



ILLEGAL OCCUPATION OF STATE LAND: A CASE  
STUDY IN KAMPAR AND KINTA

BY

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## **ABSTRACT**

This study concerns with illegal occupation and illegal operation of state land in Perak. In 2014, more than 17,000 hectares of land in Perak had been illegally cleared, resulted in the state government losing hundreds of millions ringgit in revenue. The state government of Perak introduced the rehabilitation program of illegal land in 2011 named as 'Pelan Tindakan Anti Usaha Haram (PATUH)'. Despite it is still running until now (2018) the program had yet unable to address the problem comprehensively. Therefore, this study is undertaken to identify the issues related to the illegal land occupation and operation of state land and calculate the potential income to the state, as well as to provide strategies and solution to overcome the issues. Inventory survey was conducted to assess the physical condition of the illegal land in selected district namely District of Kampar and Kinta. Secondary data and interview were conducted to identify and describe the issues regarding land administration, state revenue matters and environmental pollutions. Under PATUH scheme, most of the identified land had been alienated or given to the state agencies with minimal charges. Findings show that despite the implementation of PATUH program in addressing the issues, the programme alone is unable to overcome illegal encroachment on state land in Perak. Thus, it may occur again in the future as the PATUH program and its implementation does not give significant impact in addressing the illegal land occupation and operation in Perak. This study propose that land charges under PATUH should be increased in order to improve the revenue to the state. The study also proposed that the land is to tender openly (Open Tender System) to the public through land alienation process for state benefits.

## مُلخَص البَحْث

تَهِم هذه الدراسة بالحيازة والإدارة غير القانونية للأراضي الحكومية في بيراك. في عام ٢٠١٤ م، تم أكثر من ١٧ ألف هكتار من الأراضي غير القانونية في بيراك، وهذا تسبب في خسارة الحكومة لمئات الملايين (رنجت) في الإيرادات. طرحت حكومة بيراك برنامجًا لإعادة تأهيل الأراضي غير القانونية في ٢٠١١ المسمى برنامج "إعادة تأهيل الحيازة غير القانونية" (Pelan Tindakan Anti Usaha Haram). وعلى الرغم من استمرارية هذا البرنامج حتى الآن الآن في ٢٠١٨، فإنه مازال عاجزًا عن حل المشكلة بشكل كامل. لذلك، فإنه تم تقديم هذه الدراسة لتحديد القضايا المرتبطة بالحيازة والإدارة غير القانونية للأراضي الحكومية، وحساب الإيرادات المحتملة للحكومة، وتقديم استراتيجيات وحلول للتغلب على هذه المسائل. تم إجراء استبيان جرد لتقييم الحالة المادية للأراضي غير القانونية في مناطق مُعيّنة كمناطق كامبار وكيبتا. تم تجميع بيانات ثانوية وإجراء مقابلات لتحديد ووصف القضايا المتعلقة بإدارة الأراضي، ومسائل إيرادات الحكومة وتلويث البيئة. تحت مخطط إعادة تأهيل الحيازة غير القانونية (PATUH)، تم التنازل عن معظم الأراضي المحددة أو إعطائها للوكالات الحكومية بأقل المصاريف. أظهرت النتائج أنه وعلى الرغم من تطبيق برنامج إعادة تأهيل الحيازة غير القانونية (PATUH)، فإن البرنامج وحده لا يستطيع التغلب على التعديغير القانوني للأراضي الحكومية في بيراك. لذلك، فإنه من المحتمل وجودها مُجددًا في المستقبل لأن برنامج إعادة تأهيل الحيازة غير القانونية (PATUH) لا يُعطي تأثيرًا بليغًا في مسألة الحيازة والإدارة غير القانونية للأراضي في بيراك. هذه الدراسة تقترح زيادة رسوم الأراضي تحت برنامج إعادة تأهيل الحيازة غير القانونية (PATUH) لتحسين إيرادات الحكومة، كما تقترح أيضًا أن تتم مناقصة بشكل علني للأراضي أمام الناس عن طريق التنازل عن الأرض للمنافع الحكومية.

## APPROVAL PAGE

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## DECLARATION

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*Hanisah Ab Wahab - October 2018*

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## ABBREVIATION

GLC	Government Link Company
NLC	National Land Code
PATUH	Pelan Tindakan Anti-Usaha Haram
PIE	Prevention of Illegal Eviction
PTG	Pejabat Tanah dan Galian
TOL	Temporary Occupation License
YDP	Yang DiPertua

# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 INTRODUCTION**

This research discusses the illegal occupation and illegal operation of state land of Perak. District of Kampar and Batu Gajah have been selected as a case study for this research. The illegal activities on state land refer to activities on the land without the owner's permission. This paper identifies the types and the nature of illegal occupation of state land or government land. The study will provide an overview and descriptive analysis of the situation and the effort done by the local authority in addressing the issues.

In Malaysia, illegal occupation and operation are a recurrent issue, and it already happened since Malaysia achieved independence in 1957. Thus, this study intend to assess the illegal occupation and operation in Perak, while discussing the current rehabilitation program in Perak and its effectiveness, it will provide the suggestion to improve the current rehabilitation program.

This chapter implies the basis of the research, where the framework will be structured for a better understanding of the study. Besides, problem statements were formulated, along with aim and objectives also the research question of the study. It also will further explain the significance and limitations of this research to ensure that this research is compatible and benefited from future needs. On the other hand, this Section also provides a clear insight into the purpose of the study.

### **1.2 BACKGROUND OF STUDY**

Illegal land occupation occurs when there is a chance to obtain a free land, disregarding its ownership, whether it belongs to a state, common or someone's private property.

Both need and greed can equally lead to them, where scarcity and increases in land value can make things worse and cause extensive loss to the government. Furthermore, it also often has adverse effects on economic, social, spatial and ecological development.

Illegal land occupation and operation of state land has been a recurring issue in Perak. In the example as reported in 2014, more than 17,000 hectares of land in Perak have been illegally cleared, resulting in the state government losing hundreds of millions of ringgit in revenue (The Malay Mail, 2014). While on April 2011, six cases of illegal occupation and operation on state land was recorded in Larut Matang and Selama, Kerian, Manjung, and Kinta. Among the activities involved are cultivation palm oil and vegetable farming (Roshidi Abu Samah, 2011). Besides, there is also the issue of misuse of Temporary Occupation License (TOL) given by the government, where illegal encroachment on state land is beyond the limit allowed (Yusof Harun, 2015). Additionally, there is an excessing demand on agriculture land that causes too many issues on illegal agriculture activities on a large scale (Dewan Negeri Yang Ketiga Belas Perak Darul Ridzuan, 2013).

Moreover, over the time, more and more illegal land occupation and operation of state land will increase if an extensive action plan and programs to overcome the current issues is not taken seriously. In fact, the illegal land occupation and operation on state land can be associated with various adverse impacts, especially toward the environment. Today, natural disaster always happen due to these illegal activities for example in Cameron Highland (Looi, 2015), the effect of illegal land occupation in Cameron Highland had cause flood and landslide, recent statistic indicates that the size of illegal activity in Highland is well over 5,000 acres (2,023 ha). Moreover, after years



of rehabilitation programs were carried out, illegal farming operator started to operate back. (Loghun Kumaran, 2015).

Due to that reason, the state government of Perak, have taken a new initiative in order to solve the illegal activities on state land which is through the implementation of Pelan Tindakan Anti Usaha Haram (PATUH) program. PATUH program has been assigned under State Land and Mines Office in Perak to ensure that there is a preemptive measure to address the issues. They are responsible for monitoring the execution of the program by all land offices in Perak.

In short, illegal occupation and operation of state land can bring negative impact to the state, and this study will identify the impact and a proper measure to counter this problem.

### **1.3 PROBLEM STATEMENT**

Illegal occupation and operation of state land are a long-standing issue. It is related to lands that are owned by state government land either it is reserve land or an enacted land. Section 48, National Land Code 1965, states that no state land shall be required by illegal occupation and operation. Usually, squatters are a most dominant case in an illegal occupation. However, over the time, the illegal activities have been changed to agriculture activities. In brief, the problems that have been identified in regards to the illegal occupation and operation on a state land is a loss of income to the state government, incomplete data system, and the legal occupant misused the Temporary Occupation License given by local authority.

### **1.3.1 The Loss of Income to the State**

The encroachment and illegal occupation and operation of state land had caused losses of income to the state Perak Government. The income generated from the premium paid due to land conversion and land alienation process cannot be quantified as the land is owned by the state government. As reported in *The Malay Mail*, March 21, 2014, where more than 17,000 hectares of land in Perak have been illegally cleared, resulting in the state government losing hundreds of millions of ringgit in revenue. In terms of the economic point of view, illegal occupation of state land resulted in revenue losses to the State Government in the forms of untaxed income, premium losses, assessment tax losses, and land assessment losses. Other than that, state agencies and utility provider is negatively affected by unpaid licenses and illegal tapings of utilities such as water and electric supplies (Sharmugam, I. K, 2015). Similarly, the Selangor State Government has estimated that they had lost more than RM1 billions in terms of land premium payment due to the illegal occupation of state land and illegal operation of factories in the State (Loganathan, 2014), (Pejabat Tanah dan Galian Negeri Selangor, 2015).

### **1.3.2 Incomplete Data System**

The uneven system use in data storage in Perak had cause incomplete data on illegal land occupation and operation of state land. (Mohd Shukri Ismail, & Anesh Ganason, 2011). Lack of coordination among land authority and local district office also affected the data (Anesh Ganason & Ainul Jariah Maidin, 2015). These can cause issues on data system and land use data subjected will change, due to data was not updated. Thus, in determining the characteristics of illegal land occupation and operation on state land in Perak, Site Inventory must be done. Site inventory will verify the types and current activities, in order to calculate potential income and revenue to the state. This is due to

types of land use and its activities will be used in determining the premium payment charge.

### **1.3.3 The Misuse of the Temporary Occupation License (TOL) Given by the Authorities**

On 22 Jan 2015, Agenda Daily reported that illegal occupation happened due to the misuse of TOL provided by the government, where exploration on state land is beyond the limit allowed. So, the area for illegal encroachments is hard to be determined. The occupier land with TOL had been encroached into and operated on the land, sometimes transgressing beyond the original limit of the initial TOL given by state government (Yusof Harun, 2015). As the case of Paruvathy v Krishnan (1983), they misused the license given by the state authority and had expended the land uncontrollable. However, they claim to have an equal right to the remaining land that they explore without consent from state authority. These contravene based on Section 68 National Land Code 1965 (NLC 1965) is null and void. Issues on Misused TOL are a vast problem and it needs for a particular measure to solve this problem. Besides, misused the license will be the measure of the effectiveness of current rehabilitation program in Perak. Whereas the improvement may benefit the citizen, environment, and economy in Perak since it can be new sources of income to the state.

### **1.4 RESEARCH QUESTION**

The research questions are as follows:

1. What are the characteristics of illegal occupation cases?
2. What are the issues and problems causes illegal land occupation on state land in Perak?

3. How far illegal occupation and operation has adversely affected the government?
4. What are the effective strategies that can be adopted by local authorities to solve illegal land encroachment on state land in Perak?

## **1.5 RESEARCH AIM AND OBJECTIVES**

### **1.5.1 Research Aim**

The research aims at assessing the existing policies and proposing a comprehensive procedure for the provision of Illegal Occupation and Operation of Landuse Rehabilitation Program in Perak in the urban and rural areas. This is to identify the issues related to the illegal land occupation and operation of state land as well as to provide strategies and solutions to overcome the issues.

### **1.5.2 Research Objectives**

The objectives of this research are:-

1. To identify the characteristics of illegal land occupation on state land in Perak
2. To determine the issues and problems of illegal land occupation and operation of state land in Perak.
3. To analyses the potential income and revenue that can be obtain by the state of Perak
4. To propose a recommendation on the strategies and an action plan to overcome problems with encroachment on state land.

## **1.6 RESEARCH SCOPE**

The scope of this research involves (i) the identification of illegal land occupation on state land, (ii) determine the existing/current policies and strategies and (iii) analyse the procedure of rehabilitation program and the advantage and disadvantage of the program.

The details on scopes of study are as follow;

### ***Identification of Illegal Land Occupation and Operation on State Land***

- a) The identification of Illegal Occupation and Operation of Landuse of State Land in Perak, based on the locations, number, types of activities and other related data. Due to understanding the current phenomenon of illegal occupation and operation in Perak.

### ***Policies and Strategies Assessment***

- a) Existing state and local policies and procedures regarding Illegal Occupation and Operation of Land Use of State Land in Perak
- b) The approach of the local authority in implementing the policies, strategies, and procedure in addressing Illegal Occupation and Operation of Landuse Categories of State Land in the state.

### ***The Procedure of Illegal Occupation and Operation of land Use Categories Rehabilitation Program Introduction***

- a) The introduction of proceedings and system of Illegal Occupation and Operation of Landuse Rehabilitation Program includes timeframe of application, premiums, form (manual or online system), local authority's delivery system and other relevant schemes.

The research scope of this study is formulated based on the research question and research objectives. First is the current policies and strategies. Second, the types of illegal activities on state land in Perak and it will be identified based on the definition of illegal land occupation and operation on state land. Third, the effect of illegal land occupation, and finally execution of the rehabilitation program in Perak. The detail research scope for illegal occupation and operation on state land of Perak is shown in Table 1.1.

Table 1.1 Research Scope

No	Research Question	Research Objectives	Research Scope
1	What are the characteristics of illegal occupation cases?	To identify the characteristics of illegal land occupation on state land in Perak	<b>Illegal Activities</b> <ul style="list-style-type: none"> <li>• Types of activities</li> <li>• Current activities</li> <li>• Location</li> </ul>
2	What are the issues and problems causes illegal land occupation on state land in Perak?	To determine the issues and problems of illegal land occupation and operation of state land in Perak.	<b>Policies and Strategies</b> <ul style="list-style-type: none"> <li>• Existing policies and procedures to curb issues on illegal occupation on state land</li> <li>• Strategy implementation to rehabilitate the issues regarding illegal land encroachment.</li> </ul>
3	How far illegal occupation and operation has adversely affected the government?	To analyse the potential income and revenue that can be obtain by the state of Perak	<b>Effect of Unlawful Occupation</b> <ul style="list-style-type: none"> <li>• Loss of revenue to the state</li> <li>• Negative impact</li> </ul>

4	What are the effective strategies that can be adopted by local authorities to solve illegal land encroachment on state land in Perak?	To propose a recommendation to overcome the problem of illegal land encroachment on state land in Perak	<p><b>Procedure Rehabilitation Program</b></p> <ul style="list-style-type: none"> <li>• The timeframe of the application</li> <li>• Premiums</li> <li>• Form (manual or online)</li> <li>• Local authorities delivery system</li> </ul>
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## 1.7 PROCEDURE AND STRUCTURE OF RESEARCH

Basically, in order to meet the objectives of this research and to ensure another vital aspect is highlighted in this research, this research has been divided into six chapter. It consists of Chapter 1: Introduction, Chapter 2: Literature Review, Chapter 3: Methodology and Case Study, Chapter 4: Findings and Analysis, Chapter 5: Discussion, and Chapter 6: Recommendation and Conclusion. The details of each chapter are as follows:

### 1.7.1 Chapter One: Introduction

This research is an attempt to analyse illegal occupation and operation of state land in Perak. Chapter one is a preliminary study for this research, and it became the first stage in introducing the research topic. This is where the main purpose of the study is determined and is provided with the flow of this study. It is the main gist of the research topic since it will highlight the goal and objectives derived from the problem statement, as well as the scope of the study and its limitation in this investigation.

### 1.7.2 Chapter Two: Literature Review

Literature review is the second stage in this research. It provides the basic introduction especially in the component of study and terminologies. Most of the content is from

journal and newspaper articles, and books related to the illegal occupation of state land. It does not focus only on case in Perak but also cases in other states in Malaysia and globally. Since illegal occupation and operation on state land is a common issue and it is happening all around the world it will also reveal previous study on this research. In brief, this chapter will give a better understanding of the research topic.

### **1.7.3 Chapter Three: Study Methodology**

Methodology in this chapter refers to an approach and instrument used to conduct this research. Thus, it will briefly explain the methods used in data collection and the factors that determine them. There are two types of data collection, which are primary data and secondary data. This chapter will not only specify the method used for data analysis and the whole stages of this research, it will also include background of the study area. This research used qualitative research method, and it will be further explained in this chapter.

### **1.7.4 Chapter Four: Findings and Analysis**

Chapter four focuses on data analysis from data that have been collected. Data was gathered from primary data and secondary data. The analysis will be done through interpretation of the data collected through analysing the number of illegal occupation and operation of state land in Perak while analysing another impact of illegal occupation on state land, either positive or adverse impact on the state. Basically, this is a critical stage to meet the purpose of the study. Result from the analysis will help to develop a recommendation to improve the rehabilitation program in Perak.