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Postwar Resource Tenure Issues in the Settlement of Sudan's Dislocated Population

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Abstract

The number of displaced people in Sudan as a result of conflict and famine over two decades of war has been estimated to be in the millions. The lengthy period of time during which many local populations have been dislocated and the consequent disruption of food-producing activities pose complicated problems in both near-term food security and the longer-term rehabilitation of the country's traditional agricultural sector. Recovery of households and production systems after years of conflict and famine for the displaced will involve more than simply a return to home areas. Resource use and access arrangements will emerge contested and reconfigured as claimants with perceived rights based on various past customary and state tenure regimes seek to exercise these rights in a changed human and biophysical landscape. This article will examine some of the land tenure issues likely to become important as large populations of Sudan's internally displaced seek to reengage in agricultural production systems with which they are familiar. In the more populous agriculturally endowed locations where the recovery of many households and numerous production systems will initially be focused, establishing or reestablishing a mutually agreed-upon tenure system (or set of systems) and modes of resource use and access that are widely seen as equitable, secure, inclusive, and legitimate at the national level will, while complicated, be important to agricultural production and food security.

Introduction

The number of displaced people in Sudan as a result of conflict, drought, and famine over the last two decades has been estimated to be approximately four million—80 percent of the southern Sudanese population.¹ With more internally displaced people than any other country in the world, migrations from the south to the north numbering well over one million have overwhelmed already stressed services in the urban areas.² It has been estimated that population shifts, along with the influx of refugees from neighboring countries, mean that food production in the country would have to double in order to feed the expected population in the next generation. Lacking this increase in food production, food security problems in the country are expected to worsen.³

The debilitating effects on rural economies in Sudan (especially in the south) from the mutually reinforcing effects of conflict, drought, and famine have been so devastating that it has been argued that there is no prospect for recovering the agricultural land use patterns formerly in place.⁴ However, it is probable that the combined effects of the world's longest ongoing civil war and frequent famine have been variable,⁵ with the result that present and future land uses and production systems (and attendant institutions) will represent an amalgam of evolving and adapting patterns and processes that are heavily influenced by the effects of the social upheaval.

While the idea that the return to home areas of displaced persons is the optimal solution to Africa's refugee problems is widely shared by African governments and the international community, few of the contemporary refugee flows (internal and external) are generated by short-term problems⁶ that would allow rapid reengagement of disrupted production systems. The lengthy period of time during which many local Sudanese populations have been dislocated and the consequent disruption of food-producing activities pose complicated problems in both near-term food security and the longer-term rehabilitation of the country's traditional agricultural sector, especially in the south. Recovery of households and production systems after years of conflict and famine for the internally displaced will involve more than simply a return to home areas. There is a paucity of information on many of the repatriation exercises in Africa

since the first of the modern exoduses began.⁷ And there have been few studies of the nature of the successes and problems of the major repatriations and resettlements.⁸ Research has focused instead on current refugee issues and has not often addressed what happens to returnees when they attempt to resettle in traditional home areas; the exceptions being Akol and Crisp.⁹

During and subsequent to the ongoing problems in Sudan, resource use and access arrangements will emerge contested and reconfigured, as claimants with perceived rights based on various past customary and state tenure regimes seek to exercise these rights in a changed human and biophysical landscape. This article will examine some of the land-tenure issues that are likely to become important as large numbers of Sudan's internally displaced people seek to reengage in agricultural production systems.

Displacement and Land Use

With subsistence agriculture prevailing in most of the country,¹⁰ the disruption of agricultural activities is one of the more widespread and debilitating problems associated with the large-scale dislocation in Sudan.¹¹ Agriculture is the backbone of Sudan's economy and accounts for almost all foreign-exchange earnings,¹² with the traditional sector employing about 70–80 percent of the population.¹³ The agricultural potential of the country is such that it has been suggested it could become the breadbasket of the Middle East.¹⁴

Local ethnic communities embracing great diversity have been and continue to be the fundamental societies in rural Sudan, and they include fully sedentary, semisedentary, and nomadic groups in which the local village or nomadic community is the point of reference for most individuals.¹⁵ In many locations, conflict, famine, and the resulting dislocations (and often the obliteration of smaller groups) have severely disrupted traditional ethnic patterns,¹⁶ to which land-use patterns are intimately connected, especially in long-settled agricultural communities.¹⁷ At the same time livestock numbers have been decimated, with profound repercussions for the livestock sector of the economy.¹⁸ Many pastoralists and indeed whole ethnic groups who had

traditionally survived on livestock production have lost all of their herds and have been forced to migrate to the “Three Towns” area (Omdurman, Khartoum, and Khartoum North).¹⁹ Heavy mining of the roads in much of southern Sudan has rendered them unusable, further contributing to the impact on local and regional agricultural activities.²⁰

The future of Sudan’s agricultural potential would seem to a significant degree to be tied to the successful resettlement of the people who have been dislocated. The move will eventually need to be made from dislocation, feeding centers, and refugee camps to crop cultivation and livestock production, so that progress toward food security can be achieved. However, for the skills of rural Sudanese to be reengaged in agricultural activities, familiar land-resource-use patterns and practices, while important as a foundation, will in many cases have to evolve to meet the changing agricultural circumstances brought on by famine and long-term conflict.

Spatial Extent of Agriculture

While the population per land area in Sudan has generally been regarded as low, especially in the south, constraints on agriculture and the problems surrounding reengagement in agricultural activities pose significant problems with regard to the utilization of much of this land.²¹ Large areas are of poor quality or uncultivable; in addition, access to improved water supplies and proximity to services and roads free of land mines, along with other difficulties associated with accessibility and security, mean that much of the land area that was once under cultivation, or is potentially cultivable, cannot in the near-term be expected to be put under agriculture.²² There is also a tendency to nucleate agricultural settlements, leading to an increase in population in particular localities.²³ This leads to a decrease in the amount of land per person and an increase in competition for this land, despite the availability of land in regions farther in the interior.²⁴ Where there is interaction between pastoralists and cultivators, competition over land can be very intense, as it is in the semiarid areas of eastern Sudan.²⁵ The population is thus unevenly distributed, with 33 percent of the population occupying 7 percent of the land.²⁶

Land Tenure and Resettlement

In general, customary land tenure systems in Sudan are disintegrating under the forces of greater privatization of resources and commoditization of the economy,²⁷ in addition to the effects of the civil war and famine. The right to own property, and to bequeath it to others and inherit it, established by the Permanent Constitution of 1973, was suspended in 1985.²⁸ In 1970, the Unregistered Land Act declared that all waste, forest, and unregistered land belonged to the state.²⁹ Before the act's passage, the government avoided interfering with customary rights to unregistered land, and in the late 1980s again adhered to this policy.³⁰ However, with the disruption of both state and customary land rights, multiple and overlapping tenure claims on land-resource ownership, use, and access become increasingly likely as claimants with perceived rights based on different tenure regimes attempt to exert control over the more agriculturally endowed but spatially limited areas, especially when agricultural recovery is able to begin. It is likely that such claims will not be made all at once but over time, as claimants return to these areas at different times from different situations.

Complicating this situation are the need to settle and/or restock refugees, the necessary concentration of different production systems on high-potential lands, and the relationship between local customary tenure regimes and a newly imposed or reimposed state-tenure system, with the potential for jurisdictional conflict, all amidst the need for food production. Thus, a number of production systems each with large numbers of participants may be attempting drought or famine rehabilitation at the same time, most likely in the same spatially limited, agronomically high-potential areas. The resource use and recovery rates of these areas may or may not be compatible with each other. Indigenous rates of recovery for pastoralism, for example, may entail lengthy year-round occupation of farming areas that are also important in sustaining large agricultural and growing urban populations.³¹ In turn, incompatibilities in land use can lead to conflict and accelerate land degradation, further reducing the productive capacity of scarce land resources while complicating emerging tenure arrangements.³²

One of the more important effects of war and famine in rural areas is the destruction of customary social systems and organizations, including the in-place systems of resource tenure, to which sociocultural traditions and beliefs are often tied.³³ This comes about directly through conflict itself and the destruction of social groups and sociocultural systems, and more indirectly as local power systems are perceived by participants as failing to provide food and security. The social hierarchy connected to customary control over land resources involves both vertical and horizontal dimensions of land tenure. Very briefly, in the vertical dimension, different hierarchical levels have different amounts and types of control over resources involving individuals, communities, and villages.³⁴ The horizontal dimension involves the division of village, community, or clan land into different uses in different locations and at different times of the year, that is, the division of land into farmland (rainfed versus irrigated), treed land, pastureland, and communal and individual lands.³⁵ In addition, the partition and occasional repartition of individually used land can operate within the village's division of land into different uses (for example, as pastureland and farmland).³⁶ The point here is that when social systems are disrupted, there is a direct impact on the local tenure system and hence on the rules that govern the local use of and access to land resources, and ultimately on food production.

Conflict and famine can depopulate whole areas, followed by resettlement at very different person-land ratios.³⁷ For example, high livestock mortality and the theft and burning of crops imply large-scale unemployment for pastoralists and agriculturalists, and subsequent displacement and migration from homelands to new areas.³⁸ This elicits a change in the resource tenure system in the areas of out-migration, due to the fact that large areas are no longer maintained under previous use and access arrangements. At the same time, large influxes of both refugees and internally displaced persons can overwhelm local tenure systems already stressed by conflict, drought, and famine. The increased competition for scarce resources, and the different notions of tenure that the new arrivals bring, can have significant impacts on the ability of the local system to adequately provide for tenure security and dispute resolution, expediting the abandonment of local tenure rules in favor of a more chaotic and less structured arrangement.³⁹

As resources needed for subsistence become more constrained during times of conflict, drought, and famine, the result can be resource degradation (especially over the long term) and further discord as farmers, pastoralists, and other groups with conflicts of interest (including tribal interests and groups that find themselves increasingly opposed in the larger national conflict) compete for resources (water points, pastures, and farmland) in the same spatially limited areas where both the resources and the stability exist for their use. Again, in such situations, the inability of local leaders and the in-place system to provide leadership in crises of famine and conflict can lead to the abandonment of the resource-use system.⁴⁰

While individual farmers and pastoralists do not visualize a whole land-tenure system as a "system," they are acutely aware of the constraints and opportunities that such a system poses.⁴¹ When the framework containing these constraints and opportunities is disrupted, there may be insufficient social cohesion to mitigate the effects of overcultivation, overgrazing, and other forms of land degradation. Such a situation has significance for the rehabilitation of local production systems, as displacees return to their home areas and are unable to participate once again in familiar resource-utilization practices. Throughout Sudan, continuous environmental degradation caused by deforestation, drought, and overcultivation has contributed to the numbers of people at risk of famine.⁴²

The social polarization of the population as a result of the war and famine can play a role in the reconfiguring of tenure arrangements.⁴³ Famine and instability do not affect all segments of the population equally. Pastoralists and small farmers facing conditions of drought, famine, and instability may be forced to sell agricultural products, especially livestock, at very low prices, becoming impoverished themselves while allowing those who are in a position to purchase stock and grain the opportunity to accumulate agricultural products at very low prices.⁴⁴ Those with the produce are then in a position to sell it at higher prices, further widening the gap between those becoming wealthier and those becoming poorer.⁴⁵ This social polarization then influences the abilities of the different segments of the population to reacquire access to land and water resources and to make and maintain tenure arrangements.⁴⁶

Loss of life and disease constitute yet another aspect of conflict and famine that affects resource tenure systems.⁴⁷ High rates of death, disease, and simply absence can modify the demographic makeup of whole villages, communities, and regions.⁴⁸ This can undermine the viability of indigenous tenure systems and decrease the likelihood that these will be reinstated after conflict and/or famine. The inability of landowners or users under previous tenure systems to maintain user rights over land resources can, especially in times of instability, allow land to be taken over by others, often outside customary mechanisms of transfer, thereby undermining the customary-tenure system that might otherwise have governed whether and how such transfers would have taken place.

Thus, as rural Sudanese return to home areas or are settled in new locations, land tenure and resource use and access issues will rise to the forefront. While the return or resettlement may proceed in a fairly straightforward fashion in less populated areas, or in locations in which ownership, access, and use of land are widely agreed upon (as when cohesive groups return to unoccupied home areas), in other locations and situations it may be more problematic. In areas severely affected by conflict and famine, establishing and/or reestablishing a mutually agreed-upon tenure regime and modes of resource use and access that are widely seen as equitable, secure, inclusive, and legitimate at the national level may be quite complicated.

Notes

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