



# Technical Assistance Consultant's Report

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## TA 7566-REG: Strengthening and Use of Country Safeguard Systems

Subproject: Training and Knowledge Sharing for  
CSS Strengthening in the Pacific (Regional)

### ACCESSING LAND FOR DEVELOPMENT: INTERNATIONAL BEST PRACTICES AND COUNTRY SYSTEMS TRAINING PROJECT READING MATERIAL III

Prepared by ADB Consultant Team

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Asian Development Bank

## **Accessing Land for Development**

### **International Best Practices and Country Systems**

#### **Land Acquisition Challenges and Resettlement Best Practices (iii)**

The objectives of involuntary resettlement safeguards are to (i) avoid involuntary resettlement, wherever possible; (ii) minimize involuntary resettlement by exploring project and design alternatives; (iii) enhance, or at least restore, livelihoods of all APs in real terms relative to the pre-project levels; and (iv) improve the standards of living of APs and vulnerable groups. Avoiding involuntary resettlement means screening out projects or subprojects that entail physical or economic displacement. Where displacement is unavoidable, project design changes without compromising design standards can minimize displacement.

Large-scale infrastructure development projects often require land acquisition through expropriation. This usually results in involuntary resettlement. Without well-planned strategy to mitigate the resettlement effects, persons and communities, displaced by these projects, generally suffer severe economic, social, and environmental distress, including the loss of their dwellings, productive lands, income sources, and livelihoods. Hardship and impoverishment are frequent results. Community structures and systems, and social networks and services can be disrupted. People who have lost their means of subsistence and income are more likely to become impoverished and vulnerable unless immediate short term and long term relief assistance is provided. Social tensions can lead to riots and arson. In urban areas, displaced persons trying to rebuild their lives can swell already large squatter populations exploiting meager resources.

The cardinal best practice in LAR is to ensure that APs are not disadvantaged by the process of development. If involuntary resettlement is unavoidable, APs should be helped to restore the quality of life and livelihoods of those affected, mitigate the impacts of resettlement, and, when the opportunities are there, improve quality of life, particularly of vulnerable groups and the poor.

Legal and regulatory frameworks of DMCs often fall short of best practices in resettlement. In the Pacific region, for example, land acquisition laws and regulations do not take into account rehabilitation needs of persons displaced through involuntary resettlement from land upon which they depend for their livelihoods but without a title to such land. This excludes informal urban dwellers and squatters and encroachers, tenants, farm workers, and wage employees in rural areas from proper compensation. Some of the challenges frequently exposed by the gaps between international best practices and the laws and practices in DMCs regarding compensation and suggests how to address them effectively.

### Challenges in Land Acquisition

- **Land ownership.** The domestic legal systems are not well developed to recognize formal, informal, customary or traditional land rights of people and their various formal or informal contractual rights to occupy and use land. This has implications for resettlement entitlements under national laws and sometime do not meet international best practices in resettlement. Titles and land records are also often outdated which results in disputes over claims for compensation and delays in determining who the legal owners are. Resettlement best practices consider customary and traditional rights holders of land and informal land users are entitled to compensation packages.
- **Land valuation.** Generally, in the valuation of property acquired, replacement cost of the property is not taken into consideration. As a result, in many DMCs, such valuations do not generally reflect real value of land and other property. Moreover, compensation is based on such valuations which are too low to replace lost assets. It is a key challenge in DMCs to determine fair compensation. Proper valuation and payments of fair and sufficient compensation are critical for both resettlement planning and management.
- **Lack of land markets.** The absence of well-developed land market in many DMCs makes it difficult to buy land of the same quality and size as that had been expropriated for projects. Many displaced people are unable to buy replacement land even when the real value of land acquisition is paid due to price spikes that result from speculation on resettlement needs and the sudden rise in the number of prospective purchasers. One solution is to provide replacement land of equal productivity near the acquired land. Another is to encourage displaced persons to locate suitable replacement plots that the project will pay for. While not diminishing the risk of speculation, this assures that the project provides replacement land that meets the best practice of paying replacement cost for acquired property.
- **Timing of compensation payment.** Delayed payment of compensation for acquired land and other properties significantly reduce the value of the compensation originally assessed, especially when inflation is high. International best practices prescribe that payment be made before physical and/or economic displacement takes place in order to reduce these risks. But sometimes, sufficient funds are not available.
- **Other Challenges.** Land acquisition is sometimes delayed or cannot be completed due to factors beyond the control of a project—i.e., ownership disputes, inheritance processes, or when owners cannot be located. Depositing compensation for the land acquired in a court and proceed with the project is one solution leaving the disputants or absentee landowners to claim such money through legal means.