

Focus on Africa Brief

DECEMBER 2010

Uganda



Lesson 3:

Displaced Persons and Land Rights

INTRODUCTION

In 2005, between 2.1 million and 2.4 million people were displaced by conflicts in northern Uganda. With the signing of the Cessation of Hostilities Agreement in 2006 and security returning to the north, the camps for the Internally Displaced Persons are now being constructed and many IDPs are returning home. The government is taking various measures to improve the situation but the land issues associated with large-scale development displacement are immense. The following module examines the land issues confronting returnees as well as the IDPs who remain in the camps.

DISPLACEMENT CRISIS

Perhaps as many as 500,000 people were killed and more than 2 million people were displaced by violent conflict in northern Uganda that began in 1986 and lasted for more than 20 years. In addition, about 20,000 children were abducted by the rebels to serve as soldiers and sex slaves. With security returning to the north, the camps for the Internally Displaced Persons (IDPs) are being deconstructed and many IDPs are returning home. However, the land issues associated with large-scale displacement are immense. Returnees have received limited assistance to secure their lands, and communities have received little support to reintegrate the most vulnerable returning IDPs. There has been an increase in the number of land disputes between returnees and government, private companies and other farmers in return areas. The conflicts and the uncertainties have weakened land tenure security and contributed to declines in farm investments.

A history of antagonism and distrust between the pastoral Acholi of northern Uganda and southern-based tribes—which dominate the government—contributed to the formation of the Lord's Resistance Army (LRA) in 1987. The initial aims of the LRA were to: 1) overthrow the government of President Yoweri Museveni; 2) rebuild the Acholi nation and culture; and 3) establish a theocratic government in Uganda based on the Christian Bible and the Ten Commandments. The LRA is led by Joseph Kony, an Acholi from Gulu District. At its strongest, there may have been as many as 3,000 LRA soldiers, most of them children. Sudan has provided military assistance to the LRA, in response to Uganda lending military support to the Sudan People's Liberation Army.

From 1986 to 1996, many people living in the Acholi areas fled their villages as a direct result of LRA attacks, while others left their homes to escape the fighting between the LRA and Uganda Peoples Defense Force (UPDF), Uganda's armed forces. In 1996, the government forced civilians into IDP camps—so-called “protected villages”—which resulted in considerable displacement. The displacement crisis worsened between October 2002 and March 2004, when the army, in the course of several large-scale offensives, ordered all civilians remaining in “abandoned villages” to move to government camps. In 2005, the International Criminal Court in The Hague, Netherlands, indicted LRA leader Joseph Kony and four LRA commanders for war crimes and crimes against humanity

At the end of 2005, about 1.8 million people were living in IDP camps in Uganda as a result of the conflicts. In addition, an unknown number of people who had fled their villages moved to towns and trading centers across northern Uganda. Others moved further away from the fighting to cities across Uganda, including Masindi, Jinja and Kampala. No comprehensive data was collected on urban IDPs in Uganda, but estimates ranged from 300,000 to

600,000 people. Hence, a total of between 2.1 million and 2.4 million people were displaced by the conflicts in northern Uganda.

MOVING TOWARD PEACE

In August 2006, after several failed efforts to achieve peace, the government of Uganda and the LRA signed the landmark Cessation of Hostilities Agreement (CHA). The CHA resulted in substantial improvements in security conditions in northern Uganda and in humanitarian access to affected populations. It also paved the way for further negotiations; between May 2007 and February 2008, the government and LRA signed a total of seven agreements. In April 2008, LRA leader Joseph Kony failed to show up to sign a final peace agreement, and all successive attempts to obtain his signature have failed. As of December 2010, Kony remains at large and the LRA now roams across parts of southern Sudan, Central African Republic and northeastern Democratic Republic of Congo (DRC).

While fighting continues between the LRA and the armies of Uganda, Southern Sudan and DRC, the security situation in northern Uganda has improved significantly since the signing of the CHA in 2006. As a result, the government has encouraged all IDPs to move back to their areas of origin, home villages and homesteads. As of May 2009, 378,000 IDPs remained in camps—about 20% of the peak IDP population of 1.8 million and a further 244,000 IDPs had moved from camps to “transit sites” closer to their land. Many of the original IDP camps have been broken down.

The Ugandan government and its international partners have struggled to manage the transition from humanitarian emergency assistance for IDPs to recovery and development. While the government is beginning to reassert its authority in the north, local-level public officials and authorities frequently lack capacity to carry out their responsibilities. Despite considerable efforts, basic infrastructure and services in the return areas are still inadequate or non-existent. Returnees have begun to grow their own food, but the food security situation of many former IDPs is still fragile. There are also many IDP-related land disputes involving private citizens, communities, central and local government and corporations.

POLICY FOR IDPS

In 2004, the government adopted the National Policy for Internally Displaced Persons, making Uganda one of the first countries in the world to have an IDP policy. The policy guarantees IDPs' right to make a free and informed choice between return, local integration or settlement elsewhere in the country. Several plans have been developed to implement the policy and assist IDPs, including the Peace, Recovery and



Acholi Musicians

Development Plan for Northern Uganda (October 2007), the Camp Phase-Out Guidelines (May 2008), and the Guidelines for the Demolition of Abandoned Structures (June 2008).

Uganda's IDP policy addresses land tenure and property rights. For land and other property left behind, the IDP policy, Section 3.6 states, "1. Ensure that IDPs are not arbitrarily or compulsorily deprived of property or any interest in or right over property except as provided for in article 26(2) of the Constitution. 2. Local Governments shall to the extent possible, endeavour to protect property and possessions left behind by IDPs against pillage, destruction, arbitrary and illegal appropriation, or occupation or use." Article 26(2) of the 1995 Constitution of 1995 reserves expropriation by the government only for certain public purposes and public interests.

The IDP policy makes the recovery of land lost by IDPs a government responsibility, not a returnee right. Section 3.6(3) states, "Local Governments shall endeavour to assist IDPs to return, resettle and reintegrate, by acquiring or recovering their land in accordance with the provisions of the Land Act of 1998. Where the recovery of land is not possible, Local Governments shall endeavour to acquire and allocate land to the displaced families." The policy, therefore, falls short of several international instruments, including the Universal Declaration of Human Rights and the Principles of Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles).

SECURING LAND

Many returning IDPs have had difficulties securing their lands. About 93% of the land in northern Uganda is held under customary tenure arrangements with no registered titles or deeds. Many returnees—some who have been away in camps for more than 10 or 15 years—are unable to recall or agree on the exact boundaries of their land. Many of the elders and traditional leaders who knew the boundaries with any precision died in the IDP camps, while others have moved away and are not returning. Some early returnees have taken advantage of the undocumented nature of customary rights and moved the boundaries of their land onto the properties of their neighbors. Such actions are likely to further disadvantage vulnerable IDPs who have not yet returned.

Many returnees have found their land occupied and claimed by farmers who remained during the conflict and now have rights to the land. By the Land Act, Section 29, a person becomes a "lawful occupant" or "bona fide occupant" if s/he, "(2)(a) had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more; or (b) had been settled on land by the Government or an agent of the Government, which may include a local authority." Sorting out the property rights of the returnees and the "lawful occupant" or "bona fide occupant" has been problematic.

Further, the Land (Amendment) Act of 2010 intends to better protect the rights of "lawful occupants" and "bona fide occupants" on registered land from widespread evictions. According to Section 2, "a lawful or bona fide occupant shall not be evicted from registered land except upon an order of eviction issued by a court and only for non payment of the annual nominal ground rent." It further states the tenant shall have to first be given a notice of six months before the eviction is carried out. Should a landlord evict a tenant for any other reason other than failure to pay ground rent, he/she commits an offence and could be jailed for a maximum of four years. The importance of this amendment is unclear given that IDPs were not actually landlords and it seems unlikely that any ground rent was paid to them by those who occupied their land.

GOVERNMENT SEIZURE

Other returnees have found that while they were in the IDP camps their land was taken by the government for public purposes. For example, in Agung, Laponi and Ywaya near Murchison Falls National Park, the farmers who were moved into IDP camps in 1996 want to return to their homes. During their absence, however, the boundaries of the park were extended and their original villages are now considered to be on park lands. About 2,000 IDPs are affected. The Uganda Wildlife Authority, the government agency responsible for the park's management, claims that the extension was approved and implemented in 1997, and has arrested and detained those attempting to return. Uganda's laws require the government to consult affected families and compensate them for their losses, but the returnees say they were neither consulted nor compensated.

Some returnees allege that the government grabbed large tracts of their land while they were in the IDP camps and offered these tracts to private investors. For example, in March 2008, the Madhvani Group submitted an application to the Amuru District Land Board for 20,000 ha of land near to the Nile River for a sugarcane plantation. The local government approved the application with an initial allocation of 10,000 ha for a period of 49 years. Some of this land is claimed by returnees. In November 2008, several parliamentarians from the Acholi sub-region filed an application in the High Court in Gulu and obtained an ex-parte (temporary) injunction against the Madhvani Group, Amuru District Land Board and other respondents for interfering or encroaching on the disputed land. In ensuing court hearings, the Amuru District Land Board was forbidden from issuing new leases on the disputed land until the hearing and determination of the main suit. As of June 2010, the suit is still pending in the High Court.

SETTLING IN IDP CAMPS

Significant numbers of IDPs remain in the camps. Although some IDPs do not intend to return to

their home areas because of new opportunities, many remain in the camps because they are unable to return to their homes. Land disputes prevent some IDPs from accessing their traditional lands. Others with special needs and vulnerabilities, such as female-headed households, are unable to support themselves in the return areas and need help securing land in or near the IDP camps. The government, however, has no sufficiently-developed plans (beyond IDP return) to meet these needs. It is not adequately addressing land disputes in the camps and return areas, helping IDPs obtain land in the former camp areas, or supporting transformation of some camps and transit sites into towns and trading centers.

The IDP policy allows IDPs to remain and settle in the camps. Section 3.4 states, "1. The Government commits itself to promote the right of IDPs to return voluntarily, in safety and dignity, to their homes or places of habitual residence or to resettle voluntarily in another part of the country. In so doing the Government recognizes the right of IDPs against forcible return and resettlement in any place where their life, safety, liberty and health would be at risk" and "4. The DDMCs together with other local authorities and representatives of the IDPs shall ensure that the return and resettlement of the internally displaced is voluntary." DDMCs are District Disaster Management Committees.

Many IDP camps were established on private property, and many IDPs have settled or were settled by the government on land which originally belonged to private individuals. In many cases, the IDPs have exhausted the lands with closely-spaced huts, animal grazing, latrines and burials. Uganda's Constitution, Land Act and Land Acquisition Act of 1965 authorize the government to acquire privately-held land in a compulsory manner for public interest purposes, but require that compensation be paid to the landowner prior to the government taking possession of the condemned land. During the 20-year conflict, many privately-owned plots were acquired and used by government for IDP camps. The legal procedures, however, were rarely followed—landowners were not consulted and compensation payments were suspended. In response, many claims have been filed in the courts of law by affected landowners.

IDPs who are still in the camps face increasing pressure from the landowners to leave the camps. Some landowners have started charging rental fees, but the majority of IDPs lack the resources to buy or rent land, and reports of forcible evictions have become more frequent. For example, the outgoing Anglican Bishop of the Northern Uganda Diocese, the Rt. Rev. Nelson Onono-Onweng, ordered 500 IDPs to vacate his land at Lukodi in Gulu: "Leave my land and go back to your villages. I am retiring this year and I want to settle on my father's land. Those who

IDPs settled on public land are also under threat. On 22 June 2009, approximately 251 huts were demolished and 585 IDPs were forcibly evicted from Rackoko IDP Camp, affecting 99 households and families. The sub-county government wanted the land to construct new roads, but did not follow the set procedures for removing IDPs and putting public lands to new uses. In another case, Unyama IDP Camp—located just outside Gulu—is partly situated on government land designated for a teachers college, and partly on private land. In Gulu and Amuru, the local government and the teacher's college administration publicly announced that the IDPs camps would be closed. Thereafter, the local government demolished many huts to clear the land, leaving some IDPs homeless.

NEED FOR SUPPORT

The most vulnerable IDPs—those with disabilities, severely traumatized people, female-headed households, orphans and child-headed households, and elderly people without family support—need special attention. A leading cause of poverty for female-headed IDP households is that they have no land to return to. The IDP policy, Section 3.6 states, “4. In the acquisition and allocation of land in paragraph (3), Local Governments shall ensure that: . . . d. Special protection and support is given to children especially unaccompanied minors, expectant mothers, mothers with young children, female-headed households, persons with disabilities and elderly persons. 5. Local Governments shall assist IDPs, especially women to acquire legal interests or certificates of customary ownership in the land they have recovered or been allocated.” More efforts are needed to implement and enforce these provisions.

Returnees and IDPs still in camps need continued support to overcome the many constraints they face and to achieve sustainable food security. Although government and donor efforts have provided significant support to IDPs, interventions aimed at securing land for IDPs have suffered many shortcomings. Land disputes flourish amidst a lack of functional land administration institutions and land adjudication mechanisms (e.g., District Land Boards and Magistrates' Courts) in northern Uganda. New efforts are needed by the government and international community to secure land and settle IDPs while also protecting the property rights of legitimate landowners.



Land for sale in Uganda

SOURCES

Internal Displacement Monitoring Centre, 19 August 2009. Returns outpace recovery planning. Available at: [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/C0C5A39A27DD6449C1257617004AA724/\\$file/Uganda_Overview_Aug09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/C0C5A39A27DD6449C1257617004AA724/$file/Uganda_Overview_Aug09.pdf)