

COMPULSORY LAND ACQUISITION AT ANY COST? POLICY RECOMMENDATIONS FOR IMPROVED RESETTLEMENT OUTCOMES

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Overview

- Current state of expropriation policy, law and practice
- World Bank experiences with land acquisition and resettlement
- International standards on land acquisition and resettlement
- Land acquisition and resettlement policy reforms
- Implementation effectiveness

Current state of expropriation policy, law and practice

- Compulsory acquisition is prerogative of state to facilitate public use, public purpose, public benefits of land
- However, often severe externalization of costs due to
 - Misuse and abuse of expropriation power
 - Incomprehensive and weak legal frameworks
 - Poor planning and implementation of expropriation procedures
- Leading to significant risks of impoverishment and human rights abuses
- Comprehensive legislation and capacity building in some countries

World Bank experiences with land acquisition and resettlement

- World Bank has carried out 3 reviews of involuntary resettlement portfolio
 - ✓ In 1985 for the period of 1979 to 1985
 - ✓ In 1996 for the period of 1986 to 1993
 - ✓ In 2014 for the period of 1990 to 2010
- Key learnings
 - ✓ Need to change approach to resettlement: shifting from inputs to outcomes and from preparation of docs to the development of management systems for achieving positive outcomes
 - ✓ Resettlement plans should be actionable management plans that are updated periodically and not primarily compliance docs for processing Bank loans

World Bank experiences with land acquisition and resettlement (2)

- ✓ Need to ensure Resettlement Plans include sufficient socio-economic baseline data to permit monitoring and evaluation
- ✓ Resettlement audits/ex-post evaluations should be required in all projects causing physical relocation or loss of income/livelihoods
- ✓ Rely on existing systems for addressing grievances and improve them or expand them when necessary
- ✓ Improved documentation on compensation and ensure its timeliness and adequacy
- ✓ Adopt outcome-based approach: policy should be flexible on inputs but clear on expected outcomes

International standards on land acquisition and resettlement

- Purpose: avoidance of adverse socio-economic impacts and protection from impoverishment risks
- Converging requirements of IFI standards
- VGGTs
- Research on level of adopting international standards in binding national legislation and regulations (N. Tagliarino)

Land acquisition and resettlement policy reforms

- Complexity of displacement and resettlement process
- Prerequisites for policy reforms to achieve positive outcomes
 - Political will to address expropriation challenges
 - Analyzing and addressing shortcomings and contradictions in legal provisions and institutional arrangements
 - Enacting land acquisition and resettlement procedure that is transparent, participatory, holistic, uniform, coordinated and professional with checks and balances built in
 - Resettlement with development paradigm
 - Investing in resources and capacity to implement procedure
 - Identifying and addressing micro-politics and power imbalances influencing implementation

Land acquisition and resettlement policy reforms (2)

- Key elements

1. Proportionality test
2. Public engagement and participation
3. Adequate and fair compensation
4. Adequate livelihood restoration measures
5. Support to vulnerable people
6. Monitoring and evaluation; implementation of corrective measures
7. Capacity and resources for planning, implementation, supervision and monitoring

Land acquisition and resettlement policy reforms (3)

1. Proportionality test

- Clear public interest, public purpose or public use of project
- Thorough analysis of alternatives to project and project design
- Integrated Environmental and Social Impact Assessment (ESIA)
- Rigorous cost-benefit analysis

Land acquisition and resettlement policy reforms (4)

2. Public engagement and participation

- Disclosure, consultations and negotiations
- Adapted to local context and gender dynamics
- Grievance mechanism at project-level
- Right of appeal and access to legal advice
- Participatory monitoring and evaluation

Land acquisition and resettlement policy reforms (5)

3. Adequate and fair compensation

- Eligibility: identification of all holders of legitimate rights and interests in all affected assets on cut-off date (multiple layers of rights)
- Valuation and comprehensive compensation packages beyond cash compensation and provision of housing to include livelihood restoration measures and support to vulnerable people
- Timing: prior payment
- Availability of funds

Land acquisition and resettlement policy reforms (6)

4. Livelihood restoration

- Based on thorough socio-economic baseline and impact assessment
- Adapted to local context
- Adequate budgetary allocation
- Long-term perspective
- Key criterion in resettlement site selection
- Capacity of PAPs
- Respecting agreements
- Trained and sensitive project personnel
- Consideration of power imbalances

Land acquisition and resettlement policy reforms (7)

5. Support to vulnerable people

- Identification early on, based on context-specific vulnerability criteria
- Provision of additional support (e.g. additional access to advice and capacity building, separate consultations, physical moves, targeted livelihood restoration measures)
- Consideration of loss of social networks and community support

Land acquisition and resettlement policy reforms (8)

6. Monitoring and evaluation

- Planning and implementation
- Participatory M&E
- Implementation of corrective measures
- Prevention of long-term harm

Land acquisition and resettlement policy reforms (9)

7. Resources and capacity to implement uniform and coordinated expropriation procedure
 - Cross-sectoral procedure
 - Clear mandates
 - Involvement of various specialists and agencies
 - Coordination by multidisciplinary body
 - Capacity building
 - Budgets: availability and cycles

Implementation effectiveness

Challenges

- Projects occur in pre-existing social and political context
- Complex set of institutional and individual relationships determine implementation of policies by diverse and interrelated actors (Kabra, 2018)
- Conflicting timeframes of project development and LARR process

Solutions

- Identification of risks beforehand
- Commitment made and implemented to manage risks
- Adequate planning of land acquisition and resettlement
- Leverage of contextual factors to benefit of PAPs

Conclusion

- Legislative reforms
- Procedural reforms: need for strong expropriation procedure with key elements based on principles of transparency and fairness
- Institutional reforms
- Wary of contextual influencing factors