Compensation, support and resettlement for people affected by state-driven land expropriation in Vietnam: Policy and Practice

Introduction

The legal framework governing land expropriation by the state, and the associated compensation of the rural population affected by development projects, has considerably intensified over the last 15 years in Vietnam. However, the 2003 and 2013 Land Laws and all related application decrees have not proved very effective in addressing the many challenges in livelihoods restoration associated with resettlements of the population. The research-based policy dialogue process underlying this discussion note aims to bridge this gap. It was conceived to inform the revision of the Decree 47/2014/ND-CP, which specifically aims to govern the “compensation, support and resettlement (of people affected) after land expropriation by the state.”

Research approach

The project uses the Son La hydropower plant project in Son La province (North Vietnam) as a case study. The plant is a key national project with a capacity of 2,400 megawatts (MW) which was built on land expropriated from the agricultural and non-agricultural land of 248 villages of 31 communes in the three provinces of Son La, Dien Bien and Lai Chau. The plan was to relocate 26,100 households (126,200 people), and 15 years later, all households have been relocated and given agricultural land.

In addition to a review and synthesis of relevant legal and policy documents, the team conducted field surveys to gain first-hand information about the Son La hydropower project.

The survey included interviews with 42 representatives from resettled households in the Bo Ban and Lac Phuong villages of Chieng Son commune, and the Na Tan and Nam Khao villages of Tan Lap commune in Moc Chau district, Son La province, as well as 18 representatives from commune and village authorities.

This discussion note results from a research-based policy dialogue co-organized by the Department of Cooperative Economy and Rural Development, Ministry of Agriculture and Rural Development (MARD) and the Institute of Policy and Strategy for Agriculture and Rural Development (IPSARD) under MARD to formulate evidence-based recommendations to revise the Decree 47/2014/ND-CP on the regulations relating to compensation, support and resettlement for people affected by land expropriation in Vietnam.
By the time of the survey, however, people had obtained only an “advance payment” corresponding to 50 percent of the amount promised. Also, it had taken three years for the people to be granted a basket of 15kg rice per capita even though that was promised for the early stage of their resettlement.

Discussion Note

Lack of transparency about land recovery and resettlement plans

Article 39 of the 2003 Land Law, as well as Article 67 of the 2013 Land Law stipulate that “before issuing a decision on land recovery, at least 90 days prior to the recovery of agricultural land or 180 days prior to the recovery of non-agricultural land, competent state agencies shall notify the land users of the land recovery. The contents to be notified include land recovery, investigation, survey, measurement and inventory plans.” The Articles also order that the notification must be disseminated through meetings, widely publicized through the mass media and posted in the office of the Commune People’s Committees and public places in the residential areas where the land is to be expropriated.

However, the results of interviews with householders in Chiang Son commune showed that people were requested to attend a meeting at the culture house and were informed of the decision through broadcasts less than a month prior to the land expropriation. The specific date of relocation, the schemes of compensation, and information about resettlement areas were not properly relayed to them. This situation resulted in social conflicts in the relocation sites, mainly between the local people and the resettled people.

In addition, the time when the relocation was planned to take place did not match the cropping calendar relating to farmers’ short-term crops (such as vegetables), which caused crop failures, financial losses, and associated frustration among the people who were affected. Some households even rebelled and purposely delayed the relocation process to wait until their crops had been harvested.

Lack of participation among the people affected in formulating the plan for compensation, support and resettlement

Clause 3 of Article 42 (2003 Land Law) stipulates that resettlement zones “must have development conditions equivalent to, or better than, the conditions in the former places of residence”. However, in Lac Phuong village the agricultural land made available for newcomers could only yield one crop of maize per year and required more chemical fertilizer and labor compared with their old homeland in Muong La district: in the old location, farmers could grow two crops per year with less intensive use of fertilizer and labor. Furthermore, a poor road system and unfavorable terrain presented many difficulties to resettled people in travelling from home to farms, in accessing markets and in getting to other public facilities.

The lack of transparency in the compensation plan, especially in terms of the rates of compensation, led to a feeling of inequity and resentment among the population. Ninety respondents in Chiang Son commune confirmed that they had not been informed about the compensation plan, or had not a chance to participate in the land compensation survey. Regarding the compensation rate, only four of the households interviewed were satisfied, while the rest complained that the price they received was lower than the market price in the neighboring district of Moc Chau.

Additionally, the design of houses in the resettlement sites had not been disclosed to resettled people beforehand, and land-use plans were developed without involving or consulting them. The plan failed to address their farming experience, as well as the everyday customs, culture, and social activities of ethnic minorities.

Lack of an effective mechanism to monitor the execution of the compensation schemes

During the survey, some households highlighted the discrepancy between the land area in the compensation offer they had agreed upon and the actual land they received from Muong La district. These cases were the subject of complaints made by the people. At the time of the survey, most of these cases had not been resolved nor had the people affected received any proper explanation from the Project Management Board or the local government.

Negligence in the management, and lack of monitoring mechanisms of compensation for resettled people were illustrated once again in the delivery of financial and in-kind support upon the arrival of the people affected. The local government and the project management team had committed to provide 100-150 million VND for each affected household.

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Discussion Note

Lack of support in job seeking after vocational training

Vocational training was organized for settlers by the local government upon arrival. However, the scope and topics of this vocational training did not match local conditions or market demand. Some people were trained to grow mushrooms and tea although there were no market opportunities in the region for such small-scale farm products. Others learned basic house construction techniques but could not compete with the skilled workers coming from lowland regions. Training in cattle raising had also been organized despite a critical lack of forage for cows in winter. In addition, participants did not receive help or assistance with their job searches after the training.

Lack of financial support mechanisms from investors to improve infrastructure in the resettlement sites

People were facing many difficulties in their new settlement sites, such as lack of schools for children (Na Tan village), and bad transport infrastructure hampering access to hospitals/clinics, markets and public facilities. The water infrastructure was also deficient so that people were lacking clean water for their daily lives and irrigation water for agricultural production (Lac Phuong village). These conditions were usually worse than they were in the previous place (before they were relocated) since the wood for house construction was either reused from their old houses in Muong La or of lower quality. The situation had been worsening as the local government and people had been unable to solve these problems. And for the time being, there were no legally binding mechanisms that would oblige investors to address these problems.

Conclusions

The review of policy documents on land expropriation and regulations on compensation, support and resettlement, as well as the field surveys conducted, have revealed that the concerns and needs of the people affected by land expropriation for the state-driven project have not been adequately addressed by the stakeholders involved, particularly the local authorities where resettlements were taking place.

The research-based policy dialogue has identified some significant shortcomings in the legal framework that need to be adequately addressed. At the same time, there is a need to raise awareness among the rural population about the positive and negative impacts of state-driven development projects. At the same time, there is a need to make sure that people are aware of relevant decrees so they are in a better position to mitigate the negative impacts on their livelihoods, culture and spiritual life.

With the findings from the fieldwork, the research team has a solid ground to advocate among policymakers to promote the need to develop specific and rigorous regulations for a good governance system based on the principles of transparency, accountability, the participation of all stakeholders, and equitable benefit-sharing between the state, investors and the people who are affected, with transparent implementation mechanisms bound to sanctions.

In order to address the limitations of the policy on land expropriation and the regulations on compensation, support and resettlement, the research team recommends some amendment to the Decree 47/2014-ND-CP, including: supplementing some provisions on accountability and the real participation of the people affected; issuing mechanisms and sanctions to control the enforcement of the legal framework; and strictly investigating the lawmakers in favoring the process in favor of the people who are affected, given that they are highly vulnerable, are directly affected by investors’ projects and are easily forgotten in the process.

Authors:
Dr. Nguyen Anh Phong, Director of the Information Center for Agriculture and Rural Development (AgroInfo), the Institute of Policy and Strategy for Agriculture and Rural Development (IPSARD), (phong.nguyen@ipsard.gov.vn)
Pham Thi Thu Ha, AgroInfo, IPSARD, (ha.pham@ipsard.gov.vn)

Reviewers: Jean-Christophe Diepart and Natalia Scurrah (MRLG)