

Institutional Comparison of Environmental and Social Considerations with a Focus on Involuntary Resettlement

住民移転に焦点を当てた環境社会配慮の制度比較

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キーワード：land acquisition, involuntary resettlement, legislation

1. Introduction

International development projects have been playing a significant role in poverty reduction and economic growth for several decades. The World Bank has funded more than 12,000 projects since its establishment in 1947 (the World Bank). While these projects have improved people's living standards, they also have had negative effects on the environment and society in general. Among those that had significantly adverse impacts involve land acquisition and involuntary resettlement, which directly affect the livelihood of displaced people. From 1980 to 2000, 200 million people were displaced by development projects (Cernea, 2004). Resettlement without adequate compensation and mitigation measures have impoverished a large number of project-affected people (PAPs) (Cernea, 2003). In India, for instance, 20 million people were estimated to have been displaced from 1950 to 1980, 75% of which had not been rehabilitated (Cernea, 2003).

To prevent impoverishment and protect PAPs, the enactment of laws and policies that appropriately take the whole effects into consideration, the payment of fair and adequate compensation, and the implementation of livelihood restoration programs, are necessary. Project owners such as borrower countries and international financial institutions share the responsibilities in addressing the negative impacts of development projects. Basically, project owners take mitigation measures according to domestic laws. International institutions also set safeguard policies and require borrowers to follow them in appropriately improving or at least restoring the

livelihood of PAPs. Significant gaps are often observed between the policies of international institutions and those of borrower countries. Resettlement plans are made and implemented to bridge the gaps, which are partly entrusted to project owners and consultants. This results in PAPs facing the risk of being treated differently depending on projects, which make them vulnerable.

2. Objective

In light of these circumstances, this study attempts to compare the laws and policies on involuntary resettlement in different countries and organizations to determine their characteristics, consider possibilities of categorization and systematization by applying several theoretical/conceptual models, and examine the triggers for the enactment of legislation that protect PAPs. This study aims to identify legal systems that enact land acquisition without impoverishing PAPs.

3. Methodology

This paper compares international and domestic policies on land acquisition and involuntary resettlement to determine their characteristics and consider the possibilities of categorization and systematization. The manner in which they correspond to the three theoretical/conceptual models proposed by Koenig (2014), Scudder (1982), and Cernea (2004) are examined. Further, a more detailed case study is conducted to analyze what triggers the enactment of legislation favorable for PAPs.

4. Theoretical/conceptual models

Koenig (2014) proposed a principle reflected in international institutions. It includes compensation at full replacement costs and consideration of households without

formal land tenure.

Scudder (1982) analyzed the resettlement processes that were environmentally, economically, institutionally, and culturally sustainable and divided them into four stages. PAPs must be taken care of according to all the four criteria to improve their living standards after resettlement.

Cernea (2004) analyzed nine risks that led to the impoverishment of PAPs during and after relocation and suggested the Impoverishment Risk and Reconstruction (IRR) model. It covers landlessness and homelessness to social disarticulation and educational losses. This model is used in actual projects to implement mitigation measures.

5. Results

The results show that the safeguard policies set by international financial institutions are all similar, fully reflecting the principle proposed by Koenig (2014). They comply with international standards and principles and a few other international norms such as the Universal Declaration of Human Rights and Paris Declaration.

In contrast, the national laws and policies of the 12 countries have different characteristics, partially corresponding to the theoretical/conceptual models of Scudder (1982) and Cernea (2004). What is common to all instances is that they have provisions on compensation for legal landowners, mostly prior to the actual relocation. The provision of livelihood restoration, participation of PAPs in the decision-making process, and grievance redress mechanisms are included only in some countries. All countries satisfy the first stage of Scudder's model, either fully or partially, through information disclosure, publication of the Resettlement Action Plan, and compensation payment in preferred forms. Most countries do not reach the fourth stage, which only Laos and India partially covered.

No country has national policies that fully cover all nine risks identified in Cernea's IRR model, but landlessness and homelessness are effectively mitigated in all countries. All countries apart from Laos and India cover food insecurity, and increased morbidity and mortality,

which are indirect and long-term impacts that could be hardly considered responsibilities of the authorities and project owners.

Non-compliance with these national laws and policies with theoretical and conceptual models indicate little possibility of systematization. Additionally, their variety scarcely has geopolitical, economic, or historical correlation.

Based on these results, a case study that examines the triggers for the enactment of legislation that adequately mitigates the negative impacts caused by involuntary resettlement has been conducted with a focus on South Asia. While India, Bangladesh, and Pakistan share the same historical and geopolitical contexts and had previously operated the same land acquisition act enacted by the British government, their current legislations and policies are no longer common, but are diverse. There are both internal and external factors, such as protests by local people, assistance from international institutions, and economic policy. All of these are present in the three countries but at varying scales and strengths. The case study suggests the existence of a threshold for these factors, above which legislation favorable to PAPs would be enacted. The extent of consideration to negative impacts on PAPs also depends on the scale and strength of these elements.

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