

MODULE 7- ESS 5 LAND ACQUISITION, RESTRICTIONS ON LAND USE AND INVOLUNTARY RESETTLEMENT

Joyce Onguglo – Social Development Specialist
Rebekah Ramsey – Social Development Specialist



WORLD BANK GROUP

Presentation Overview

- Land in the Pacific
- Objectives of ESS 5: Land acquisition, restrictions on land use and involuntary resettlement
- Key Terms: involuntary vs voluntary
- Types of displacement and displaced persons
- Project screening
- Stakeholder Engagement (Modules 3 + 5)
- E&S Instruments
- Q&A

Land In The Pacific

- IT IS COMPLEX.
- The majority of land in the Pacific is customary owned
- Land often is a source of conflict
- Land is precious in the daily lives of Pacific Islanders; strongly tied to identity, Kastom and kinship
- Land is soon becoming scarce in times of development
- Matrilineal and Patrilineal



Objectives of ESS 5: Land acquisition, restrictions on land use and involuntary resettlement



To avoid or minimize impacts by exploring alternatives;

To mitigate adverse impacts through timely compensation and assistance to restore livelihoods and living standards;

To improve living conditions of physically displaced poor or vulnerable persons;

To conceive and execute resettlement activities as sustainable development programs

To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected

Key Terms: involuntary vs voluntary

Involuntary Resettlement

- When persons are displaced and are not given the right and option to refuse either land acquisition and/or their displacement from land



Voluntary Resettlement

- When resettlement is not attributed to eminent domain or other forms of acquisition backed by power of the state
 - Informed consent
 - Power of choice



**Do governments
tend to use
eminent domain
to obtain land in
the Pacific? Why?**

Types of Displacement (Involuntary Resettlement)



Economic Displacement

- Loss of land, assets, or access to assets leading to loss of income sources or other means of livelihood, whether fully or partially or permanently or temporarily

Physical Displacement

- Loss of residential land or loss of shelter, whether fully or partially or permanently or temporarily

*** Note: The term “involuntary resettlement” refers to these impacts.**

ASSETS & LIVELIHOODS

- Old Garden vs Garden

Which Garden will get compensation from the project?



Types of Displaced Persons

Affected persons may include:

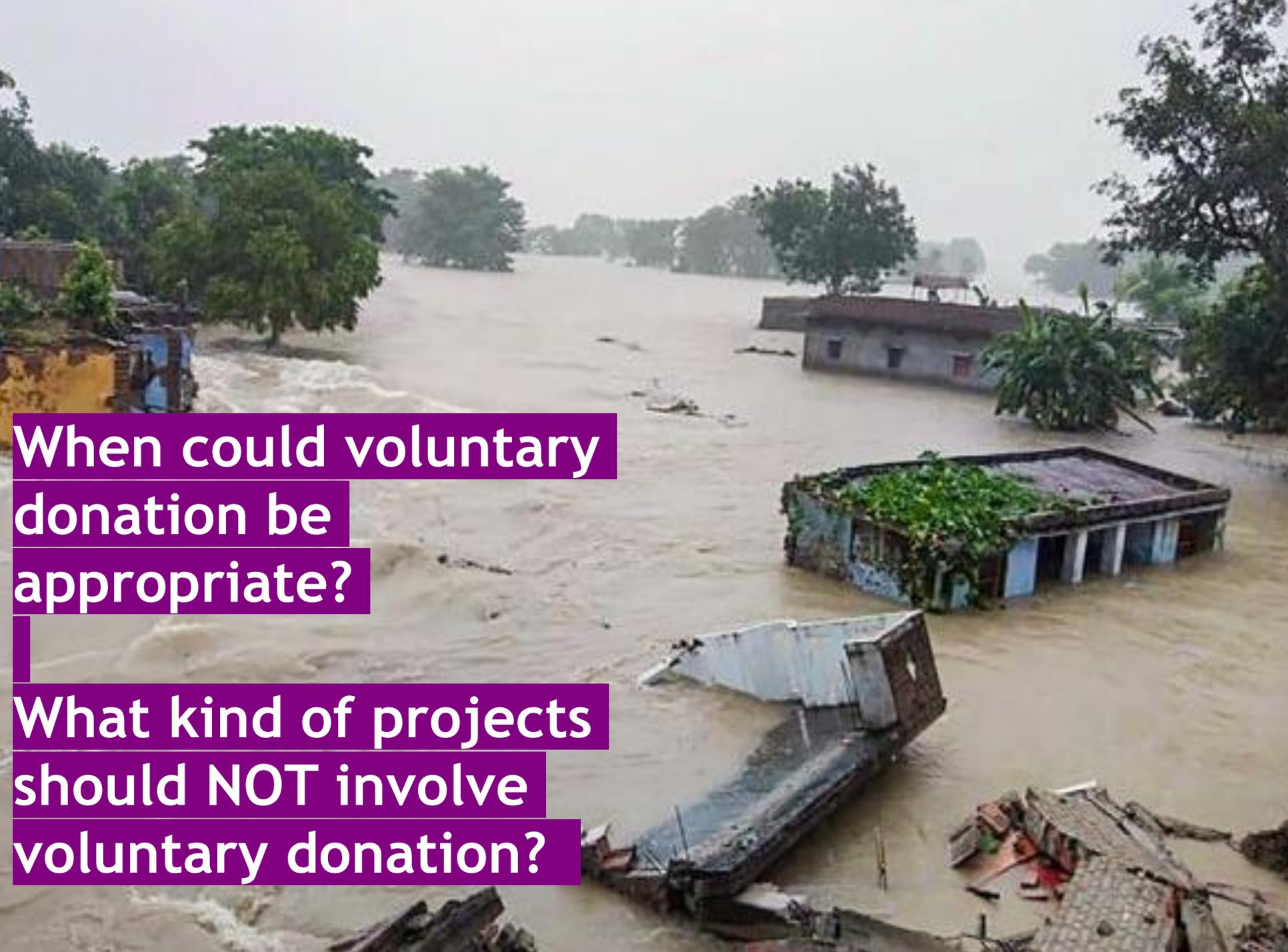
- (a) Who have formal legal rights to land or assets (title holders);
- (b) Who do not have formal legal rights to land or assets (non-title holders), but have a claim to land or assets that is recognized or recognizable under national law; or
- (c) Who have no recognizable legal right or claim to the land or assets they occupy or use (non-title holders).

Non-title holders: what's the difference between a 'squatter' and an 'encroacher'?



Mechanisms for Accessing Land for a Project

Involuntary land acquisition	Forced acquisition - Not common in the Pacific
Negotiated land acquisition or lease 	Settlement through meaningful consultation with affected persons including those without legal title to assets on a Willing seller – willing buyer arrangement *Negotiated settlement is still considered ‘involuntary’ if the seller cannot refuse the project
Voluntary land donation or lease 	<ul style="list-style-type: none">• Requires informed consent and ‘power of choice’• No use of eminent domain or any other form of land acquisition backed by power of state.• Requires informed consent and ‘power of choice’• Community benefits• Donation is voluntary not resulting from coercion• Does not severely affect living standards of the peoples and benefits them directly• Independent third-party verification

A photograph showing a flooded rural area. The water is murky brown and turbulent. In the foreground, there is a large, partially submerged structure, possibly a boat or a small building, with debris scattered around it. In the middle ground, a rectangular building with a flat roof is partially submerged, with some green plants growing on it. In the background, more buildings and trees are visible, some partially submerged. The sky is overcast and grey.

When could voluntary donation be appropriate?

What kind of projects should NOT involve voluntary donation?

SCREENING: Does the project need land?



Project identifies the key risks that involve land. Questions to ask are:

- Will the project need to access or acquire any land? Is it government owned land or customary owned land?
- Could the land be used for the project life cycle only (temporary use)
- It may be that there is no land to be acquired but the project will need access (through someone else's land) to get to the project site.
- Will the land need to be cleared for the project activities, if yes – is the land vacant or has it been used? Are there any gardens that need to be cleared? Any houses? Any sheds? Sacred sites?



Stakeholder Engagement

Stakeholder Engagement is **important** especially at the start of the project cycle (but also during the life of the project cycle).

WHY IS STAKEHOLDER ENGAGEMENT/ CONSULTATION IMPORTANT?

- Meaningful consultations
 - Free Prior Informed Consent
- Avoids Conflict
- Avoids Reputational risk



**** Modules 3 + Modules 5 have covered this topic in length ****



Scenario 1 – Road Network Upgrade Project

A road network maintenance programme and preventative maintenance of 232-kilometer main roads.

Resealing 17 kms of the provinces sealed roads, upgrading four bridges.

Improving vulnerable spots for better climate resilience

Improvement of the network for better road safety

It is estimated that 110,000 people live near the roads which will be improved – this means thousands of people will benefit from safer, more secure roads along with better access to markets, families, jobs and healthcare.



WHAT INSTRUMENTS TO PREPARE



•ESMF

- Stakeholder Engagement Plan

•Resettlement Plan (RP)

- Description of the project
- Objectives
- Potential impacts
- Census Survey
- Legal framework/ Institutional framework
- Eligibility
- Valuation of and compensation for losses
- Community Participation
- Implementation Schedule
- Costs and Budget
- M&E

Abbreviated Resettlement Plan (ARAP)

- Not as detailed as the RP

Due Diligence

- Review information provided.
- the WB may request additional and relevant information where there are gaps that prevent the Bank from completing its due diligence.

GRM

- Good GRM in place.
- * Module 6 presented by Tom Callander.

Which House would be eligible for compensation at what Value?



QUESTIONS ?







Presentation Title