

## JAPANESE AID TO THE PAHANG-SELANGOR WATER TRANSFER PROJECT IN MALAYSIA: AID GUIDELINES AND DECISION-MAKING

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### **Introduction**

This paper critically examines one of the most controversial development projects in Malaysia supported by Japanese Official Development Assistance (ODA) program, the Pahang-Selangor water transfer project. This project includes the construction of the Kelau Dam and a 45 km water transfer tunnel to channel raw water from sparsely populated rural areas in Pahang state to the more populous urban areas in Selangor state and the capital city, Kuala Lumpur.

The Japanese government announced the allocation of funds for the Pahang-Selangor water transfer project in the end of 1998, as a part of a rescue package for the East Asian countries whose economies had been badly damaged by the financial crisis of 1997-1998. This rescue package has been known as the New Miyazawa Initiative. Though the aid package was announced in 1998, it took more than six years before all administrative details pertaining to the Pahang-Selangor water transfer project implementation were settled and a soft loan agreement between the Japanese government and the Malaysian government could be signed. According to the agreement, Japan pledged to provide JPY82.04 billion through Japan Bank for International Cooperation (JBIC) for the project.<sup>1</sup> It should be noted that the project was funded not by grants, which are repayment-free, but by soft loans, which required repayment at the annual interest rate of 0.95 percent. Although the interest rate is considerably low, the Malaysian government would still be required to repay the loan.<sup>2</sup>

The Pahang-Selangor water transfer project, particularly the construction of the Kelau Dam, has attracted strong criticisms from Malaysian and international non-

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- 1 In March 2005, when the Malaysian and the Japanese governments signed the loan agreement, one Malaysian Ringgit or *Ringgit Malaysia* (RM) was exchanged for 28 Japanese Yen (JPY) while one US dollar (US\$) was exchanged for 107 Japanese Yen. This means that the loan of JPY82.04 billion was equivalent to US\$766 million or RM2.93 billion. For information on fluctuations in exchange rate between Japanese Yen and Malaysian Ringgit, see x-rates.com (2008).
  - 2 In Malaysia, the benchmark interest rate or the interest rate on the ten-year government bond is 4.63 percent. On the other hand, the benchmark interest rate in Japan is 1.64 percent, which is lower compared to other industrial countries, such as the United States of America (4.15 percent), the United Kingdom (5.04 percent), and Germany (4.66 percent). See *The Economist*, 26 July 2008, p.96.

governmental organisations (NGOs). The main concerns of the NGOs centred on the environmental and social impacts of the project, especially on the issue of resettlement of the indigenous people (*Orang Asli*) inhabiting the area earmarked for the project.<sup>3</sup> Taking into account these concerns, in the early stages of the project implementation, the Japanese government did make some efforts to accommodate the NGOs' opinions. This could be due to a fact that a strict set of guidelines concerning the environmental and social impacts of aid projects supported by ODA funds had been adopted by the Japanese government.

The most fundamental of these guidelines – the Official Development Assistance (ODA) Charter – stresses that “environmental conservation and development should be pursued in tandem” and pledges that a “great attention will be paid with respect to factors such as environmental and social impact on developing countries of the implementation of ODA”.<sup>4</sup> Furthermore, JBIC, the bank in charge of the Japanese yen loans distribution, has its own guidelines, “Guidelines for Confirmation of Environmental and Social Considerations”, which require “a review of environmental and social considerations when making a decision on funding, to confirm that the requirements are duly satisfied”.<sup>5</sup>

More importantly, JBIC's environmental guidelines have special clauses regarding “social acceptability and social impact” of the projects funded through the bank. As the guidelines state, “Projects must be adequately coordinated so that they are accepted in a manner that is socially appropriate for the country and locality in which the project is planned”. It is further mentioned that “for projects with a potentially large environmental impact, sufficient consultations with stakeholders, such as local residents, must be conducted via disclosure of information from an early stage where alternative proposals for the project plans may be examined”.<sup>6</sup>

JBIC has classified the Pahang-Selangor water transfer project as a “Category A” project, which means that it would have a significant adverse impact on the environment. Malaysian NGOs have made serious efforts to make the opinions of local residents heard; they have highlighted a number of critical issues, such as an adverse impact on

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3 *Orang Asli* means “indigenous people” in the Malaysian language.

4 The Japanese government adopted the ODA Charter in 1992, and amended it in 2003. See Ministry of Foreign Affairs, *Japan's Official Development Assistance White Paper 2003*. (Tokyo: Ministry of Foreign Affairs, 2005), p.200.

5 Japan Bank for International Cooperation, *Japan Bank for International Cooperation: Guidelines for Confirmation of Environmental and Social Considerations*, < [http://www.jbic.go.jp/en/about/environment/guideline/confirm/pdf/A04-02-01-01\\_a\\_Environmental%20Gidelines.pdf](http://www.jbic.go.jp/en/about/environment/guideline/confirm/pdf/A04-02-01-01_a_Environmental%20Gidelines.pdf) >, accessed 7 August, 2009, pp.4-5.

6 Japan Bank for International Cooperation, *Japan Bank for International Cooperation: Guidelines for Confirmation of Environmental and Social Considerations*, < [http://www.jbic.go.jp/en/about/environment/guideline/confirm/pdf/A04-02-01-01\\_a\\_Environmental%20Gidelines.pdf](http://www.jbic.go.jp/en/about/environment/guideline/confirm/pdf/A04-02-01-01_a_Environmental%20Gidelines.pdf) >, accessed 7 August, 2009, pp.14-15.

the environment and the problems related to relocation of local residents.<sup>7</sup> In the early stages that followed the announcement of the water transfer project, JBIC made efforts to listen to the dissent voices of the Malaysian NGOs and local communities in order to comply with the social acceptability clause of the guidelines that recommended having “sufficient consultations with the stakeholders”. However, at later stages, the Japanese government abandoned these “multi-stakeholder” consultations and relied solely on the Malaysian government’s assurance that environmental and social concerns were well attended to.

The controversy surrounding the decision to implement the Pahang-Selangor water transfer project shows that the guidelines and regulations regarding the assessment of the social and environmental impacts of projects supported by ODA funds have not always been observed. Therefore, among pertinent questions that arise are: How did the Japanese government justify its decision to provide loans for the Pahang-Selangor water transfer project? Why did the Japanese government sideline its own ODA guidelines that require protecting the environment and the local communities? This paper attempts to answer these questions. It consists of five sections. Following this introductory section, section 2 briefly examines main characteristics of Japan’s foreign aid policy towards Malaysia. Section 3 offers a detailed chronology of events surrounding the Japanese government’s decision to support the Pahang-Selangor water transfer project while section 4 is a critical analysis of the case study. Section 5 concludes.

### **Japanese Aid to Malaysia**

Malaysia is one of the biggest recipients of Japanese ODA among the developing nations, including countries in Sub-Saharan Africa which are heavily dependent on foreign aid. In 2004, Malaysia was the fourth biggest recipient country of Japan’s ODA and received US\$256 million worth of Japanese bilateral aid, of which US\$210 million were given as bilateral loans. By contrast, bilateral grants, which do not require repayment, made up a negligible part of the aid program and amounted to less than US\$1 million. Technical cooperation remained an important component of Japanese ODA program and amounted to US\$45 million.<sup>8</sup>

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7 For example, the Centre for Orang Asli Concerns (COAC) and its coordinator, Colin Nicholas, have conducted various activities in order to highlight and make known the concerns of local residents. According to COAC, the affected by the project communities did not give their consent for relocation. See Furuoka, F., Lo, M.C., and Kato, I. (2007). “Japan’s foreign aid policy towards Malaysia: Case study of the New Miyazawa Initiative and the Kelau dam construction”, *Electronic Journal of Contemporary Japanese Studies*, posted on March 1, 1997, <<http://www.japanesestudies.org.uk/articles/2007/FuruokaLoKato.html>>, accessed 4 August, 2009.

8 Ministry of Foreign Affairs, Japan, “Kunibetsu-Enjokekeitaibetsu Uchiwake (Breakdown of Aid Disbursements by Country and Type of Aid)”, <[http://www.mofa.go.jp/mofaj/gaiko/oda/shiryo/hakusyo/05\\_hakusho/index.htm](http://www.mofa.go.jp/mofaj/gaiko/oda/shiryo/hakusyo/05_hakusho/index.htm)>, accessed 3 December, 2006.

Malaysia has been a preferred destination for Japan's foreign aid funds for several decades. From January 1969 to March 2001, the cumulative amount of foreign aid given by Japan as bilateral loans to Malaysia amounted to JPY827.4 billion or US\$6.62 billion (RM26.39 billion). Divided per person, the amount would be equal to approximately RM1,165 (about US\$300), which is the highest in Asia.<sup>9</sup> A pertinent question that arises is: Why does Malaysia remain an important destination for Japanese foreign aid funds? After all, Malaysia is one of the successful "Asian miracle" economies. The country has achieved an impressive economic success and apparently does not urgently require Japan's support for its economic development.

There are several sets of answers to this question. Official explanation given by Japan's Ministry of Foreign Affairs (MOFA) is that Japan continues providing foreign aid to Malaysia because, firstly, Malaysia is one of Japan's neighbours; secondly, the countries maintain very good bilateral relations in economic, diplomatic, and cultural spheres; thirdly, despite Malaysia's impressive economic performance, it has not solved all of its economic and social problems, therefore cutting or reducing the foreign aid would be a premature step; fourthly, after the Asian financial crisis in 1997-1998, Malaysia especially needs Japan's financial assistance to carry out economic reforms.<sup>10</sup>

Furthermore, MOFA has given other justifications for providing considerable amounts of Japanese aid to Malaysia. Among these justifications was introduction of the "Look East Policy" in Malaysia in 1981, which, as MOFA maintained, stimulated the Malaysian people's strong interest in Japan. Also, Malaysia's position as one of the leading members of Association of Southeast Asian Nations (ASEAN) makes the country a key diplomatic partner in Japan's efforts for regional cooperation. Another important fact is Malaysia's strategic position in the Malacca Straits on the sea route to the Middle Eastern countries from where Japan imports petroleum. Finally, Malaysia itself is one of Japan's major trade partners and an important destination for Japanese foreign direct investment.<sup>11</sup>

Undoubtedly, Japan's foreign aid has stimulated Malaysia's economic development. However, some aspects of Japan's aid policy towards Malaysia have attracted strong criticisms. Firstly, some researchers maintain that Japan's ODA program has been designed to safeguard Japan's own economic interests. As Aslam and Piei noted, "Since 1976, Japan has been the second largest source of external finance to Malaysia after the United States.... But Japan extends the aid to Malaysia primarily to promote its own commercial and industrial interest".<sup>12</sup>

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9 Ruhanie, N., "Malaysia is largest recipient of Japan's ODA loans", *New Straits Times*, 21 August, 2001.

10 Ministry of Foreign Affairs, Japan, "Japan's Official Development Assistance Annual Report 1999", <<http://www.mofa.go.jp/policy/oda/summary/1999/index.html>>, accessed 2 April, 2004.

11 Ministry of Foreign Affairs, Japan, "Kunibetsu databukku 2007 (Recipient countries' data book 2007)", <[http://www.mofa.go.jp/mofaj/gaiko/oda/shiryo/kuni/07\\_databook/pdfs/01-08.pdf](http://www.mofa.go.jp/mofaj/gaiko/oda/shiryo/kuni/07_databook/pdfs/01-08.pdf)>, accessed August 1, 2008.

12 Aslam, M., and Piei, M., "Malaysia-Japan: Unequal Trade Partners", in Jomo K.S. (Ed.), *Japan and Malaysian Development: In the Shadow of the Rising Sun*. (London: Routledge, 1994), p. 21-43.

Secondly, the preference for providing Malaysia loans rather than grants makes Japan appear as a debt collector, not an aid provider. For example, during the period from 1995 to 2000, Japan provided US\$426.21 million (RM1.619 billion) to Malaysia as bilateral grants. In the same period, Malaysia's repayment of loans to Japan amounted to US\$810.91 million (RM3.081 billion).<sup>13</sup> This means that Japan's net foreign aid disbursement to Malaysia was negative. In other words, the amount of money that Malaysia had to repay Japan exceeded the amount of aid it had received from Japan. Concerns have been voiced that the obligation to repay the loans could become a serious financial burden for Malaysia. High interest rates attached to the Japanese loans have also been a focus of scrutiny. As a prominent Malaysian political leader suggested, Japan should review its aid policy and reduce the interest rates of its loans because "the intention was a soft loan to help poor countries but has resulted to be a very high interest loan".<sup>14</sup> In addition to the high interest rates the appreciation of the Japanese currency against the Malaysian currency may have further burdened Malaysia because Japanese loans are denominated in the Japanese currency.<sup>15</sup>

### **Case Study: The Pahang-Selangor Water Transfer Project**

Japan's support for the Pahang-Selangor water transfer project was first made known in December 1998, when the Japanese government announced its decision to give a financial aid to Malaysia under the New Miyazawa Initiative. The project was given a final go-ahead in March 2005, when the agreement on the loan provision for the project was signed between the Malaysian and the Japanese governments.

Chronology of events during the six-year period from the time when the project had been announced to the time when the agreement was signed could be divided into five stages, i.e., Stage One: Japan offers financial support to the Pahang-Selangor water transfer project under the New Miyazawa Initiative; Stage Two: Protests arise from Malaysian NGOs; Stage Three: the Japanese government makes efforts to accommodate NGOs' opinions; Stage Four: Media campaign is initiated by the Malaysian government; Stage Five: the Japanese government makes a formal decision to support the project.

#### *Stage One: Japan Offers Financial Support to the Pahang-Selangor Water Transfer Project under the New Miyazawa Initiative*

The Pahang-Selangor water transfer project was a part of the rescue package allocated for Malaysia by the Japanese government. Initially, the construction of two dams (the

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13 JICA (Japan International Cooperation Agency) (2002). ODA Disbursements to Malaysia. Accessed on 22 July, 2002, <<http://www.jica.org.jp/disbursement/>>

14 Jayakrishnan, S., "Japan should review loans to Malaysia, Says Anwar". *New Straits Times*, 21 March, 1996.

15 Since the 1990s, Japanese Yen has appreciated against Malaysian Ringgit. In January 1990, RM1 was exchanged for JPY54, while in January 2008, the exchange rate was RM1 for JPY33, which was quite unfavourable for Malaysia. Thus, for example, if the Malaysian government received JPY1 million worth of loans in 1990, which was equal to RM18.5 thousand at that time, it would need to repay RM30.4 thousand in 2008.

Kelau Dam and the Telemong Dam) and the water transfer tunnel was planned. However, the Pahang state government recommended that only the Kelau Dam be built.<sup>16</sup>

To outline the background of the New Miyazawa Initiative, when Malaysia faced serious financial and currency crises in 1997-1998, the Malaysian government decided against asking the International Monetary Fund (IMF) for the rescue funds and instead sought help from Japan. In response to the Asian financial meltdown, in December 1998, the then Japanese Prime Minister Keizo Obuchi unveiled a plan to allocate US\$30 billion to the affected by the crisis Asian countries in order to assist their efforts to abate the devastating consequences of the crisis.<sup>17</sup> This rescue package was called the New Miyazawa Initiative.

Under the New Miyazawa Initiative, the Japanese government pledged to provide Malaysia approximately US\$1 billion worth of loans for the following seven projects: 1) the “Look East” policy (JPY4.0 billion, or about US\$121 million), 2) Higher education loan fund (JPY8.2 billion, or about US\$71 million), 3) the Beris Dam (JPY9.7 billion, or about US\$84 million), 4) the Pahang-Selangor water transfer project (JPY1.0 billion, or about US\$8 million),<sup>18</sup> 5) the Port Dickson power plant rehabilitation (JPY49.1 billion, or about US\$426 million), 6) Universiti Malaysia Sarawak (JPY18.5 billion, or about US\$161 million), and 7) Small and medium industries development fund (JPY16.2 billion, or about US\$141 million).<sup>19</sup> The loan earmarked for the Pahang-Selangor water transfer project was included within a massive financial aid package for Malaysia. This is an important fact as it shows that selecting the Pahang-Selangor water transfer project was not a separate decision but a part and parcel of an ambitious plan aimed at resuscitating the Malaysian economy by pumping vast amounts of money into the country. As the then Japanese ambassador to Malaysia, Issei Nomura, explained, “The package is designed to meet the needs of the Malaysian economy for its recovery in short-term and long-term”.<sup>20</sup>

Among the seven projects, the construction of the Pahang-Selangor water transfer project and the Beris Dam in Kedah State involved resettlement of the indigenous people inhabiting these areas from their ancestral lands. However, the Chief Minister of Kedah state, Syed Razak Syed Zain, assured that there was no major obstacles to building the Beris Dam because “all transactions related to land acquisition and compensations have been settled. All 600 families affected have agreed to be moved to Sungai Pau (River Pau)”.<sup>21</sup>

16 “Govt may privatize all water supply departments”, *New Straits Times*, 27, March, 2002.

17 Vatikiotis, M. and Hiebert, M., “Help yourself”, *Far Eastern Economic Review*, 31 December, 1998.

18 This amount was allocated for providing engineering services for the implementation of the Pahang-Selangor raw water transfer project.

19 Embassy of Japan in Malaysia. “Japanese financial assistance package to Malaysia”. <<http://www.embjapan.org.my/embjapan-doc/html-dir/special/dec18/prc1218.htm>>, accessed February 13, 1999.

20 Nomura, Issei, “Japan’s contribution to Malaysia’s economic recovery: Japan’s financial assistance package to Malaysia”, press release on December 18, 1999, mimeo.

21 “Construction of the Beris Dam to begin soon, says BM”, *The Sun*, 29 June, 2000.

*Stage Two: Protests Arise from Malaysian NGOs*

Since the announcement of the plan to build the Kelau Dam, several Malaysian NGOs, including Sahabat Alam Malaysia (SAM), the Consumers Association of Penang (CAP), and World Wide Fund for Nature–Malaysia (WWF–Malaysia), have expressed their grave concerns regarding the project. The focus of the NGOs’ criticisms has been the environmental impact assessment (EIA) prepared by a Malaysian consultancy company in August 2000, and approved by the Department of Environment (DOE) in February 2001. The NGOs argued that the EIA was “seriously flawed in many respects, inadequate, misleading in parts and suffers from fundamental defects”.<sup>22</sup>

Some NGOs pointed out that the Pahang-Selangor water transfer project, especially the construction of the Kelau Dam, would have “serious impacts on the Kelau River ecosystem and would require the resettlement of 325 indigenous people and 120 Malay farmers, seriously affecting their lives and livelihoods”.<sup>23</sup> Especially, the resettlement of the indigenous people raised a lot of controversy. The area proposed for the Kelau Dam construction included the ancestral land of the *Orang Asli* who were reluctant to move to a new place. As SAM maintained, these affected people “did not give their free, prior and informed consent to the relocation”.<sup>24</sup> According to the Centre for Orang Asli Concerns (COAC), the village chief said that the villagers would relocate if they would be required to do so but “if we have a choice, we want to stay where we are”.<sup>25</sup>

The NGOs also argued that there was no necessity to construct a new dam. Instead, they recommended that alternative sources of water supply be explored. For example, SAM and WWF–Malaysia pointed out that Sungai Perak (Perak River) in Perak state and the Keyir Dam in Terengganu state had the capacity to solve the problem with water supply.<sup>26</sup> The NGOs also highlighted the need for a more efficient water management. There was a consensus among the NGOs that the water shortages could be caused by an inefficient water distribution system, water wastage, leakages in the antiquated pipes, and a reckless denudation of watershed areas.<sup>27</sup> Activists from SAM maintained that per capita water consumption in Selangor state and Kuala Lumpur had been very high due to

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22 Sahabat Alam Malaysia and Consumers Association of Penang, “Press Releases”. <<http://www.surforever.com/sam/pressrelease/watertrans.htm>>, accessed August 3, 2008, p.15.

23 Carling, J. and Friends of the Earth–Japan, “Overview Paper: Japan Bank for International Cooperation (JBIC) Guidelines for Confirmation of Environmental and Social Considerations: Its Implications on Indigenous Peoples”, <<http://regionalcentrebangkok.undp.or.th/practices/governance/ripp/docs/4th%20FINAL%20JBIC.pdf>>, accessed 3 December 2006.

24 Sahabat Alam Malaysia, “The Kelau Dam, Malaysia”, in Aviva Imhof (Ed.) *Development Disasters: Japanese Funded Dam Projects in Asia*, <<http://irn.org/programs/seasia/pdf/030309.irnjbic.pdf>>, accessed 2 December, 2006, p.32.

25 Centre for Orang Asli Concerns, “The Orang Asli Position on the Proposed Kelau Dam Project”, report submitted to Friends of the Earth–Japan.

26 Sahabat Alam Malaysia and Consumers’ Association of Penang, “Press Releases”, p.15.

27 Hui, S. and Antares, “Water Woes: Selangor Dam proves to be no solution”, *Malaysiakini*, 21 September, 2005, <<http://www.malaysiakini.com/letters/40817>>, accessed 3 December, 2006.

“grave inefficiencies” in the water management system in the area.<sup>28</sup> According to SAM, more than 40 percent of water resources in the area were lost due to a faulty distribution system, leakages and theft. SAM proposed the following two water saving measures: 1) replacement of the old water pipes installed decades ago with new and more durable ones, and 2) introduction of more stringent measures against illegal connections to water pipes.<sup>29</sup>

In this stage, the Malaysian NGOs were forging ties with and sought support from NGOs in Japan so that the established international network could be used to influence the Japanese government. An activist from a Malaysian NGO said that his NGO had established contacts with NGOs in Japan “to lobby the Japanese Government through NGO’s counterparts in Japan”.<sup>30</sup>

*Stage Three: The Japanese Government Makes Efforts to Accommodate NGOs’ Opinions*

In this stage, taking into account the controversy that surrounded the implementation of the Pahang-Selangor water transfer project, the Japanese government and JBIC made efforts to consider the NGOs’ criticisms and accommodate their opinions. In April 2002, the Japanese government decided to suspend the provision of loan to the water transfer project. As a leading Malaysian newspaper *New Straits Times* reported, “the Japan Bank of (*sic*) international cooperation withheld the loan”.<sup>31</sup>

Furthermore, the Japanese government announced that it would not give the loan for the project until the Malaysian government solved all the problems and cleared up the controversy surrounding the project. Importantly, the Japanese government required that consent for the project implementation be obtained from Malaysian NGOs before the loans could be disbursed. A Malaysian newspaper, *The Star*, reported that the Japanese government stipulated that “at least five non-governmental organizations support the plan”.<sup>32</sup> The then Selangor Chief Minister, Mohamad Khir Toyo, confirmed that the Japanese government had imposed such a condition and had stipulated that due to the potential harm to the environment the project “must get endorsement from NGOs”.<sup>33</sup>

The Japanese government also expressed dissatisfaction with the Environmental Impact Assessment (EIA) and demanded that a second report be produced. The then Malaysian Works Minister, Samy Vellu, confirmed that the Malaysian government needed to prepare “a second environmental impact assessment study to satisfy the Japanese”. In this second EIA report, the Japanese government requested to include a proposal of feasible measures that could lessen the negative impacts of the development project. Samy Vellu estimated that the “study would take a year as the Japanese wanted detailed information on the project and its measures to reduce environmental and social impact”.<sup>34</sup>

28 Sahabat Alam Malaysia, “The Kelau Dam, Malaysia”, p.30.

29 Sahabat Alam Malaysia, “The Kelau Dam, Malaysia”, p.31.

30 Loh, D., “Second EIA study on water project”, *New Straits Times*, 16 April, 2002.

31 Loh, “Second EIA study”.

32 Perumal, E., “Samy: Five NGOs hampering water transfer project”, *The Star*, 12 April, 2002.

33 “Khir: Delay in project can lead to water crisis”, *The Star*, 18 April, 2002.

34 Loh, “Second EIA study”.



It is important to note that in this stage Japan's official stance helped the Malaysian NGOs to gain the upper hand over the Malaysian government. The Malaysian government had to come up with a set of solutions that would be acceptable for the NGOs. Samy Vellu announced that a series of meetings would be held by his ministry with representatives of the Japanese government and expressed the hope that the discussions "would be fruitful".<sup>35</sup> The NGOs appreciated the willingness of the Japanese government to seek their consensus. An NGO activist commended JBIC for being "very strict about projects they fund".<sup>36</sup>

#### *Stage Four: Media Campaign by the Malaysian Government*

In this stage, reports about the controversy surrounding the Pahang-Selangor water transfer project began appearing in the Malaysian mass media. These reports portrayed the NGOs that opposed the construction of the dam as "troublemakers" and described them "anti-government". Malaysian top government officials, including the Prime Minister, urged the NGOs not to oppose the government's plan and were quite vocal in their criticisms of the NGOs' stance. For example, the then Malaysian Prime Minister, Mahathir Mohamad, suggested that the NGO activists go and live in the forest if they were so keen on preserving the environment. As he commented, "If you don't want to destroy the forest, go and live in the forest". He further added, "It is easy for our NGOs to oppose such projects. But they want the water. If they don't want the projects to be implemented, we shouldn't give them water".<sup>37</sup> To echo this sentiment, Samy Vellu called the NGOs a "stumbling block to the Government's efforts to get water supply from Pahang to Selangor".<sup>38</sup>

However, the officials realized the importance of getting consensus from the NGOs. Thus, Samy Vellu urged the NGOs to change their stance because "a positive role of the NGOs will help us to secure the RM3.8 billion loan from the Japanese Government".<sup>39</sup> Mohamad Khir Toyo admitted that the government needed "to get support of the NGOs" without which there would be no "go ahead for the construction of the dams". He advised the NGOs to "evaluate the situation wisely" and give "their backing to the government's efforts". Talking to the media, Khir Toyo said that the Selangor state government had taken "various steps to get the project going" in order to avoid "the expected water shortage in the state by 2007". He warned that "any delay in the implementation of the RM3.8 billion water transfer project from Pahang to Selangor will lead to a major water crisis in the state in future".<sup>40</sup>

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35 Perumal, "Samy: Five NGOs".

36 Loh, "Second EIA study".

37 "Go live in forest: PM tells critics of water project", *The Star*, 22 April, 2002.

38 Perumal, "Samy: Five NGOs".

39 *Ibid.*

40 "Khir: Delay in project".

*Stage Five: The Japanese Government Makes a Formal Decision to Support the Project*

In a surprising turn of events the Japanese government announced its decision to extend formal support for the Pahang-Selangor water transfer project and to provide JPY82.04 billion (RM2.93 billion) for the project. The formal support for the project included the exchange of notes concerning the loan provision and the signing of the loan agreement. The exchange of notes (EON) took place in March 2003. The notes were signed by the representatives of the Malaysian and the Japanese governments, namely, the secretary-general of the Malaysian foreign office, Ahmad Fuzi Abdul Razak, and the Japanese ambassador to Malaysia, Masaki Konichi. In its announcement of the EON, Japan's MOFA commented that the process to formalize the project had been a lengthy one as the project was first announced in 1999.<sup>41</sup> However, it was not until March 2005, or two years later since the EON event, that the loan agreement was signed.

During the interim period between the EON and the signing of the loan agreement, Japanese NGOs continued their efforts to stop the project implementation. In January 2004, Friends of the Earth-Japan and other 23 Japanese NGOs sent a letter to the Japanese government. In the letter, the NGOs stated that the justifications for the water transfer project construction were weak while the project's negative environmental and social impacts were massive.<sup>42</sup> Moreover, a question about the progress of the Pahang-Selangor water transfer project was raised in Japanese parliament, the Diet. In March 2004, a Member of Parliament, Kuniomi Iwai, at a session in the Diet, pointed out that the Pahang-Selangor water transfer project had attracted criticisms and received strong opposition from NGOs. He enquired Japanese Foreign Minister Yoriko Kawaguchi about the status of the project. The minister answered that the Japanese government had already signed the EON, and that JBIC was in the process of discussing final details of the loan agreement with the Malaysian government.<sup>43</sup>

In March 2005, all administrative details pertaining to the loan provision were finalized and the Governor of JBIC, Kyosuke Shinozawa, signed the loan agreement.<sup>44</sup> The Japanese government's change of attitude and the formal decision to support the project surprised and disappointed Malaysian NGOs. They questioned the Japanese

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41 Ministry of Foreign Affairs, Japan, "Mareisia ni taisuru tokubetsu enshakkan, "pahan-serangoru dosui keikaku" no kyuyo nituite (Extension of special loan to Malaysia for the Pahang-Selangor raw water transfer project)", <[http://www.mofa.go.jp/mofaj/gaiko/oda/data/zyoukyou/h\\_14/y030331\\_2.html](http://www.mofa.go.jp/mofaj/gaiko/oda/data/zyoukyou/h_14/y030331_2.html)>, accessed 3 August, 2008.

42 Friends of the Earth-Japan, "Mareisia no pahan-serangoru dosuujigou heno enshakkan kettei no saikowo motomeru yoseisho (Request to reconsider the decision to provide loans for the Pahang-Selangor water transfer project)", <<http://www.foejapan.org/aid/jbic02/kelau/pdf/20040123.pdf>>, accessed August 3, 2008.

43 "Mareisia kerau damu kensetsu keikaku no genjo to mitoishi nitsuite (Current situation and future perspectives of the Kelau Dam construction project in Malaysia)". The 159th Session of the Diet on March 8, 2004, <<http://www.kuniomi.gr.jp/chikudo/kokkai/kaigi/159-kes-3.html>>, accessed August 3, 2008.

44 Japan Bank for International Cooperation, "JBIC signed ODA loan agreement with Malaysia", <<http://www.jbic.go.jp/autocontents/english/news/2005/000027/index.htm>>, accessed 3 August, 2008.

officials' commitment to observe the ODA guidelines that require a thorough assessment of the environmental and social impacts of ODA projects. As an NGO activist put it, "I now wonder whether all the earlier positive pronouncements – about JBIC taking into account the views of environmentalists and the people affected – were just a public relation exercise".<sup>45</sup> President of CAP and SAM Mohamed Idris also expressed his disappointment with JBIC's decision to sign the loan agreement and pointed out that "JBIC had earlier pronounced that it would take into account the views of environmentalists and the affected communities. However by approving the loan, it seems that JBIC has rescinded from its social obligations and environmental consciousness".<sup>46</sup> Some of the affected by the project local communities decided to go to court. According to a Malaysian newspaper, *New Straits Times*, in December 2007, twenty-seven Orang Asli sought a court order to postpone the commencement of the Kelau Dam construction. Among them twenty-four people were from the Temuan tribe and three people from the Senoi tribe.<sup>47</sup>

Despite vocal protests from the Malaysian and international NGOs and the court proceedings, JBIC was unperturbed by the fact that its own environmental guidelines had not been observed. According to *The Star*, a JBIC officer stated that the bank was "satisfied that its guidelines have been met". As the Chief Representative of the JBIC's Kuala Lumpur office, Takeshi Toyoda, told the journalist, "We understand that the Ministry of Energy, Water and Communications has followed our guidelines fully.... We heard from the ministry that the procedures are in order and we believe that their decision (to go ahead with the project) is right".<sup>48</sup>

### Analysis and Discussion

A case study of the Pahang-Selangor water transfer project carried out in this paper reveals some critical shortcomings in the decision-making process on Japanese ODA program. As the case study showed, the decision to implement the Pahang-Selangor water transfer project had raised a lot of controversy and attracted strong criticisms from NGOs and local communities. A pertinent question to ask is: How did the Japanese government justify its decision to proceed with the project and provide the loan for the dam construction?

In the earlier stages, when the project was initially identified as a part of a rescue

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45 Nicholas, C., "Letter to Mr. Naomi Niwa, Chief Representative in Kuala Lumpur dated 7 April, 2005", <<http://www.foejapan.org/aid/jbic02/kelau/letter/20050408.html>>, accessed September 10, 2008.

46 Idris, M., "Letter to Mr. Kyosuke Shinozawa, Governor of JBIC dated 11 April, 2005", <<http://www.foejapan.org/aid/jbic02/kelau/letter/20050415.html>>, accessed on September 10, 2008.

47 "Bid to stop work on dam", *New Straits Times*, 12 December, 2007.

48 Chiew, H., "The Kelau Dam remains in dispute", *The Star*, 13 May, 2008.

package under the New Miyazawa Initiative, JBIC's officials explained that Selangor state had been experiencing an increase in water demand and suffered from occasional water shortages during the dry reason. As JBIC maintained, "Serious water shortages in 1997 and 1998 have impressed the necessity for a new scheme for increasing water supply ... An interstate project to transfer water from Pahang state to Selangor state has been considered in order to cope with the increase of future water demand in Selangor state and the Kuala Lumpur region".<sup>49</sup>

Japan's Ministry of Foreign Affairs (MOFA) gave similar reasons for its support of the project. When the Japanese government decided to formalise the loan for the Pahang-Selangor water transfer project in 2003, MOFA explained that Selangor state was suffering from serious water shortages due to a rapid economic development, and as water resources in the state were limited there was a need to transfer water from Pahang state. MOFA stated that it was aware of the NGOs' opposition to the project, and assured that appropriate measures would be taken to allow smooth resettlements of the affected communities and the conservation of the eco-system in the area.<sup>50</sup>

In 2005, upon the signing of the loan agreement, JBIC stressed a timely implementation of the water transfer project and pointed out that "it is an urgent issue to have access to water resources outside the (Selangor) state to meet rising demand for water". The bank also cited concerns of Japanese companies located in Selangor state. It reminded that a drought in 1998 prompted "Japanese affiliates operating in this region to file a request with the Government of Malaysia for drought prevention measures, such as this current project". JBIC highlighted economic significance of the project in a situation where "stable water supply remains one of the challenges to economic development in the region and the well-being of its population" and asserted that the project "is expected to address this challenge".<sup>51</sup>

Thus, the main justification for the implementation of the Pahang-Selangor water transfer project put forward by the Japanese government was water shortages in Selangor state and the Kuala Lumpur area. It was argued that the water shortages could not be solved with the resources available within the boundaries of Selangor state and Kuala Lumpur, and that constant water supply was needed to ensure the economic development in these areas. The Japanese government maintained that the water transfer project was the only possible solution to and the prevention of the water shortages. This line of reasoning was similar to the arguments in defence for the project adopted

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49 Japan Bank for International Cooperation, "Twining Program (Mutual Acknowledgment of Degree Credits) Between Japanese and Malaysian Universities to Commence by ODA Loan", <<http://www.jbic.go.jp/english/base/release/occf/1999/0428-e.php>>, Accessed 2 December, 2006.

50 Ministry of Foreign Affairs, Japan, "Mareisia ni taisuru tokubetsu enshakkan, "pahan-serangoru dosui keikaku" no kyuyo nituite (Extension of special loan to Malaysia for the Pahang-Selangor water transfer project)", <[http://www.mofa.go.jp/mofaj/gaiko/oda/data/zyoukyou/h\\_14/y030331\\_2.html](http://www.mofa.go.jp/mofaj/gaiko/oda/data/zyoukyou/h_14/y030331_2.html)>, accessed on 3 August, 2008.

51 Japan Bank for International Cooperation, "JBIC signed ODA loan agreement with Malaysia", <<http://www.jbic.go.jp/autocontents/english/news/2005/000027/index.htm>>, accessed on 3 August, 2008.

by the Malaysian government. Voices of other stakeholders, such as NGOs and local communities, who questioned the viability and necessity of the water transfer project and who suggested alternative solutions to the water shortages were not incorporated into the final decision regarding the project implementation. This reveals a lack of commitment on the part of the Japanese government to encourage a wider participation of relevant stakeholders in the decisions making process regarding projects supported by Japanese ODA.

The next question this study aims to answer is: Why did the Japanese government sideline its own ODA guidelines that demand protecting the environment and the local communities? In the case of the Pahang-Selangor water transfer project it is important to remember that the loan was discussed and the decision to implement the project was reached in a series of bilateral meetings between the heads of the Japanese and the Malaysian governments. This means that a “top-down approach” was adopted in the decision-making process since the very start of the project negotiations. For example, in an early stage of the project implementation, Japanese Prime Minister Keizo Obuchi informed his Malaysian counterpart Mahathir Mohamad “during their bilateral meeting in Hanoi on December 15, 1998, that Japan is going to extend a financial assistance package to Malaysia”.<sup>52</sup> A press release by JBIC confirmed that the loan for the project had been pledged by Prime Minister Obuchi to Prime Minister Mahathir, together with the promise to provide loans for other projects.<sup>53</sup>

This “top-down” approach was especially evident at a critical moment of negotiations when the NGOs’ opposition to the project resulted in JBIC’s demand for a second draft of EIA. In December 2002, Malaysian Prime Minister Mahathir flew to Tokyo to discuss the matter with the then Japanese Prime Minister Junichiro Koizumi. In the meeting, Mahathir expressed his “appreciation for Japan’s various financial assistances”.<sup>54</sup> In response, Koizumi “officially announced Japan’s intention to provide a special yen loan for the Pahang-Selangor Water Transfer Project, which had been requested by Malaysia”.<sup>55</sup> This was a surprising u-turn on the part of the Japanese government. The result of the direct negotiations between the two political leaders blocked all attempts by the NGOs and the affected by the project local communities to have a voice in the decision-making process. In effect, it put an end to a wider stakeholders’ participation in the project’s negotiations.

There are certain merits to the “top-down” approach in that it may help cutting the red tape and thus lessen the involvement of the aid bureaucrats, all of which could facilitate the implementation of the project. However, the “top-down” approach has serious flaws too. For example, many of the relevant stakeholders, such as affected by

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52 Embassy of Japan in Malaysia, “Japanese financial assistance”.

53 Japan Bank for International Cooperation, “Twining Program”.

54 Ministry of Foreign Affairs, Japan, “Visit to Japan by Dato’ Seri Dr. Mahathir bin Mohamad, Prime Minister of Malaysia”, <<http://www.mofa.go.jp/region/asia-paci/malaysia/pmv0212/overview.html>> , accessed August 3, 2008.

55 *Ibid.*

the projects local communities, NGOs, etc., are excluded from the decision-making process which impairs a much needed openness and flexibility in the implementation of the ODA program. When the Malaysian NGOs voiced their protests about the decision to implement the Pahang-Selangor water transfer project, especially the plan to construct the Kelau Dam, Japanese officials tried to accommodate the NGOs' opinions. At this juncture, NGOs and other stakeholders made a brief appearance in the decision-making process. However, the nascent "bottom-up" approach was nipped in the bud and the decision-making process was reversed to the "top-down" approach. One of the consequences of this decision-making style was that Japanese aid officials, including JBIC's officers, were more comfortable to liaise with their Malaysian counterparts and excluded other relevant stakeholders from the decision-making process. This approach has been detrimental to ensuring that Japan's ODA guidelines regarding giving full consideration to the environmental and social impacts of the projects supported by Japan's ODA program are observed. As a result, JBIC's officers accepted the Malaysian government's affirmations that the environmental and social requirements stipulated in the ODA guidelines had been fully attended to despite the conflicting evidence from Malaysian NGOs and local communities.

## **Conclusion**

This paper critically examined one of the most controversial projects supported by Japan's ODA – the Pahang-Selangor water transfer project. Despite a fact that NGOs strongly protested the dam construction, the Japanese government decided to provide a huge amount of loans through Japan Bank for International Cooperation (JBIC) for the project implementation. As the chronology of events following the decision to implement the water transfer project shows, Japanese ODA officials have not always followed the ODA guidelines regarding the assessment of environmental and social impacts of the project supported by ODA funds.

It should be noted that in the earlier stages, when Malaysian NGOs voiced their disagreement with the proposed construction of the water transfer project, the Japanese government attempted to accommodate the NGOs' views on the project and even requested that a second environmental impact assessment be conducted. At this juncture, a "bottom up" approach to the project implementation made its brief appearance. However, the Japanese government soon disappointed the NGOs by signing the agreement on the loan provision with the Malaysian government. This surprising u-turn by the Japanese government and the departure from its previously indicated commitment to accommodate the NGOs' opinions could be due to a fact that the decision-making process on the loan provision has been strongly influenced by the heads of the Malaysian and the Japanese governments. In other words, the Pahang-Selangor water transfer project was started in a "top-down" manner when the aid package was announced after the summit meeting between Malaysian Prime Minister Mahathir and the then Japanese Prime Minister Obuchi. This "top-down" modus operandi was in evidence in the final stage of the decision-making process when the agreement on the loan disbursement was finally reached by the Malaysian Prime Minister Mahathir and his Japanese counterpart at that time, Junichiro Koizumi.

In the “top-down” approach, attempts to accommodate the opinions of all stakeholder affected by the project would be futile. Since the very beginning of the negotiations of the project implementation, the opinions of the NGOs and the affected communities had no place in the decision-making process. In the end, relevant stakeholders outside of the officialdom could not be able to influence its outcome. The present case study highlighted the lack of a formal mechanism to incorporate wider stakeholders’ opinions into the decision-making process on Japanese aid policy. Overcoming this crucial shortcoming could be a challenging task for the country’s aid policy-makers.

**Biographical note**

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