

LAND IMPACT AND USE IN THE PACIFIC

ESS 5 LAND ACQUISITION, RESTRICTIONS ON LAND USE AND INVOLUNTARY RESETTLEMENT

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Presentation Overview

Part One: Overview of Definitions

- Land in the Pacific
- Objectives of GIIP in Land acquisition, restrictions on land use and involuntary resettlement
- Key Terms: involuntary vs voluntary
- Types of displacement and displaced persons
- Q&A (+10 min break)

Part Two: In-depth Discussion on State Land Governance Systems and Customary Governance Systems

- 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 GIIP: Land acquisition, restrictions on land use and involuntary resettlement policy/standard



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;

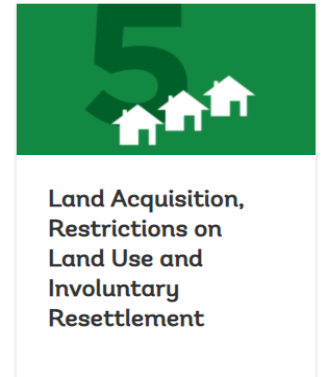
To conceive and execute resettlement activities as sustainable development programs

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

ESF – ESS5 Land Acquisition, Restrictions on Land Use and Involuntary Resettlement.

Objectives of ESS5

- AVOID involuntary resettlement or MINIMIZE involuntary resettlement
- AVOID forced eviction
- MITIGATE unavoidable adverse social and economic impacts from land acquisition or restrictions on land use – How? (a) compensation for loss of assets at replacement cost; and (b) assisting displaced persons in their efforts to improve/ restore their livelihoods and living standards/
- IMPROVE living conditions of poor or vulnerable persons who are physically displaced
- Resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project
- PLANNED and implement 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



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.**

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

QUESTIONS and SHARING

- Have you come across these definitions in your project work?
- Please feel welcome to share an example of how you have applied this standard/policy in your work



Land use agreement: government formalized or traditional informal

Considerations	Ministry of Lands: Formalized	Customary - MoU
Red tape	A lot - multi level engagement	Not much - local
Timeline	Long process	Less time? (maybe)
Community/land owner consultation	Multiple rounds of consultation	Multiple rounds of consultation (Potentially more and ongoing)
Potential for dispute	Agreement is settled	Agreement open to ongoing negotiation
Legality	Agreement holds in court	Not legally recognized: customary governance
Local perceptions of agreement validity	Local people may not care about 'law'	Local people more likely to respect local leadership (depending on context)
Duration of agreement	Should be fixed in agreement (i.e. 25 years)	Can be fluid; perceived to be fluid

QUESTIONS ?







Presentation Title