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Roadmap

› Background and methodology

› Discussion of how to use this legal data for monitoring, advocacy, and legal reform purposes

› Overall conclusions & next steps
Expropriation and Sustainable Development
Background & Methodology

This page contains a research paper titled "ENCROACHING ON LAND AND LIVELIHOODS: HOW NATIONAL EXPROPRIATION LAWS MEASURE UP AGAINST INTERNATIONAL STANDARDS" by Nicholas K. Tagliapietra. The abstract of the paper discusses the challenges associated with determining fair compensation for expropriated land. The paper examines national-level legal provisions on compensation and whether they meet internationally recognized standards on the valuation of compensation. Key points include:

- An encroaching national legal framework enables governments to expropriate land and resources from citizens for public purposes, which may lead to disputes and threaten the well-being of the people affected.
- To ensure that compensation is adequate and transparent, provisions must be in place to address issues of equity, fairness, and adequacy.
- The paper highlights the importance of international standards in evaluating national expropriation laws, emphasizing the need for fair and just compensation practices.

The paper presents a set of recommendations for reforming compensation procedures to bring them into conformity with international standards.
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Clearly define “public purpose” to allow for judicial review

Provide just compensation to all legitimate tenure rights holders

Provide productive alternative land and housing

Minimize or avoid involuntary resettlement
New Infographic on Land Portal’s Land Book
Voluntary Guidelines on the Responsible Governance of Tenure

2016 | VGGT 16.1 Expropriation and Compensation Elig | Clear Legal Definition of Public Purpose

- Clear Legal Definition of Public Purpose

Legend: National laws adoption of the VGGT principle
- Fully adopt
- Partially adopt
- Not adopted
- Missing Value

Explanation
Article 61 of the 2013 Land Law 45/2013/QH13 provides a clear definition of the circumstances in which land may be recovered for national defense or security purposes. Article 62, however, contains the provision "implementation of projects which or decided by the Prime Minister, including...a) Projects on construction of industrial parks, export processing zones, hi-tech zones, economic zones, new urban centers; investment projects funded with official development assistance (ODA) capital; b) Projects on construction of offices of state agencies, central political and socio-political organizations, offices of foreign organizations with diplomatic functions; ranked historical-cultural relics and scenic spots, parks, squares, statutes, monuments and national public non-business facilities; c) Projects for construction of national technical infrastructure including transport, irrigation, water supply and drainage, electricity and communication facilities; oil and gasoline pipelines and depots; national reserve warehouses; facilities for waste collection and treatment. The word "including" does not necessarily limit the Prime Minister's discretion to the specified list.

Relevant laws
Voluntary Guideline

Select an indicator...
A gender-sensitive approach to providing compensation to affected landholders

A right to challenge compensation decisions in court
- A right to negotiate compensation levels
- Alternative land as a compensation option
- Alternative to the ‘fair market value’ approach to calculating compensation in cases where land markets are weak or non-existent
- Compensation for economic activities associated with the land
- Compensation for improvements made on the land
- Compensation for intangible land values (e.g. historical, cultural, spiritual values)
- Payment prior to the taking of possession or within a specified timeframe thereafter

Explanation

Article 34 of the Law on Expropriation, 2010 provides that "If there is a disagreement with the decision on the complaint by the Complaint Resolution Committee, the owner and/or the rightful owner may bring their complaint to the competent court, concerning expropriation procedures carried out improperly, the expropriation which is not for public and national interest, and the compensation which is not fair and just. The formalities and complaint procedures shall be determined by sub-decree."

Relevant laws

Key Findings

Compensation for poor and marginalized groups

Does the law allow for assessors to follow an alternative approach (e.g., “replacement cost” approach) instead of a “fair market value approach” to calculating compensation in cases where land markets are weak or non-existent?

Does the law provide compensation for unregistered customary tenure rights held by Indigenous Peoples and local communities?

Does the law establish special protections for women landholders regarding compensation entitlements?
Developing Recommendations for Legal Reform

Towards a protocol on fair compensation in cases of legitimate land tenure changes
Input document for a participatory process
CHALLENGING THE PREVAILING PARADIGM OF DISPLACEMENT AND RESETTLEMENT
RISKS, IMPOVERISHMENT, LEGACIES, SOLUTIONS

EDITED BY MICHAEL M. CERNEA AND JULIE K. MALDONADO
Is there a national-level law that establishes procedures for resettling and rehabilitating populations displaced by expropriations?
INDR updates


The 2017 Annual meeting focused on the international financial intermediaries (IFI) focus on using country rather than international standards for development project related forced displacement. The process will require comparing country standards to international standards. The process is just beginning.

A KOSID-INDR Study Examines Mining-induced Involuntary Resettlement in Kosovo

UPDATE. The World Bank Inspection Panel has accepted a request from project affected Kosovaars to investigate the harms to them reported in The... Read More

Thank you for sharing the Technical Assistance Draft through a Public Consultation process. We offer these comments for your consideration for the topic of Involuntary Resettlement.
Measuring practice on the ground
Conclusions and Next Steps
Thank you for your attention

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