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Article Title Page

Post-Disaster Housing and Management in Malaysia: A Literature Review

Author Details

Ruhizal Roosli, Disaster and Development Centre, Northumbria University, Newcastle, UK and School of Housing, Building & Planning, Universiti Sains Malaysia, Penang, Malaysia

Phil O'Keefe, Disaster and Development Centre, Northumbria University, Newcastle, UK

Corresponding Author: Ruhizal Roosli

Corresponding Author's Email: ruhizal@usm.my ruhizalroosli@yahoo.com

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Biographical Details:

Ruhizal Roosli is a lecturer at the School of Housing, Building and Planning, Universiti Sains Malaysia, Penang, Malaysia. He is also a member of the Disaster and Development Centre at the Northumbria University, Newcastle Upon Tyne, United Kingdom. The Centre undertakes a range of research into disaster management.

Phil O'Keefe is a Professor of Economic Development and Environmental Management. He is a member of the Disaster and Development Centre within the university. The Centre undertakes a range of research into disaster management. Phil's research interests focus on the political economy of environmental issues with particular reference to Eastern and Southern Africa. He has written extensively on environmental risk and hazard which, over the last 15 years, has increasingly focused on the delivery of humanitarian assistance after natural disaster and in complex emergencies. He is actively involved in broader debates about the production of nature, sustainability, vulnerability and poverty alleviation, contributing to major global policy documents as well as polemically challenging what this policy means in practice.

Structured Abstract:

Purpose – Malaysia is still in the process of reorganising and restructuring disaster management policy, learning from the national and international experiences. Argument about current situation of emergency management and housing in Malaysia can be used by the decision makers, authorities and NGOs to develop strategies and actions that include awareness raising and capacity building for enhancing enforcement of current legislation.

Design/methodology/approach - The work concentrated mostly on academic reports of original investigations rather than reviews. The conclusions in this paper are generalizations based on the author's interpretation of those original reports.

Findings - Malaysia is not a developed country and also not a developing country but more in the middle, follows any direction from the international arena to national situation. Malaysia has a developed country approach in disaster management policy but with the implementation of developing country. This paper argues that providing post disaster housing must accommodate requirement in the national disaster management policy and parallel with the needs from international concern to the rights of disaster victims.

Originality/value - The outcomes from this discussion might give insights into designing and planning the national policy and disaster management framework by restructuring and reorganising the present National Disaster Management Mechanism in terms of enhancing the coordination of responsibility between and within government bodies in the National Disaster Management Mechanism.

Keywords: Emergency Housing, Housing Rights, Housing Policy, Management, Malaysia

Article Classification: Literature Review

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Running Heads:



Post-Disaster Housing and Management in Malaysia: A Literature Review

Introduction

Presently, Malaysia is still in the phase of restructuring and reorganising the National Disaster Management Mechanism. The decision making circle in Malaysia starts with a social learning process. In every project delivered by the authorities, there will be a project report and evaluation. Input from academic research and consultation is a must in revising and formulating new policies such as the National Structural, Physical and Local Plan and other related works in Malaysia. Awareness about any particular current international information regarding post disaster housing is vital in order to suit with national situation in Malaysia. Policy makers should account for, and measure, what matters especially in assessing the ‘needs’ of victims, while being realistic about any evaluation. ‘Needs’ are not interpreted solely in terms of economic interests, but are taken to be the necessities of a fully functional, harmonious, global system that incorporates both people and ecosystems. Therefore, policy makers should consider who policy is for from central government to local delivery agents; and from professionals and service delivery to communities and service users. Support also may come from a good community leadership with good personalities and other local condition such as their own skills, dedication and experience.

In Malaysia, analysis regarding policies and government instruments were more towards consulting federal governments. In most cases, federal government will implement any direction demonstrated by the international agencies such as the SPHERE PROJECT, Oxford Committee for Famine Relief (OXFAM) and United Nations High Commissioner for Refugees (UNCHR) in managing housing and urban sprawl after disaster strike. Regrettably, these international guidelines only present the legal context for the implementation of emergency housing

'responses' and do not represent or bind as a law. These guidelines outlined are based upon the consideration of law and human rights. It depends on local and national customary law. Trends in housing policy are very similar in the developing countries after a disaster strikes without enough attention to the needs of disaster victims, depend much on local initiatives and imported technology. In addition, compliance culture is also still not established in most of developing countries, of which Malaysia is one, have not devoted much attention to pre-disaster planning. In effect Malaysia has developed world regulation with developing world implementation. Question inevitably arises on the level of awareness of public officials' in implementing national disaster planning policy. These key figures will implement any government directions and informed public can be a major ally in any attempt, because awareness can lead to action, including pressure on legislators and other policymakers.

Hence, the outcomes from a thorough discussion regarding the evolution of post disaster housing in Malaysia can be used by the decision makers, authorities and Non-Government Organisations (NGOs) to develop strategies and actions that include awareness raising and capacity building for enhancing enforcement of current legislation. The findings, might give insights into designing and planning the national policy and disaster management framework by restructuring and reorganising the present National Disaster Management Mechanism in terms of enhancing the coordination of responsibility between and within government bodies in the National Disaster Management Mechanism.

Methods and materials

The work concentrated mostly on academic reports of original investigations rather than reviews apart from the following in Table I.

Table I: Authors with coherent themes

Author	Theme
Bhatt, V.	Architecture for developing countries
Burgess, R.	Housing policy
Chalinder, A.	Temporary human settlement
De Soto, H.	Human rights
Gough, K.	Housing market
Harris, R.	Housing in the developing world
Johnson, A.	Sociology
Mohsini, R.	Construction management and economics
Moin, C.	Disaster management
Parker, C.	Regulatory compliance
Shuid, S.	Malaysian architecture
Smith, D.	Urbanisation, housing, and development process

The conclusions in this paper are generalizations based on the author's interpretation of those original reports. This literature report deals mainly with literature in English. Most of the references were found by searching journals and databases such as Disaster Prevention and Management; International Journal of Mass Emergencies and Disasters; Natural Hazards; Housing Studies; Habitat International; and Urbanisation, Housing, and the Development Process. The survey revealed some literature databases and overviews, notably from mainly the Malaysia, the Asian, the United States of America and the United Kingdom. These databases are in both electronic form and printed form and are continuously being updated.

Reviews and reports on the emergency management and emergency housing include the following in Table II.

Table II: Authors with coherent themes

Author	Theme
Abdul Aziz	Construction laws
Aini, M.	Disaster management
Anderson, M.	Development strategies
Barakat, S.	Post-disaster housing
Corsellis, T.	Post-disaster physical planning
Davis, I.	Post-disaster housing policy
Drabek, T.	Emergency management
Lizarralde, G.	Post-disaster housing reconstruction in developing countries
Turner, J.	Housing policy

Reports (not necessarily with bibliographies) with reviews on emergency housing, housing rights, housing policy and management have been published in several countries. In the Malaysia, in particular, there are government sponsored promotional publications about these particular topics such as the National Security Council and the Prime Minister's Department, Malaysia. Meanwhile in the International arena, mostly these particular topics been covered by the World Bank, the Overseas Development Institute (UK), the ProVention-Consortium, the Sphere-Project, the Oxfam (UK), the United Nations High Commissioner for Refugees UNCHR) and the Registered Engineers for Disaster Relief (RedR).

Emergency housing research

Sauders (2004) found that the major topics of discussions amongst disaster workers and policy makers in response to post-disaster recovery were based on the issue of actors getting the wrong idea about the terms of shelters; inappropriate terminology used; uncertainty in project projections; unproductive communication between disaster workers especially in technical

support; improper approach to merge resources to local context; policy development implementation; lost leadership direction; and the insufficient initiative to merge livelihood features. It was suggested that disaster community look at the international solutions in terms of consultations and guidelines (handbook) (Crawford, 2002).

Besides of the main reference (e.g. the UNHCR Handbook for Emergencies and The SPHERE Humanitarian Charter and Minimum Standards in Disaster Response), there are many other guidelines that will be selected depending on situational issues and suitability. There are at least 15 international bodies that have been contributing to the shelter sector over the last 24 years, including UN agencies, NGOs, training organisations, university departments and individual experts such as OXFAM, SPHERE and USAID. However, agencies suggested that states utilise local solutions and procurement instead of prefabricated or imported shelter with the use of international guidelines as reference (Crawford, 2002). The biggest problem is that the bureaucracy's ability at national level to convince officials of the importance of international standards in the international context (ProVention Consortium, 2004). Officials usually want something more definitive from government in terms of clarification (dissemination of information) to the importance of international specification (standards) that is accepted and endorsed (based on previous empirical experiences) on a world-wide basis (Davis *et al.*, 2002). Users of standards also want something that can make outcome distinctions based on a unanimous understanding (official announcement or endorsement) over the use of international specifications in a national context because they will give some assurance that their efforts, resources and trusts will provide positive results.

Each disaster situation is unique and requires distinctive (different) proceedings. The dilemma in disaster response is not only limited to producing a well-planned settlement based on the present legal infrastructure but also a solution for people to 'bounce back' in the direction of

normal life or even better (Corsellis *et al.*, 2005). Thus, Johnson (2002) introduced two specific considerations in order to provide a solution for temporary accommodation:

1. the potential of the particular community's human and financial resources;
2. the possibility of project durability (hazard resistant and constructive livelihood).

Efforts in relief assistance should focus on the approach to utilise optimum resources and sustain project durability. Generally, national relief programmes (disaster plan) comes with a complete legal infrastructure inspired by national and international experiences (Corsellis *et al.*, 2005). From this notion, the only way to comply with the specific requirement in providing temporary accommodation is by establishing collaboration between emergency reliefs and mechanism in rehabilitation; and to implement planned programmes (Chalinder, 1998). This productive solution and atmosphere enables stakeholders to adopt appropriate recovery strategy and meets the need of the population. Thus, scholars suggested that the approach in housing resettlement should be based on the reason why houses are provided (Turner, 1977; Burgess, 1978).

International legal context in shelter/housing sector

A consideration of appropriate and specific legal tools is beyond the scope of the guidelines provided by the international treaties. International guidelines only present the legal context for the implementation of emergency housing 'responses' and do not represent a law (Corsellis *et al.*, 2005). The guidelines highlight some of the legal considerations that should be taken into account when planning settlement strategies, programmes and project matters. These guidelines outlined are based upon the consideration of law and human rights. It is important to reflect these guidelines on advocacy tool (e.g. presenting proposals to states authority or negotiation to relevant agencies), to understand the socio-political in the context of regulatory awareness and

also to understand the rights of affected groups in legal context (Corsellis *et al.*, 2008). Hence, there is a need to develop laws further, on both national and international levels, in order to deal with several aspects of emergency housing (Corsellis *et al.*, 2005).

The international guidelines (SPHERE Handbook, Oxfam and UNHCR) provided are the simple documents of instructions (Corsellis *et al.*, 2008). These guidelines related to the reasons for considering the law and human rights. In these numerous legal documents the terms ‘shelter’ and ‘housing’ are highlighted concerning emergency housing. Unfortunately, the definition of shelter is not legally binding (Corsellis *et al.*, 2005).

However, according to the United Nation Declaration, shelter and housing matters in the context of emergency can become binding if the particular social setting established patterns of behavior known as ‘customary law’ is achieved and community/agencies utilise human rights law as an advocacy tool (Corsellis *et al.*, 2005). ‘Customary law’ is recognised, not because it is backed by the power of some strong states’ individual or institution, but because each individual in community/agencies recognises the benefits of behaving in accordance with other individuals’ expectations. Fuller (1969) proposed that ‘customary law’ might best be described as a ‘language of interaction’. A ‘language of interaction’ is necessary for people to effectively engage and expect meaningful social behaviour to increase the happiness or diminish the misery of other people (Fuller, 1969). This type of interaction can only be accomplished by establishing clear (although not necessarily written) codes of conduct, enforced (generally acceptable by community/agencies) and supported by common laws (legal sanctions). Although, according to this understanding there is still no clarification concerning the status of rights of an individual in a community after disaster.

The Universal Declaration of Human Rights in 1948 is the first international law commonly promulgated by the United Nations. Subsequently, other international covenants and conventions,

codes, rules, principles, guidelines and standards were developed. Some of the most important international laws with regard to the status of rights to emergency housing sector are those relating to human rights and housing rights. There are many international laws that could relate to the status of rights to displaced people in an emergency when responding to the issue of the peoples' rights to adequate housing such as:

1. the 'Committee on Economic, Social and Cultural Rights' (CESCR) notes that there is a connection between housing law and emergency housing concerning forced evictions for refugees and IDPs (CESCR, 1997);
2. the 'Agenda 21' in Section 7.6 describes that "National and international action should be a fundamental in creating access to safe and healthy shelter is essential to a person's physical, psychological, social and economic well-being" (Summit, 1992: Section 7.6);
3. the UNHCR notes that "Having a secure place to live is one of the fundamental elements for human dignity, physical and mental health and overall quality of life, that enables one's development" (UNHCR: 2004: 2).

Based on these statements, countries affected should be obligated to give fair treatment to all displaced people (Corsellis *et al.*, 2005). However, law stipulated by the international communities concerning human rights in order to implement durable solutions for transitional settlement is still not enough because legal action is under states jurisdiction.

The traditional position at International Law was that self-governing independent states were free to treat their own nationals as they chose without threat of external interference (IC, 2002). However, recent developments in International Criminal Law affirm that the advances of international human rights law have decided that a state's treatment of its own nationals as also an issue of international concern (IC, 2002). Any sorts of infringement to the international

legislations by any states (especially the UN members) in the international convention are liable to be judged within any existing international statutes capacity such as:

1. the 'Statute of the International Tribunal for the Persecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991';
2. the 'Rome Statute for the Establishment of a Permanent International Criminal Court (1998)';
3. the '1977 Geneva Protocol 1 Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts' (IC, 2002).

The International Criminal Tribunals and Special Courts (e.g. in Rwanda and Yugoslavia) where's Rome Statute entered into force on 1 July 2002, has currently jurisdiction for genocide, crimes against humanity and war crimes. However, Wilkins *et al.* (2006) argued that there is no such thing as an explicit, universally agreed definition of 'international law crimes' in treaty law except in 'customary international law' that has to be refined such as war crimes in the '1949 Geneva Conventions' and prohibition against torture in the '1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment'. Thus, there is no final concept and certainties in international humanitarian law regarding protection to the displaced people in emergency or disaster (Wilkins *et al.*, 2006).

Even the practical application and enforcement of human rights in the field in emergency situations is often difficult due to certain country's internal political reasons (Corsellis *et al.*, 2005). These might be the crises in public sector, failures of policy and crisis to response to this policy (Gray *et al.*, 1998) because one of the main issues in implementing a disaster programme is the liability to disaster community. As argued by Drabek (2000) liability is the principle legal

issue that arises from administration of a disaster management programme. There are a wide range of legal issues confronting disaster management community. Both decision makers and operation personnel need to increase their understanding of potential liability associated with emergency actions. It is essential that emergency managers are aware of the principle areas of potential conflict between disaster management actions and statutory or constitution rights because strict liability means no flexibility (to promote compliance) (Parker, 2002; Comfort *et al.*, 2006).

Thus, under ‘customary law’, offenses to codes of conduct in an organisation’s operation are treated as ‘torts’ (private wrongs or injuries) rather than crimes (offenses against the state or the ‘society’) (Fuller, 1969). In addition, strategies (reduce/avoid liability) need to be devised for legal reform in numerous areas, ranging from decisions to issue warnings to ‘Good Samaritan’ legislation in order to increase support from a disaster community in a disaster programme. The ‘Good Samaritan’ doctrine is a legal principle. According to this principle, rescuers are free from prosecution or consequentially being sued for ‘wrongdoing’. This acknowledgement has been done in order to encourage voluntary work and humanitarian responses. Therefore, this doctrine was mainly developed for first aid providers and humanitarian assistance at a disaster scene (Drabek, 2000). Still, the best protection against infringement/violation of rights is to ensure that regulatory measures are implemented by the disaster community and enforced fairly (Anderson *et al.*, 1991) even though some actors in disaster scene have regulatory flexibility (lenience or forgive).

Emergency housing in developing countries

Trends in housing policy are very similar in the developing countries after a disaster strikes (Smith, 1981). The trends in many reconstruction programmes in the third world countries

however continuously fail to help poor communities recover from destruction (Lizarralde *et al.*, 2001). Globally, most reconstruction programmes implemented by important institutions in disaster-relief have produced insufficient results to respond to the demand of post-disaster housing and development in the long term. As mentioned by Lizarralde *et al.* (2001), most frequent paradigms used in post-disaster reconstruction strategies are the local community and limited technology-based approaches. In the last fifty years, these strategies have led to a variety of organisational and technical responses and have been applied in four main levels that consist of the reconstruction policies, the reconstruction strategy, the project for reconstruction and the output per se (Lizarralde *et al.*, 2001).

Thus, Bhatt (1999) argues that on site services and projects were condemned due to the possibility of them being ‘rubber-stamped,’ that is the development being copied exactly or nearly the same from other developments without appropriate consideration to the new adaptable situation (e.g. repetition, inappropriate distribution of private and public spaces and overcrowded houses). These types of services also led to failure in reconstruction programmes especially in the aspects of technical, architectural design, organisational design, logistics and administration because lack of local understandings.

Lizarralde *et al.* (2001) suggested that project planner should put into consideration the organisational internal aspects (e.g. funding, physical space, qualification, information presentation, resources available) in delivering any reconstruction projects. Multiplicity in the provision of housing, that is to say, in the sharing of responsibilities and the organisational arrangements between the participants involved in housing initiatives. Keivani *et al.* (2001) describes that participants are the public, private, private unofficial sector or the community base organisations. In the general performance, procurement has a direct influence in reconstruction progress (Mohsini *et al.*, 1992; Katsanis *et al.*, 1997). The arrangement of organisational and

responsibilities distribution must then consider the aspects of local participation in decision-making in the building process in housing provision (Lizarralde, 2000).

Every reconstruction programme has particular characters that are not easy to generalise because every disaster is unique (Yin, 1984). Therefore, Keivani *et al.* (2001) suggested that communities must be ready for the new pluralist and multiplicity (participation) approach of the affected community. The regular housing policies in the Third World adopted, as a model, a more integrated housing policy of plurality inspired by developed countries (Keivani *et al.*, 2001) and translated by the World Bank (2000) and UN-HABITAT (2001) in order to implement it in the developing countries.

Emergency housing in Malaysia

The major transformation in the Malaysia Disaster Management Mechanism came only after the tragedy of the luxury condominium of Highland Towers collapsed on 11 December 1993. The Highland Towers' tragedy set an exemplar and reference for future disasters management. Subsequently, Malaysia has a policy of disaster management called the 'Policy and Mechanism on National Disaster and Relief Management'. The policy statement for disaster relief operations in Directive 20 was purposely put in place to mitigate the effects of various hazards; to prepare for measures that will preserve life and minimise damage to the environment; to respond during emergencies and provide assistance; and to establish a recovery system to ensure the affected community's return to normalcy. The MNSC Directive 20 is actually an executive order by the Prime Minister as the Standard Operating Procedures (S.O.P) that stipulates the procedures to take in times of disaster (NSC, 1997). The Malaysia National Security Council (MNSC) Directive 20 states the mechanism on the management of natural and technological disasters including the responsibilities and functions of the various agencies under an integrated

emergency management system (Moin, 2007). The directive states that when a disaster occurs, the Disaster Management and Relief Committee (DMRC) have to be established at three different levels depending on the severity of the disaster, i.e. at the federal, state and district (NSC, 1997). Representatives from various private and government agencies fill up the place in this committee such as local authorities, Army, Police, the Civil Defense Department and many other relevant organisations.

Simultaneously, any related international guidelines are considered as the same reference in emergency management and relief work because the Malaysian Government agreed to implement the contents in Hyogo Framework (Moin, 2007). Two main basic texts provide the foundation for the response of the international community and aid organisations in humanitarian emergencies as mentioned by Corsellis *et al.* (2005) as follows:

1. 'Handbook for Emergencies' (UNHCR, 2000); and
2. 'Humanitarian Charter and Minimum Standards in Humanitarian Response' (Sphere Project, 2011).

In the land development process in Malaysia, related written and unwritten rules (regulators' behavior and skill) on land and property may initiate constraints on agents' decisions to undertake land development (Omar, 2002). Besides the positive effect of planning and controlling, environmental requirements (e.g. soil condition, pollution and secondary hazards) may lengthen the duration of the land development process.

Foong *et al.* (2006) notes that the challenge in rehabilitation and reconstruction projects for natural disaster stricken areas have always posed questions to the physical, social and financial aspects of the disaster victims. She added that livelihoods of the affected community could be better restored with appropriate measures undertaken by the respective governments in executing

rehabilitation and reconstruction projects. Thus, enhancement (rectification) of socio-economic rules and administrative frameworks in Malaysia is a must from time to time to suit the latest requirements in the process of land development and the needs from disaster victims (Abdul-Aziz, 1999).

Foong *et al.* (2006) also describes that the Tsunami in 2004 was the first time in the history of Malaysia that its government was forced to manage such a great disaster and might be the benchmark to rehabilitation and reconstruction. Emergency evacuation and relocation plans were constructed quickly. In Kota Kuala Muda, construction of temporary longhouses and rehabilitation works started three weeks after the disaster and was completed within two weeks.

One hundred and four affected families whose houses were no longer inhabitable due to the Tsunami in thirteen fishing villages were relocated to these temporary longhouses before being moved to their permanent housing. One hundred and twenty units of temporary hybrid (e.g. timber and steel) longhouses were constructed approximately one kilometer inland from the affected shore. Each unit of the temporary longhouses is approximately 70m² in floor area, with three bedrooms, a living/dining room, a kitchen and two bathrooms. Ninety-six tsunami affected families whose houses were totally destroyed and eight affected families whose houses were being repaired were relocated to these units. The remaining units are used as management office, community room, prayer room and room for storage. Proposals for developing permanent housing (i.e. a New Town Development Plan) are being carried out in collaboration with a sole developer, The National Housing Corporation (SPNB), established under the Ministry of Finance of Malaysia (Foong *et al.*, 2006).

However, the Tsunami affected community in Kota Kuala Muda shows that they were more concerned about their financial and social recovery compared to physical recovery (Foong *et al.*, 2006). A majority of them are still struggling for their livelihoods after the disaster despite

showing a high satisfaction level with the provision of temporary longhouses and the new permanent housing. Foong *et al.* (2006) concludes that rehabilitation measures for immediate relief have failed to recognise that the major cause of the slow progress in restoration is due to the inability of the disaster victims to secure their livelihoods. The failure of the Malaysian Government to exercise the proper conduct of aid provision has dragged the process of restoring the livelihoods of many disaster victims (Foong *et al.*, 2006). Thus, Lizarralde *et al.* (2001) suggested that developing countries should also learn not only from international legislations and cases from developed countries but also from neighbouring countries that locally similar in many aspects.

Conclusion

As a learning outcome from experiencing natural, man-made and subsequent disasters, there was an evolution of disaster response and management policies in Malaysia indicated by the establishment of the national policy of MNSC Directive 20 that commenced in 1997. However, the effective and successful implementation is yet to be fabricated. Actors were only comfortable with their normal daily routine but not to the MNSC Directive 20. Significant experience of recovery management and existence of well established disaster management mechanism contributes to a better disaster management structure. The system must also be supported by comprehensive operational procedures, preliminary planning and a well-practiced administrative system. Malaysia has a strongly centralised Mechanism of Disaster Management with firm control exercised by the Prime Minister's Department. This Standard Operational System is a guideline that can be seen in any form of official written instructions. Direction of this MNSC Directive 20 is clear and understandable. Distinctive elements in this policy are uncompromisable

due to existence of international concerns to risk reduction and community resilience that will only be meaningful after officials can demonstrate compliance with this policy.

Generally, the case of Malaysia is not adequate to come out with a concrete conclusion given to the smallest scale of the impact of the disaster as well as a small number of houses that has to be built. Perhaps at certain point Malaysia might be the leading developing and small country in action to cope with disaster prevention and mitigation. However, they are employed here to inform the findings of my investigation into the Malaysian situation. The findings will then shape the instruments that will be used and will also be referred to in the discussion of the current research. The Malaysian Government hopes that with the creation of a Disaster Management Mechanism as reflected in the MNSC Directive 20, the handling and resolving of disaster could be carried out in a more coordinated manner with the integrated involvement and mobilisation of related agencies. All these will in turn ensure that Malaysia has credible disaster management machinery that is able to perform in unpredictable disasters. Malaysia is now in the phase of enhancing the coordination of responsibility between the government bodies in terms of disaster management mechanism. Subsequently, the features were adapted to the Malaysian standard operating procedure in disaster management (MNSC Directive 20) (Aini *et al.*, 2007).

The current state of the art in managing disasters and reconstructing housing settlements simultaneously in Malaysia is considered as adequate particularly in achieving national and international expectations. However, besides of providing a high standards and up to date policies Malaysia must overcome the internal issues of dishonesty; bureaucracy; incompetence and professionalism; confusion of procedures with other related national policies; and non-competitiveness of public service so as to compete with other developed countries. Malaysia is still working to rectify any weaknesses in public service sector. The development in the Malaysian public service sector is encouraging due to continuous dedication for change either

from political or administrative levels. To consider it as up to other world class standard, the Malaysian must have strict working ethics towards regulatory compliance. This culture then will shape behaviour to the members and the success of the organisation is best achieved by ongoing compliance with regulatory goals. Concurrently, questions that Malaysian should be prepared to answer especially for humanitarian aid is how far the flexibility is permissible in the process of regulatory compliance with post-disaster housing and management policies?; and what aspects to give priority when it comes to regulatory aims and situational based on the theory of the good regulatory practice in Malaysia? Just then, such positive answers could become as an assurance that public governance in Malaysia is free from inconsistencies and deficiencies.

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