

Integrating Benefit Sharing with Compensation as a Poverty Risk Reduction Strategy for Persons Displaced by Large Dams: Focus on Thiba Dam Irrigation Development Project in Kenya

By

Dr. Dan Adino, PhD

Center for Land Acquisition and Resettlement Studies, University of Nairobi.

Abstract

This article analyzes the process of compensation and benefit sharing for persons displaced by Thiba dam irrigation development project. It also highlights the level of stakeholder engagements in the negotiations and implementation of compensation and benefit sharing. Qualitative methods of data collection including; semi-structured interviews, participant observation, Key informant interviews, focus group discussions, document review and transect walk were applied in the study. The study assessed the effectiveness of benefit sharing as tool to foster sustainable development for local communities, reviews the legal frameworks for benefit sharing both in Kenya and selected countries across the globe and analyzes the key steps to be followed to ensure successful implementation of benefit sharing arrangements. The study established that important gaps in the legal framework for benefit sharing exist in Kenya. The study also found that proper identification of project affected persons and their meaningful engagement on compensation and benefit sharing arrangement contributes to successful project implementation and sustainable development. The study recommends the enactment of relevant legislation on benefiting sharing for large dams, stakeholder consultation and consensus building between project proponents and the land owners and land readjustment downstream or within the irrigation command areas to enable persons displaced by irrigation dams to share the benefits of dam water.

Key words: Kenya, Compensation, Displacement, Benefit sharing, public consultation, sustainable development, Thiba dam

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Introduction and Background

The Government of Kenya identified areas of expansion to boost supply of water for irrigation in Mutithi location of Mwea West Sub-County in Kirinyaga County. The objective of the project is to expand the irrigable area as well as increase cropping intensity in the original Mwea Irrigation Scheme area for higher production of rice and other crops among them French beans, tomatoes and onions and subsistence food crops (maize, beans, and bananas. The project consists of 8,860 hectares of irrigation area. To achieve this objective, a dam is being constructed across Thiba River which is located in two locations namely Kabare and Baragwi locations, of Gichugu Sub-County. The proposed dam was originally designed in 1996 and covers approximately 200 hectares of land, at a height of approximately 32 metres (National Irrigation Board, 2009:4).

Statement of the Problem

Displacement of populations create harm which may permanently become part of their lifestyles especially where caution is not taken to restore the livelihoods of the uprooted persons. Impoverishment Risks and (livelihood) Reconstruction (IRR) model developed by Cernea (1996) identified eight key risks of resettlement including: landlessness; joblessness; homelessness; marginalisation; food insecurity; loss of access to common property resources; increased morbidity and mortality (i.e. declining health); and community disarticulation. Interruption to education was later added by the World Bank as the ninth risk. Denying the local communities, the opportunity to share project benefits has been identified as a major obstacle to sustainable development. Robinson et. al, (2006) posit that poor policies which result into mismanagement of natural resources may result into social disorders which may worsen the living conditions of people affected by projects. Similarly, Vanclay (2017) asserts that building consensus and sharing the project benefit with local communities acts as a social license for the project and insulate the project from resistance which may cause delay and project failure. He further argues that sufficient planning and allocation of adequate resources is necessary for successful execution of resettlement. Errors and delays in planning and execution can significantly increase the costs associated with resettlement and the project as a whole. Poor planning of dam projects not only causes delay and frustration in the execution of resettlement, but also increases the risks for all parties (Reddy et al.,2015).

Data Collection

Semi-structured interviews were the primary source of data collection. Random sampling was adopted in selection of study participants. Purposive sampling was used to select 120 respondents drawn from among Project Affected Persons (PAPs). The sample included two categories of PAPs. The first category comprised PAPs who were affected partially by the reservoir and did not relocate

as they still retained parts of their original parcels. The second category comprised PAPs who were resettled in two resettlement sites identified by the project. The main inclusion criteria were project affected persons. Key government officials and other project proponents were also interviewed alongside the PAPs. The lead author conducted 120 interviews during the two-year study period from January 2017 to October 2019 with the PAPs. The interviews lasted between 30 to 45 minutes. Most of the participants were illiterate and an interpreter was recruited from the local community to support the research team. Most participants were peasant farmers who depended on parcels of land which were earmarked for dam construction for their livelihoods. Opinion leaders including elected members of the county assemblies, members of parliament, county governors, local chiefs and village elders were also interviewed as key informants. The researchers undertook systematic transect walks within the proposed dam reservoir areas at various dates during the study.

Research Findings

In 110 interviews (92%) participants reported that the government conducted proper surveys to identify and bring on board all the project affected families. To collect PAPs data, a census survey was carried out between 13th June 2009 and 20th June 2009 for Kabare and Baragwi locations. The survey process involved; acquiring location maps from the land survey office at Nyeri, updating the maps, preparing a list of plot numbers and obtaining names of owners from the land registry. Census processes entailed; preparation of census tools, conducting informative meetings and training of data collectors. Cut-off date notices were issued on 1st July, 2009. This implies that the census was to commence on 7th July in accordance with the provisions for a seven-day period after notice. At the request of the PAPs to have scheduled meeting with the local area Member of Parliament, Consultants, NIB staff and Provincial Administration, the commencement date was rescheduled to 14th July. During census, the enumerators were issued with location maps, and with assistance from village elders, they visited each affected parcel of land. On completion of the interview, each PAP was required to append their signature on the last page of the questionnaire, and provide a copy of his/her Identity Card for identification. In Kenya, the identity card (ID) is the most recognised and authentic national document of identification.

In one hundred and fifteen interviews (96%) participants confirmed that each and every PAP was consulted and their views were incorporated into the project planning and execution. One key concern for the participants revolved around benefit sharing for the project. Involvement of stakeholders was a key aspect for the success of Thiba dam project. To achieve this, public participation forums were organized at strategic locations targeting stakeholders. The stakeholders included; the landowners, community groups, farmers, water users, institutions, and traders. Others were government officials from relevant government ministries namely local government, Ministry of Lands, Water, Environment, Health, Education, Planning, Agriculture and Community Development Trust Fund (CDTF), a development agency operating in the region and elected leaders. Key activities involved in public consultative meetings included carrying out; Consultation meeting with selected Government Officials such as departmental heads, provincial administration and Member of Parliament for Gichugu constituency, Rapid interviews within the reservoir area, Focus group discussions with key community representatives and Informative meeting with the PAPs. In one hundred and four (87 %) interviews, participants confirmed that they attended at least three public meetings where issues of benefit sharing was discussed. The summary of public consultative meetings is indicated in the table below.

In one hundred and seventeen (98 %) interviews, participants confirmed that public participation was conducted in the language they understand. Preparation of consultative meetings entailed selection of the appropriate venues, days and time as guided by the chiefs in the respective areas, writing notice in liaison with NIB headquarters and inviting the key stakeholders through the District Officers, chiefs and assistant chiefs. The letters were both in English and translated into Kiswahili language to enable the community members to read and understand. The chiefs were given the notice one week prior to the scheduled meetings to allow time for invitation. The notices were pinned at strategic points such as market places. The information was also disseminated through announcement in the churches within the project areas. During the meetings, discussions were conducted in the local language (Kikuyu) for understanding by the community members. During the meeting on 9th October, a RAP hand out was provided to the participants. The hand out was in English to effectively capture the technical issues. However, discussions were conducted using the three languages namely, English, Kiswahili and the local language –Kikuyu. The PAPs were advised to read the handout further after the meeting so as to understand fully the contents of the handout with the help of members of the family or the chiefs who were well versed with both languages. Any concerns were later addressed in consultation with the Consultants. In one hundred and twelve (93%) interviews, the participants reported that the stakeholder engagement meeting enabled the PAPs to present their views regarding benefit sharing to the government. The major issues raised by the PAPs was that they wanted to share the benefit of irrigation water and to be resettled within the Kirinyaga County, preferable within the command area. The reports of public consultation meetings with details of the requirements which the government needed to fulfil in order to actualise benefit sharing for the project was presented to the Cabinet Minister in charge of Water and Irrigation. In 120 (100%) interviews, the participants confirmed that the PAPs clearly indicated their resettlement preferences in the census survey i.e. land for land or land for cash.

Conclusion and Recommendations

Currently, benefit sharing legislation available in Kenya addresses benefit sharing in the oil and gas sector but should be streamlined to be applicable in other sectors and more so the irrigation sector. Legislations are required to enable redistribution and land readjustment in the command areas to enable the people who are displaced at the reservoir to get farmland within the command areas. Such agreements should be secured before the commencement of implementation of reservoir projects. The first important step in advancing the interests of the local communities is the need to provide financial and technical resources as well as political support to enhance stakeholder participation in irrigation projects. Benefit sharing arrangements should be negotiated in transparent manner by creating more opportunities for meaningful participation. Accurate baseline information is critical in the identification of key stakeholders. The involvement stakeholders such as civil societies may enhance public participation and contribute to recognition locally relevant opportunities and allow for equitable distribution of benefits. This would promote the process of determination and agreement on benefit sharing opportunities which is practically possible to be implemented in various projects. Finally, this study has revealed that sustainable benefit sharing arrangement can be negotiated and agreed upon between the project developers and the local community and be implemented successfully even in the absent of enabling legal frameworks. Whilst enabling legal frameworks are necessary, local communities need not to be denied the opportunity to share benefits especially in instances where no legal framework for

benefit sharing exist. Thiba dam project was implemented successfully because both the government and the land owners engaged in meaningful discussions which lead to the identification of appropriate benefits streams suitable for the local communities who offered their land for the construction of the dam.

The study recommends that there is need to:

1. Have legislation on benefiting sharing for people displaced by large infrastructure projects in Kenya.
2. Put in place a legal framework for stakeholder consultation and consensus building between project proponents and the land owners
3. Enact legislation to provide for land readjustment downstream or irrigation command areas to enable persons displaced by irrigation dams to share the benefits of dam water.

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