



Land Tenure and Management Unit (NRLA)
Natural Resources Management and Environment Department
Food and Agriculture Organization of the United Nations



FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
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Compulsory acquisition of land and compensation

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Land, Governance and the Environment:
Building the Capacity,
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Compulsory acquisition: Why is it an issue?

- Pressures on land
- Basic requirements regarding compulsory acquisition and compensation/resettlement
- Policy, legal and institutional frameworks
- Capacities to implement effectively
- The governance context
- Issues to be addressed



Pressures on land

- **Increasing pressures** demanding land:
 - rapid urbanization
 - rapid economic development
 - major infrastructure investments
 - new pressures – eg climate change, bioenergy, food prices, etc
 - globalization and competition for investment
 - global markets in land
- **Pace of change** is accelerating
- Some pressures satisfied by **market responses**
- But especially where the state nominally owns land, governments respond by making land available using **compulsory powers**:
 - demand is typically for land to be made available as quickly and at as low a cost as possible
 - may affect the approach to acquiring land, may result in those least able to defend themselves (often the poor and those with weakest legal interests) bearing the brunt of the costs

Basic requirements

- **Equivalence:** People should be paid no more or no less than the loss resulting from the compulsory acquisition of their interest in land
- **Balance:** of the private interest and the public interest
- **Flexibility:** the law should be specific enough to provide clear guidelines but flexible enough to allow for the determination of fair compensation in instances where fair compensation would include reimbursement for costs not foreseen by legislators
- **Equal application to *de facto* and *de jure* interests:** the principle of equitable compensation should be applied equally to the loss of land, whether it is land that is titled and registered, land held under customary tenure, or land in informal settlements
- **Fairness and transparency:** negotiations should be as equal as possible, and based on open exchange of information

Policy, legal and institutional frameworks

These should provide sound frameworks for:

- Planning
- Notice
- Public Participation
- Principles of equity and fairness
- General valuation processes
- Determining valuation and compensation
- Valuation and compensation in complex situations
- Resettlement as compensation
- Taking possession of the land
- Opportunities for appeal
- Mechanisms for review
- Support for advocacy and assistance

but in practice they may not

Capacities to implement effectively

Even where there are sound policy, legal and institutional frameworks, there are often major challenges of capacities:

- Lack of human capacities/skills and other resources in the relevant technical areas
- Lack of independent professionals who can be objective in advocating claims
- Lack of data, on who is affected and their rights, on what the value of their rights might be, etc
- Lack of court capacities/independence to deal with appeals
- Lack of support for advocacy and civil society assistance

against a background of competition and rushed decision-making

The governance context

Governance issues often arise where relatively large sums of money are dealt with against a tight timetable, coupled with lack of clear guidance and of transparency.

Voluntary guidelines are likely to include issues of this kind, including on compulsory acquisition of land and compensation.

Building the capacity - issues to be addressed

Support sharing of information on good practices, and advice are likely to be helpful for governments, professional associations, civil society organizations and others.

FAO working with partners – World Bank Land Thematic Group, UN Habitat, FIG and others – finalised and published guidance in this area

Specific support for individual nations addressing appropriate policy, legal and institutional frameworks.

Inclusion of support for this in land policy related projects may be valuable - scope for more policy focused guidance

Specific support for individual nations addressing developing the necessary capacities to implement these frameworks effectively.

Inclusion of support for this in land policy related projects may be valuable

Governance issues in relation to land are a broad concern; compulsory acquisition of land and compensation is just one area, but including it within the broader governance initiative is important:

FAO and partners are working on a stream of activities and outputs focused around the Voluntary Guidelines on responsible governance

Compulsory acquisition of land and compensation

Thank you!



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