

Unravelling the Centrality of Tenure Security in Determining Resettlement Packages for Oil Refinery Displaced Persons in Uganda's Albertine Graben

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This paper investigates the role of tenure security in defining resettlement packages for oil refinery displaced communities of the Kabaale parish. The parish is located in the Buseruka sub-county, Hoima district in western Uganda. Descriptive and explorative designs employing both qualitative and quantitative approaches were used to enlist data from 48 displaced households as well as key informants. Customary land tenure is not fully acknowledged as legitimate, and thus customary landowners were not fairly treated as compared to those whose land was formally registered under freehold tenure. It was found that women and other secondary land rights owners were unfairly treated in the resettlement packages. We concluded that customary tenure security ought to be enhanced through the acquisition of certificates of customary ownership and that local communities should be sensitised to respect women's land rights.

Keywords

Customary tenure, development-induced displaces, gender

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Introduction

There is growing global concern surrounding compulsory land acquisition in the public interest (Huu Pham, Van Western, & Zoomer, 2013; Vanclay, 2017), especially as it causes involuntary displacement and resettlement of project-affected persons which alters their production systems. Studies such as those by Sharma (2010) and Terminski (2013) reveal that most involuntary resettlement induced by development deprives individuals of their livelihood sources and exposes communities to developmental risks such as landlessness, social disarticulation and disempowerment and neglect making them live as development-refugees in their home countries. Land has a cultural importance unique to communities (Vanclay, 2017; Wickeri, 2011), but its livelihood potential is disrupted, distorted or even depleted during land acquisition and resettlement processes (Askland, 2018). Several scholars (Boone, 2018; Carl, 2016; Druppers, 2013; FAO, 2018; Perera, 2014) assert that owing to their tenure insecurity, as defined by some cultural dispositions, women suffer most during involuntary displacement and relocation. They attribute their suffering to the dynamics surrounding ownership rights and compensation, which do not favour women receiving development-induced benefits. The World Bank (2012) defines development-induced displacement and resettlement as, 'a situation where development projects assume direct control of land that initially belonged to the community'. Scholars, such as Terminski (2013) and Ofariwa and Olando (2015), point to the disruption of social networks and production systems as key negative externalities arising out of involuntary resettlement.

Uganda discovered commercially viable oil deposits in the Albertine region located in western Uganda. In order to fully harness the oil, the government acquired land for the construction of an oil refinery in Kabaale parish located in Hoima district. This acquisition resulted in the displacement of 7,118 people living in 13 villages covering 12,000 households (GoU, 2016). Of these, only 46 opted for resettlement while 27 were to be allocated land. The remaining 7,045 opted for full compensation and were left to make a living elsewhere.

The influence of tenure security on induced resettlement packages cannot be underestimated as it relates to livelihood maintenance (Ofariwa & Olando, 2015) and defines an ownership relationship among people as individuals or groups in relation to land (FAO, 2018).

Security of tenure reinforces the relationship people have in respect to their land and land-based resources such as minerals and vegetation. This makes land tenure relevant in defining how property rights to land are to be allocated among societies. The 1995 Constitution of the Republic of Uganda recognises four tenure systems, namely customary, leasehold, freehold and Mailo land, each with varying provisions that may have variously affected the potential resettlement entitlements for the refinery-affected people of Kabaale parish.

Historical and contemporary debates (Akosua, 2010; Boone, 2018; Cornwall, 2007; Lahiri-Dutt, 2011; Perera, 2014) postulate that comparatively women suffer

inhabited by many tribes which include the Banyoros, Alurs, Bakigas, Bagungus and some Banyarwandas. Kabaale parish thus contains a multilingual population, making it a cosmopolitan parish.

Methods and Materials

Design and Data Collection Approaches

Both qualitative and quantitative approaches by way of interviews, focus group discussions and structured questionnaires were employed to enlist data from 48 purposively sampled displaced households and key informants from the area, local government as well as civil society organisations and opinion leaders. The head of household was the primary target, and in case he or she was not available, anyone above eighteen years of age participated in the study.

Data Analysis

Collected data was coded and entered into the Statistical Package for Social Sciences for subsequent analyses. Quantitative data analysis involved generation of descriptive statistics such as mean, standard deviation and frequencies. Qualitative data was analysed using content analysis that entailed familiarisation with the data through review, reading, organising and indexing for easy retrieval and identification, anonymising of sensitive data, identification of themes, re-coding, and exploration of relationships between categories (Kuckartz, 2014). Quantitative data quality was ensured through the calculation of the Cronbach's alpha using the following formula:

$$\alpha = \frac{k}{k-1} \left[\frac{1 - \sum \sigma_k^2}{\sigma^2} \right]$$

Here, $\sum \sigma_k^2$ is the sum of variances of the k parts or sections, and σ is the standard deviation of the test.

Results

The Cronbach's alpha of 0.7 obtained was depictive of a reliable internal consistency of the test scores.

Demographic Characteristics of Respondents

There were more male than female respondents, 33 (68.8 per cent) and 15 (31.2 per cent), respectively, a majority of whom were peasants who earned their living from land as a natural resource. Most respondents were adults (81.3 per cent) except for one who was under 18 years of age. Household sizes ranged between six and ten persons and a majority, that is, 15 of the females were semi-illiterate, having failed to complete primary level education except for one who had acquired

an Ordinary level Certificate of Education. The same was largely true of male respondents, save for one who acquired tertiary education and two who had an Ordinary level Certificate of Education.

Existing Land Tenure Systems and How They Influence Resettlement Process and Packages

Customary land tenure system was the most dominant (96 per cent). A handful (4 per cent) of the respondents owned land under a freehold type of tenure system, but these had fair compensation packages when compared to customary land holders. In an interview with one of the key informants, the following was revealed: ‘Displaced persons who had freehold tenure received better packages because it was valued higher than customary tenure. Unfortunately there were few freehold land owners since the majority owned land customarily and this negatively impacted their packages’.

The displaced communities noted that resettlement depended on whether one legally owned land (Mean = 4.81, Std = 0.98) and assessment of property rights/ownership depended on the existing land tenure system (Mean = 4.10, Std = 0.857). Despite this, displaced communities disagreed—178 (33.4 per cent)—with the assertion that the valuation process was free and fair while 13 (27.1 per cent) had no opinion—an indicator of procedural shortfalls which affected the implementation process.

Strong disagreement was also noted when they were asked if their land rights influenced the package they received (Mean = 1.92, Std = 1.164) and if the government followed available land tenures to grant a package (Mean = 1.79, Std = 1.031).

In an interview with one of the affected persons, a land owner said that resettlement packages were defined by tenure security, and because of this, his sons who had built houses in the vicinity of his courtyard were considered squatters and thus it was his own household that was eligible for the resettlement package while his sons were only compensated for the development that had taken place on the land. The narrative was captured as follows:

My three sons had built near my courtyard and the land remained under my control. During the resettlement exercise, my sons also wished to be resettled but because they were not legally recognised as land owners, they missed out.

—*An affected household head in Kabaale parish, May 2017.*

The Lands Officer at the Ministry of Energy and Mineral Development asserted that during involuntary displacement and resettlement processes, the Government of Uganda was guided by the prevailing legal and policy provisions as can be seen in the following extract:

The government followed legal procedures as provided for by the Laws and Policies, both Local and International. The government acquired land for resettling PAPs in Kabaale parish while observing people’s land rights as defined by Article 237 of Chapter 15 of the Constitution of Uganda which defines land rights for the citizens of

Uganda; (Land belongs to the Citizens of Uganda in accordance with the Land Tenure Systems) and also making use of article 26(2) which gives land for public use but only if certain conditions have been fulfilled by the government. They include:

1. Prompt payment of a fair and adequate compensation prior to the taking over of possession.
2. A right of access to courts of law by any person who has an interest or right over property.

Customary Tenure and its Implications on Women's Livelihood

The study found out that much of the earmarked refinery land was under customary tenure. This did not help owners, especially women, who still live under cultural subjugation, unable to negotiate for a fair compensation package. Findings revealed that gender constructions against women limited their access to land and fair compensation packages which affected their incomes, and yet, land is a major source of livelihood for rural communities in Uganda. This imbalance in land ownership and access to fair compensation has negatively impacted agricultural production because women are the major producers in the agricultural sector.

The lack of secure land tenure for Kabaale women saw their spouses or/and male relatives get fair cash packages, thus creating a sour relationships between wives and husbands or family members. Women felt that compensation procedures were not fully gendered to provide equal opportunities to both males and females.

Resettlement Packages for Refinery Displacees in Kabaale Parish

Three major packages were provided by the Government of Uganda including the following:

Resettlement: This was both a material and cash type of package that entailed getting a house at Kyakabooga Modern Village, land replacement and payment for the development a household had undertaken in Kabaale parish as well as upgrading of the Buseruka Health Centre-III Church at Kyakabooga and extending electricity and water facilities.

Land for land compensation: This involved the replacement of an equivalent acreage of land as the one lost in Kabaale parish. This package involved land as a material resource and cash payment for the developments one had on land before displacement, excluding the house. Sixteen respondents (33.3 per cent) consented that in the beginning, the government had given them a chance to choose from the available compensation packages, while 17 (35.4 per cent) had no opinion and a few (18.8 per cent) expressed ignorance about getting such a chance which is indicative of unstreamlined resettlement procedures that showed a lack of commitment by the government to its earlier promises of resettling displaced

communities to Kyakabooga in time. During an interview with some displaced persons, the following narrative was captured:

If it was possible, I would ask the government to give me cash instead of taking me to Kyakabooga Modern Village so that I could go far away from oil. At first I wanted to live near the refinery but now am beginning to think that benefiting from oil development might not be soon as I expected.

In another interaction, a related narrative was captured:

We have waited for 'long'; all the time they come and give us empty promises. In December 2016, they assured us of getting relocated in January 2017. It is now May 2017 and no one has come to update us. Life is hard because after December we stopped cultivating in anticipation of moving soon. Please tell 'them' we want to go to our land and start digging but because Kyakabooga is far away we can only do this after settling in our houses.

Cash compensation: All affected assets were valued at the market price and owners paid accordingly. Land that was close to the feeder road/trading centre was valued at a relatively higher value compared to the one that was off the road. Besides, a majority of the displaced persons were not satisfied with this valuation process which they rated as unfair. In one of the interviews, the following narrative was captured:

I was born here. I was hurt when my property fetched less cash. Displacing me from my traditional land and paying me meagre displacement on top of a delayed resettlement is like taking away my wealth. The new land they are offering is not as good as this one and yet I have no money to buy another piece of land. My future survival after resettlement is in God's hands.

—Oil refinery affected elder in Kabaale Parish, May 2017

One displaced person who was convinced that his land together with its contents was huge enough to earn him large sums of money was disappointed when he received much less than expected. In an interview with him, he said:

I have lived here all my life and own this land. However I was not happy with the amount of money they gave me and yet I have a huge piece of land. I now have nothing left but to go to Kyakabooga.

Non-cash resettlement packages on top of the above packages were also promised to the group that chose to be resettled at the 'Modern Village' in Kyakabooga. These included food rations, domestic animals, seeds and farming tools.

Factors that Influenced Resettlement Options and Packages

Land ownership rights influenced the kind of resettlement packages and entitlements (Mean = 4.81, Std = 0.98) by controlling valuation and verification

process to define cash entitlements. In an interview with some affected women, the following was revealed:

I had crop and fruit gardens from which I earned a living. During the valuation and verification exercise I wished to be resettled which the government had accepted initially but later on I was told that it was the land owner who would get a bigger compensation. All I can be paid for are developments I had made [to grow crops/fruits] on the land while the land owner was at liberty to choose between cash compensation and resettlement. I felt bad because the fact is that I was using a portion of the land, means that I owned it.

Freehold land owners were entitled to bigger resettlement packages than customary holders due to limited protection by law. In an interview with some key informants, the following narrative was captured:

Displaced persons who had freehold tenure with a title deed got better packages because it was valued higher than customary land. Unfortunately there were few holders since majority owned land customarily and this negatively impacted their packages.

—*A key informant in Hoima district*

Gender dynamics also influenced the choice of package for refinery displaced persons. Men dominated decision-making process as family heads, while women were hardly involved during negotiations and consent meetings on key development matters. In an interview, the following narrative was captured:

It is our husbands who have been actively involved in the negotiations. They represent the family so they choose to tell you what has transpired or not. As a woman I had no 'right' to pin him down for the details. In instances where you want to know the details of the discussions, you feel a negative attitude and then the discussion gets twisted. This keeps us in the dark about compensation benefits.

—*Oil refinery affected women in Kabaale Parish, May 2017.*

One's sex influenced the choice of compensation; males were listened to during household decision-making and participated in meetings as compared to females. Notably, the patriarchal nature of most African families naturally influenced the choice of packages, and this granted men a superior position during decision-making as can be seen in the following thoughts:

We are women. Our husbands were the ones to attend negotiation meetings. What they decided in regard to compensation, we had no choice but to agree with that. Some of us could not even have known how much we were entitled to if the law had not demanded that husbands must allow their spouses to sign on valuation forms. When money reached the account, it was the husband who received alert messages and they decided on how to spend it.

—*Narrative from some refinery affected women in Kabaale parish*

The untimely and inadequate flow of information dissemination affected people's choices. Authorities delivered information which at times never reached all the

targetted audience and neither were deadlines respected by authorities which caused confusion, as indicated in the following excerpt:

At first we were convinced that we should accept getting resettled. The government educated us on the benefits of resettlement such as personal land titles, well-furnished houses and land equivalent to the one lost among other benefits. This led us choosing resettlement as the best compensation package. However, later on the information that started coming in was that we might get relocated to Karamoja and besides those without houses will not get houses in Kyakabooga but only land replacement.

—*Captured from some key informants and a section of displaced individuals*

Marginal Position of Women During Negotiations

The women were initially sidelined during negotiations, thus keeping them, especially married ones, in the dark about development benefits. Those who were later able to participate in decision-making had limited influence given the strong patriarchal societal setting that gave men more authority and power to take decisions as enshrined within the customary norms. The marginal position of women was further compromised by their lower level of education compared to the male counterparts.

Whereas men preferred cash compensation, their wives seemed to prefer resettlement to reduce the negative effects of cash. Findings revealed that married women suffered more. The spouses of many women who received cash compensation packages used it to marry more women and also to drink alcohol excessively. In an interview with one key informant, the following narrative was captured:

Men have enjoyed compensation funds at the expense of their women. Some women are still struggling to pay loans and feed their children because husbands after having received the money, left their homes to ‘enjoy the cash’ in a different destination. Two cases of abandoned families after cash compensation were reported and one husband was arrested from Masindi Town.

—*A local leader in Hoima district, May 2017*

From the above narrative it is evident that tenure security, gender and cultural dispositions were at play in determining the resettlement packages that displaced persons and communities in Kabaale parish benefitted from.

Implications of Resettlement and Displacement on Gender Relations

Household relations were reportedly compromised during and after resettlement. Some men left their homes in search of casual labour, while others completely lost touch with their families leaving women with extra burdens of fulfilling their duties and those of ‘absent’ husbands. This created a space for child-headed households.

Female concerns during induced displacement were perceived with mixed feelings which bred inequality right from the earlier project proceedings. The patriarchal egocentricity subjected the women to customary injustices despite the call for gender equity as articulated in Sustainable Development Goal 5.

Discussion

Ownership Rights, Policy and People's Livelihoods

Much of the land in the refinery area was held under a customary tenure arrangement (GoU, 2016), which did not favour most households in as far as negotiating for fair and realistic resettlement packages with the government was concerned. This was exacerbated by the fact that Uganda does not have a specific explicit law on resource-induced resettlement despite being a signatory to the Universal Declaration of Human Rights (1948) and the African Charter on Human and People's Rights (OAU, 1986), and this violated rights of the displaced persons to a fair compensation package.

The Land Acquisition Act of 1965 which is the major legal instrument applied in addressing issues of entitlements of people displaced by development projects is not comprehensive enough to address disparities that emerge under the pluralist land tenure system. The study found that individuals who held land under a freehold tenure system were allocated relatively better compensation than those on customary land yet Uganda's legal framework on land, especially the Constitution of 1995 and the Land Act, 1998, recognise customary land tenure system as one of the formal tenure systems. The study further confirms that customary land tenure is still not fully acknowledged as legal and legitimate, and thus customary land owners, especially women, continue to be deprived of their rights (Obeng-Odoom & Stilwell, 2013).

Customary subjugation of women in relation to land rights was evident, and this negatively impacted their entitlements exposing them to socio-economic vulnerability. This is possibly explained by a lack of a concrete gender action which further reduced the place of women in public affairs and development processes in general negatively affecting their entitlements. Similarly, secondary land rights owners especially individuals who settled on their parents' land were not adequately compensated because the focus was on those who could claim 'full' ownership. Studies (for instance, Toulmin, 2009) have shown that women, migrants, tenants and pastoralists are rarely given due weight which further deprives them of benefits induced by involuntary displacement and resettlement, thus restraining efforts to restore or improve the affected livelihood potentials.

Gender Dynamics—A Livelihood Perspective

Women in Kabaale parish had more land user rights than ownership which affected their entitlements despite the women's rights being guaranteed by the 1995 Constitution of the Republic of Uganda. This was due to a weak institutional

mechanisms that made women vulnerable to the effects of development-induced displacement. Such findings are in agreement with Vanclay (2017) who postulates that gender policies are merely given lip service by policymakers.

The male gender had an upper hand in deciding on whether the family was to be relocated or not which effectively marginalised Kabaale displaced women and continued to subject females to male dominance with negative effects on women's future survival. Perera et al. (2014) and Vanclay (2017) noted how continued gender marginalisation in matters of development impact household incomes. Jennifer (2017) noted how many look at gender concerns as women's issue which continued to fuel gender marginalisation and irresponsiveness beyond cultural settings. However, there are global efforts in place to influence the establishment of strategies for women to help them enjoy equal opportunities with men in all aspects of life. This however requires a collaboration of laws and policies both at the national and global levels which emphasise women's rights. Some undisputable global strategies Uganda needs to work with include the United Nations Decade for Women (1985), the Nairobi Strategies for the Advancement for Women (1985), the Vienna Declaration and Program of Action (2016), the Integrated Conservation and Development Projects Program of Action (2016) and the Beijing Conference (1995). These will help improve women's socio-economic status for sustainable development.

Our study revealed that there was a limited gender responsive actions and plans in the Kabaale resettlement and compensation plans. Women's concern on resettlement entitlements in Kabaale parish continued to receive little attention from their spouses which affected their rights. Findings are in agreement with what SIDA (2015) found out on how denial of ownership rights for the female gender impeded their land rights.

During choice and sharing of induced-resettlement packages there was no oppressive gender actions to enforce equity between different gender groups. The male gender attended negotiation meetings and made choices regardless of whether their spouses had consented or not. This later raised civil society concern in regard to female gender marginalisation. Scholars such as Perera et al. (2014) and Randel (2016) indicated that compensation money linked to ownership rights hardly benefitted women. Refinery-affected women in Kabaale suffered a historical assertion that development projects cause more suffering to women which increases gender asset disparity (Barbara, 2013; Terminski, 2012).

The lack of women's participation in the decision-making process skewed resettlement packages choices in favour of men, thus giving them more platforms to continue marginalising females. Vanclay (2017) postulated that gender policies are given lip service by policymakers while Perera (2014) noted the importance of gender participation and decision-making in reducing female gender marginalisation. It was important to have full participation of all actors during involuntary displacement and resettlement (Terminski, 2013) if development is to equally benefit affected communities.

Gender responsive actions and plans at the local level received limited attention despite the critical need of gender actions in achieving the Sustainable

Development Goal 5 that focusses on enhancing gender equity. Women's concern on resettlement entitlements in Kabaale parish continues to receive little attention from their spouses which affect their rights and income potentials. These findings are in agreement with what SIDA (2015) found out on how denial of ownership rights for the female gender impedes their land rights.

Scholars such as Perera (2014) and Boone (2018) indicate that compensation money linked to ownership rights hardly benefits women. The issue of importance is the historical confirmation which attests that women suffer from development projects which increases gender asset disparity (Barbara, 2013; Terminski, 2012). During resettlement, the governments seem to be largely interested in expropriation procedures rather than supporting the displaced community restore and improve their incomes (Vanclay, 2017).

Many women in Kabaale parish did not own land but rather possessed user rights as enshrined in the customary land tenure arrangement. This affected how much and what type of compensation they had to settle for thereby disempowering them and derailing their potential to improve on their incomes. Displacement exposed them to cultural inequalities which left them at the mercy of their spouses which further depended on existing relationship at the time of displacement. This theory converges with historical and contemporary debates (Akosua, 2010; Bikila, 2012; Kaur, 2014; Lahiri, 2011; Pandey, 2006; Perera et al., 2014) which postulate that women suffer more from the effects of development.

Conclusion

The study has demonstrated that land tenure security influences resettlement packages for development-induced displacees. The study further confirms that customary land tenure is still not fully acknowledged as legal and legitimate, and thus customary land owners get unfair packages as compared to their counterparts with land formally registered under the freehold tenure system. Women and other secondary land rights owners, without evidence of land ownership, experience the bitter side of land acquisition policy which has had a negative bearing on the resettlement packages for oil refinery displacees in Kabaale parish, Hoima district. This study therefore recommends the full recognition of customary land tenure system when governments are developing resettlement packages. To this end, local communities need to be supported to acquire certificates of customary ownership to enhance customary land tenure security. Traditional practices that discriminate women and other marginalised groups should be outlawed and women's land rights recognised when designing resettlement packages.

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