



Land ownership and correlated problems in the post war period: A sociological study of prevailing dilemmas on land tenure of civilians in conflict affected areas

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Abstract

Those historic anecdotes clearly indicate that the dawn of time, wars and battles have had a significant impact on the course of history. Even in the context of Sri Lanka all ethnic groups of Sinhala, Tamil and Muslims from North to South had to face enormous amount of adversities due to the long-drawn-out war emerged by reasons of ethnic crises that prevailed for three decades. Despite the fact, that Sri Lanka after bringing the war into an end commenced accelerated move on reaching its development targets yet, the country had to face certain distresses internationally. The main cause of such assertion is the exposure of information on the disarray of resettling the returnee families those who were displaced because of the war. One other factor was the lateness of the process of resettlement. The main objective of this study was to execute a research based analysis in pertinent to the problems of land ownership and the complications encountered in the process of resettlement. This study was focused in *Pudukuduirippu Divisional secretariat division in Mullaitivu district* under random sampling method having selected 167 informants for the sample. Information collected through a questionnaire also joining Focused Group Discussions (FGDs), and observations, The software titled *SPSS, Excel* was used to analyze the data. The study revealed the status prevailed during the war time and the current setting such as; number of members in a family, status of the ownership of land in the past and the current, utility of those, availability of proven documents, procedures adopted to assign ownership, current ownership of land and the ways how problems occurred are resolved.

Keywords: ethnic war, post war setting, land ownership, resettlement

1. Introduction

It is a common feature that tendencies are there for people to create conflict atmosphere in the world longitudinally as well as territorially. Sri Lanka is one of such countries confronted with three decades elongated civil war based on ethnic perplexity also drawing attention internationally, too. Now the said conflict has been brought to an end. However, the social, economic and political repercussions of the war are under the consideration at international level as well. Thereby, the consequences of above occurrences have impacted on Sri Lanka even to change the political structure in Sri Lanka, and to decline international relationships and also the global economic affiliations. In this regard, the possession of land ownership in an affirmative manner by the affected families becomes a decisive as well as a controversial issue. Accordingly, this study is focused on the disputes of land ownership and related impediments being faced by Tamil community which is also a socially discussed matter, of which the research was accomplished in focus of Pudukuduirippu divisional Secretariat area of Mullaitivu district in the Northern Province in Sri Lanka.

2. Research Problem

It is a known factor that Tamil community in the Northern region experiencing problems on the ownership of land, despite the fact that it is almost 10 years that war is concluded. Under this circumstance, the identified research problem is the causes affected the loss of legal ownership of

land or else, the existing complexities within the process of acquiring tenure of land and also the problem of inadequate affirmation even though the ownerships are ascertained.

3. Objectives

3.1 Main Objective

1. To investigate the problems encountered by civilians in war affected areas on the loss of tenure of land and the difficulties being faced in resolving the said problems.

3.2 Specific Objectives

1. To identify the status of land tenure in the study area
2. To investigate problems related to land being faced by persons in the current context.
3. To identify the background as well as reasons and causes of the problems.
4. To submit proposals to resolve the above problems.

4. Literature Review

Several Literature reviews were examined for this research. Out of all such reviews some of them were immensely helpful in this research and the overall reviews were focused on; land and property rights in post-war settings, status of land tenure in other war affected nations, ending poverty and relationship of legal land ownership, Land ownership and violent conflict in Kenya and ways to overcome this problem of land tenure. Largely, a civil war or civil strife forces people to flee to more secure places within or outside the country, triggering a flood

of IDPs and refugees as a result of the outcome of violent activities of the warring parties. For instance, a study carried out by UNHCR stated through its report that 51.2 million people were forcibly displaced worldwide at the end of 2013. The report says there was an increase in the number of IDPs with over 33.3 million internally displaced persons throughout the world by the end of 2013. As a primary step towards building sustainable peace, war affected countries prioritise on humanitarian operations such as resettling the returning IDPs as well as refugees in their original places and by providing the necessary facilities to promote their livelihoods. K. Kumar (1997) illustrates as follows: “The return and resettlement of refugees and IDPs is necessary to realise social peace and economic growth.” In other words, it is the key activity underpinning peacebuilding and economic growth in a war affected society, because all of the projects aimed at upgrading the living conditions of the affected people and fostering peace require that they live in some permanent abode.

The land issue in the resettled areas of Sri Lanka

Although the government could resettle the majority of IDPs in the former war affected areas in Sri Lanka, several issues have emerged in respect of the original lands of the local people. The nature of the land issue consists of some complicated problems, as follows. Firstly, the loss of the original lands of the IDPs is a core issue in the conflict affected regions. Uncleared land mines in several areas and the occupation of several private lands for security purposes are the main problems affecting the formal resettlement without land disputes. Implementation of various development projects in those areas under the post war setting is one other reason. Accordingly, resolving varied nature of problems on legal land ownership of affected communities in particular among those war affected communities to surmount a volume of problems namely, the psychological unrest, poverty and varied social and cultural problems.

According to the (*Researchgate.net publication* – University of Nairobi Kenya /237496740), that due to the importance of land tenure for livelihoods and governance of land, it has kept at the *heart of the state-society* relationship. This policy briefly traces the history of land tenure in countries affected by displacement of families mainly due to the conflicts. In a context in which discussions of land tenure, there are tendencies for impatient behavior of the affected persons is also a possibility and this nature of studies are vital to expedite solutions to surmount such behavior. Because of the spatial nature of both armed conflict and land tenure, the result can be profound within the context of a delicate and incipient peace. The importance of land and property rights issues during and subsequent to civil conflict is reflected in the significant role that agrarian reform has played in many insurgent and revolutionary agendas. Managing such issues in an effective manner in a peace process is not only important to avoiding disenfranchisement of local populations from land rights, a primary factor contributing to instability (Hutchinson 1994), but also to the secure re-engagement of populations in familiar land uses and the resulting agricultural production, food security, and trade opportunities important to recovery.

Therefore, the land tenure in the Northern part of Sri Lanka be

given needed priority since it is an heart of the state-society relationship. Also the formal ownership of land has direct conjoin with the livelihoods of resettled families.

Housing, land and property (HLP) rights

The Rights of Housing Land & Property (HLP) and the challenges of same are common to all post-conflict countries and territories. Restoring HLP rights to returning refugees and displaced persons, resolving ongoing HLP disputes, re-establishing a HLP rights registration system, rebuilding damaged or destroyed homes, protecting the HLP rights of vulnerable groups and many other housing, land and property issues invariably faced by the international community in post-conflict settings. United Nations and other peace operations, both large and small, increasingly view these concerns as essential components of the peace-building process and as an indispensable prerequisite for the rule of law. The Secretary-General’s August 2004 report on *The rule of law and transitional justice in conflict and post-conflict societies* explicitly recognizes this point.

To rectify this policy gap, some researchers have recommended that the UN (including agencies and departments such as UNHCR, UN-Habitat, DPKO, OCHA, OHCHR and others) establish a *Housing, Land and Property Rights Policy Development Group* with a mandate to develop a *UN Housing, Land and Property Rights Institutional Policy Framework*, applicable to all post conflict settings where the United Nations is actively involved.

Food security and Land ownership

Investment in postwar Sierra Leone - Jon D. Unruh and Harry Turray – 2006 As mentioned under LSP earlier post-conflict land tenure in the context of sustainable livelihoods has given consideration in this study. *Among these, food insecurity and investment in the rural areas, which is especially difficult for subsistence producers who are still recovering from the effects of the war* - (MAFFS 2005). When the community in the Northern Sri Lanka is concerned, their skills, prospects for food security and investment for land cultivation appear to be good. This region contains abundant fertile land, a predictable seasonality, and significant experience with the production of a variety of food and cash crops. Importantly, the prime farm land of significant arable potential that remain uncultivated after the war, even with a successful peace process that has secured the countryside, sought to address governance issues, and moved forward with development agendas; such as rural unemployment. One limiting factor is the uncleared landmines in several geographical areas, yet most of the land are now free of mines. Hence, the important question is, why does so much arable & cleared land remain uncultivated? One suspicion is that there may be land tenure issues. According to (LSP Working Paper 18: Unruh, J. (2004) ^[3]. “.....*That Attaining food security is a presidential priority, and the Ministry of Agriculture has set a goal for hunger eradication by 2007 (MAFFS 2005). At the same time the UN moves forward with designating food security as a human right, and this has been embraced by the Government of Sierra Leone*”. According to (World Bank Group – 2015), Poverty rates are highest in portions of the Northern and Eastern provinces, which were at the center of The conflict.

As pointed out above, the highest poverty headcount ratios at the district level are found in Mannar, Mullaitivu, and Kilinochchi at both the national poverty line and international poverty lines.

As per the above literature review it affirms that state authorities need to pay highest attention to resolve land tenure and related issues in order to open avenues with solid attention to minimise the unemployment while increasing access for food security while also partaking solutions to resolve several other problems related to resettlement.

5. Methodology

5.1 Introduction to the Study area and the Sampling

Mullaitivu district in the Northern Province was officially established in 1979 and currently it comes under the Vanni electoral district. One of the divisional secretarial divisions of Mullaitivu district named Pudukuruippu DS's division is designated as the study area which is also an exceptional administrative area subjected for the civil war during the time of ethnic conflict. The data collection in accordance with objectives of the study was proceeded through a sample

5.4 Data analysis and Findings

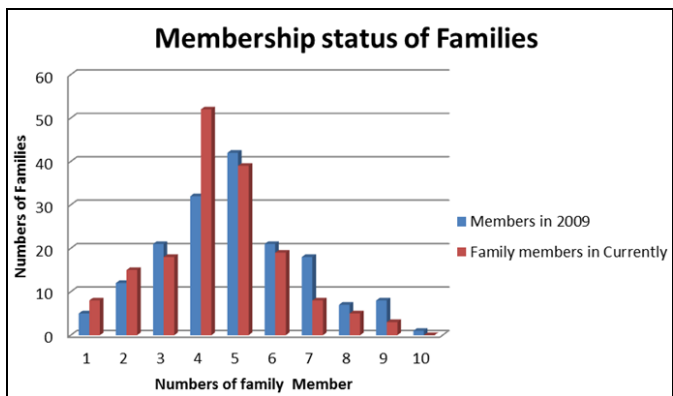


Fig 1: Number of the members of families prior to the war (2009) and currently.

The Graph No. 01 illustrates that within post-war context in Pudukuruyippu DS Division in the Mullaitivu District the number of families with lesser number of members have enlarged, while, family units with higher numbers of members shown in reference to the period of war.

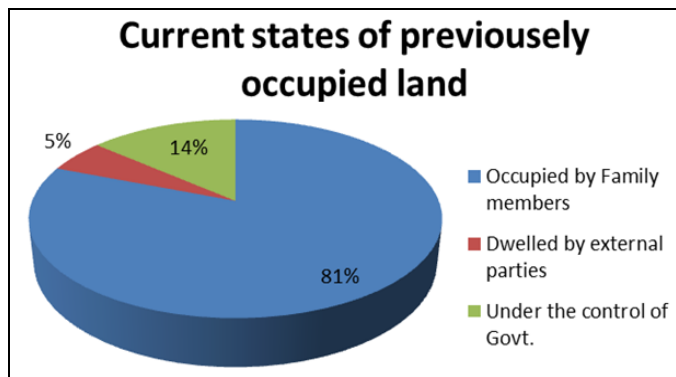


Fig 2: Current status of previously occupied land

The investigation attended on the current status of previously

represented by 167 informants selected on arbitrary basis to address the questionnaires.

5.2 Data Collection

A questionnaire was utilized to collect data from the sample of 167 selectees and in addition the needed information were gathered through focused group discussions (FGDs), and observations as well. Furthermore, besides the targeted interviewees data gathering was proceeded through institutional data providers such as police officials, officials attached to the divisional secretariats. Added series of information were gathered through primary sources. Also a literature review too was accomplished in par with the study by evolving secondary sources of information.

5.3 Data Analysis

In reference to the analysis of quantifiable data, information were displayed by means of Graphs, Tables etc., applying - SPSS, Excel software while analysis of qualitative data was addressed through a descriptive approach.

resided land prior to the war, revealed in line with data of the sample that, 81% of land blocks were occupied by one of the family members. While 5% of currently inhabited land are occupied by parties not related to previously owned families. Besides, 14% of blocks are under the governance of Government's administration.

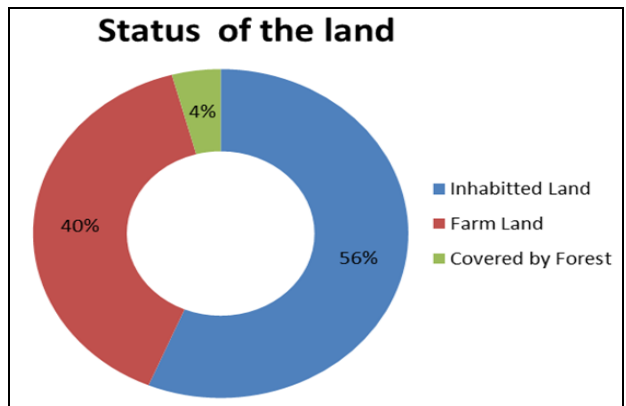


Fig 3: Attribute of the Land

As exemplified through Graph no 03. Those blocks of land are being used currently under different purposes in comparison to the usage prevailed prior to the war. It was disclosed that 56% of blocks were inhabited, while 40% of land under contemporary usage for cultivation whereas, 4% of blocks were concealed by forest.

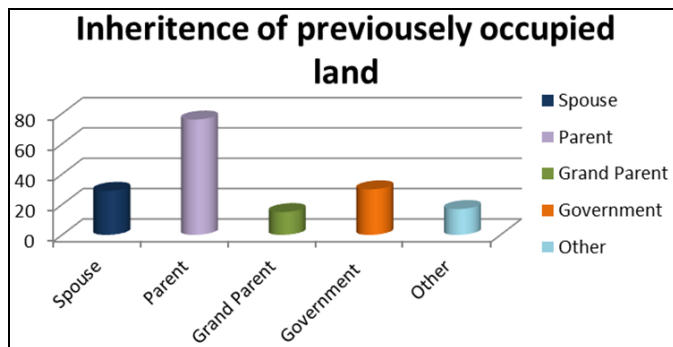


Fig 4: Inheritance of previously occupied land

The origin of the land tenure in possession prior to the war was distinct. Therein, 17% of informants had received tenure of land from the spouse and 46% of ownerships were possessed from parents. Another 9% of land owners had received ownership from the ancestors while, 18% had received ownership of land from the Government.

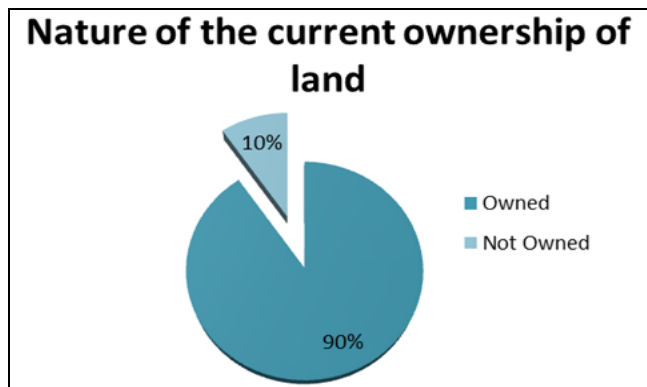


Fig 5: Status of the tenure of land being occupied presently.

When the status of land ownership is concerned, 90 % of families those who resettled are uninsurable whether the ownership they hold is legal or is it imaginary. Yet it is clear that 10% of inhabitants do not have legal clarity on their ownership.

Table 1: Availability of legal documents to prove the previous ownership of property.

Whether deeds / Titles are available to prove the legal ownership of previously occupied land	Number	Percent age
(1)YES	132	79%
(2)NO	35	21%
Total	167	100%

In accordance with the law and order of Sri Lanka it is compulsory to possess a deed or a license to prove the legal ownership of a land. Nevertheless, a large majority of 79%

informants among the resettles possessed legal documents to prove ownership for the land

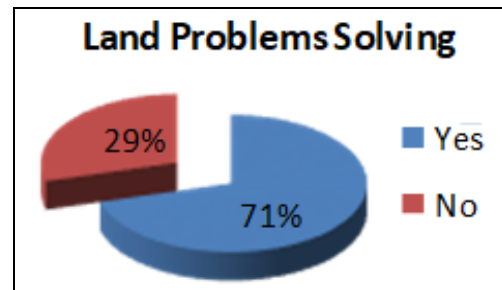


Fig 6: Whether all unclarities on land tenure is resolved at present?

At the time of study, 71% of the sample had procured elucidations on problems related to the land tenure while, 29% had not exposed for needed solutions on the land ownership.

6. Discussion

The above analysis revealed that problems not yet elucidated were related to the tenure of land. It was clear, despite the fact that the land tenure is asserted through legally accepted documents, the imaginary or psychological ownership is not asserted.

Some of the expressions made by informants are stated below.

“.....We received deeds for land. Yet, how we could build house to live? Which way the expenses be met? We earn little out of labor work. Also no way to access water for a cultivation!...” - A 44 year old farmer.

“.....This soil is much fertile. It matches up with any types of crops. What we want is a relevant support for it. Problems being faced by people may not be surmounted just by giving a land deed...” A 50 years old resident in the area

“...We were land holders owning bigger acreage of land. We lost all due to the war. We don't want what we lost again. What we want is to live in consolation. We don't have big ambitions in our minds.” - Articulated by a 35 year old woman.

“.....Those good land we owned were captured via. East Navodaya by gentlemen came from Colombo. They have constructed big hotels in those land, and at the end what we received – nothing. ...” - A 33 year old youth.

As per the above articulations it has well outlined that even in the regime of post-war the public lives are still unstable. Rural folk treat land to be an extremely important asset. They strongly desire basic facilities as to use land in an effective manner. Those families who did not receive legal ownership of land live with disgusted attitudes.

“.....Are we not the citizens in this country? Besides, how much we suffered due to the war and there is no consolation even after ending of the war. When we surmise these think we feel there is no other option than

committing suicide” - 41 year old person.

Besides above presumptions some others were there to share certain positive feelings as well.

“.....As far as our stability is concerned we get maximum support from the police and relevant Govt. Officials. Police is there to listen to our grievances. Even in the issues of resolving the ownership of land. Police who came forward to assist most of the Tamils. We can bring forth our problems at any time to the unit named as -Community Police.”

In response to above articulations it is apparent the current position of land ownership within the post war era.

7. Conclusion

Investigating the problem of land tenure in the Northern Sri Lanka within the current post war era which was identified at the International level too, as a key predicament, was accomplished in this study. One of the keynote issues revealed was the changes happened in the usage of land before and after the war and also the changes of ownership ensued. In addition, the expression on ways how the ownership is possessed on previously owned land, and the ability to show the availability of legal documents of such ownership was found to be differed from person to person. It was also revealed through the study that there is a faction living in this area whose problems on legal land ownership is not resolved so far.

8. Recommendations

- Despite the fact that the problem related to land tenure of the Tamil community in the Northern area has surmounted to an extent, the relevant parties need to initiate pertinent action to resolve the problems of rest of the community.
- Must accept the responsibility not to misappropriate the land owned by Northern Tamil community with valid documents, prior to the war.
- Reaffirming the land ownership of all must be attended in an unbiased manner subjected for a legal framework.
- It is also vital to provide essential infra-structure needed by the resettled communities going ahead of the primary action to certain land ownership and the resettlement.
- Likewise, those post war characteristics portraying there was a war in the North to be removed from the area.
- Strict attention be made available to control the risk of forming war climate under any reason again which could lead to another war.

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