (MPDC) was formed as a grievance mechanism to provide a platform for communication between the affected Penan and Kenyah communities in each long house villages at Metalun RA and Tegulang RA and other agencies including the SEB. Any grievance by the villagers would be channelled to the MPDC representatives who would then raise the villagers’ grievances to SEB during meetings.
- 7.5 Each longhouse had MPDC representatives appointed among the villagers. Each representative had to be literate and able to voice the grievances of the villagers.<sup>19</sup> Long Singu is represented by Mr. Sunang Usang while Long Wat by Mr. Labang Paneh. Both were appointed by the villagers of their respective longhouses. Two meetings were held this year in February 2014 and April 2014 between the MPDC and SEB at Long Menapa, Metalun RA and at the SEB office in Bintulu, Sarawak respectively. We however did not have the opportunity to question the MPDC representatives because both Sunang Usang and Labang Paneh were away from the during our visit at both of the resettlement areas.
- 7.6 The ‘*Tuai Rumah*’ of Long Singu, Metalun RA attended the 2<sup>nd</sup> meeting held in April 2014 at the SEB office in Bintulu. He conveyed to the SEB the villagers’ grievances on the unfulfilled promises made by SEB as well as the villagers’ wish to have full payment of the RM850.00 monthly allowances instead of the present method of a monthly cash payment RM250.00 and food provisions worth RM600.00.
- 7.7 The villagers were upset that their grievances fell on deaf ears as SEB continued to provide cash payments and food provisions instead of a full payment of RM850.00 as requested by MPDC and the chief village during meeting in April 2014. The villagers have lost confidence in the MPDC and took a direct approach by questioning SEB officials whenever they were in the village for distribution of cash allowances.

## **8. ECONOMIC RIGHTS: RIGHT TO DIGNIFIED LIVING/RESTORATION OF LIVELIHOOD AFTER RESETTLEMENT: LIVING IN LIMBO**

- 8.1 The affected Penan and Kenyah communities had for many generations stayed at their old settlement along the Plieran and Danum river and established a traditional connection with the land. For many generations, they have hunted, farmed, caught fish and collected forest produce as a way of life and for self-sustainable living.
- 8.2 The relocation to Metalun RA and Tegulang RA forced the Penan and Kenyah communities to abandon their customary territorial land along Plieran and Danum

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<sup>19</sup> Interview with ‘*Tuai Rumah*’ of Long Singu, Metalun Resettlement Area, 20<sup>th</sup> May 2014

river and alter their traditional way of life, and instead to start afresh establishing their customary connection with the land at the resettlement areas.

- 8.3 As mentioned in paragraph 1.2 above, the government of Malaysia pledged that the affected indigenous communities from the Murum area would be provided with a comprehensive compensation package, which assured them an immediate and substantial improvement in living standards, better access to basic human rights to education and health care, and better economic opportunities, whilst preserving their cultural identities and traditions.
- 8.4 Consonant with this pledge the SEB offered the compensation package as stated in paragraph 5.8 above for the promised immediate and substantial improvement in Penan and Kenyah's living standard as a result of the relocation, loss of land and economic opportunities.
- 8.5 Villagers at all four longhouse villages in Metalun RA were happier living in their previous abode and the majority of the villagers we spoke with were unhappy to be relocated despite the new longhouses and amenities available at Metalun RA.
- 8.6 The Penans from the Metalun RA went to the extent of putting up a blockade last year in 2013 for more than two months but it was then withdrawn as the Murum Dam project was too advanced and the authorities informed them that their homes and belongings would soon be flooded if they did not move. In addition, the Penan were offered an addition of RM8,000.00 on top of the ex-gratia payment of RM15,000.00 to ensure the lifting of the blockade. Hence the Metalun Penans were the last to be resettled, i.e. in December, 2013 whilst the Tegulang Penans were resettled in September, 2013.
- 8.7 An elderly Penan man whom we met in Long Singu, Metalun RA informed us that he was the ex-village chief of Long Luar and was now a resident at Long Singu. He said that in their old place, they knew where the wild boars, deer, etc. could be found and where fish could be caught and the soil was fertile and nobody went hungry. They understood nature and nature understood them. Now in this new place, the soil was not suitable for most plants, being clay-like, and beyond the hills there were plantations belonging to some companies and they have not been told where the promised 15 hectares would be located. To him, the whole episode had been a disastrous experience. They were also orally promised RM500,000 but this has not been followed through.
- 8.8 During our brief stay at Long Singu, we noticed a 4WD taking off in the early morning with many dogs, going hunting. In the afternoon, they came back empty handed. We were informed by the villagers that hunting was never easy nowadays at Long Singu because the forest surrounding the village was close to the palm oil plantations and logging sites, which hindered animals from getting close to the forest surrounding Metalun RA.
- 8.9 Although economic opportunities at Metalun RA were available, these were limited for the men to work for the company in the palm oil plantations or clearing the logs. These were not the kind of work they were used to. Nevertheless the young men of the villages have been employed to clear the jungle for palm oil plantations while

others undertook planting and harvesting jobs. In the case of Long Luar, they were initially paid on a per acre basis for harvesting oil palm fruits. For every two acres of land worked upon, they were paid RM20.00 each. Subsequently, the plantation owners converted this into a contract job so that four men formed a contract team. The team was paid RM25.00 only which works out at RM6.25 per worker. Most it seems only get at most RM400.00 to RM500.00 per month, some even less. Even with that, most are no longer doing this work. Two such persons are Paris Yaring, 19 years old and Madang Karang, 32 years old, both from Long Singu. This is a clear case of blatant exploitation of labour and the Penan have refused to work for such low wages. The Penan are disgruntled over their low wages and scarce job opportunities.

- 8.10 Other young men have also started foraging for timber along the river's edge and then selling the timber to timber merchants, who pay by the ton. They are paid RM150.00 per ton. At the maximum, each man can fell only five logs per day. It is not clear whether this is sustainable in the long term. In addition, many plantation owners have resorted to employing Indonesians, Pakistanis and other migrant workers in their saw mills and logging camps instead of the local Penan.
- 8.11 Others are involved in cutting timber near the river side, pushing it into the river and then using their *perahu* to pull and float the cut logs (3 or 4 at a time) to the ferry area where the logging company would purchase the cut logs/timber at between RM120.00 to RM160.00 per ton depending on the kind of timber.
- 8.12 Several individuals have opened up small grocery stores selling provisions. These have to be purchased from Bintulu (approximately 6 hours' travel away each way).
- 8.13 A similar situation exists in Tegulang RA where the majority of the villagers from the three villages in Tegulang RA were unhappy to be relocated despite new longhouse and amenities provided. Some villagers however were quite content to relocate and settle down at Tegulang RA. A youth from Long Wat revealed his feeling of contentment settling down at the new longhouse at Long Wat. He explained that living at the new longhouse was better because there were facilities provided such as electricity and water supply as compared to the usage of oil lamp at the old longhouse. He however acknowledged that the new resettlement area had limited their usual daily activities of hunting, fishing and farming as there was no forest, river and suitable land surrounding their longhouse.
- 8.14 During our brief stay at Long Malim Kenyah, Tegulang RA, we were informed that most men in the longhouse went back to their old settlement to catch fish and collect rattan, ferns and palms from the forest. They were unable to hunt, farm and catch fish at the resettlement area as the land was unsuitable for farming while the Tegulang river was shallow and polluted. Most villagers maintained their houses at the old settlement and had fixed logs underneath their houses to ensure they floated when the area was flooded. They would stay for a week at a time, catching fish and hunting wild boar at the old settlement, and then bring back their bounty for their own consumption.
- 8.15 The indisputable view among the settlers from both Metalun RA and Tegulang RA was that their old dwellings at the Murum dam site were preferred in terms of

economic opportunities and living a decent livelihood. In their old settlement they could catch fish in the nearby rivers and hunt for game like pigs, deer, squirrels and birds in the adjacent forests. Even if they had no money, they were nonetheless able to eat and live comfortably since they could go and find food in the jungle or the rivers. In their present settlement the rivers were polluted through logging and all the fish had gone. Back at the Plieran and Danum rivers, they had their defined plots of land where they grew palm oil, fruit trees, vegetables and other cash crops. In their present settlements they felt confined to a narrow, limited area. They did not possess any defined plots of land to call their own where they could grow crops or rear pigs or chickens.

- 8.16 The forests which were their sole means of livelihood and sustenance have been taken away from them. There was a general sense of utter deprivation, displacement, dislocation and frustration which were freely expressed by them to our team.
- 8.17 There appear to be no economic opportunities for women. Very few women know the art of weaving or making handicrafts for sale. In any case they do not have the means to make such items as they can no longer access the forests for raw materials especially rattan. Also, there were very limited opportunities to sell whatever was made, as access to the area was very difficult and expensive.

## 9. PHYSICAL CONDITION OF LONGHOUSES

- 9.1 The SEB promised to provide free housing at the resettlement areas to the affected Penan and Kenyah communities. Each family was given one house (*'Bilik'*) in a long house of ten units each measuring 1,300 sq. ft.
- 9.2 Under the RAP, the design, layout and planning of the houses was based on dialogues with the Penan and also took into consideration their traditions and preferences for the type of house they desired to live in.
- 9.3 The RAP stated that the longhouse to be constructed would be a 2-storey reinforced concrete frame sitting on stilts with hard wood floor at the living area, *'ruai'* and bedroom. The kitchen and toilet/bathroom would be separated from the main living areas with the floor constructed of reinforced concrete. The first floor would have the living cum dining room and the second floor would have 2 bedrooms. The *'ruai'* would be 14 feet in width. Each unit would be separated by a brick wall and at every third unit there was to be a firewall built to the roof. The common veranda or *'ruai'* was an important feature where community interaction could take place as well as serving as an area of gatherings and meeting.<sup>20</sup>
- 9.4 Our observations at both Metalun RA and Tegulang RA confirmed that the design and layout of the longhouses conformed basically to what was stated in the RAP. However, cracks have appeared on the concrete floor, damage to the wooden door and

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<sup>20</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 5

wall were prevalent and the flimsy installation of balustrades at a few of the villages in Metalun RA and Tegulang RA was observed. A few longhouses had 8 and 6 units of 'Bilik' instead of 10 units.

- 9.5 In Metalun RA, the overall construction of the longhouses was of poor quality, both in terms of materials and workmanship. The quality of wood used to build the longhouses were poor. The walls of each '*bilik*' were made possibly of asbestos or gypsum sheets and were thin. One hard knock was enough to break and damage the wall. This was apparent at Long Luar and Long Tangau where there were holes on the door and damage on the walls. The owner of the '*bilik*' resorted to patching plywood to cover the holes on the door. According to a Kenyah native from Sg. Koyan, Asap who was involved in the construction of the longhouses at Metalun RA and Tegulang RA, the materials came in bundled up from Bintulu. We were not sure of the brand or the name of the material but were given some samples of the wall material for further identification, if needed.
- 9.6 We noted that underneath the longhouses at Long Singu, Long Luar and Long Tangau, the cement had started to crack on the columns and beams while plywood which was attached to the beams had started to peel off. The kitchen flooring had cracked revealing an extremely thin layer of poor quality cement flooring.
- 9.7 The main complaint from the villagers of Long Singu, Long Luar, Long Tangau and Long Menapa was that there were no walls to their kitchens, and due to the strong winds, cooking was difficult because the fire on the cooking stove would regularly be blown out. The open air kitchen was exposed to animal intrusion and caused nuisance to the villagers. Many households at Long Singu had installed plywood walls to shield their kitchen from the twin nuisances of wind and animals. The plywood was taken from the nearby abandoned temporary dwelling hut which was used by SEB workers in constructing the longhouses. Some of the Penans had also built an extension which attached to the kitchen, purportedly for cooking and for extra accommodation space.
- 9.8 The Penan tend to marry young, between the ages of 16-20 years, and have extended families. Their extended families were not catered for in terms of housing. As a result, it was common to find one house accommodating grandparents, parents, children, their married children and their grandchildren all under one roof. These living conditions leave much to be desired.
- 9.9 There seems to be insufficient houses for all the families resulting in some families needing to share a house. According to a resident in Long Luar alone, the villagers had requested for up to 20 additional units of housing but to date, the requests have not been agreed to.
- 9.10 In Tegulang RA, every family at Long Wat, Long Malim Penan and Long Malim Kenyah were given a '*bilik*'. The design and layout of longhouses were similar to Metalun RA which consisted of one '*bilik*' of ten units in each longhouse (although there are some with only eight units). Notwithstanding SEB's assertions that the resettlement area was ready, a few blocks of longhouses at Long Wat remained under construction during the resettlement process and approximately 20 Penan families

could only move in to the new blocks of longhouses in December 2013. We were informed by the Penan villagers at Long Wat that while waiting for the completion of the new block of longhouses at Long Wat, many were forced to occupy and share 'bilik' with their fellow villagers.

- 9.11 The condition of the longhouses at Long Wat, Long Malim Penan and Long Malim Kenyah were similar to the longhouses at Metalun RA. The overall construction of the longhouses at Tegulang RA was of poor quality, both in terms of materials and workmanship. The quality of wood used to build the longhouses was poor. The walls of each 'bilik' were thin and were made possibly of asbestos or gypsum board, similar to the longhouses at Metalun RA. Villagers of Long Wat, Long Malim Penan and Long Malim Kenyah had similar complaints where there were no walls to the kitchen, and due to the strong winds, cooking was difficult without adaption of the kitchen. During our stay at Long Malim Kenyah, we observed that many households had installed plywood walls to cover their kitchen from the nuisance of wind and animals.

## **10. ELECTRICITY AND WATER**

- 10.1 We were given to understand that SEB had made promises on 28 November 2013 to the affected communities that there would be 24 hour supply of electricity. Ironically, for a resettlement project that was prompted by the construction of a hydro-electric dam, the resettlement area does not enjoy a steady stream of electricity.
- 10.2 Currently, electricity is provided during two six-hour periods, from 6am to 12noon and 6pm to 12 midnight, via a generator at Metalun RA. There were occasions when electricity supply was terminated earlier than scheduled.
- 10.3 In the case of Tegulang RA, electricity supply is only available from 6.00pm to 12.00am each day and additionally from 7am to 12noon on Sundays to allow villagers to prepare themselves for church services.
- 10.4 There was running tap water during our stay at Long Singu at Metalun RA as well as Long Malim Kenyah at Tegulang RA. However, a youth from Long Tangau, Metalun RA complained that there was a shortage of water supply at Long Tangau and this caused discomfort to the household due to hygiene.

## **11. 15 HECTARES OF LAND FOR EACH FAMILY TO OWN AND UTILISE**

- 11.1 The state government of Sarawak promised to provide compensation of 15 hectares of land per household to the affected Penan and Kenyah communities on the basis of one hectare per household for community purposes, and 14 hectares for agriculture.<sup>21</sup>
- 11.2 The one hectare per household would be used for community purposes, such as houses, community buildings road reserves, dumpsites, football fields, place of worship, etc. Each household would be allocated an apartment or "bilik" in the

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<sup>21</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 4

longhouse with 0.5 hectares of land for a home garden plot and 2.5 hectares for a farm garden.<sup>22</sup>

- 11.3 A land area of 4 hectares was to be allocated for cash crop (rubber or oil palm) and 6 hectares for hill rice (0.6 hectare per household per annum on a 10-year rotation because of the soil condition and method of cultivation) and one hectare for sago. Over time, the land allocated for staple crops could be gradually converted into other uses (such as rubber or fruit gardens) as the resources and food needs allowed.<sup>23</sup>
- 11.4 The Penan at Long Singu, Long Tangau, Long Luar and Long Menapa of the Metalun RA however were under the impression that the 15 hectares of land was for agricultural purpose only and did not include houses, community buildings road reserves, dumpsites, football fields, and places of worship.
- 11.5 Thus far they have not been shown the location of home garden plot, farm garden plot and cash crop land. One of the excuses given was that the land was awaiting a survey prior to allocation. Villagers in Long Menapa were told by the SEB staff that the survey would only be done after the villagers started clearing the lands nearby for palm oil plantation. The villagers however were reluctant to do so for fear that the cleared lands would not be allotted to them later and they would have ended up doing the clearing for free.
- 11.6 Considering the Bakun Resettlement experience, it does not appear likely that the allotment would take place anytime soon. Without any clear and identified land for the villagers to farm, some families have begun planting vegetables on the fringes on land behind their housing, and some have cleared the forest adjacent to the settlement area at Long Singu, Long Tangau, Long Luar and Long Menapa.
- 11.7 A similar situation was observed in Long Wat and Long Malim Kenyah at the Tegulang RA where the home garden plot, farm garden plot and cash crop land had yet to be identified and allocated to the villagers. No survey had been done and villagers had started to till and plant vegetables on the fringes on land behind their housing, and some had cleared the forest adjacent to the settlement area at Long Wat and Long Malim Kenyah.
- 11.8 In Long Malim Penan at Tegulang RA, the state government of Sarawak had mapped out the home garden area at Long Malim Penan for fruit trees plantation such as banana, papaya and pineapple. A site layout plan of the home garden crop project was erected at the entrance to Long Malim Penan and the said project would cover an area of 24.89 hectares surrounding Long Malim Penan. However, our observation at Long Malim Penan showed no sign of visible activities of fruit trees plantation surrounding the village except for a few banana trees on the fringes of land behind the longhouses.

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<sup>22</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 4

<sup>23</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 4



## 12. CASH PAYMENTS AND FOOD RATIONS/RM850 PER MONTH ASSISTANCE FOR 5 YEARS

12.1 The SEB were supposed to have allocated RM850.00 per month as an allowance to each household. This would continue for five years after which the amount would be reduced to RM500.00 for the subsequent three years. SEB was supposed to monitor the situation with the intention that within the five-year period the means of livelihood of the affected Penan and Kenyah could be restored.<sup>24</sup>

12.2 Although the promised amount of monthly allowance is RM850.00, only RM250.00 was actually paid in cash. The remaining RM600.00 was provided in the form of groceries to be supplied straight to the villagers at their respective village. However, the grocery supplies had stopped arriving since February, 2014 at both Metalun RA and Tegulang RA.

12.3 The list of groceries to be supplied were as follows:-

Particulars of Groceries	Unit	Quantity	Price (RM)	Total (RM)	
Rice ABO BAO (Red Packet)	10KG	4	47.00	188.00	
Sago	10KG	1	36.67	36.67	
Sugar	1KG	4	2.84	11.36	
Coffee 3in1	100+10x20g	1	32.50	32.50	
Fine Salt	400g	3	0.90	2.70	
Ajinomoto Hon Yan	1KG	1	11.60	11.60	
Cooking Oil	5KG	1	13.35	13.35	
Onion	1KG	1	5.10	5.10	
Garlic	1KG	1	4.60	4.60	
Anchovy	1KG	1	30.00	30.00	
Chicken Wing	1KG	5	13.50	67.50	
Detergent	4KG	1	17.50	17.50	
Dish washer (paste)	400g	1	2.80	2.80	
Bath Soap	3 x 85g	2	3.30	3.30	
Milo	2KG	1	34.50	34.50	
F&N Hi Cal SC	500g	10	3.20	32.00	
Instant Noodle (Maggi Mee)	Carton	1	52.60	52.60	
Canned food	Chicken	405g	3	5.90	17.70
	Sardin	425g	3	5.20	15.60
	Pork Luncheon	397g	4	3.50	14.00
Packing		1	1.20	1.20	
<b>TOTAL</b>				<b>597.88</b>	

12.4 In the six months of resettlement, the community from both Metalun RA and Tegulang RA received infrequent deliveries of some (but never all) of the items listed

<sup>24</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 12

above. In Metalun RA in the first month each family was given 3 bags of rice, in the second month they received 5kg of cooking oil and in the third month they received 5kg of chicken wings. Subsequently no further food ration was given. They also received some coffee, Milo and sugar.

- 12.5 During our stay at Long Malim Penan in Tegulang RA, the villagers informed us that they received three deliveries within six months of resettlement. The first delivery comprised 2kg of ikan pucuk, 3 cans of pork luncheon meat, 4 cans of chicken curry, 5 big cans of milk, 4 cans of sardines, 40kg of cooking oil, 1kg of sugar and 1 packet of coffee. The second delivery consisted of 10kg of flour starch and 5kg of chicken wings. The third delivery consisted of 5kg of cooking oil, 2 packets of ajinomoto and 2kg of salt.
- 12.6 In no way could any of these monthly deliveries be said to amount to RM600.00 a month. The delay had caused the villagers severe hardship and according to one resident from Long Tangau, they seldom had 3 full meals per day. Many families it would seem were indebted to the small sundry shop in each village which sold sundry items at government-subsidised prices.
- 12.7 At Metalun RA, a first payment of RM500.00 was made in March 2014, and a second payment of RM500.00 was made on 20 May 2014. During a visit by the staff from Belaga District Office to distribute the RM250.00 cash allowances at Long Luar on 20 May 2014, a fist fight almost occurred between them and the local Penans due to arguments over the various delays for the payment of the cash allowances. Two police officers who accompanied the Belaga District Office's staff personnel had to stop the incident from getting out of hand.
- 12.8 Three payments were also made to the villagers at Tegulang RA. The villagers were paid RM500.00 in the first payment, RM1,000.00 in the second payment and RM500.00 for the third payment which was distributed on 20 May 2014. The authorities have remained silent on where the rest of the money has gone. None of the senior SEB officers have visited the Metalun RA and Tegulang RA after the resettlement.
- 12.9 The Sarawak state Legislative Assemblyman for Belaga constituency cum Minister of Youth, Culture and Heritage, Yang Berhormat (YB) Liwan Lagang came by helicopter towards the end of April, 2014 and landed in Long Singu to hold a meeting with the villagers. The villagers voiced out their complaints to him, who in turn referred their complaints to a woman officer from SEB who was present. Her reply basically was that the matter had to be referred to "pegawai atasan" or superior officers from SEB. YB Liwan agreed with the villagers that the RM850.00 be given entirely in cash to them. However, the payment of RM250 on 20 May 2014 by the Belaga District Office seems to indicate status quo.
- 12.10 The village chiefs of Long Singu and Long Wat affirmed the frustration of the villagers at both Metalun RA and Tegulang RA on the delay by the state government of Sarawak to distribute the RM600.00 worth of monthly groceries.

- 12.11 As mentioned in paragraph 6.6 above, the village chief of Long Singu requested that the Penan be paid the full amount of RM850.00 cash allowances in a meeting with top officer from SEB, Mr. Bit Surang in Bintulu in April 2014. Mr. Bit Surang agreed to the proposal by the said village chief of Long Singu but this has yet to be implemented.

### **13. AGRICULTURE ASSISTANCE AND TRAINING**

- 13.1 The state government of Sarawak through the Belaga Agriculture Department devised an agriculture training programme to ensure the success of home garden, farm garden and cash crop land project at Metalun RA and Tegulang RA within the targeted time frame.<sup>25</sup>
- 13.2 A course entitled "*Program Latihan In-situ Pertanian dan Literasi Kewangan 1 Azam*" sponsored by Belaga Agriculture Department was held from 24 to 29 March 2014 at Tegulang RA and from 21 to 30 April 2014 at Metalun RA. The objective was to raise awareness among the Penans of the future agriculture activities at Metalun RA and Tegulang RA planned by the Belaga Agriculture Department, strengthen and enhance the knowledge and skills of farming among the community and encourage the participation of the villagers in the home garden project. The Agriculture Department provided seeds and young plants to the villagers for the program purposes.
- 13.3 During our stay at Long Singu in May 2014, the villagers showed us the dying crops planted using methods taught by the Agriculture Department as compared to the blooming plants using traditional farming method. The Penans clearly know their work and the Agriculture Department would need to improve if they wished to achieve their goal as mentioned in paragraph 13.2 above.
- 13.4 At the time of our visit it had been 2 months since the agriculture course was conducted at Metalun RA and Tegulang RA in March and April 2014 respectively and none of the staff from the Agriculture Department had come to survey the results of the agriculture training course.

### **14. ACCESSIBILITY TO METALUN RA AND TEGULANG RA**

- 14.1 The main access to the Murum dam is via a logging road that connects to KM108 of the Bakun-Tubau Road. The road then branches off into feeder roads which connect to Metalun RA and Tegulang RA respectively. SEB have planned to construct more access roads to the Murum dam and both the resettlement areas.<sup>26</sup>
- 14.2 The road from KM108 of the Bakun-Tubau Road to the Murum dam is now tarred while the feeder roads to the resettlement areas remain as logging roads. All along the

<sup>25</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 7

<sup>26</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 5

routes to Metalun RA and Tegulang RA cut timber logs were seen everywhere, from being on lorries and being piled on the side of the roads.

- 14.3 The existing logging road to the Metalun RA originally connects to the logging mill at the upper Plieran river. Another feeder road was created along the existing logging road for access to Metalun RA. The route to Metalun RA is tough and dangerous. The condition of the logging road to the Metalun RA is muddy, swampy and poor. A check point was set up by Shin Yang Plantation Sdn Bhd to collect ferry fees of RM150.00 per trip each way. As mentioned in paragraph 2.5 above, the ferry which is actually a barge is pulled by tractors across a stretch of inundated land for a brief 2-3 minute ride across the river.
- 14.4 Only Long Singu and Long Menapa are accessible by road and by the Plieran river while Long Luar and Long Tangau which are located on higher ground are only accessible by road. Long Singu is located 12.9km away from the existing logging road and takes about a 45 minute ride. It is the furthest yet of the villages in Metalun RA.
- 14.5 The road from KM108 of the Bakun-Tubau Road to Murum dam is tarred, which makes it easier to gain access to the Tegulang RA. However, the feeder road which connects the SEB's office near the Murum dam to Tegulang RA remains an existing logging road.
- 14.6 The poor, swampy and muddy condition of the road makes life difficult for the villagers at both Metalun RA and Tegulang RA especially during the rainy season. Villagers find it difficult to send their children to school due to bumpy and slippery roads which create danger to their children's safety.
- 14.7 In Long Singu at Metalun RA, many resorted to the use of 'perahu' or small boat along the Metalun river as an alternative means of transportation to send their children to the primary school at Long Menapa. It is much shorter in terms of travelling time using the Metalun river but poses danger during the rainy season as the river becomes swollen with raging waters coupled with floating woods and logs.
- 14.8 One Mr. Vicky Pinang, 26 years old, was met at the river bank and confirmed that most of the children at Long Singu use the 'perahu' to go to school but that this is only for those whose parents can afford to share in the payment of the petrol for the 'perahu'. This was confirmed by another parent, Mr. Ebang Kepeten, 28 years old, who has 3 children, with the oldest, 8 year old, using the river route to school.
- 14.9 One of the team observed at Long Singu how the children travel by 'perahu' to Sekolah Kebangsaan Metalun primary school at Long Menapa:-

*"In the first morning whilst in Long Singu, I noticed some children walking towards one end of Long Singu and decided to follow them. It was about 6.30 am. (Supply of electricity and hence lights came up around 5.30 am.) I asked a little girl where they were going and she replied: "to the river." After a short distance I saw a crowd of children waiting on top of a rather high embankment near the Plieran river. Some of them were in uniform and they were skilfully making their way down the steep*

*embankment to the perahus (elongated small boats) down below. Some men were there as well, a few half naked and down to their briefs, as they carried the perahus' engine down and attached them to one end of the perahus. The river was positively flowing swiftly and the perahus looked to me precarious as it was barely 8 inches deep in the perahus and I noticed some of the children already in the perahus using plastic containers to remove water out of the perahus. No doubt some of the perahus, on top of being rickety were also leaking!*

*The adults there informed me that this was the faster and cheaper mode of transport to the primary school in Long Menapa as the authorities had failed to pay the promised monthly petrol expenses of RM4,000 per month for the vehicles to bring them to the school. Only about 40 students use the perahus to take the 25-minute ride to school as not all parents can afford the petrol expenses for the perahus. Even that, there wasn't enough perahus and one or two perahus have to make the trip twice to ensure all children get to school.*

*A couple of days later, some of us picked up the courage and took the same river route by perahus from Long Singu to Long Menapa! It was an exciting trip as we travelled upstream wherein our lives depended on the expertise of our boat man who carefully avoided many oncoming logs and debris. On the return trip, the river had swollen due to the rains upriver so much so that the sandy river banks were no longer apparent, being covered by the expanding river. The return trip from Long Menapa to Long Singu took us 11 minutes downstream as compared to 26 minutes earlier going upstream. That was how fast the current was! We just cannot imagine the danger the children have to risk on a daily basis and I dare not imagine the disaster if for any reason the perahus were overturned and/or hit a log with the children in it and carrying their heavy bags of school books behind them! None were wearing life jackets! One such perahu was carrying a mother with a baby in tow!"*

- 14.10 Initially, SEB promised to subsidise the fuel needed to take the children to school an hour's ride away in motor vehicles. However this happened for only one month. Subsequently the parents had to finance their children's own transport by motor boat as few families own four wheel drive vehicles. Mr. Matius Serik John, 21 years old, was using one such 4WD vehicle to ferry the students from Long Singu to Long Menapa. One payment of RM4,000.00 was paid in January, 2014 to be shared amongst all the drivers but since then no payments had been forthcoming and as such they stopped ferrying the children.

## **15. HEALTHCARE**

- 15.1 It was reported in the SEIA that the affected Penan villagers had requested for health facilities for better access to healthcare if they were to be relocated.<sup>27</sup> The RAP recommended a "type 6" clinic, which typically has an assistant medical officer, two assistant medical officers, two nurses, two assistant nurses, two drivers and three staff. This clinic would be placed at the Murum Service Centre. The proposed Murum Service Centre would be established adjacent to the reservoir and the Murum dam site

<sup>27</sup> Social and Environmental Impact for Murum Hydroelectric Power Project, contemporary ethnography.

with direct road access to the Tegulang RA and by boat across the reservoir from Metalun RA.<sup>28</sup>

- 15.2 During our stay at Long Singu in Metalun RA, we noted that there was no health facility available. Instead, the villagers received health screening by a mobile unit from the Ministry of Health once a month. Nevertheless such visits had not been forthcoming for almost three months, a stark contrast as compared to the villagers at Tegulang RA who received mobile medical screening every month.

## **16. EDUCATION: PRE-SCHOOL/KINDERGARTEN/PRIMARY AND SECONDARY SCHOOL**

- 16.1 SEB built a small room intended for a pre-school or kindergarten which was erected together with the chapel at each village in both the resettlement areas for children below 6 years of age. However, not all kindergartens were in operation. Only the kindergartens at Long Menapa in Metalun RA and Long Wat in Tegulang RA were in operation.

- 16.2 In Long Singu, the building was empty and there was no sign of a kindergarten in operation. Children below 6 years old at Long Singu therefore stay at home and are left out from this education opportunity. Similar situations can be seen at Long Luar and Long Tangau in Metalun RA as well as Long Malim Penan in Tegulang RA. Some families there however send their children to pre-school at Long Menapa in Metalun RA and Long Wat in Tegulang RA. Our interview with the villagers revealed that a lack of pre-school teachers was the main problem.

- 16.3 The pre-school in Long Menapa had yet to be equipped with basic furniture like chairs, tables and whiteboard. The school had enrolled 20 children between 4-6 years old. In Long Wat, the pre-school opened in February, 2014 and they had enrolled 36 children between 4-6 years old. The pre-school in Long Wat was also ill-equipped.

- 16.4 There was a primary school at Long Menapa called Sekolah Kebangsaan (SK) Metalun. SK Metalun catered to students from the Metalun RA villages of Long Singu, Long Menapa, Long Luar and Long Tangau. It was located opposite Long Menapa village and temporarily occupied the former cabin offices of SEB.

- 16.5 There were 7 classes with an enrolment of 170 students in total, with 13 teachers including the headmaster. The headmaster was Mr. Ghosten Wan Imang, a local resident from Belaga who could speak the Penan language. The other teachers were young and motivated. The headmaster was away for a course when we were there. Five of the teachers were from Peninsular Malaysia and the rest from Sarawak, mainly Bahagian Kuching.

- 16.6 We visited SK Metalun on 20 May 2014 and held a meeting with some of the teachers. They briefed us that the school session for the year 2014 started only on 15

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<sup>28</sup> State of Sarawak Resettlement Action Plan for Murum Hydroelectric Project (Public Disclosure Document), May 2013 Chapter 8

January 2014 instead of 1 January 2014 as there was no ferry available to transport the teachers to Metalun RA in December 2013. The teachers waited at Tegulang RA for 2 weeks before making their way to Metalun RA.

- 16.7 Attendance was poor due to the weather, road conditions and lack of proper transportation. Sometimes the children went home early because there was no food for lunch at school. The food provider was facing a shortage of supplies from SEB which caused uncertainty in providing food to the children at school. We were informed by the teachers that the school would recommence the food supply in July, 2014 to cater for the children and teachers at school.
- 16.8 A woman from Long Singu who was a mother of two had been enterprising enough to sell food and beverages to students outside of the school compound because her children often complained that they were hungry after coming back home from school. Among the food she sold were plain white rice mixed with tapioca and ice with assorted syrups. She managed to get her food and beverages supply from the nearest town at Kg. Asap resettlement area. Sometimes she provided free beverages to children who could not afford to buy food. She had to travel to Bintulu to buy uniforms, shoes and stationaries for her children because the school supply provided by SEB was insufficient as every household at Long Singu received school supplies for one child only. She utilised the monthly allowance of RM250 given to her by SEB to buy uniforms, shoes and stationaries for her children.
- 16.9 The school now ran a full schedule from 7.30am till 1.00pm from Monday till Friday. The week we visited was exam week and the school ran its schedule from 8.00am till 10.00am. 80% of students are new, and had never have been to school before. But they were not illiterate as most could read, write and count. Many had attended classes conducted by Christian missionaries at their old village and that had help to enhance the children's skills in reading, writing and calculating before their enrolment in SK Metalun.

16.10 School enrolment for the year 2014 at SK Metalun was as follows:

<b>YEAR</b>	<b>BOYS</b>	<b>GIRLS</b>	<b>TOTAL</b>
1	15	7	22
2	12	9	21
3	9	9	18
4	12	14	26
5	11	9	20
6A	17	15	32
6B	20	11	31
<b>TOTAL</b>	96	74	170

16.11 The students' attendance on 20 May 2014 at SK Metalun was as follows:

YEAR	BOYS		GIRLS	
	Present	Absent	Present	Absent
1	NIL	15	NIL	7
2	9	3	6	3
3	4	5	7	2
4	11	1	14	NIL
5	5	6	7	2
6A	11	13	6	2
6B	11	9	8	3
<b>TOTAL</b>	51	52	48	19

16.12 SEB gave school supplies, food and uniforms as part of their Corporate Social Responsibility (CSR) programme.

16.13 Some children had no documents such as birth certificates and/or identification card (MyKid/MyKad). Some children had never been officially registered and had no documents, while for others they had either been lost or destroyed. The school however proceeded to register students without documents using the school code so that they could sit for the Ujian Penilaian Sekolah Rendah (UPSR) exam. The UPSR is a final exam for primary school students before entering secondary school and is scheduled on 9 September 2014 with 60 candidates.

16.14 We were informed by the teachers that a permanent school is supposed to be built somewhere between Long Singu and Long Tangau with a land area of not less than 8 hectares.

16.15 Children in Tegulang RA attended primary school at Sekolah Kebangsaan (SK) Tegulang along with children from two other local villages, Long Lawen and Magan. There were 100 students registered in SK Tegulang. Most appeared to make their own way via 4WD vehicles to the school. We did not have time unfortunately to visit the school during the trip.

16.16 School enrolment for the year 2014 at SK Tegulang was as follows:

YEAR	LONG WAT		LONG MALIM PENAN		LONG MALIM KENYAH (LONG OMPA)		LONG LAWEN		MAGAN		TOTAL
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	
1	1	2	6	5	1	0	2	1	4	2	24
2	2	2	6	1	2	0	1	0	0	0	14
3	3	2	2	2	2	0	2	2	0	0	15
4	4	5	2	5	0	0	2	1	1	0	20
5	3	3	3	2	2	0	0	2	0	1	16
6	1	2	5	0	1	0	1	0	1	0	11
									<b>TOTAL</b>		<b>100</b>



- 16.17 There was no secondary school in both the resettlement areas. Children of secondary school-going age had to be sent to Sg. Asap Resettlement Area, about 8 hours away by road and logging track. As such, they have to live in student hostels and return to the long house only during the school holidays or festivals. This was not ideal as most of them said they had no money to send their kids to hostels. Even for those who could afford hostels, during school holidays there could be a shortage of money, meaning that children could not come back to their homes. Many children do not continue their schooling due to lack of money.
- 16.18 One ex-secondary student, Mr. Lao Siang, 22 years old, from Long Tangau, who used to go to a secondary school in Belaga shared that he was quite motivated to study but unfortunately he encountered some kind of bullying and fights with other native students. The Penan students felt singled out, and as a result all the Penan students left the school that day.

## 17. WOMEN'S RIGHTS

- 17.1 Generally, the Penan and Kenyah women at Metalun RA and Tegulang RA have not felt threatened by the workers at the dam. However, one of the women in Long Menapa, Metalun RA related how her niece was raped by an Indonesian worker in Kem Kenaban which is a logging camp. The details given by her were not clear but it was understood that there had been a relationship between them but that it was not consented to by the parents.
- 17.2 There was no programme offered by SEB for the women to be involved in skills training, cooking classes, training in health and nutrition or literacy classes.
- 17.3 While the women have access to clean water, electricity, modern amenities and cooking facilities, there is a constant struggle to put food on the table for the family as they do not have the money nor the produce from the rivers or the forests which were easily obtainable in the past.

## 18. NO ASSISTANCE TO OBTAIN DRIVING LICENCES

- 18.1 Villagers at both Metalun RA and Tegulang RA used four wheel drive vehicles as their choice of transportation to convey themselves through the rough and bumpy roads connecting their villages to the outside world. It is popular and the only mode of transport to the villages (apart from usage of *'perahu'*).
- 18.2 Many villagers utilised their compensation monies of RM22,500.00 to place a down-payment to purchase these vehicles. However since a driving licence was required to purchase a vehicle and, for those getting a loan, a letter showing the ability to pay, most Penans needed a "guarantor" to purchase a vehicle. There are no local facilities to study and sit for the examination to obtain a driving licence. We strongly suspect that the vehicles purchased are registered under the names of the guarantors, but with the burden of keeping up the monthly loan instalments remaining with the Penans. So long as there were no accidents and payments were kept up-to-date, this informal arrangement appeared to suit everyone. We were even informed that the authorities do not ask the Penans for their driving licences. Our fear is that since most of the

Penans appear to be driving without a proper driving licence, in the event that an accident occurred, the insurers would disclaim all liability.

## 19. SOCIAL PROBLEMS: UNEMPLOYMENT AND ALCOHOLISM

- 19.1 Many Penan living at the Metalun RA and Tegulang RA were unemployed and dependent on the cash allowances of RM850.00 to buy food and feed their family. The land surrounding Metalun RA and Tegulang RA were not fertile and offered little opportunity for the Penans to pursue their traditional way of life such as hunting, farming, and collecting forest produce. The resettlement process has created a drastic change in the lifestyle of the Penans by shifting their traditional reliance on the forest, hunting and self-sufficient food produce towards a more "mainstream" consumer-based lifestyle which depended on the availability of money.
- 19.2 Our interview with the grandson of Penghulu Paoh, who lived in Long Wat, revealed that he was dependant on the RM150.00 that his father obtained from being a 'temuda' guard (i.e. guard against any encroachment of *temuda* lands). Some men took the opportunity to go back to the forest ground near to their old settlement to collect firewood, rattan and sago to feed themselves as well as to provide raw materials for the women to weave rattan carpets/rugs and sell it to the local residents at Kg. Asap.
- 19.3 Another main social problem faced by the Penans is alcoholism. In Long Wat there was a notice warning villagers that drinking alcohol was forbidden and anyone caught drinking would be fined RM500.00. The grandson of Penghulu Paoh had put up a signboard at the entrance to Long Wat warning the villagers not to get into drunkenness and fights or face a fine of RM500.00. It seems that the fine would be deducted from the monies they were supposed to obtain from SEB.
- 19.4 In Long Singu during our visit, for instance, some other outsiders had come to visit the settlement and created a ruckus in the night till the wee hours of the morning with loud disco music, singing and revelry undeniably under the influence of alcohol. We also noticed while we were in Long Luar a group of Penans, men and women, who were drunk in the middle of the day. We were told that this was a common occurrence.
- 19.5 According to a Christian pastor in Long Singu, it was not uncommon for the menfolk to be drunk and this caused arguments in their families between the drunkard husband and wife. At times he had to calm them down over the walkie talkie as many in Long Singu communicated with each other via walkie talkies since there was no or very poor telephone communications there. Another pastor, at Long Malim Penan, Tegulang RA, said that he had refused the wishes of a drunkard to pray for him while he was still drunk.
- 19.6 It would appear to us that there was more than a mere casual connection between the high level of unemployment by the menfolk and their inability to adequately provide for their families and the prevalence of alcohol abuse in the Penan communities.

## 20. RELIGIOUS RIGHTS

- 20.1 As part of the construction plan, there was a chapel in each village at both Metalun RA and Tegulang RA. The chapel was located in the same structure that housed the kindergarten. The Penan and Kenyah Christians held their weekly Sunday service with the presence of pastors who were posted at Long Singu, Metalun RA and Long Malim Penan, Tegulang RA respectively. The chapel is equipped with music instruments such as electric guitar, drum sets, microphone and speakers.
- 20.2 A majority of the settlers profess the Christian faith although some still embrace their ancient traditional beliefs. Signs of traditional religious practices could be observed in the various villages.

## 21. LEGAL TITLE TO LAND

- 21.1 Thus far no document of legal title has been issued to the resettled Penan and Kenyah communities at Metalun RA and Tegulang RA. The resettled Penan and Kenyah communities were unclear as to the nature and length of their legal ownership of the land at Metalun RA and Tegulang RA and were in the dark of the status and location of the farm land, cash crop land and home garden as promised by SEB.
- 21.2 Until the state government of Sarawak issues a document of legal title, the land at Metalun RA and Tegulang RA would in all likelihood continue to be State land and the resettled Penan and Kenyah communities would be deemed to be mere licensees.<sup>29</sup> Without the certainty of legal title to the land, the resettled Penan and Kenyah communities appear fearful and reluctant to engage in full-fledged agricultural activities which could possibly generate food to feed their family and some cash income for fear that others would subsequently claim ownership over the land. Given their recent experience over the loss of their land due to the Murum dam project, and the absence of any positive assurances by either the Sarawak state government and/or SEB, this fear and reluctance is wholly understandable.
- 21.3 The Penan and Kenyah villagers at Tegulang RA however face an additional legal obstacle to their occupation at Tegulang RA because the Kenyah Badeng of Tegulang have disputed the creation of the Tegulang RA and have asserted their claim of native customary rights of *'temuda'* over the land. The Kenyah Badeng community are now in the midst of filing their claim in court for the loss of their customary land and this may delay the issuance of any document of legal title to the Penan and Kenyah villagers at Tegulang RA.

## 22. PERSONAL IDENTIFICATION DOCUMENT

- 22.1 Many Penan and Kenyah adults at Metalun RA and Tegulang RA possess National Registration Identity Cards which enable them to collect their cash allowances of

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<sup>29</sup> Land Code 1958, section 5(2)(i)

RM250.00 as well as food provision from SEB and to register their names for legal title to land at Metalun RA and Tegulang RA.

- 22.2 However some children of these adults do not possess birth certificates. It could be that their births were never officially registered, or that these documents were either lost or destroyed. In the case of the children of Long Luar, their birth certificates were destroyed as their longhouse at the old settlement was razed by fire in the year 2012. Their parents could not afford to go to Kg. Asap township to obtain replacement birth certificates due to the expense involved in making such a trip and also the fact that it is a long, rough and bumpy journey along a logging road.
- 22.3 Lack of identification documents also complicated matters for the Penan community at Metalun RA to register their children for school as well as to sit for Ujian Penilaian Sekolah Rendah (UPSR), a final examination for students of primary school before entering secondary school. A temporary solution has been arrived at by registering the children for the examination using the school's own code, but ultimately a failure to address this issue will lead to longer-term complications.

**23. VISIT TO OTHER VILLAGES: UMA BAWANG, SG.KOYAN, UMO'EK PENAN TALUN SG KOYAN AND PENAN TEMPORARY "CHICKEN COOP" LONGHOUSE**

- 23.1 Uma Bawang, Sungai Koyan, Sungai Asap resettlement area at Belaga is an older resettlement area created on 30 December, 1999 meant for the Kayan community as a result of the construction of the Bakun Hydro Electric project (hereinafter referred to as "*Bakun dam*"). The Kayan's previous settlement was at Long Murum, Belaga and there were 15 longhouses at Uma Bawang comprising 120 households. A majority of the villagers at Uma Bawang were farmers who toiled their three acres of land allocated by the state government of Sarawak with oil palm, rubber, paddy, vegetables and fruit trees.
- 23.2 The villagers were unhappy with the allocation of a mere three acres of land because the initial promise by the state government of Sarawak was for 15 acres per household. The villagers were also concerned that the harvest from the three acres of land would be insufficient to feed a growing family in a household. Furthermore, the three acres of land were located far away from their resettled village and some of the villagers had yet to receive land title on the land.
- 23.3 The state government of Sarawak also promised to provide compensation of RM52,000.00 for each household and resettlement costs of RM2,500.00. However the resettlement costs of RM2,500.00 were deducted from the compensation amount and each household received less than RM52,000.00. The villagers are now pursuing legal action against the state government of Sarawak for breach of promise to provide the 15 acres of land to each household.
- 23.4 We also made a brief visit to a temporary longhouse settlement at Kg. Asap, Sg.Koyan, Belaga on 17 May 2014 which was located off the main road into Kg.Asap. The temporary longhouse settlement was covered by the palm oil trees

along the road and made the temporary settlement invisible from the road. Three dilapidated longhouses stand in this settlement. They were actually chicken coops which had been converted into temporary housing. Two of the converted chicken coops now house 8 Penan families, while a third remains delapidated.

- 23.5 The 8 families living at the temporary longhouse were villagers from Long Wat, Tegulang. Their main and only reason for moving to the chicken coops and converting them into temporary longhouses was to be close to their children who were studying at a secondary school at Kg. Asap, Belaga. They had settled there for want of available and reasonably-priced housing.
- 23.6 Most of the menfolk were unemployed. Some took the initiative to carve wood as machete holders before selling it at the nearby resettlement villages at Kg. Asap. Some women were seen weaving rattan while most of the children aged 5-7 years old were seen enjoying their time at the longhouse and did not appear to attend school.
- 23.7 SEB had promised to provide allowances of RM850.00 per month to these 8 families because they were part of the resettled villagers at Long Wat, Tegulang RA. However all of them received only RM250.00 in cash. The sago powder provided by SEB as part of the food provision of RM600.00 had passed its expire date and the Penans were upset they were treated badly by the state government of Sarawak; monies and food provisions were late in coming and above all for not doing anything to alleviate their housing condition.
- 23.8 We also visited one of the original longhouses for resettled Penans, Umo'Ek Penan Talun Sg Koyan, Asap area on 23 May 2014. This longhouse had been in existence there for 16 years. The inhabitants were originally from the Bakun area, and had been resettled as part of the Bakun resettlement programme.
- 23.9 We were given to understand that this particular Penan community had been living together with the Balui Leko community in the Bakun area, and when they were forced to move and resettle at Sg.Koyan, Asap, the Balui Leko community received compensation in the amount of RM5 million. The Penan community received nothing. Because of longstanding neighbourly ties, the Balui Leko community gave RM1 million to the Tuai Rumah of the Penan community of Umo'Ek Penan Talun Sg Koyan, Asap to help with their own resettlement. However it appeared as though this money had not been distributed to the rest of the Penan community.
- 23.10 The longhouse consisted of 20 '*bilik*' which were overall in deplorable condition. There were about 5 to 6 families living in one '*bilik*' and in one particular '*bilik*' up to 20 people were living in it. Some of the '*bilik*' had electricity supply while others had had their supply cut because of non-payment of their electricity bills. Incomes were so low that these families were unable to afford paying for the electricity.
- 23.11 Most of the children living in the longhouse, and there were many, did not go to school and most if not all were extremely poor. The state government of Sarawak had ceased providing cash aid/allowances to the resettled Penan as the cash aid programme had ended in 2007.

- 23.12 According to Mr. Tony Tray, 23 years old, whom we met in Umo'Ek Penan Talun Sg. Koyan, Asap, there were no employment opportunities at Kg. Asap. However, some contractors would come in from time to time to get a few of the Penan to do casual labour work perhaps at RM15 to RM25 per day.

## 24. OBSERVATIONS

- 24.1 On the surface it would appear that SEB had provided the resettled communities with new dwellings that were attractive and equipped with basic amenities like water and electricity supply. The layout of the longhouses were neat and well planned but the quality of the buildings were poor and suspect. Within six months of moving in, many of the walls and flooring had cracked. Many in the resettled communities had no means to furnish their houses with basic furniture like beds, chairs, tables or cupboards.
- 24.2 Many able-bodied men and women were jobless and restless in the resettled areas. Their main source of traditional livelihood, i.e. foraging in the jungles for food and raw materials like sago, rattan, firewood, bamboo and fishing in the rivers had been taken away from them. There was such a deep sense of desperation and impatience as they waited indefinitely for lands promised to be allotted to them for cultivation. This sad state of affairs was compounded by all the other unfulfilled promises given to them by SEB. They were living from day to day hanging on to the promises of SEB but one wondered how long that was sustainable.
- 24.3 Perhaps the beacon of hope came through the young children enrolled in the schools. The teachers at Long Menapa testified that the Penan children had a desire to learn and were generally bright and intelligent given the right environment in which to learn and grow up. They were keen to go to school. Our interaction with the Penan children also confirmed that they were bright and teachable.
- 24.4 The road to Metalun RA and Tegulang RA were logging roads. Unfortunately the roads that were frequently used by the loggers were in better condition than the roads to the settlements. The RAP prepared by the state government of Sarawak did not provide any solution to improve the road condition to both resettlement areas.
- 24.5 The situation of the Penan in Umo'Ek Penan Talun Sg. Koyan, Asap made us wonder whether this would ultimately be the future for the communities in the longhouses in Metalun RA and Tegulang RA. Would the lack of meaningful and gainful employment, the dislocation from traditional lands and livelihood, the loss of foraging areas, the eventual drying up of financial assistance without any ability to develop a self-sustaining and income-generating existence, and the extreme isolation result in a similarly deprived community several years hence? Without much more care, attention and effort on the part of the relevant authorities, we did not see much that could contribute to a long-term viable and sustainable community.

## 25. RECOMMENDATIONS

- 25.1 Our stay with the Penans was brief, to say the least. But it was sufficient for us to note the lack of support for the Penans due to the lack of understanding of the authorities of the Penans' way of life.
- 25.2 The grievance mechanism and mode of communication vide the Murum Penan Development Committee (MPDC) has not been effective or is otherwise paternalistic and condescending. In line with Article 18 of UNDRIP, we recommend that meetings and/or discussions should not be limited only between MPDC and SEB top officers but should also include the chiefs of each of the villages and the Penghulu. Meetings should be held at each villages in Metalun RA and Tegulang RA monthly to ensure that villagers at both Metalun RA and Tegulang RA have the opportunity to engage with the top officers of SEB on issues arises at the resettlement areas. It would also allow top officers of SEB to observe and follow up first-hand with the development at Metalun RA and Tegulang RA and the effect of the resettlement process towards the livelihood of the Penan and Kenyah communities at the resettlement areas.
- 25.3 SEB has a duty to provide and compensate the resettled Penan and Kenyah communities who have lost their longhouses at the old settlement area with a good quality '*bilik*' and longhouse. There is an urgent need to repair all defects found in the longhouses at every village of Metalun RA and Tegulang RA without delay as discussed in chapter 8 above. It is unacceptable for the resettled Penan and Kenyah communities to leave their old settlement areas and stay in '*bilik*' and longhouses with many defects after only 6 months of occupation.
- 25.4 SEB must expedite the upgrading work of the logging road into tarred road to allow easy access to both Metalun RA and Tegulang RA. A smooth and accessible road to both resettlement areas will allow better access for the Penan and Kenyah communities to receive healthcare services, easy access between villages at both Metalun RA and Tegulang RA, safe journeys for children to attend school and safe passage for villagers who commute regularly to the Kg. Asap and/or Bintulu to purchase household supplies.
- 25.5 The inability of SEB to pay RM250.00 and provide food provision worth RM600.00 every month to the Penan and Kenyah communities rendered the current method of payment as a failure. SEB must expedite the payment of cash allowances by paying the full amount of RM850.00 to all households at Metalun RA and Tegulang RA as requested by the resettled Penan and Kenyah communities. This includes back-payment of cash for the shortfalls in the provision of food supplies. They have suffered a lot due to the late payment of cash and inadequate food supply to their villages.
- 25.6 SEB must provide free electricity supply for 24 hours to all villages at Metalun RA and Tegulang RA as failure to do so will deprive the affected Penan and Kenyah communities of their right to receive better facilities from SEB as part of their commitment to assure the resettled Penan and Kenyah communities with an immediate and substantial improvement in their living standards.

- 25.7 SEB must expedite their plan to build primary and secondary schools at both Metalun RA and Tegulang RA as promised in the RAP and in line with the UNDRIP principles of improving the social and economic conditions of the affected resettled Penan and Kenyah children especially in the area of education.<sup>30</sup> A proper school building and facilities will allow teachers and students to teach and learn in a more convenient and better environment as compared to the current state of environment in a temporary cabin at Long Menapa. Pre-school classes must be opened quickly in each village at Metalun RA and Tegulang RA and equipped with all the necessary amenities to allow children to enjoy and benefit from their educational development.
- 25.8 SEB must immediately solve the difficulty of transporting children to school due to poor and dangerous roads in Metalun RA and Tegulang RA. SEB must provide sufficient vehicles to each village to transport children to school. Alternatively, SEB must fulfil their promise to provide a subsidy of RM4,000.00 monthly to each village as transportation allowances to ferry children to school.
- 25.9 SEB must conduct courses to teach the community to maintain and uphold their traditional practices, beliefs and knowledge. There should be training for womenfolk in weaving, sewing, handicrafts and the fine arts (e.g. traditional dances and music) so as to preserve their traditional arts and cultural heritage.
- 25.10 SEB must fulfil its promise to allow access and identify plots of forest to the Penan and Kenyah communities to hunt and collect forest produce such as rattan, firewood and medicinal plants. This would allow them some measure of continuing with their traditional way of life and retaining their dignity and purpose of life as indigenous people.
- 25.11 SEB must ensure that every household in Metalun RA and Tegulang RA receives legal title to their land as part of the comprehensive compensation package for relocating the Penan and Kenyah communities from their old settlement areas. The Penan and Kenyah did not have a choice but to move out from their old settlement areas due to the imminent danger of flooding from the Murum dam. SEB must take action to identify and survey the boundary territory for farm land, cash crop land, home garden and longhouses which add up to the 15 hectares of land that was promised to them.
- 25.12 Many children do not possess birth certificates, particularly at Long Luar where most if not all lost their identification documents as a result of their village razed by fire. In line with the principle under Article 6 of UNDRIP, SEB must arrange and organise a plan for the National Registration Department to visit Metalun RA and Tegulang RA and register any Penan or Kenyah individuals who does not possess birth and/or identification documentation.
- 25.13 SEB should also ensure that members of the Penan and Kenyah communities are able to obtain driving licences so that they can own and operate their vehicles in accordance with the law.

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<sup>30</sup> United Nations Declaration on the Rights of Indigenous Peoples, Article 21



## 26. CONCLUSION

- 26.1 Visiting and connecting with the Penan and Kenyah ethnic groups in their longhouses has been a rich and rewarding experience and a huge privilege. We are deeply grateful and appreciative of the openness of the communities we visited, and humbled by their hospitality.
- 26.2 The trip has underlined the problems, plight and predicament of the settlers in the period post-construction of the Murum dam. It is sincerely hoped that the governmental authorities that have the responsibility of looking after the welfare of the settlers will take immediate steps to rectify the various breaches of promises, shortcomings, weaknesses and dereliction of duties. The sad fact is that none of the governmental authorities appears to have a genuine and deep-seated concern for the welfare and future of the communities.
- 26.3 Although the Penan and Kenyah communities have been brought into this particular stream of development against their wishes in the first instance, their discomfort and dissatisfaction could be mitigated by the proper provision of facilities and amenities, and not simply at a basic or subsistence level. Access to decent schools providing quality education and medical facilities giving adequate health care must be regular and consistent.
- 26.4 Beyond that, it is imperative that subsequent development choices should be left to the respective communities for their own free, prior and informed decision. We should not impose on these fragile communities external patterns of development or deprive them of their right to maintain their culture and way of life.

Prepared by,

- 1) Bar Council Committee on Orang Asli Rights
- 2) Bar Council Human Rights Committee

7<sup>th</sup> August 2014