Relocation and resettlement

This note provides guidance on approaches to relocation and resettlement of people.

Although resettlement is ideally avoided, the complexities of unclear, unrecognized, informal, and overlapping land claims in many areas means that it is an issue that investors and governments often need to address. Field research suggests room for improvement in processes and outcomes where resettlement had been undertaken. Critical factors for success included how resettled people perceived that their living situations had changed after resettlement, which includes compensation, access to livelihood opportunities, and social services. Also important was the extent to which people were consulted, where involved in decision making, and had access to grievance mechanisms.

WHAT DOES FIELD RESEARCH SHOW?

Resettlement was generally negatively perceived. Resettled people who were interviewed tended to perceive investments more negatively than other stakeholders. Typical grievances were that the compensation was inadequate or that replacement land was not equivalent in terms of the suitability of its soil for agriculture. Many also felt that access to social services (schools, medical centers) was reduced in their new locations. Finally, there was dissatisfaction with the process, which was often deemed insufficiently transparent or inclusive and which often lacked mechanisms for affected persons to raise grievances. Relocation can result in those affected finding themselves in another community, which may compound land scarcity and cause conflict.

Some positive perceptions did emerge. Some resettled people did perceive that their living situation had improved after relocation, for example, where new housing was constructed or the investor prepared farming plots in the new location. The extent of transparency and inclusiveness in negotiations were critical factors in determining the satisfaction of resettled people.

There is no “unused” land. Many large-scale, land-based investments have occurred in areas that outsiders considered unused or marginal, but that were in fact subject to long-standing rights of use, access, and management based on local customary use. The transfer of land to a new agriculture investment will inevitably have consequences for local farmers, herders, and foragers, who may depend on the land for their livelihoods. In many areas investors will be confronted with unresolved land legacy issues upon arrival. Any large tract of land is likely to have competing claims that need to be respected and resolved through consultation and negotiation, including through resettlement and relocation of people.
Investors cannot rely on governments to deliver land free of competing claims. Where the state controls formal rights to land, these rights have in some cases been transferred to the investor without the knowledge and consent of the people occupying the land. Governments often do not have an accurate or in-depth understanding of the land tenure and socioeconomic situations in a given area. In some cases, land that is not “productively used” can be transferred to other uses by simple administrative procedures which do not reflect realities onsite. Some legal provisions require that land first be expropriated before it can be transferred, thereby preventing investors from entering negotiations with those using the land and instead requiring them to interact with a central government ministry or public institution. In these cases, investors usually arrive at the designated site to find people living and working on the land. They subsequently become embroiled in land disputes and must undertake complicated and costly resettlement processes.

Expropriation often violates rights and creates risks for investors. In many countries, occupancy rights are not eligible for compensation in cases of expropriation, so land users have had their land rights abused. This is exacerbated by (i) provisions that allow compensation only for improvements (as land is nominally state-owned and valued at zero); (ii) partial and opaque processes for land acquisition and valuation; (iii) lack of independent avenues for appeal (where the responsible authority is often the same institution that undertook the expropriation); and (iv) an ad hoc process of land disposal that is perceived to be corrupt. For investors who have been allocated land where such expropriation has occurred, lingering grievances from affected people have led to conflict, further land disputes, acts of vandalism, and civil disobedience. These acts are often directed at the investor, perceived as the root of the problem, and such situations can persist for many years. Host communities readily blame investors for things that go wrong. Investor compliance with poor government practice is no defense, and investors can find themselves on the receiving end of land activism or political campaigning.

Independent mapping exercises by investors improved outcomes. It is essential for investors to take responsibility and be intimately involved in local socioeconomic assessments and direct negotiations with host communities and affected parties (box 1). Investors that undertook independent area and stakeholder mapping (that is, a census of affected people), and socioeconomic surveys experienced fewer challenges. Responsible investors undertook these studies as part of environmental and social impact assessments (ESIAs) and the community consultation process. Use of technology contributed to better outcomes and reduced levels of conflict and disagreements. Such technology included (1) GPS mapping systems, (2) video of recordings of meetings, (3) aerial photography from aircraft or drones to identify land use, potential of land legacy issues, and/or disturbed areas as well as residential infrastructure, and (4) smartcard IDs with photos and personal details such as land size and asset inventory such as land size and asset inventory.

Clear and early mapping and census. Rumors of interest in land from an investor attract attention and often lead to movement of people into an area. Careful early mapping, census, inventory, and socioeconomic studies as part of the ESIA process play an important role in identifying people entitled to assistance and in determining baseline pre-investment land use. Studies need to consider users who may be temporarily absent.

Alignment of business models with land tenure realities. Several investors redesigned their business model or project footprint to avoid the need for relocation. For example, one investor marked boundaries for families found to be living on the proposed site and designed the farming area around them, ensuring no one had to be relocated. Those people who wanted to relocate nevertheless were offered a government-monitored agreement through which the investor paid to build a like-for-like structure and prepare arable lands for the resident at an alternative location. In another case, the investor redrew farm boundaries and reduced the farm size to avoid resettlement in its entirety. In another, resettled people were given priority to participate in an outgrower scheme, growing on their replacement land.

Use of international guidance. Those investors that adopted IFC guidelines on resettlement and relocation had more positive outcomes, but disputes are to some extent inevitable owing to the challenges inherent in negotiation, the details of the agreement, roles, communication, follow-up, and the application of grievance redress mechanisms (box 1).

Transparent delivery of compensation. The system of paying out cash benefits and/or handing over material goods needs to be clear and transparent and properly witnessed. A weak system can lead to situations of corruption. In one case, responsibility for handing over cash was delegated to project supervisors, without independent witnesses or a documented system of receipts. The relocated people complained they had not received the agreed compensation. Who payments are made to is also important. Payments may end up being captured by customary chiefs or male household heads, for example. While an investor might consider these to be intra-community issues, if not properly addressed they can fuel discontent and ultimately create conflict with the investor.

Dealing directly with resettled people. Situations in which investors deal directly with affected households lead to better outcomes. It was found that cases of indirect negotiations—through representatives or higher community authorities—often led to seemingly unfair compensations and/or elite capture of the compensation. To address power asymmetries, one investor partnered with a nongovernmental organization to ensure marginalized groups’ rights were protected through the resettlement process.
**Determination of compensation.** Determining compensation amounts is difficult, especially where land has significant social, political, and cultural value. Any methodology for determining compensation needs careful consideration. Governments’ standard schedules of valuations were sometimes low, unfairly determined, or outdated. Investors should therefore do their own assessment to verify the reasonableness of any proposed methodology; and they should be prepared to adopt internationally acceptable valuation methodologies for valuing assets that generate future revenue flow (including residential infrastructure).

**Box 1. Case study: Resettlement**

A prospective investor was informed of a large area of state-owned land that was suitable for its purpose. The land was previously managed by a foreign investor that had to vacate due to non-performance. There had been a long intervening period of inactivity on the land, during which time traditional authorities from neighboring villages had sold use rights to community members. The investor negotiated an outright purchase from government, without doing a prior thorough due diligence of existing land occupancy.

Once the issues of encroachment by local people had been identified, the investors retroactively followed IFC resettlement and relocation standards and guidelines, conducting a baseline survey as part of the ESIA, establishing a community land committee and agreeing on compensation (both monetary and building of houses). There was external oversight by the land committee of payments made and a grievance process for affected people. The investor redrew part of the boundaries to exclude a densely populated area (about 12% of the total area).

The following challenges emerged:

- The attraction of financial compensation incentivized opportunists with no proven valid claim to come forward to seek compensation. To minimize conflict, the investor conceded some additional payments to unproven claims.
- Land values were determined by an investor assessment of market price and agreed by the land committee. The agreed prices did not account for the subsequent increase in land prices in neighboring areas due to inward migration and additional demand for land from those who were compensated. Some farmers claimed that they had 10-acres on the state-owned property but could only buy 3-acres of replacement land with financial compensation received. However, it later emerged that, in some cases, rent-seeking collusion had occurred between traditional leaders, resettled people, and non-affected farmers with plots outside the project area. The traditional authority identified replacement land that was in fact already owned by other farmers. The investor was unaware of this, so prepared this land and paid compensation to the resettled person in the expectation that it would be used to support their livelihood. The resettled person instead shared some of the compensation with the traditional authority and sought to purchase land elsewhere.
- Some people felt that the government imposed standard resettlement guidelines without giving scope for those affected to negotiate, that there was a lack of clarity in the process (even though the investor reported that they had extensive discussions and repeated meetings about the agreed process), that the local leadership did not negotiate hard enough on behalf of the affected people, and that after resettlement there was no follow-up by the investor.
- There were delays in the process, affecting people’s ability to start production on their new land. The agreed food compensation provided was considered insufficient.
- There was dissatisfaction with the size and quality of houses constructed and these were built far away from the arable lands.

Source: UNCTAD–World Bank Responsible Agricultural Investment Database.

✔️ **ELEMENTS OF GOOD PRACTICE FOR INVESTORS**

**Avoid resettlement.** Some investors have found it better to work with or around communities rather than embarking on a lengthy and difficult resettlement program.

**Establish grievance redress mechanisms.** It is important that those people who are resettled have access to a grievance redress mechanism (see Note 19: Grievance redress mechanisms).

**Pursue business models that minimize relocation.** Carefully consider the project design (see Note 3: Choosing an appropriate business model) to develop creative alternatives to relocation and resettlement. Redrawing project boundaries can exclude those with rights and obviate the need for resettlement. Including right holders as “in-grower” farmers (that is, contract farmers that are located on the investor land under a formal agreement), bearing in mind and compensating for the shift in tenure status (from customary owners to tenants). This process will require considerable consultation to ensure that the in-growers understand their roles and responsibilities and the change in their land use.

**Respect all existing rights to land.** Recognize and respect existing rights to land and associated natural resources (see Note 11: Respecting land rights and averting land disputes). Doing so requires (i) the identification of all rights holders; (ii) legal recognition of all rights and uses, together with options for their demarcation and registration or recording; (iii) negotiation with land holders and/or users, based on free, prior and informed consent, to identify the types of rights to be transferred and modalities for doing so; (iv) fair and prompt payment for all acquired rights; and (iv) independent avenues for resolving disputes or grievances that recognize and build upon existing local structures.
Develop a baseline survey and cadastre map. The investor should take responsibility for developing its own cadastre map demarcating each parcel and a baseline survey (census) of the details of the owner and/or user; the location of common resources and infrastructure in relation to the land parcel; any sacred grounds and physical property such as residential structures; as well as an enumeration of perennial crops and a productive assessment of these crops to determine a fair market value for compensation. The baseline census and asset inventory should enumerate and register all affected people and determine the size of the affected population. All people in the proposed project area should be in the census, including those without a legal title, with care to include vulnerable groups (such as women-headed households, the very poor, the disabled, the elderly, refugees, and those relocated due to conflict elsewhere who may not be included in local systems of use right allocation).

Abide by national legislation and international best practice. Make a careful study of the country policy and legal environment relating to issues of relocation and resettlement. Go beyond national guidance where necessary to ensure conformance with international best practice guidance (see References and resources).

Ensure resettled people are better off or no worse off. Investors should take the utmost care that resettled people enjoy at least the same, or preferably an enhanced, level of livelihood as before. This needs to consider the quality of land, compensation, and access to water, roads, other infrastructure, and social services. Investors may need to help conduct land surveys to assess land use potential in the broader area, to ensure that those resettled receive “like for like” land compensation, in line with international best practice. The true test is whether resettled people themselves claim to be better off, which requires follow-up monitoring by the investor.

Adopt a consultative, transparent approach. Consult early, to explain the intended project and its impacts on the issue of use rights and processes that will be followed in the case of relocation. Consultations should take place directly with affected people and with host community leadership (see Note 17: Community engagement strategies). This could include the constitution of a land committee, represented by leadership and nominated representatives of affected people. It is important for any community organizations to be truly independent of the investor, and among them structures and processes should ensure equal and fair treatment for disadvantaged groups (such as women). Independent third parties such as government officials and/or a credible land rights NGO can also be useful additions. Capacity building of committee members on issues of land rights and the agreed process to follow, including grievance redress mechanisms, is an integral part of any negotiation process.

Take heed of findings of ESIA. As part of the ESIA, undertake a baseline socioeconomic study of households to identify all alternate sources of income, and the impact on income resulting from the resettlement plan. Update these studies periodically as part of the ESMP (environmental and social monitoring plan).

Avoid outsourcing responsibility to the government. Investors must be actively involved in the identification, negotiation, and relocation of affected households. It is important to be aware that this is not an easy process; for example, some affected people may be hard to identify (such as pastoralists) or some rights might be contested (such as those of indigenous minorities).

Set cut-off dates. Establish a cut-off date (to be agreed and publicly announced by the land committee) for the recognition of rights and those holding these rights within the proposed project area, after which no others will be considered. This helps to avoid the situation of opportunistic rent-seeking by late-comers and to control elite capture where well-informed and well-resourced outsiders may push out existing rights holders in expectation of financial gain.

Develop a resettlement action plan. Once all the information has been gathered and consultations and negotiation with the affected people have taken place, a mutually agreed resettlement action plan should be signed. See the References and resources for guidance on the format of such plans, bearing in mind that each will differ in content.

Document agreements. Use of third-party witnesses to agreements (for example, government officials, traditional leadership, civil society) and the receipt of compensation were positive strategies employed in well-run processes.

Consider timing of resettlement. The timing of a resettlement can influence its impact on people. To the extent possible, allow smallholders to relocate after they have had enough time to harvest their crops. If this is not possible, fair compensation should be paid.

Carefully determine compensation based on international guidance. Investors should consider carefully the methodology and approach to valuation of affected land, standing crops (annual and perennial), structures, and the use value of natural resources accessed. Consideration should be given to the fairness of any government-provided valuation schedules as these may be outdated, may not align with the perceived value from the perspective of the affected person, or may not account for land value. If there is a local market for land (even if informal), it can be used as point of departure. Reference can also be made to a range of standards in this regard (such as the IFC P5 standards).

Make timely payments. Make compensation payments soon after valuation reports and relocation action plans are approved by relevant authorities. Doing so helps to avoid disputes and grievances when the payments are delayed.
ELEMENTS OF GOOD PRACTICE FOR GOVERNMENTS

Establish national guidance in line with international best practice. Governments should consider developing valuation techniques for resettlement purposes. These should be in line with international best practices and encompass a clear, transparent regulatory framework for land acquisition (purchase or lease), consultations, resettlement, and compensation.

Monitor resettlement conduct by investors. Governments should monitor resettlement procedures to ensure that investors act in accordance with national guidance, but they should avoid conducting resettlement in order to “clear the land” for investors. Make officials available as independent members of any agreed community-investor land committee, where negotiations are undertaken as to (a) the need for relocation, (b) the identification and quantification of rights, and (c) the agreed resettlement action plan and compensation. In this context they can also act as witnesses to ensure that any compensation transactions are done in a fair, open, and transparent manner.

Support programs for resettled persons. Governments should work with investors to ensure the availability of alternative livelihood opportunities for resettled people and to ensure training is offered on how to use compensation effectively in order to build future opportunities.

Use of the contract. Consider annexing the resettlement action plan to the overall investment contract and making it binding on the parties (see Note B: Investment contracts).

REFERENCES AND RESOURCES

This Note is complementary to the literature and guidance documents to which many organizations have contributed, a selection of which is provided below. Further resources are provided in Note 2: Additional resources.


For more information please visit: www.worldbank.org/responsibleinvestment