

ICBM 2012

International Conference on
Business Management



International Conference on Business Management 2012



Annual Research Sessions

Faculty of Management Studies & Commerce
University of Sri Jayewardenepura

**Proceedings of the 9th International Conference on
Business Management**
Turning Crisis into Opportunities: Meeting the Unmet
ICBM 2012

28th February - 01st March 2013
Faculty of Management Studies and Commerce
University of Sri Jayewardenepura
Sri Lanka

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THE LAND FACTOR IN COMMUNITY RESETTLEMENT: TSUNAMI RESETTLEMENT PROJECTS -HAMBANTOTA

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ABSTRACT

Resettlement refers to the process by which individuals or a group of people leave spontaneously or unspontaneously their original settlement sites to resettle in new areas where they can begin new trends of life by adapting themselves to the biophysical, social and administrative system of the new environment. However, prima-face problem in most of these resettlements are that after some time these resettlements is being turning into unproductive informal communities, though the resettling agencies claim success with respect to their community resettlement projects. Henceforth, this paper attempts to clarify this paradox from land market point of view which is also the novelty of this study. Due to several reasons, Hambantota tsunami resettlement sites were selected to study the land market functioning by collecting required data through primary surveys, focus group discussions and the reconnaissance surveys. In particular to the selected site rights and obligations on alienated lands would depend on free grants issued under the Crown Land Ordinance no 08 of 1947. Due to unclear land title the land market analysis indicated several informalities and inefficiencies that would have been affected to the stability of the resettlement.

Keywords: Land Alienation, Resettlement, Land Rights and Land Market

BACKGROUND TO THE STUDY

The need for resettlement of communities in Sri Lanka has been indispensable and has increased ever before due to two basic forces. Firstly, with the devastation caused by tsunami in 2004 (killing nearly 35,000 people and displacing a population of 516,150 along with the commonly caused natural disasters such as floods, cyclones, landslides, droughts and coastal erosion, displacing more than 6 hundred thousand average population per year (Disaster Mitigation Centre, 2004), has made Sri Lanka a disaster prone zone. Secondly, the physical development and reconstruction activities expedited after the war have required people to be resettled from the areas they live

and work to other locations. Presently, the common practice of community resettlement in Sri Lanka is to settle them in an available state land providing the necessary infrastructure facilities (Vroey, 1984). As claimed by the resettlement agencies apparently it seems that the resettled communities are in a better position than their previous locations in terms of better housing, better services etc. Nevertheless, the undeniable issue as mostly discussed by the scholars and the government agencies is the sustainability of these settlements, where in most case the resettled communities leave the given locations either to previous places by force or to a place of their own choice, where over the period of time the resettled

sites are converted to unproductive informal communities (Smith, 2001). This has been the experience of many resettlement projects in Sri Lanka too, such as resettlement for Southern Highway, many tsunami resettlement projects etc. Henceforth, this paradox raises a question as to whether the real issue is the apparent notion of “leaving the sites” or whether it is the “way it is being left”? This paper attempts to clarify this question through analyzing the functioning of the land markets in resettlement communities where this so called “functioning” depends on the access to land rights by respective communities.

The Land Factor in Resettlement Projects

Resettlement is the process by which individuals or a group of people leave spontaneously or unspontaneously their original settlement sites to resettle in new areas where they can begin new trends of life by adapting themselves to the biophysical, social and administrative system of the new environment (Woube, 2005). Hence, it refers to the restoring process of left communities in new places. Furthermore, Antinbilek et.al (1999) has defined “resettlement”, as uprooting people from their *homes and lands* in a situation that would never be hoped, and then it is necessary to avoid a sudden fall in displaced families’ standard of living, and indeed to rehabilitate them by improving this standard to achieve a sustainable development. On the other hand as per the international advocacy a successful resettlement policy should be development oriented and planning must take into account (ADB, 2009). In this regard, having secured land rights is a must to achieve the development induced

resettlement and at the same time to help in minimizing the commonly associated problem of resettlement such as impoverishment of local communities, the destruction of their productive assets and the disruption of their social fabric. Smith (2001) mentions that “at one level, outright rejection and abandonment of the resettlement site can be safely interpreted as a failure” of the said and the extension /construction of buildings and investment in them can be taken as a main criteria to judge the success of the resettlement project. Hence, access to clear land rights which the investment and management of the settlements depending on, is a key factor that causes success or the failure of the resettlement projects. Nevertheless in reality “the rights to properties at right time” for these resettled communities are least emphasized by policy makers. Therefore, it doubt the justice of “restoration” that should be in a resettlement process, especially when the resettlers had enjoyed the private property rights prior to resettlement and keeping themselves with no proper right to the lands for a considerable period after resettlement. [Bill et .al \(1993\)](#) studying the case of South Africa mentions that in the event of a resettlement, cropland should be best allocated to individual families and their land rights must be clearly defined as freehold ownership or long-term leases. Farm sizes have to be flexibly adjusted to skills, availability of family labor, and the capital assets of the families, therefore being allowing them to sell or rent their land to other beneficiaries. Hence, the main argument of this paper too, is that to restore property rights to the resettlers within a reasonable time period and encourage

efficient land market functioning as an essential part of successful resettlement.

Scholarly Debates on Land Rights & Functioning of Land Market

Theoretical Basis

There is a considerable agreement that land is – still – a vital resource for rural livelihoods in developing countries (Ikdahl et al. 2005). Land is a natural resource while land with a secured property rights is an economic resource. The nature of land rights and the way they are enforced have significant consequences for resource allocations and economic efficiency (Perera, 2010). Land can be used as a resource to reduce poverty and at the same time to strengthen poor people's rights in diverse local contexts in different developing countries. Thus different perspectives on rights, property, land policy reforms and different views on the formalization of land rights as a way out of poverty for rural people are at present central issues of debate on the international development agenda. Another key reference in the international debates on land rights formalization is Hernando de Soto's book, "The mystery of capital" (2000): The central argument in his book is that the poor people remain poor because they lack access to formal property rights. When poor people's rights to their assets are formalized, they will be able to use land titles as a collateral in the financial markets (banks). These loans can be used to make productive investments, which in turn will lead to economic growth and poverty reduction (Holden et al. 2006, Lasserre, 2006). Further, the World Bank Report 2003, seems to establish a direct link between poverty reduction and land markets when it

states as a point of departure that: "Access to land and the ability to exchange it with others and to use it effectively are of great importance for poverty reduction". According to the World Bank, "For most of the poor in developing countries, land is the primary means for generating a livelihood and the main vehicle for investing, accumulating wealth and transferring it between generations. On the other hand, researchers and development practitioners too have long recognized that providing poor people with access to land and improving their ability to make effective use of the land they occupy, is central to reducing poverty and empowering the poor people and communities (Lasserre, 2006). With respect to the arguments placed above, the role played by private property rights in the economic development of the western world has been powerfully documented by historian such as North and Thomas (1973) and Rosenberg and Bridzell (1986). Same as them, Byamugisha (1999) discusses financial development and economic development with secure land rights, the land tenure security and investment incentives linkages, the land title, collateral and credit linkage; the land liquidity, deposit mobilization and investment linkage; the land markets, transactions and efficiency linkages; the labor mobility and efficiency linkages and explained formalization of ownership of land rights has been related to improved access to institutional credit, higher investment in land, higher land productivity, higher land value, higher output and income. Henceforth right for land should also be a basic ingredient in resettlement planning too in the event of resettlers being struggling for restoring their

economic, physical and social standards.

Nevertheless with respect to policy point of view as Deininger (2003) states, “inappropriate land policies constitute a serious constraint on economic and social development in a number of respects that are of great significance for developing countries. Insecure land tenure, outdated land laws, and slow or dysfunctional institutions of land administration can restrict private investment, undermine good governance, and reduce the ability of local authorities to raise taxes. Highly skewed distributions of landownership and patterns of land access that discriminate according to gender or ethnicity limit the ability of decentralized market mechanisms to put land to its best uses”. In real sense the laws that prohibited land transactions have been common in many countries until recently and private property rights to land are still not legalized and land sales markets are prohibited in many countries. While there is a trend in the form of removal or relaxation of these restrictions in many former socialist and communist countries, state ownership of land is still the constitutional basis in many of them. This could be probably due to the fear that the capitalistic economy would exploit the poor. In Sri Lanka too where nearly 80% of the lands are owned by the state and restrictions are put in place with respect to market operations. The PHRD-financed Land Markets Study by the World Bank during 2005 confirmed that the value of state lands (LDO lands) was as much as 50 percent lower than comparable privately owned land. Even though lifting these land market restrictions has been proposed by the World Bank still it has not been taken

place. However, the failure to develop a good alternative and the collapse of the Soviet State have led to a range of reforms that implies an increased recognition of regulated markets as an instrument to promote economic development in former socialist countries. The transition from a socialist economy to a more liberal market economy is not straight forward. However, this also includes the transition from state ownership and control over land resources to and institutional environment that enhances the utilization and development of the land resources as well as the rest of the economy. This statement points out the question of security of land tenure in post-colonial states, and to the entry of poor people’s land into the market and use of land as collateral for loans. But, it is also interesting to note that even though the concept of secure land rights is a main issue in current debates, still local people in many cases will not perceive of their non-formalized land rights as “insecure”. In this context, it is also argued that a better understanding is required “of the complexity of multiple, informal tenures within the ‘extra-legal’ sector, in all their diversity”, and that we must “acknowledge at the outset that they are fundamentally different to the individualized, exclusive, private property systems of Western capitalism” (Kingwill et al. 2006). Another perspective to be look in to is that poorer residents are less mobile because of fewer resources and opportunities. Therefore, low-income residents usually sell plots when there is an immediate need for money. The only way to obtain instant cash under such circumstances is to liquidate their property in spite of its legal rights, a process known as “crisis-selling”.

Common reasons for such crisis-selling are illness of a family member, legal expenses if the household is involved in a court case or extreme poverty. The severity of the crisis determines the level of the price, in that the plot is worth as much as the value of the need. Therefore, poor families are often forced to sell at below “market” value. Similarly, middle-income buyers recognize the vulnerability of such sellers and use this information to bid them down on price crisis-selling. “Crisis-selling” is a crucial social factor in the determination of price and enables middle-income buyers to exploit the poverty of poorer residents. Using such tactics the middle-income buyers can acquire land at relatively low prices and displace poorer residents or sell for speculative purposes. The buyer is paying not only below market value for the plot but also is increasing the price way beyond the original sale price, making the re-purchase of the plot by the poorer resident impossible. In addition, the tragedy of such selling is that not only is little money received from the sale but also that this has already been targeted for a particular need and, therefore, the family receive limited real benefits from the sale. Another factor which prevents low-income families from selling land at higher prices is a fear of breaking the law.

Having recognizing that resettlement is a multisided opportunity for the reconstruction of systems of production and human settlements that represent a development in the standard of life of those affected, as well as in the regional economy of which they are a part where land allocation places a greater importance to above all respect. Hence, this study aims to address this so called land

issues in resettlement in Sri Lanka with special reference to Hambantota resettlement projects. In this task, this paper makes several departures from existing discussions where it seeks to address the unsettling issue of resettlement by seeing the land rights and land market functioning of these resettlement projects, which is also the novelty of this study. Accordingly, the paper will present an update presentation and analysis on existing land markets in Resettlement projects in Hambantota District. For the said objective, firstly the present legal framework of land rights in the respective resettlement site will be discussed. Secondly an analysis of land market practices in the resettlement project will be carried out followed by an analysis on its implications on land use efficiency and investment.

Tsunami Resettlement Project-Hambantota

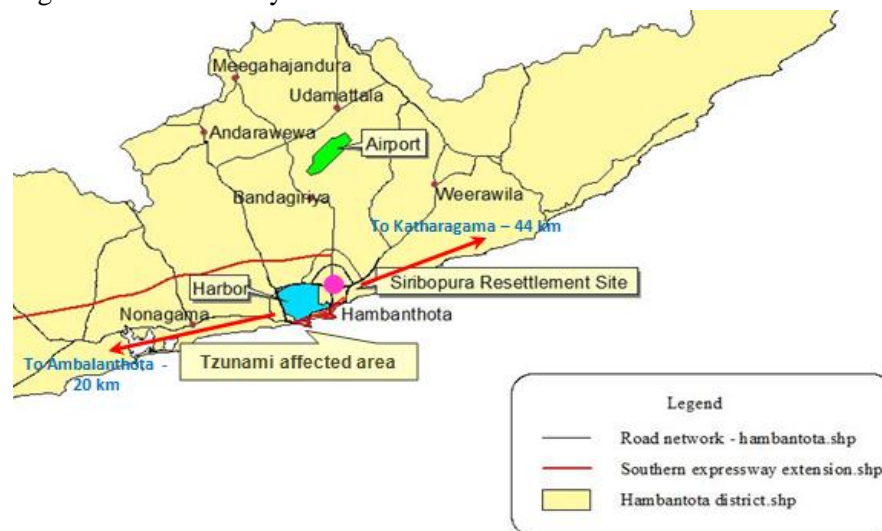
The devastation to people and their properties caused by Tsunami 2004 in Sri Lanka can be considered as the main incident that caused resettlement due to disaster in the recent past. Among such resettlement programs implemented, tsunami resettlement projects in Hambantota can be considered to be important for this study due to three major reasons. Firstly the Hambantota DS Division was reported as one of highly affected Tsunami area (Fig-01) where almost 30% of the Hambantota old town was washed away with main commercial area. Therefore, the community has vital experience with regard to resettling themselves. Secondly, lands in Hambantota are owned by state where almost all the resettlers were located in these state lands that suits to examine the land issue which is the focus of the study. Thirdly, at present

Hambantota is to be developed as one of Sri Lanka's mega cities (Urban Development Authority) and will be function as the principal focal point of development with the newly developed Sea Port, Oil Refinery, International Convention Centre, International Airport, International Cricket Stadium, Southern Railway Line, and Southern Expressway together with Hambantota International Sports Hub. Such massive developments in Hambantota will create massive infrastructure developments such as road, water, electricity, communication facilities etc where existence of an efficient land market with clear land rights will be an essential component to absorb the upcoming intense urbanization pressure and to materialize and flow such benefits of investments and development to the existing community.

Among the Tsunami affected communities majority were lived in Hambantota Urban Council area and were engaged in fisheries, business, services and government jobs. 90% of them lived in Hambantota West &

Hambantota East GN divisions (Figure 01). Most of the affected households lived together with more than one family unit and did not have minimum requirements for living (Indika, 2007). As a result, these poor communities were on the Tsunami Relocation Scheme which was prepared to provide permanent residences. For this purpose, several government and non-governmental organizations participated actively of which the UDA was the key agency involved in preparation of layouts and guidelines, coordination, regularization, implementation and progress monitoring of such resettlement projects, where the DS (Former AGA) were to take the responsibility and the authority in coordination and providing lands through PLC by selecting beneficiaries and providing other facilities. Hence, the experiences of these two agencies with regard to the land allocations were taken into account in addition to the focus group discussions and primary surveys carried out during the study.

Figure 01 – Case study area



Source: Urban Development Authority

METHODS

This paper attempts to discuss and understand the land alienation process in resettlements and its impact to the land market function. Because, most of the resettlements sites are converted in to unproductive informal communities after sometimes though the resettlement agencies claims success of their resettlements projects. This paper is an attempt to answer this paradox from land market point of view. For the purpose of the study, primary survey was conducted based

on the resettled households whom were located in Siribopura area in Hambantota (Figure 01). However, as per the UDA, this settlement also includes resettlers who are not affected by Tsunami but also have relocated due to other reasons (Table 01). Hence, excluding the other resettlers, total sample population of 1083 tsunami resettled households was defined, and among them 83 households was selected randomly for the primary survey.

Table 01 – Breakdown of Total Resettlers due to Reasons of Relocation

Description	Amount
Beneficiaries from Tsunami affected list	1083
Relocate due to Hambantota town development	200
Relocate due to ‘Kakiriobada project’	53
Others(relocate from reservations and given for low income people)	846

Source: UDA, 2010

In addition to the primary surveys, empirical evidences were drawn from focus group discussions with community leaders in the area, Grama Niladari etc for further understanding of the land market operations. This data obtained has analyzed qualitatively based on descriptive method.

Overview to the Legal Framework for Land Alienation

Land alienation procedure under The Crown Land Ordinance (CLO) No. 8 of 1947: As mentioned above the main focus of this study is to seek the land rights and market functioning in the resettlement projects. In Sri Lanka, there are several schemes of state land alienation programs for smallholder housing and agricultural settlement and all together all rights and obligation of tenure would depend on the law governing the respective

alienation scheme. Among such, the lands alienated under CLO No 08 of 1947 are significant which also applies to Hambantota resettlement projects too.

General Procedure of Alienating Lands under CLO: The trustee of the CLO lands is the President on behalf of the Republic Sri Lanka. Alienations of lands to individuals are carried out by way of a sale or a lease, which is depending on the purpose of land, is to be used. Land sale can be executed only on one specific instance as describe in regulation and Land Order No. 194. Under this law crown grants can be issued, retaining the rights of the government to any mineral and without any other conditions. In addition leases can be granted namely long term lease and short term lease. Long term lease are issued for agriculture, commercial, Industrial,

and residential purposes for a period of 30 years and this can be extend to the 50 years unless it is changed by a special cabinet approval. Lease period less than 30 years is considered as the short term lease. Under the CLO, the “Annual permit” is a temporary form of tenure, issued for land used for various purposes such as collection of sand and clay etc... or the land reserved for future developments, which could not be permanently given out. However, conditions are laid down according to the nature of activities and permit has to be renewed each year (Pathirathne, 1998). Further, president has power to mitigate or release any terms, covenants and conditions set out in

any lease, permits or license issued under this ordinance at any time. Where the owner of any land comprised in state grant or lease is desirous of dividing or partitioning such land, he may apply to the president to accept the surrender of such grant and to regrant or lease the land comprised therein in parcels (Deheragoda H, 1980). Finally, under the “Crown Grants” which mentioned above “Free Grants” can be given to beneficiaries in such a case it will be similar to granting private ownership of land. Refer Table 02 for brief of rights and restrictions on Crown lands alienated under different tenure security.

Table 02 – CLO Rights and Restrictions

Tenure Security	Annual Permit	Lease	Free Grant
Protected tenure	Yes	Yes	No
Subject to cancellation	Yes (on violation of conditions)	Yes (On violation of conditions)	No
Ability to make development	Yes	Yes	Yes
Ability to transfer for temporally for cultivation	Not allowed	Sub lease is allowed after 5 years with prior approval	Yes
Dispose the land in open market	Not allowed	Only lease hold right can	Yes
Unitary succession	Not allowed	Not applicable	Not Applicable
Succession on inheritance	Not allowed	Yes	Not applicable
Ability to mortgage	Not allowed	Allowed with prior approval	Allowed
Restrictions regarding foreclosure for debt repayments	Not applicable	Allowed	Allowed
Ability to subdivision	Not allowed	Allowed depending on the conditions and size of the allotment.	Allowed

Source: Pathiran, 1998

Land Alienation Procedure in Hambantota Resettlement Project

According to Hambantota DS tsunami resettlers are to be given “Free Grants” under the CLO No 08 of 1947 as

described in sec 6, irrespective of their previous tenure. Hence, the procedure to alienate lands had been as follows. At the time of resettlement planning, firstly the site for resettlement had

been identified based on the availability of state lands, distance to the Hambantota city centre and the future development trends in the area¹. Secondly, the approval for the site was to be taken from the Land Use Committee. Then the Survey Department was to arrange preparation of survey plan in collaboration with DS. Upon its completion “SUDEEPA (I)² format will be certified by GN, Land officer and DS. Thereafter, SUDEEPA (II)³ format will be completed and will be sent to the Survey Department for the preparation of “O” diagram⁴ with the approval of DS where the layouts were to be prepared by the Urban Development Authority. Finally to obtain the approval from president, relevant documents may go through the DS to PLC through LCG. After taking the approval of the president the deeds to be granted to the beneficiaries will be registered in the Land Register through DS (Figure 02).

¹ According to the DS the beneficiaries were selected based on three criterions: (1) He/ she must be tsunami affected person (2) property was situated within 100 m from the sea (3) there is no alternation live in safely. After selecting the beneficiaries, if there is multi-family in one home, given individual house for each family and there was no any compensation paid for resettlers, where they are being provided a house with 20 perches land with the infrastructure provided to the site.

² Application for Land Grant by the tsunami beneficiaries that will be certified by Grama Niladari, Land Officer and the Divisional Secretary

³ Application for Land Grant by the tsunami beneficiary that will be certified by the District Secretary

⁴ A flow chart that shows the continuation of rights of parties to a particular land parcel

Progress of the Process: According to the Hambantota DS all selected beneficiaries were given possession of a house located in 20perch land. In addition, for those who engaged in agriculture prior to the resettlement were provided an extra land with 40perch to continue their livelihood. However, these lands are located 1km away from the resettled land. Some donors gave the opportunity to the beneficiaries to see their proposed homes and got the comment from them. Some of the donors tried to get participation of beneficiaries to develop land during the period of construction. Within that period the community had an opportunity to prepare fence, cultivate, and landscaping their own site (UDA, 2011). Nevertheless, the progress of formalizing the land rights shows that since 2004 to 2011 out of 1083 resettled housing units, only 38 resettlers had received the deeds (free grants) and only 295 SUDEEPA formats are being processing with the land commissioner, while another 650 household sites are in the stage of surveying by the Department of Surveying (Table 03).

Hence to date, (except the above mentioned 38 households) these beneficiaries do not possess formalized land rights to their properties.

ANALYSIS ON LAND MARKET FUNCTIONING IN THE RESETTLEMENT SITES

Background of the respondents: The functioning of the land market in the resettlement has been analyzed based on the primary surveys, focus group discussions and the reconnaissance surveys. Among the respondents 73% of them were Sinhala Buddhists while

the next highest (25%) were Muslims. The average household size in the settlement is around 4.4. 54% of families' falls to an income range between Rs 10,000 to Rs 25,000, where prior to resettlement it has been 46%. 36% of them fall between an income ranges of Rs1500 – 10000 after resettlement. Prior to the resettlement this amounted to 46% between Rs1500- Rs 10000 and 41% between Rs 10000-25000. This shows that these households fall into the category of poor to lower middle income group where significant improvement in income level cannot be seen even after the resettlement. Analyzing the land rights of the households before the resettlement, 34% respondents' lived in encroached lands while 54% of the households lived in state lands. After resettlement all the households received occupation of 20 perch state land in Siribopura which is 4km from the Hambantota town (Figure 01). In addition, 40 perch land was given for agriculture who had agricultural lands prior to resettlement. However, these lands are located 1km separately from the settlement.

Land Market Practices in Tsunami Resettlement Projects

Land Transactions: As mentioned above tsunami resettlement site Hambantota are located in a state land which have been allowed for the beneficiaries to settle in with a house that have been built with the aid of different donors. Even though all beneficiaries have the right to possession these sites, according to the respondents only 2.5% possesses the formal government grants. 92.5% of respondents still possess only a letter (stating that the respective beneficiary receive the possession of the house)

issued by the donor at the time of handing over the house (who did not have any legal right over the state land) with or without the signature of the DS. 1% of them have verbal agreements. The rest of the 4% of respondents are not aware of the documents that they have to prove their ownership (Table 04). Nevertheless though the letter issued by the donor is not strictly legally binding, it has been a legitimate document from resettlers point of view, in order to prove their ownership. This is shown by the fact that nearly 30% (focus group discussion) of beneficiaries had managed themselves to sell these properties (though selling of properties have been not yet allowed) in informal markets to outside settlers. The focus group discussions also revealed that these properties were sold at a price of Rs 200000 to 300000 initially (2006 -2009) and went up to Rs1500000 to 1900000 at present . Initially, the main reasons behind such selling properties were said to be (1) inability to continue their homestead agriculture (as the agricultural lands locate far away from the given house, (2) inability to continue their fishing industry in the given location etc. Thereafter with the upcoming development⁵ in the surrounding area the demand from outsiders to purchase these properties have increased. Therefore, the households who expected to earn a return through capital appreciation, including those families who had received more than one house (under the criteria used for selecting beneficiaries) have sold their properties to outside buyers (focus group discussion). In view of the above, the resettlers practically would not wait years, until the formal deeds are granted by the Land Commission

(according to the process described in sec 7) to realize the capital value of the property. Hence, in the absence of a formal market they would tend to sell their properties in an informal market. However in this particular case, it is difficult to determine whether this selling price reflect a crisis selling (price below market value) or not as mention by Thirkell 1996, due to the fact that rest of the surrounding area too do not have any significant number of private lands to compare the formal and informal land market prices of the lands. Yet with regard to the beneficiaries who sold their properties “at the edge”, (based on the above mentioned reasons) it can be theoretically presumed that the price they sold would have been at a

value lower than the market value of a clear titled property as the buyers usually have higher bargaining power when purchasing such encumbered land.

Interestingly, these outside buyers, knowingly that they receive a property with an unclear title had taken steps to draw up a strong written agreement signed by a notary public at the time of transaction with these tsunami beneficiaries (Sellers) in order to minimize their title risk. This agreement binds as a contract between buyer and the seller to transfer all the rights after the legal beneficiary (seller/tsunami beneficiary) receives the free grant from state

Table 03 -Progress of the Land Permit Procedure From 2004 To 2011

Description	Amount
Total Housing	1083
Submitted to the land commissioner	295
Surveying land plots by Department of Surveying	650
Offered Tsunami permits	38

Source: Provincial Land Commissioner, 2011

Security of Tenure: In strict legal sense once the beneficiaries receive a free grant that will not be subject to cancellation (Table 02). However, as these beneficiaries have not yet been received any formal title to the land legally the security of tenure is not guaranteed. From the view point of resettlers, 93% are in the state of dissatisfaction (primary survey, 2011) with regard to their present tenure security. Further, with the development activities moving on in the Hambantota town (eg: proposed

ring road that goes along the settlement) these resettle community has been vulnerable to various rumors spreading around that they might be displaced once again to some other area. On the contrary, when the resettlers were asked with regard to the administrative support they expect further from different agencies, only 10% of households expressed that they require administrative support to expedite obtaining the deed for the land (Table 05)

Figure 02 - Administrative Steps in Land Alienation Procedure for Tsunami Resettlers Hambantota

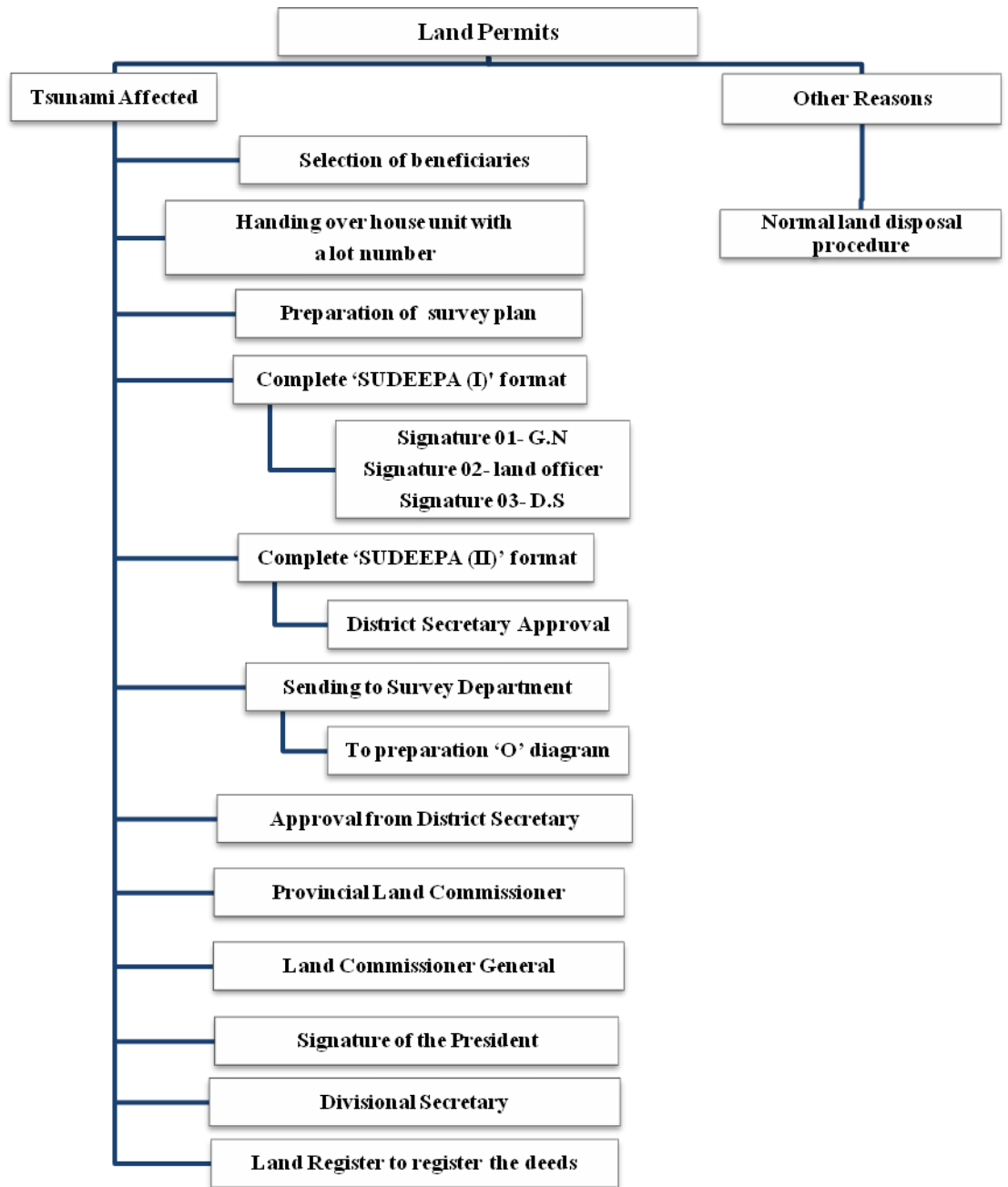


Table 04 - Documents Available for the Present Settlers to Prove Their Title to Property

Type of document	Frequency	Before Resettlement (%)	Frequency	After Resettlement (%)
Inherited	4	5	0	0
Registered Deed	33	41	2	2.5
Unregistered Deed	7	9	0	0
Verbal	2	3	1	1
Written document issued by the donor	3	4	74	92.5
No idea of the document available	31	38	3	4
Total	80	100	80	100

Source: Primary Survey, 2011

Table 05 - Matters in which Further Assistance Expected from Different Government Agencies by the Resettlers

Requirements	Frequency	%
Infrastructure development for the area	8	10
Improve housing condition	29	36
Improve livelihood	8	10
Expedite obtaining deeds to the lands	8	10
Do not expect any service further	27	34



Source: Primary Survey, 2011

Idling Properties: Another factor that was observed in resettlement that caused a dysfunctionality of the land market is the number of properties that are being idling. Nearly 30% of the tsunami houses are being unoccupied (reconnaissance survey) even though those properties are being allocated for beneficiaries. Prior to 2009, this unoccupancy ratio has been around 50% (focus group discussion) Figure 04, 05 and 06 shows the way in which housing units are being unoccupied. Even though this unoccupancy ratio has come down⁵, yet it is a considerable number as far as a resettlement is concerned. Almost all the commercial properties inside the resettlement are not functioning and are being closed and deteriorating. Further, the focus group discussion revealed that some of these unused properties have been using for illegal activities such as prostitution and drug dealing (ganja) and if increased would have a serious social implication to the whole settlement. Further, this resettlement locates in a place where there is no host community physically so that at a glance these settlements looks isolate from rest of the area until proposed developments to the surrounding area come up.

As a matter of fact 70% of respondents expressed that they are neither satisfied nor dissatisfied about the location of their settlement which in turn implies that after their “well-being” is not restored as the proposed

⁵ According to the resettlers the demand for land in this area has increased with the establishment of the New Administrative Complex (figure 03) and the Harbor Development and the new town development etc. and as a result the outsiders have purchased these lands from the resettle beneficiaries.

development has not yet implement as they expected.

Regularity of the Properties and Access to Credit: Considering planning interventions and building regulations as a main regularity tool for properties concerned highlights that none of the resettled properties surveyed have obtained or attempted to obtain planning/building approval (Table 06). From administrative point of view, in order to obtain such building and planning permission from relevant local authorities, ownership to the land has to be proofed by the claimant, where in this particular instance the resettlers do not have any legally valid proof (accepted by local authorities) for lands. Hence, yet the beneficiaries could not be considered as the rightful owners to these lands in order to obtain such approval. As a result, assessment numbers were too cannot be obtained by any of the resettlers for their respective properties (Table 06). On the other hand, the respondents too do not feel that it is an essential requirement to obtain such approval as there was no particular impact for them (as they feel) in not obtaining such approval. Out of the total respondents, 63% were unaware whether such planning approval could be obtained or not for these resettled properties (primary survey, 2011). However, irrespective of these regulations, 41% of households surveyed had made extensions and modifications to houses in order to construct their kitchens, toilets, extensions for small scale businesses and industries and for let out purposes etc (Table 09 and Figure 04)

Table 06 - Tools for Regularity of the Property

	% of households who gone through the following regularity tools			
	COC	Building Approval	Survey Plan	Assessment Number for the property.
Availability BR (%)	0%	0%	0%	24%
Availability AR (%)	0%	0%	0%	0%

Source: Primary Survey 2011

On the other hand, unavailability of planning and building approval means that these properties are not being used as collateral for formal credit such as mortgage. However, the respondents have obtained credit facilities to improve their housing, businesses and for other personal matters with a loan amount varies from Rs 12,500 to 500,000. (On average it amounted to Rs 147,000/household) from sources such as micro loans, informal credit markets (Table 07). 31% of respondents who obtained loans to improve their housing had accessed through micro loans or informal credit markets with a higher interest rate. 95 % of them expressed that they do not have any collateral to access for formal credit facilities except micro loans even after resettlement.

This section examines the level of land use efficiency and investment in the resettlement as an indication how the existing land ownership and market had an impact on the land utilization of resettlers. In order to ascertain the level of land use efficiency and investment following criteria were examined before and after resettlement; no of activities related to with the land, amount of Investments made in improving the land and property after resettlement with permanent structures, return on land/property in terms of income from agriculture, businesses or letting-out, effort made on obtaining/improving common amenities in the settlement, level of utilization of common areas such as public halls, nurseries, parks playgrounds etc.

Land Use Efficiency and Investment

Table 07 – Amount of Credit Obtained by Resettlers

Loan Amount	Frequency	%	Major Source of Credit
Have not obtained any loan	57	69	N/A
1 – 100000	12	14	Micro finance from Samurdi Bank, Sarvodaya, Sanasa Bank, Janashakthi Bank, Ruhunu Development Bank, Micro

			finance/informal credit
100001 – 200000	4	5	People's Bank, Sanasa Bank, Gramin Bank, Ruhunu Development Bank, Lanka Puthra Development Bank, informal credit
200001 – 300000	5	6	People's Bank, Commercial Bank
300001 – 400000	2	2	Samurdi Bank, LOLC Bank
400001 – 500000	3	4	People's Bank
Total	83	100	

Source: Primary Survey 2011

With regard to the activities related to the housing plot, in addition to the living purpose 49% of respondents had used their housing plots for farming, small industries, businesses, dairy and fishing prior to resettlement. After resettlement, this had reduced to 27% (primary survey, 2011). However, according to the respondents this reduction is not exactly due to weak ownership but due to lack of space, lack of capital and markets for their products and other locational disadvantages and shifting of their sources of income from land related to non-land related

livelihoods. However, the average return on land has increased from Rs 13830 to Rs 14615 per households for those who are engaged in activities related to the land (Table 08). Similarly as mentioned in sec 8.1, irrespective of the weak title to the land, 41% of the respondents who had access to sufficient capital or informal and micro credit had made investment on land in terms of extensions to the house, constructing kitchens and toilets, small boutiques etc (Table 09). These investments had varied from Rs 2,000 to Rs 350,000 with a mean value of Rs 89718 per household.

Table 08 – Intensity of Land Use in Terms of Return on Land

Income from land as a source of livelihood	BR	AR
	%	%
1500 – 10000	44	32
10000 – 25000	44	61
25000 -35000	12	7
Avg. return	Rs13830	Rs 14615

Source: Primary Survey 2011

Table 09 - Investment Made on Land and Property by Resettlers

Investment Amount	Frequency	%
No investment	49	59
1-50,000	19	23
50,001 - 100,000	3	04
100,001 - 150,000	4	05
150,001 - 200,000	4	05

200,001 - 250,000	2	2
250,001 - 300,000	1	1
300,001 - 350,000	1	1
Total	34	100

Source: Primary Survey 2011

Improving common amenities and utilization of common areas:

Enthusiasm that the households show in obtaining and improving common amenities and utilizing them well indicates the stability of peoples mind with regard to the present settlement. As observed in the study, even though land allocations for common amenities were seen in the settlement, some of these amenities had not yet built up. Hence, to date those lands are totally in underutilizing state. Further, the Pension Trust Fund Hall and a Community Centre which has been already built up is not yet functioning, where people dose not seems to bother in utilizing them. Comparatively, the utilization of children's parks and playgrounds could be seen to a satisfactory level. Also another community centre which has already built has been converted to a kindergarten. In addition as mention in Sec 8.1 all commercial properties inside the settlement are yet unoccupied mainly due to unavailability of threshold population within close proximity to run such a commercial property in an economically feasible manner. Out of five (05) sites allocated for Buddhist temples four (04) Buddhist temples have been abandoned without clergies, as some of them are mere housing plots built for residences rather than specifically designed for temples. Islamic mosques are comparatively well built with the participation of the Islamic community, where people are actively practicing their religious

customs (Reconnaissance survey/focus group discussion 2011). The enthusiasm of households does not seem positive in improving these un-built amenities and make them utilize where, as per Table-05 only 10% of the resettlers showed interest with respect to improve the infrastructure facilities in the area.

CONCLUSIONS

This paper argues that restoring land rights with clear titles enabling efficient functioning of land market is fundamental for a successful resettlement process. Usually, land allocations for resettlers take place through state land alienation programs in respective countries, which is also applicable to Sri Lanka too. However, converting these state controls over land rights into private property rights has often being a debatable issue in terms of land market restrictions imposed on these lands.

Within this framework, this study attempted to analyze the unsettling issue of tsunami resettlement projects Hambantota Sri Lanka, from land market point of view. The background analysis of the selected resettlement project shows that many of these resettlers are in the state of poor to lower middle class community where majority of them had not enjoyed private property rights both prior and after the resettlement. According to the authorities, alienation of lands for resettlement project is carrying out through Crown Land Ordinance no 08 of 1947 and accordingly free grants

will be given to the resettlers. Hence, technically the resettlers ought to have restored their lives in terms of land rights. Yet in reality it was revealed that since 2004 only limited number of deeds (free grants) have been granted to the beneficiaries, where the majority of other qualified beneficiaries still possess encumbered land rights with informal documents to prove their title to the land they occupy. On the other hand, considerable urban pressure will be brought up as a result of the existing plans to develop Hambantota as a mega city which will increase the demand for land in Hambantota in general and for the properties in these resettled sites in particular, as they are located closely to the Hambantota new town centre.

Within this scenario studying land market functioning in the Hambantota resettlement project highlights that even though legally sale of these lands are not yet allowed, a considerable amount of land transactions have been taken place within the informal market. It was interesting to note that in the absence and loss of faith about the formal land market tools, the public have come up with their own para-legal methods such as written contractual agreement in order to make the land transactions work. However, this informal land market would have several implications on the resettled beneficiaries and the land market in turn. Firstly as the beneficiaries are selling their properties at the time they do not have a clear title to the land (encumbered property) and in most case at a crisis situation, would give higher a bargaining power to buyers at the time of land transaction is taking place. As a result, the beneficiaries (sellers) may

not be able to realize its optimum capital price for their property. This in turn would make the sellers (beneficiaries) lack of capital to *restore* (which is fundamental in resettlement) themselves in a better position afterwards, where they would fall into the situation of continuing their previous lower economic status of life. Secondly according to the current rate of progress in granting deeds it may take quite a long period to formalize the tenure of these legal beneficiaries. As a result there is a tendency that this informality might continue for a longer period without being replicated, if the outsiders (buyers) too could not secure their tenure as expected through contractual agreement with the buyers as mentioned in sec 8.1. Another consequence of failure to formalize the land rights of these resettlers are that none of these properties still come under the purview of the respective local authority; as these households are not legally qualified to obtain the planning and building permits and the assessment numbers without their proof of title to the land. In addition, loss of public faith towards these land regulatory tool could also be seen. Hence, the “independence /self sustainability of the resettlement” which is one of the key aspects considered to be a success factor for the *settlement of resettlement*, seems to be missing as far as these projects are concerned. Further to this matter inability to access of formal credit markets were also seen, as majority of the resettlers have been unable to use their property as collateral. Hence, using land rights as a way out of poverty as argued by De Soto (2000) have not yet been materialized in this particular case. In addition to the existence of informal land market,

market inefficiencies were also seen in terms of unoccupied residential, commercial, agricultural and civic properties in significant numbers. Some of these locations on the other hand had become unsecured spots, indirectly aiding and abetting the uprising of various social problems which threatens social stability. However with regard to land use efficiency and investment, not much downward trend has been occurred in relation to occupied lands, irrespective of the said shortcomings in the land market in comparison to the status prevail for the said prior to resettlement.

As a matter of fact, these results shows that land factor in resettlement projects have significant implication towards the overall success and the sustainability of the resettlement project. Therefore in couple with the development goals in the area policy makers should pay their attention on formalizing land rights at right time to provide a real sense to the “resettlement” at the same time to generate an efficient land market that could facilitate the upcoming development in the area.

ACKNOWLEDGEMENTS

This work is supported by the Research Grant of University of Sri Jayewardenepura. Further the assistance for data collection was provided from the Urban Development Authority, Hambantota.

ABBREVIATIONS

AGA – Assistant Government Agent
 AR – After Resettlement
 BR – Before Resettlement
 CLO – Crown Land Ordinance
 COC – Certificate of Conformity
 DS – Divisional Secretary
 GA – Government Agent

GN - Grama Niladari
 LC – Land Commissioner
 PHRD – Policy and Human Development Grant
 PLC – Provincial Land Commissioner
 SUDEEPA – Tsunami Deemana Pathraya (Tsunami Land Permit)
 UDA – Urban Development Authority

REFERENCE

ADB (2009) *Safeguard policy statement*, ADB policy paper, Asian Development Bank

Altinbilek, H.D., Bayram, M., & Hazar, T., (1999) *The new approach to development project- Induced resettlement in Turkey*, Water resource development, Taylor and Francis Ltd, vol. 15(3).

Bill, H., Kinsey, Hans P., & Binswanger. (1993) *Characteristics and performance of resettlement programs: A Review World Development*, 21(9): 1477-1494.

Byamugisha, F.F.K. (1999) *The effects on land registration on financial development and economic growth: A theoretical and conceptual framework*, University of East London, UK

De Soto. (2000) *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*, New York: Basic Books.

Deheragoda. H., (1980) *Legislative enactments of the Democratic Socialist Republic of Sri Lanka: Agriculture and lands*, Colombo 02: Vauxhall Investments Ltd, 11: 294-315.

Deininger, K., (2003) *Land Policy for Growth and Poverty Reduction: Washington D. C.*, The World Bank.

- Holden, S., Karrhus, R., & Lunduka, R., (2006) *Land policy reform: The role of land markets and women's land rights in Malawi*, Noragric Report, (36), Norway: Norwegian University of Life Sciences (UMB)
- Ikdahl, I., Hellum, A., Kaarhus, R., Benjaminsen, T., A. & Kameri-Mbote, P. (2005) *Human rights, formalization and women's land rights in southern and eastern Africa*, *Studies in Women's Law* no. 57, Oslo: Institute of Women's Law, University of Oslo
- Indika (2007) *Is tsunami resettlement projects fulfill the expectations of Tsunami displaced people?*, Dissertation, University of Ruhuna
- Kingwill, R., Cousins, B., Cousins, T., Hornby, D., Royston, L. & Smit, W., (2006) *Mysteries and myths: de Soto, property and poverty in South Africa*, Gatekeeper Series 124. London, IIED.
- Land Development Ordinance No 19 of 1935, No 03 of 1946, No 49 of 1953, No 22 of 1955, 16 of 1969, No 21 of 1971
- Lasserve, A., D. (2006) *Informal settlements and the millennium development goals: global policy debates on property ownership and security of tenure*, *Global Urban Development*, 2(1).
- North, D. & Thomas, R. (1973) *The rise of the Western world*, Cambridge: Cambridge University Press.
- Pathirana, S., J. (1998) *State Land Tenancy and Recording system*, A study of the land market Part II, Bethesda: Abt Association Inc.: 144-211
- Perera, T., G., U., P. (2010) *Implementing land registration systems in Sri Lanka: Being pragmatic*, *Sri Lanka Journal of Real Estate*
- Rosenberg, N. & Bridzell, L., E. (1986) *How the West Grew Rich: The economic transformation of the industrial world*, I B Tauris and Co. Ltd
- Smith, A., O. (2001) *Displacement, Resistance and the critique of Development: From the grass root to the Global*, University of Oxford
- Susie, J. (1983) *Women and Land Resettlement in Zimbabwe*, Review of African Political Economy, Taylor & Francis Ltd.: 33-50
- Thirkell, A., J. (1996) *Players in urban informal land markets; who wins? Who loses? A case study of Cebu City*, *Environment and Urbanization*, [On-line] at <http://eau.sagepub.com/content/8/2/71>, SAGE
- Vroey, M., D., & Shanmugarathnam, N. (1984) *Peasant Resettlement in Sri Lanka*, Tricontinentalcenter, Louvain-La-Neuve
- Woube, M. (2005) *Effects of resettlement schemes on the biophysical & human environment: The case of the Gambela region, Ethiopia*, Florida: Universal publisher