



Technical Assistance Consultant's Report

Project Number: 44140
Date: April 2012

TA 7566-REG: Strengthening and Use of Country Safeguard Systems

Subproject: Reform of Legal and Regulatory
Framework for Involuntary Resettlement in
Mongolia—Phase II (Mongolia)

STAKEHOLDER CONSULTATION WORKSHOP I REPORT

Prepared by ADB Consultant Team

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Asian Development Bank

STAKEHOLDER CONSULTATION WORKSHOP REPORT

KEMPINSKI HOTEL, ULAANBAATAR, 06 APRIL 2012

INTRODUCTION

“Reform of the Legal and Regulatory Framework for Involuntary Resettlement in Mongolia” project, a subproject of the ADB TA 7566: Strengthening and Use of Country Safeguard Systems, started its second phase in February 2012. The main objective of this project is to create a legislative framework on involuntary resettlement, i.e. land acquisition, resettlement and compensation in Mongolia. In the second phase, the Consultant Team formulated the draft Law on Land acquisition, resettlement and compensation for the concerned stakeholders and general public for consultation based on the working drafts that were developed in the first phase of the project.

In accordance with the project work plan, a stakeholder consultation workshop was organized by the project team on 6 April 2012 at the Kempinski Khaan Palace Hotel. The stakeholder consultation workshop had the following objectives:

- (i) to introduce concept of draft law on Land Acquisition, Resettlement and Compensation (LARC);
- (ii) to introduce the first draft Law on LARC to the stakeholders;
- (iii) to discuss the differences between land acquisition for public purposes and land acquisition for urban redevelopment purposes;
- (iv) to discuss key issues included in the draft law within different stakeholder groups;
- (v) to receive criticisms, comments, and suggestions from the stakeholders.

There were 71 participants taking part in the consultation workshop. The participants were representatives from national and local government representatives, central and local authorities in charge of land affairs, representatives of international and donor organizations, civil society officials, and private sector developers, and representatives of affected persons and potential affected persons. The list of participants is presented in Annex 2.

The draft Law on LARC was emailed prior to the workshop to the participants. Presentation slides (see annex 1) were printed out and handed to the participants upon registration. Two-way simultaneous translation from English into Mongolian and from Mongolian into English was provided. A press release about the workshop was distributed to major media agencies through email and fax. During the workshop “Star” TV crew interviewed Mr. Ts. Bayarbat, Deputy Director, Department of Urban Development and Land Affairs Policy, MRTCUD.

The workshop started at 9:30 AM and closed by 5:00PM with two coffee breaks and a buffet lunch break. Workshop budget is presented in annex 4.

OPENING REMARKS

The workshop commenced with opening remarks by Mr. Ts. Bayarbat, Deputy Director, Urban Development and Land Affairs Policy Department, MRTUCUD. He indicated that the workshop was a collaborative undertaking by the Ministry and ADB to reform legal and regulatory framework for LARC. He noted the importance of developing national policy on involuntary resettlement, one of the most challenging issues the government of Mongolia has to tackle, which is the result of rapid urban growth and urban development. Although it is related to urban development, LAR is a complicated issue therefore needs to be regulated by a separate law. According to Ulaanbaatar city redevelopment plan ger areas will be developed to apartment blocks in the near future and safeguards must be enshrined in the relevant legislation and properly implemented to ensure impacts on displaced persons are mitigated. For this reason, it is crucial to have support on integrating international safeguard standards and other countries experiences in formulation and drafting of LAR legislation. Mr. Bayarbat thanked ADB for continued support for this important legislation.

Opening Remarks by Claude Bodart, ADB resident mission:

Good morning everybody. I appreciate very much delivering the opening remarks on behalf of ADB. Since 1991 ADB started providing assistance to the Government of Mongolia. Between 1991 and 2011 Mongolia received loan for 45 projects totaling 825 million dollars. In addition, 12 Asian Development Fund grant projects totaling about 170 million dollars were approved from 2007, when Mongolia became eligible for ADF grant finance.

More recently ADB has been working with the Government of Mongolia to formulate a new Country Partnership Strategy, which will be submitted to the Board of Directors for approval later this month. This new Country Partnership Strategy will ensure continued ADB support for Urban Development, Transport, Energy, Education and Health sectors in Mongolia. Lending during this period, 2012-2016, will amount about 739 million dollars, including ADF and funds from ordinary capital resources. Country Partnership Strategy is very timely as the Government of Mongolia has embarked on an ambitious plan for economic and social development up to 2021. ADB strategy will support inclusive development and good governance. Although much of ADB financing spent on infrastructure, ADB is equally concerned on policy reforms, capacity building and knowledge sharing.

In terms of Urban Development, several international organizations, including ADB, have been assisting development of Mongolia with urban planning and formulation of related legislation and regulations. These reforms will enable future development investments, both by public and private sector, to proceed more quickly and efficiently with modernization of Ulaanbaatar and to address related social issues. One of the key concerns for economic development is potential need for land acquisition and resettlement, especially in Ulaanbaatar and also other urban centers and rural areas.

ADB has been providing support to MRTUCUD for this TA on the Reform of Legal and Regulatory Framework for Involuntary Resettlement or more familiarly known as compulsory acquisition by the State through the use of eminent domain provisions. This legislation will be fundamental for ensuring development occurs in manner that includes due process for potentially adversely affected persons.

Today's workshop will be a key step to build consensus various stakeholders and to ensure new legislations and fair treatment for all stakeholders and enables development proceed more efficiently and there will be good justification to invoke eminent domain powers and clear procedures for implementation agencies and for dispute resolution. New legislation must also be implementable in

the Mongolian context, in terms of compatibility with other laws, institutional requirements and public acceptance.

This workshop provides an opportunity to discuss these issues and provide opinions on Draft LAR Law. I look forward to your active participation and good suggestions from all participants, which will help refine the Draft Law and build consensus for all stakeholder groups. Thank you very much.

PRESENTATIONS

Mr. Scott Ferguson, Principal Social Development Specialist, ADB, provided brief presentation on the ADB regional efforts for the strengthening and use of country safeguard systems, see presentation slides in Annex 1.

Mr. Chinzorig, Team leader/Land management specialist presented **the concepts of the draft law** on LARC. In particular, he explained the conceptual framework of land acquisition, resettlement and compensation. His presentation included the following topics:

1. Background
2. Eminent Domain & Constitutional Principles
3. Concepts & Principles
4. Purposes for land acquisition and
5. Public need & Urban re-development, see annex 1 for presentation slides.

Mr. Enkhtamir, Land management legal specialist, **presented draft law on LARC**. His presentation content included:

1. Structure of draft law
2. Legal definitions
3. Issues need to be considered & specific regulations
4. Land acquisition & resettlement and
5. Secondary legislation & harmonization with other laws, see annex 1 for presentation slides.

Mr. Campbell Duncan, Land management legal specialist, presented **key issues** related to land acquisition and resettlement. He explained what is the acquirable interest on land, what are the objects of acquisition and how these objects can be acquired and what is the public purpose of land acquisition. He also highlighted the links among relevant laws, see annex 1 for presentation slides.

Mr. Hee-Nam Jung, Land and property valuation specialist, based on the experience of Korea, he highlighted **some issues needed to be considered** for each of stages of land acquisition and resettlement process, see presentation slides in annex 1. His presentation included the following topics:

- Purpose of land acquisition and resettlement system
- Contents of land acquisition and resettlement and
- Process of land acquisition and resettlement.

FEEDBACK RECEIVED

Following the presentations, the floor was open for discussions to obtain feedback from the stakeholders. There were many suggestions, comments and criticisms. Many of the issues raised were not directly related to the LAR, but were of general discussions and expression of dissatisfaction with the current social situation in Mongolia. Also, a lot of concerns were expressed related to the urban redevelopment, especially related to the ger area redevelopment. People criticized that the planning is made without the participation of the owners of the land. The feedback from the stakeholders are noted and summarized in the Notes of the Consultation Workshop, see annex 3.

CONCLUSION

The workshop fulfilled its objectives and received many constructive comments and criticisms, which will be used in further improvement of the draft law. The discussions were very intensive and useful to obtain the feedback from the stakeholders.

The following are issues that need to be considered in the future:

- Provide more time to read and understand the draft LARC law;
- Clearly distinguish the LARC and urban redevelopment activities;
- Urge more participation from the government organizations;
- Take into account the overall pre-election politicized atmosphere;
- Negative reaction of some people, already affected by land acquisition projects in UB for redevelopment, towards any legislation that might constrain their personal interests.

Based on the results of the workshop, the following have been agreed within consultant team as the further steps in the project:

- To finalize the draft LARC, there is a need to continue organizing more stakeholders meetings and consultations in order to reflect balanced views of different stakeholder groups. This shall be done by using:
 - Targeted meetings with stakeholder groups
 - Focus group discussions
- Prepare technical explanation of the provisions of the draft law in an easy to understand way for proper communication with the stakeholders.
- Prepare the introduction of the draft law in connection with the LARC processes and in terms of the rights and duties and entitlements to be received by the affected people;
- Improve the draft law based on the comments received.

ANNEX 1: PRESENTATION SLIDES

**Asian Development Bank (ADB)
Technical Assistance (TA) 7566
on
Strengthening and Use of
Country Safeguard Systems**

by Mr. Scott Ferguson
6 April 2012

Safeguards

- **ABD Safeguard Policy Statement, 2009**
 - Environment
 - Involuntary Resettlement
 - Indigenous Peoples
- **Other International Financing Institution have similar safeguard policies**
- **Country Safeguard Systems**
 - National policies, laws, regulations, institutions and procedures

List of Ongoing ADB Subprojects for Strengthening Country Safeguard Systems for Involuntary Resettlement

- Lao PDR – strengthening agency capacity to implement resettlement policies
- Sri Lanka – national capacity building for involuntary resettlement
- Cambodia – preparing decree for informal (illegal) dwellers
- Indonesia – capacity development for preparing and implementing social safeguards (water and energy sector)
- Timor-Leste – capacity development for resettlement (transport sector)
- Vietnam – amending the Land Law 2003 and implementing decrees (LAR)
- Kyrgyzstan – strengthening procedures for involuntary resettlement (not under CSS program)

Common Issues

- How to define public purpose
- When should eminent domain be used
- How to determine the amount of compensation to be paid to affected persons (often too low)
- Lack of social impact assessments
- Focus on cash compensation rather than rehabilitation measures
- Lack of consultation, participation and disclosure
- Lack of independent monitoring and evaluation.

ADB TA-7566 (REG): Strengthening and Use of Country Safeguard Systems
Reform of Legal and Regulatory Framework for Involuntary Resettlement in Mongolia

Concepts & Introduction: Draft Law on Land Acquisition, Resettlement & Compensation

Presentation for the Stakeholder Consultation Workshop
April 6, 2012
Kempinski Khaan Palace Hotel
Ulaanbaatar, Mongolia

CONTENT

I. CONCEPTUAL FRAMEWORK

1. Background
2. Eminent Domain & Constitutional Principles
3. Concepts & Principles
4. Purposes for land acquisition
5. Public need & Urban re-development

II. DRAFT LAR LAW

1. Structure of draft law
2. Legal definitions
3. Issues need to be considered & specific regulations
4. Land acquisition & resettlement
5. Secondary legislation & harmonization with other laws

I. CONCEPTUAL FRAMEWORK

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Background

- **Social and economic**
 - Rapid socio-economic change, development
 - State, local special needs and public need
 - Need for land expropriation

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Background

- **Legal**

- Lack of regulations to enforce eminent domain
- Lack of protection of the affected persons
- Grounds for land acquisition under eminent not defined

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Background

- **Legal**

- Uncertainty of the land acquisition process
- Compensation and valuation - not addressed by law
- Rehabilitation, relocation and transition measures are lacking
- No social safeguards, including for the poor and vulnerable

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Eminent Domain & Constitutional Principles

- **Eminent Domain**

The inherent power of a governmental entity to take privately owned property, esp. land, and convert it to public use, subject to reasonable compensation for the taking

Source: Black's Law Dictionary, Ninth edition, Bryan A. Garner, Editor in Chief.

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Eminent Domain & Constitutional Principles

- **The Constitution of Mongolia states:**

- "The State shall have the right to hold responsible the land owners in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security" (Chapter One, Article Six, Clause Four)",
- "If the State and its bodies appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment" (Chapter Two, Article Sixteen, Clause Three)",

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Eminent Domain & Constitutional Principles

- **The Constitution of Mongolia states:**

- “the State recognizes all forms of both public and private property and shall protect the rights of the owner by law” (Chapter one, Article Five, Clause Two),
- “the owner’s rights shall be limited exclusively by due process of law” (Chapter One, Article Five, Clause Three)
- “the right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance “(Chapter Two, Article Sixteen, Clause Two)

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Concepts & Principles

- **Concepts**

- introduce eminent domain but “protect the rights of the affected persons”
- first negotiation and agreement, if it fails expropriation
- provide just compensation + rehabilitation, relocation, transitional assistances
 - Compensation based on the principles of “replacement cost”

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Concepts & Principles

- **Concepts**

- provide additional social welfare measures for vulnerable
- integrate international social safeguard principles and standards
- refine state and local special needs
- introduce public needs
 - special case – urban redevelopment

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Concepts & Principles

- **Concepts**

- applicable for urban and rural areas
- clarity in the responsibilities and processes
- new scheme for financing of LAR activities
- base on existing governmental institutional & functional structure
 - administration, state inspection, national auditing, court decision enforcement

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Concepts & Principles

- **Concepts**

- public private partnership
 - private sector can implement Land Acquisition and Resettlement Plan, but not expropriation
 - private sector to support with expertise on valuation, SIA etc.
- alternative dispute resolution mechanism
 - Mediation Council

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Concepts & Principles

- **Principles**

- main principles – Constitutional provisions
- avoid, minimize
- Justification for land acquisition – to be well defined and substantiated
- affected entity – cannot refuse land acquisition
- negotiation and agreement
- compensation based on replacement cost
- provision of information, participation, openness
- activities to be implemented by the government entity, some activities – private sector

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Concepts & Principles

- **Principles**

- expropriation – last resort
- expropriation – only by government entity
- affected entity's land, housing, livelihood, income not worse off
- affected vulnerable entity – land, housing, livelihood better off
- Costs to be born from the development, activity, project budget

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Purposes for land acquisition

- **State, local special need**

- Land Law specifies state, local special needs
- some of these are included in this law

- **Public need**

- new definition, closely tied with the provisions in this law

- **Urban redevelopment**

- new definition, closely tied with the provisions in this law

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Public need & Urban redevelopment

- **Public need**

“public need” means ... activity, infrastructure, buildings & facilities that are necessarily required for the interest, need and safety of the public; and activities of importance to national security, national and regional economic and social development ...

II. DRAFT LAR LAW

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LARC structure

6 Chapters and 47 articles

- I. General provision
- II. Entity affected by land acquisition, its rights and duties
- III. Rights and duties of organizations responsible for the LAR issue/Parliament, Cabinet, MRTCUD, ALACGaC, land offices as well Mediation Council, Representative Organization of affected entities/
- IV. Land acquisition and resettlement activities
- V. Regulation for Land expropriation
- VI. Miscellaneous

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Some key legal definitions in LARC

- Entity affected by Land acquisition
- Land Acquisition & Land expropriation
- State and local special needs
- Public need
- Project, program and activity for development
- Replacement cost
- Compensation /move and transition costs and rehabilitation assistance /
- Mediation Council
- Cut off date

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Issues need to be considered in draft LARC

- First dissemination to stakeholders
- For criticisms, recommendations and comments
- Lack of research for land acquisition activities in rural area /related to mining, infrastructure, pasture, agriculture/
- Public and Private Partnership
- Compensation, its valuation
- Supports and assistances
- Non judicial procedure and its application
- Split powers and duties of state organizations
- Grounds and classification of public need

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Some attention needed regulations

Secure balance /State & people/

- collective decision making /Parliament, Cabinet, Citizen's representative organizations/, different compared to "land allocation principle"
- Representative organization & Mediation Council
- Some motivation methods and their applications
- Development project and its "supporters and opponents"
- Court role
- Financing compensation
- Property Valuation /based on current model /
- Cutoff date regulation

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Main stages of LARC

According to draft LARC law:

- I. Preparation LARC /preliminary assessment, decision/
- II. Implementation LARC /LARC plan/
- III. Resettlement /after agreement/
- IV. Failure to reach agreement, land expropriation /under administrative and if necessary judicial procedures/

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Main stages



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Land expropriation & forced eviction

- **Administrative land expropriation**
 - decision to land expropriation /requested by LARC implementer/
 - Decision made by entities, who approved development project /exception for Parliament/
 - Make room for citizens to move voluntarily/notice of decision/
- **Judicial land expropriation /forced eviction/**
 - LARC implementer – court
 - Carried out by Court decision enforcement agency
 - exception for winter season

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Secondary legislation

- Regulation for establishing Mediation Council and its operational rule /Government, in 16.1.4 of draft/
- Regulation for conducting preliminary assessment of LARC /Government in 16.1.5 of draft law/
- Regulation for drafting LARC plan/Government, in 16.1.6 draft law /

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Secondary legislation

- Regulation for regulating affairs related to the entity, who is using land without permission /Government in 16.1.7 draft law /
- Methodology for valuation of compensation and other assistance and support to be provided in connection with LAR activity (MRTCUD, Ministry of Finance in 17.1.2 of draft)
- Templates of document, agreement and grievance; and relevant guidelines (ALACGaC, in 18.3.4 of draft law)

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Harmonization with other laws

- Property registration law
 - Only based on written permission of ownership, his/her property registration ownership information can be provided to other party
 - Issue of land departments' request to make a entry to property registration /with & without owner's permission/
- Law on court decision enforcement /the implementation issue of court decision for land expropriation
- Other issues

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Please send any criticisms, recommendations and suggestions to:

- Administration of Land Affairs, Construction, Geodesy & Cartography
Room 403, Ikh Toiruu 1, Chingeltei District, Ulaanbaatar
- J. Sukhbaatar, Public awareness and consultation specialist
 - jsukhbaatar@hotmail.com
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- S. Tsengelmaa, Social development and resettlement specialist
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 - chinzorig@mongol.net

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LAR in Urban Development and Redevelopment

Workshop for Legal & Regulatory Framework for Involuntary Resettlement in Mongolia

April 6, 2012
Kempinski Khaan Palace Hotel, Ulanbaatar

Campbell Duncan
campbell@duncanlawyers.com
Consultant Lawyer
Staff Consultant, ADB

Who is this guy?

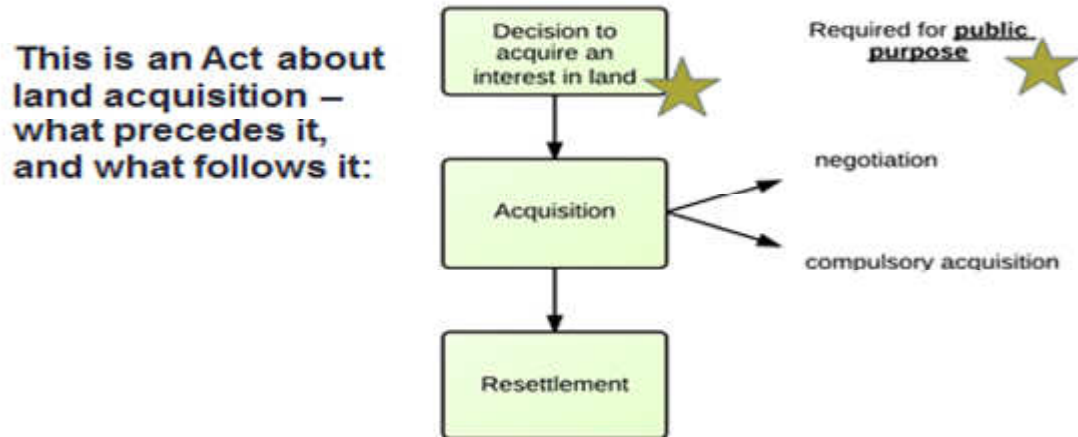
I am an Australian-trained lawyer:

- specialising in legislation, land use planning, local government and governance;
- I have worked as a legislation drafter, court advocate, legal adviser and international consultant (12 countries), mainly with legislation (roads, institutional strengthening, land pooling).

I have a Melbourne-based law
and I am an ADB staff consultant
working on this project.



What can be acquired, and why



acquire *what*?

An acquirable interest in land:

- ownership;
- possession rights;
- use rights;
- also, other rights (pasture rights, future rights).

It is not necessary in principle that *only* the owner of an acquirable interest is entitled to compensation, there will be other affected persons ... owners are the people who will lose property rights (as well as requiring resettlement).

Acquire what?

The implementer might not want to acquire the entire acquirable interest:

- only part of the property required;
- an easement – right to use part of the land for a pipe (water, gas, sewage), power line.



acquire *what ...?*

Only part of the land:

- *example*: road widening;
- *loss of benefit of remaining area*: if remaining part useless, compensation will be based on full loss.

No LAR Council required if fewer than 10 persons losing more than 10% of productive assets.

An easement:

- is an interest in land (pipes under the ground need to be protected, and the utility sometimes needs access);
- compensation is payable.



for a public purpose

The Act lists purposes for which acquisition can occur, for example transportation and communication network.

Acquisition should not proceed unless:

- *that land*
- is required for *that purpose*

Sometimes a project will be constructed or operated by the private sector – a road might be constructed by a private company, and it might be operated by a private company (concessionaire). The road is still a public purpose.

Required for public purpose



links between laws ...

Issue	Law	Links
What can land be used for?	This should be in a <i>land use planning law</i>	Planning procedures can be used to decide whether land is <i>required for a public purpose</i>
Urban redevelopment scheme	<i>Urban Redevelopment Act</i>	Establishing a scheme <i>creates a public purpose</i>
Land ownership, use rights	Land Act	This provides a record of land ownership (<i>acquirable interest</i>)
Technical standards (buildings, mines, environmental controls)	Other legislation	Relevant to whether the proposed use is possible

Thank You

LAR in Urban Development and Redevelopment

**Workshop for Legal & Regulatory Framework
for Involuntary Resettlement in Mongolia**

**April 6, 2012
Kempinski Khaan Palace Hotel, Ulanbaatar**

 **Hee-Nam Jung**
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Senior Research Fellow
Korea Research Institute for Human Settlements 

Contents

- I. Purpose of LAR System
- II. Contents of LAR
- III. Process of LAR

I. Purpose of Land Acquisition and Resettlement System

▪ Basic Purpose

- ◊ To keep the balance between the needs for
 - Implementing public project efficiently to accommodate the rapid urbanization and industrialization
 - Securing property ownership equitably to improve the living standards of the affected persons
- ◊ Some issues needed to be considered
 - Apparent trade-off between the cost of urban development and the social and economic cost of resettlement measures
 - Apparent trade-off between the feasibility of urban development and the level of resettlement measures
 - Depending much on the stage of economic development and political/social democratization

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I. Purpose of Land Acquisition and Resettlement System

▪ Basic Objects 1

- ◊ To avoid Involuntary Resettlement (IR) wherever possible
 - LAR Law should limit public projects exercising the power of eminent domain
- ◊ Some issues needed to be considered
 - To whom the power of eminent domain should be given
 - to the central/local government and public organization only ? or
 - to the private sector who implements urban development also ?
- ◊ To minimize IR wherever possible
 - The existing neighborhoods and communities located within the alignment of a project area are usually excluded from the project
- ◊ Some issues needed to be considered
 - The type of urban development and the method of land acquisition
 - re-development vs. new development
 - land purchase method vs. land exchange method (land readjustment)

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I. Purpose of Land Acquisition and Resettlement System

<Re-development Project and Land Readjustment Method : Example>



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I. Purpose of Land Acquisition and Resettlement System

<New-development Project and Land Purchase Method : Example>



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I. Purpose of Land Acquisition and Resettlement System

▪ Basic Objects 2

- To improve the living standards of the affected persons
 - both physical displacement and economic displacement as a result of involuntary acquisition of land
 - three types for resettlement measures
 - 1) compensation
 - 2) relocation
 - 3) livelihood
- Some issues needed to be considered
 - The nature of public projects and the applicability of resettlement measures
 - 1) linear and costs-sunken project (i.e., infrastructure construction)
 - 2) area and costs-recovery project (i.e., residential/ industrial site development)
- Depending much on the nature of public projects, some resettlement measures are possible and others are not

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II. Contents of Land Acquisition and Resettlement

▪ Eligibility for LAR

- Compensation measures
 - All affected persons are eligible to receive compensation, if they own their property, reside in/ lease a house, run a business including farming in project areas
 - Buildings constructed **without permits after the cutoff date** are not subject to compensation
- Relocation measures
 - Persons owning a legitimate building within a project district and live in the building continuously
 - Tenants are subject to the same rules and conditions as housing owners
- Livelihood measures
 - Persons operating a business (including agriculture and livestock) in a project district on or before the cutoff date
- Some issues needed to be considered
 - Whether need to distinguish owner/renter/user/ and legitimate/illegitimate ones
 - Whether need to support additionally to the vulnerable persons

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II. Contents of Land Acquisition and Resettlement

▪ Compensation measures

- Objects of compensation
 - Land
 - Structure (buildings, other structures fixed to land, tree, farm crops, graves, etc.)
 - Others
 - : rights (mining concession, fishing right, right to use water, etc.)
 - : business losses (incurred by the discontinuation or suspension of business)
 - : farm losses (considering the revenues per unit area of the farmland)
 - : wage losses (suffered by the workers temporarily laid off or unemployed)
- Principle of compensation
 - Prior compensation (before commencement of public project)
 - Compensation in cash
 - : compensation in serviced land is possible if landowner desires
 - Market value compensation
 - : open market value based on existing land use
 - : not on potential value for future development
 - Expert appraisal
 - : compensation value is an arithmetic average of two or more expert appraisals
- Some issues needed to be considered
 - Shall the affected persons be allowed to recommend the appraiser ?

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II. Contents of Land Acquisition and Resettlement

▪ Relocation measures

- General types of relocation measures
 - residential land, housing (rental housing to tenants), or relocation allowance
 - Relocation sites with basic infrastructure facilities (costs for these facilities are borne by the project implementer)
 - moving expenses for temporary residential housing

▪ Livelihood measures

- Enhancement or restoration of income generation capacity
- General measures
 - vocational training
 - preferential hiring temporarily jobs during project implementation
 - Land or shops for commercial use

▪ Financing for resettlement measures

- LAR is executed as part of urban development projects
 - All costs are paid, in prior, by the project implementer
 - Those costs are recovered, later, by sale of developed land and housing

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III. Process of Land Acquisition and Resettlement

• Process of LAR	PROCEDURE	REMARKS
Procedure for Negotiated Purchase	Preparation of Land & Assets Protocols	
	Publication & Disclosure of Indemnity Plan	
	Convening of Indemnity Council	
	Appraisal & Computation of Indemnity Amounts	
	Request for Consultation on Indemnity	
	Conclusion of Contract	(Transfer of ownership)
Procedure for Expropriation	Application for Adjudication & Raising Objections	(If Consultation fails) (within the government)
	Administrative Litigation	(If Adjudication is dissatisfactory) (to the Court)

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III. Process of Land Acquisition and Resettlement

- Some issues needed to be considered
- Establishment of consultative organizations
 - In many cases, urban development implementer is more influential and powerful than the majority of affected persons
 - Thus, some consultative organization is necessary
 - : **Representative Committee**, representing the interests of affected persons
 - : Local government's **Indemnity Council**, precipitating consultation process, composed of project implementer, affected persons, and the 3rd party
- Establishment of neutral organization for grievance resolution
 - To make fair and neutral judgments on conflicts over LAR between urban development project implementer and affected persons
 - **A semi-judiciary, independent, and special public agency** to arbitrate on the expropriation and use of lands needed for public projects
 - Composed of neutral specialists, such as judges, prosecutors, lawyers, professors and senior public officials
(not project implementer nor affected persons)

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ANNEX 2. LIST OF PARTICIPANTS

	ORGANIZATION	DEPARTMENT	DIVISION	NAME	POSITION
1	MRTCUD	Urban Development and Land Affairs Policy		Ts.Bayarbat	Deputy Director
2				E.Dondmaa	Officer
3				P. Enkhmandah	Specialist
4	ALACGaC		Land Affairs and Urban Development	R.Gankhuyag	Director
5			Training, Research, Investment and Construction Procurement Unit	Yo. Badraa(Purev)	Chairman
6	UB LAD Agency	Land Department	Land Management and Planning Division	Soyolkhuu	Senior Officer
7	OTHER MINISTRIES	Ministry of Food, Agriculture, and Light Industry		B. Binye	Director
8		Ministry of Justice and Domestic Affairs	Legal Policy Department	S. Mandakhbat	Deputy director
9	CABINET SECRETARIAT & STANDING COMMITTEE	Legal Standing Committee of Parliament		B. Baasandorj	Advisor
10	OTHER GOVERNMENT ORGANIZATIONS	Professional Inspection Agency of the Capital City, Geodesy and Cartography Control		Ya. Jamiyan	Chief State Inspector of Environment
11				G. Gankhuu	State Inspector for Environment
12	Human rights NGO		Amnesty International NGO	B. Altantuya	Executive director
13				L. Ankh-Oyun	Coordinator
14			Centre for Human Rights and Development	U. Mandkhaitsetsen	Program coordinator
15	Land Movement NGO's		"ZovGarts" NGO	S. Naranbold	Head
16				D. Tovuuukhorol	Member
17			"Gazar" NGO	D. Basbayar	Member
18				B. Aldarkhishig	Member

19			Sh. Gankhuyag	Board Member	
20			Tsetsegmaa	Member	
21			A. Lkhavagdorj	Member	
22		Green Focus Facilitator, NGO	D. Erdene	Director	
23		OT Watch NGO	D. Sukhgerel	Vice president	
24		Center for information and research on urban development	Ts. Enkhbayar	President	
25		Mongolian Land Management Assosiation	S. Sainbayar	Executive Director	
26	Other NGO's	Khan-Uul district 5th khoroo Community Development	Ts. Batnasan	Coordinator	
27		Policy research center	A. Enkh-Amgalan	Director	
28		Green Development program	M. Amgalan	Specialist	
29		Gazriig shudargaar huvichlaya	S. Tuvshinjargal	Member	
30		Khil khyazgaargui alkham	Bayarsaikhan	Member	
31		MINING COMPANIES	Monnis International LLC	M. Tuvshintugs	General Manager
32		CONSTRUCTION COMPANIES	“Beren construction” CO., LTD	A.Khurelshagai	General Director
33	Law Firms	“Anand and Batzaya” Law Firm	Ch. Otgonbaatar(D. Galmandakh)	Senior Attorney at Law	
34		Economic Law Advising	B. Bayar	Director (somebody on behalf of him)	
35			A. Delgermaa	Lawyer	
36		Anda(And) International	(Khandsuren) Tumurkhoo	General director	
37		BonaLex Mongolian Law Firm	Tumenjargal Mendsaikhan	Senior Attorney	
38	Association of authorized appraisers		Ts. Natsagdorj	Executive director	
39	INTERNATIONAL ORGANIZATIONS	Asian Development Bank	Resident Mission, Mongolia	Laurence Pochard	Principal project management specialist
40				B.Tuul	staff
41				Scott Ferguson	Principal Social Development Specialist
42			Urban Development Sector Project	D. Purevsuren	staff
43				Claude Bodart	
44				S. Ganchimeg	

45	DOMESTIC ORGANIZATIONS	United Nations	UN-HABITAT	E.Garde	International Programme Manager
46				Sh. Enkhtsetseg	National Program Coordinator
47		Millennium Challenge Account-Mongolia	Peri-Urban Project The Sustainable Implementation of the New Property Registration System project, Property Rights Project	B. Altantsetseg	Director
48				Lennart Frej	Team Leader
49				B.Orgil	Environment and Social Impact Officer
50		GIZ	Land management and fiscal cadastre Integrated Urban Development	D. Battogtokh	Specialist
51				Ms.Ruth Erlbeck	Project Director
52		JICA	Project on Capacity Development in Urban Development Sector in Mongolia	R. Sasaki	Team Member
53				T. Ankhbileg	Project Coordinator
54		14th Khoroolol	Project Implementation Unit	Sh. Budayev	Specialist
55		Driven development for urban poor in ger areas	Community	D. Myagmar	Project MON9106
56		Policy Analyst Technical Assistance 7591		N. Enkhtuya	PPP Specialist
57		Housing and Infrastructure project		N. Byambadorj	Land manager
58		UNIVERSITIES	National University of Mongolia	D.Ganzorig	Teacher, School of Law
59	Papers & Magazines	"Land affairs" magazine	L. Munkhtur	Journalist	
60	Television	Star television	A. Otgonjargal	Journalist	
61		"ГХОЦ" - ОНӨҮГ	S. Tuya		
62	UB city 7th and 14th district infrastructure, housing project		T. Amarjargal	Land manager	
63			T. Bayartsetseg	Specialist	
64			D. Ganbaatar	water, sewage engineer	
65	Reform of Legal and Regulatory Framework for Involuntary Resettlement in Mongolia		B. Chinzorig	Project team leader	
66			V. Enkhtamir	Land management legal specialist	
67			J. Sukhbaatar	Public awareness and consultation	
68			D.	Institutional	

			Odonchimeg	development specialist
69			S. Tsengelmaa	Social development specialist
70			Heenam Jung	Land and property valuation specialist
71			Campbell Duncan	Land management legal specialist

ANNEX 3: NOTES OF THE CONSULTATION WORKSHOP

Consultation workshop on introducing the draft law on and the concepts of land acquisition, resettlement and compensation

6th of April, 2012

“Kempinski Khan Palace” hotel
Convention hall

Notes of stakeholders consultation workshop

After introducing the concepts and the draft law by Consulting Team, discussions were held to obtain the suggestions, critiques and recommendations from participants. In the beginning of the discussion Consulting Team replied and gave clarifications to comments and critiques from participants immediately. However, in the midst of the discussions, some of the participants claimed that Consulting Team was talking too much and demanded to give participants more time for speech and listen to their suggestions, critiques and recommendations. Thus, the discussions continued with Consulting Team giving short feedbacks to questions as it was decided to continue later on with more consultation meetings with relevant stakeholders where the explanations and clarifications from Consulting Team shall be provided. For this reason, Consulting Team did not answer some of the questions.

02:10:32 Enkh-Amgalan, Director of the Center for Policy Research NGO

It is stated in 1.1 of the draft law, that the issues of land acquisition for state special needs will be regulated. But in reality, private companies are given a lot of land for mining, construction, road, transport and infrastructure in rural areas rather than land acquisition for state special need. Because of this, herders suffer greatly and lose their pastures. Will this matter be regulated by this draft law? In 4.3.11, when resettlement is over and if displaced person is in need of social safeguard, he/she will be given the compensation equal to the his/her previous standard of living. But it gives the impression of giving less compensation for rich people. It's understood like: if the person affected by land acquisition is poor, he gets more, and if he is rich, he gets less. Isn't it breaching the principle of not discriminating people by his/her wealth under Constitutional clause? Why the principle of providing compensation in full is missing in some of the clauses? In 5.1.5, the person affected by land acquisition is described and there are two types of displaced person: firstly, physical displacement of the citizen is required and secondly, the affected citizen is not physically displaced, but the source of income becomes limited in specific amount. These two types of people affected by the impact must be provided the compensation. In 5.1.5, it is stated only about people who lost specific amount of their income because of the physical displacement. This only shows concern about those citizens who were physically displaced, but it doesn't mention people who were not physically displaced, and yet lost their source of income. Especially, while herders' winter and spring camps are not affected, herders' pasture land is given to mining companies. This matter is not included and specified in this draft law. For herders the commonly used pasture is an important part of their livelihood. If the pasture is affected, will this draft law include the principle about providing compensation? I have these questions.

Chinzorig, B., Consulting Team: What is your name and organization? From now on, please mention your name and organization.

As for your 1st question, agriculture and pasture land issues are being discussed. This draft law will be valid all over the Mongolian territory including cities, rural areas, as well as pasture land. As you asked, this draft law is arranged so that it will include two types of being affected by land acquisition, which are physically displaced and economically affected entity's circumstances. If description of the displaced entity in your mentioned clause is not clear, it is specified in the article 32.

In reply to your 2nd question: The term "family member-citizen in need of required support from social safeguard" is included in recently revised Law on Social Welfare. All physically displaced entities by land acquisition will be given the opportunity for equal rights for compensation and other support and help. But we discussed that for citizens, as described in this safeguard law, whose livelihood might get worse because of land acquisition and resettlement, it is necessary to give extra support and help.

As for you 3rd question, I think the meaning of 5.1.5 of the draft law is the same as your 1st question. If herders' winter camp is not affected, yet pasture land becomes out of use because of development project and activity, it is arranged so that it will be regulated with this draft law. So, if these clauses are not clear, I think we can make them more precise.

02:18:00 Delgermaa, lawyer from Economy and Legal Consulting LLC

I think it is necessary to give some explanations before asking questions. I'd like to emphasize that in the first phase of this project, our company has contributed by carrying out an international comparative research, alongside presenting 2 versions of this draft law and by giving suggestions and recommendations to Project Team's draft law. There was little time to study thoroughly because we received this draft law just yesterday. Some information is missing. But in some cases, it has improved than last discussion's version.

I have these questions.

1. At what stage is this law drafting process? Is there any specialist involvement from Legal Policy Department of the Ministry of Justice and Home Affairs? Because in connection with other legislations, a specialist from Legal Policy Department is needed to exchange his/her thoughts because this draft law regulates issues that involve matter of Constitution.
2. There is an approved "Methodology for considering social and economical consequences of legislation" from Ministry of Justice and Home affairs and the German Society for International Cooperation. Methodically, all projects drafted at governmental level processed by considering their social and economical consequences beforehand. Are there any projects that are planned accordingly to this methodology? Because this draft law has many social and economical consequences itself. Land acquisition means holding government's power in high regard. Especially, the main subject to implement parliament's law is the Land Office. Right and duty of Land office are included excessively. Who will oversee activities carried out by Land Office? What kind of monitoring mechanism will stand? Please specify what kind of responsibility methods will be used in case of executing any misjudged and incorrect activities.
3. Can you please clarify the involvement of displaced entities' representatives?
4. By requirements in 6.1.3 of this draft law, it is pointed out that when acquiring land, written permission is necessary from 90 or more than 90 per cent of displaced entities. It is understood like this only applies to land acquisition for housing buildings. And it gives the impression that written permission is not necessary from ger district residents in case of ger district re-planning and development process. Please clarify this?

5. There are terms “initiator, organizer”. Initiator refers to private “entity”. Even though it supports private sector’s involvement, may it cause conflict of interests? Can you give more explanation on this?
6. Land law package is being discussed by parliament at the moment. Can it be said that this draft law’s issues are not overlapped with this package law?
7. In the previous version of this law drafted and submitted by us, we classified compensation types more in detail. For instance, compensation for buildings, pasture and agriculture land, etc. But in this draft law it is not included. There is a principle that law must be accurate. Please consider this issue.
8. In general sense, this draft law is more concerned about issues of citizens who lost their residency. But how loss of business and good location issues will be regulated?

Chinzorig, B. Consulting Team:

As for your first question, we are the project team, so we try to draft a decent law by balancing interests of relevant sides based on research of this draft law and afterwards we submit it to MRTCUD. I’d like to repeat, this is only the first draft version handed out to gather critiques and recommendations from stakeholders. So we will reflect on your comments and then will submit to MRTCUD. From there, by gathering comments from Ministry of Justice and Home Affairs and other cabinet members, this draft law will be submitted to government, like other laws. Bayarbat may give comments on this issue.

Bayarbat, Ts. Urban Development, Land Affairs Policy Department, MRTCUD

Typically, working group is set up at ministry level when drafting a law. Same as this, working group is established at our ministry to draft this law and Ministry of Justice and Home Affairs is also involved in. In compliance with relevant procedures, this ministry’s involvement will be necessary to approve the concept paper of this draft law and other phases.

Chinzorig, B. Consulting Team:

As for your second question, according to that methodology, in the first stage of this project, assessment of the potential social and economical consequences should have been done. But due to certain reasons it wasn’t done and it is planned to be carried out in the second stage of this project.

Answering to your third question, in the process of drafting this law, we tried to draft this law based on functional and institutional structure of the government which is defined by existing legislation. In your opinion, it gives too much power to Land Office. In general, Land Office and Custom office etc. are usually placed high in corruption and bribery survey. These issues are related to general issues such as good governance, improvement of public administration. I don’t think it is a good solution to establish another land office or other similar organizations just to implement this law. If this draft law is adopted, there will should be specific activities which will strengthen relevant institutional capacity.

In regard to your fourth question, there are issues to be discussed and improved such as mediation council, representative organization of citizens. For example, there is an organization named Tax Dispute Settlement Board. By creating similar setup under the Citizen Representative Khural, it is reasonable to consult by assessing the argument and giving advices to local citizens based on real facts. I agree that the regulation of affected entities’ representative organization sounds just like a

herald. If affected entities decide that it is necessary, by forming this organization we try to give opportunity to take advice from a professional and to have a convention.

As for your fifth question, as mentioned in 6.2 of the draft law, getting 90 per cent permission also applies to urban re-development issues which are all included in the sub clauses a, b, c, d of clause 6.1.1. So the permission requirement is necessary for ger district reconstruction.

Sixth question, it is still necessary to work more on the clauses related to the project initiator and organizer. Current practice is that entities implementing mining projects are hiring professional organizations for the resettlement of citizens. Since negotiations are made with citizens, government doesn't have to be involved in the resettlement issue. So we have an idea to give the opportunity for private sectors under the control of Land Office to do the resettlement by making impact assessment on every affected entity. We will work on this hereafter, please give your feedbacks.

7 We haven't done work on harmonizing this draft law with package laws on land yet.

8 Regulation of compensation issues is incomplete. It will be improved.

9 This draft law includes not just issues of citizens who lost their residency, but also people who lost their business and good location. But we will review this matter when we improve the regulation of compensation.

02: 35: 51 Ms Sukhgerel, Oyu Tolgoi Watch NGO

1. The concept “inevitable social needs¹” which was used in Constitution has become incomprehensive and used as “public needs” in 5.1.4 of this draft law. How many people's needs are accounted for? Please clarify the meaning of “public”. How many people are referred to “public”?
2. In 8.3 it says entity has no rights to possess, acquire and exploit premise, but can be in the stage of given the rights, whereas in 8.4 includes an entity who has no rights to possess, acquire and exploit premise, further he/she can't have the rights and operates illegally. What person is this referring to? This means a person who did not acquire, use or get the rights to possess a land has more privilege than me, who used to live and use the land. I have lived on this land for about 5-10 years; even I didn't have the proper documents. So in which case a person can't be given the rights? I'd like to know what “using without rights” means.
3. Another thing is social impact assessment. Social impact assessment was mentioned in the legislation about environmental impact assessment which was presented to the Great State Assembly. Should there be any methods on how to conduct social impact assessment in case of land acquisition? In which law it has to be included?
4. Herders are mainly affected by mining impact. Quality assessment is not usually done when herder's loss is assessed. Business assessment also has to be done since herders are involved in agriculture and product delivering. Pasture and winter camps have different quality since underneath of their homestead is not frozen in winter time.
5. There will be some risks for herders to lose their traditional culture and opportunity to hold the pastoral cattle animal breeding during road construction. In the “certain” documents released from ADB and MRTUD it says “Mongolia has no traditional culture and indigenous people”. This should also be clarified.
6. Is there any opportunity for us to be involved in developing secondary legislation of this draft law?

¹ The english translation of the Constitution reads as “exclusive public needs”

Chinzorig, B. Consulting Team: Concept which refers to “Public need” is very complicated itself. English version of Public need conception is identified in the Constitution as an authentic social need. In the first stage of the project, we have discussed that it is more adequate to describe as “Public need”.

What does “Public” means? How many people do “Public “include in it? We have been studying this issue. Currently, there is no quantitative index in another country’s legislation. For instance, we talk about smoke reduction of ger district by introducing electrical heater. But there is no such opportunity to provide with existing installed network and substation. In case of implementing electrical heater for the ger areas, is it going to be a Public need? In other words, if all citizens of the northern suburb of Ulaanbaatar city can benefit from this construction, it is more adequate to release 100-200 households which are already living into existing electrical line and sub station’s thrust based on this needs. So, we have considered avoiding this public need’s excessive range. In other words, prior to land acquisition decision, the project implementer or road agency and power grid company shall conduct preliminary assessment of public needs firstly. Then justification from this assessment shall be submitted to the relevant authority. Currently, it is very difficult to identify public needs in any kinds of quantitative parameter, so please give your comments and feedbacks.

In regard to the second question:

In Mongolia, citizens started to own their land plot since 2003. Some of them already have the ownership right, while others are in stage of their request which is quite time consuming process. In some cases citizens who don’t have ownership right, they still possess their own land.

In cases like those, citizens can be entitled with opportunity to have ownership rights. So, we have regulated such cases to be included in the clause 8.3. Whereas, the clause 8.4 refers to those who live in the danger zone of being flooded, live under high voltage, etc. Such cases are entitled with no permission to possess. Even though this issue relates to the general land administration issue, those citizens are settled in such dangerous places mainly because of political reasons. It is quite common; those citizens usually create inconvenience for road project funded by ADB, World Bank. So, it is impossible to make the decision by just expelling them, but these citizen issues should be regulated by administrative rules.

In regard to your third question:

Project team member Tsengelmaa, can you please give an answer to social impact assessment?

02:49-02:52:18C. Tsengelmaa, CT

How much land is needed for project implementation and for the process of developing the feasibility study of this project? Only social and economical consequence is considered instead of accounting how many people are going to be affected. Since the country is becoming more sustainable in terms of finance, nowadays every aspect of project including land acquisition, scope of resettlement, size of required land, commonly affected property, number of people, number of vulnerable people and households are researched in advance and expenses of resettlement is also calculated by project initiator such as Ministry of Health and MRTAUD.

Land acquisition and resettlement plan is an official document which reflects on how to resettle the citizens affected by land acquisition, how to provide with prescribed rights when the project

development is approved. Plan of resettlement should include types of support especially for affected vulnerable group of people, citizen's involvement, taking rehabilitation measures for further wellbeing of citizens affected.

Let me revise the previous question about compensation granted after land acquisition for citizens with different income. Those citizens with average income of 1 million tugrik and with poor income of 20000 tugrik both shall be provided with same "Rehabilitation measures" regardless their previous income at least to reach threshold of living standard. It still does not say you had only such small income before land acquisition, "here is your same income 20000 tugrik". So the plan of resettlement will mostly reflect different rehabilitation measures to be taken for those who has lost their income after land acquisition. The plan will also reflect on exactly what kind of measures are required to improve their living standard; making decisions together on potential opportunity to increase their income based on those household's needs and capacity. Eventually in cooperation with Ministry of Social Welfare and Labor, those citizens will be involved in such rehabilitation measures as well.

Let us take an example on herders. The principle to be followed in terms of compensation has to be the same as existing international standard. According to such standards, if the affected entity benefits from land, the compensation should be as a land exchange and make the entity to keep their previous traditional livelihood.

Chinzorig, B. Consulting Team:

In regard the fourth question:

I agree with you on herders' issue. It is more reasonable for herder's impact assessment should be considered as a business impact assessment or similar. This issue about herder's impact assessment is currently being studied from secondary sources. It is necessary to study herders' situation more in detail and also it is necessary to meet both the herder and you in order to include your comments.

In regard the fifth question:

About the term "indigenous people", we do not know about documents formed between ADB and MRTUD. As far as I know, according to ADB and World Bank, American Indians and Australian aborigines or similar people are indigenous people. Mongolians are different from them. We have lived on our own land from the ancient times and we have the power and we are leading our own country. That's why I think it is not relevant. Please note that this is only my personal opinion.

In regard the sixth question:

For the secondary legislation, it is possible for us to develop them first and then by organizing a meeting we can reflect on your comments. If you are available, you can cooperate with our project team.

02: 56: 04 And international –Khandsuren

Our company is implementing the project in 7th district. We started to negotiate since 2008. In one of rest few households there is an old disabled person with wheel chair and this person require 3 room apartment with a garage. Currently it is not possible for us to fulfill this kind of request. It is also indicated as a person-member of a family that inevitably needs social welfare support and assistance

in the clause 8.5. So we are just wondering if there is any opportunity to provide with some assistance for such citizens.

As stated in the clause 6.2, obtained permission from 90 percent of the land owners allows forcing eviction. Our company has made compromise with 8 of 10 families. We couldn't negotiate with other 2. Can we base on this clause and go to court?

Chinzorig B. Consulting Team: According to the Law on Social Welfare, there is a concept of a person-member of a family that inevitably needs social welfare support and assistance, and that person shall be provided with an extra social welfare support and assistance. And this law is drafted so that if that person is affected by land acquisition, he/she shall be treated individually and also shall be provided with extra support and assistance. It is included how support and assistance during land acquisition will be specifically regulated with this draft law.

As for your 2nd question: That 90 percent is necessary only in cases of re-planning and development of urban areas. In other words, we believe it will be possible by mutually agreeing with development company to negotiate with citizens accordingly to the detailed plan approved by the capital, by them incorporating their land. Thus, it is arranged in a way that obtaining permission from 90 percent, but not being able to negotiate with 10 percent will weigh on majority's interest and these 10 percent will be forced according to court enforcement.

03:00:44 (Project staff from the 7th district Project Unit, name was not given)

As stated in the clause 10.1.10, one of the two appraisers to assess the compensation shall be appointed. I can't understand it literally. Because according to the principle that we are following there is an entire assessment committee working on this. Citizens ask for an appraiser to get their properties, for example their house, overvalued a little bit. And we answer that this matter is not decided with a single person, but with an entire committee. Mongolians have an open opportunity to conspire with a single person for higher value. There is a big difference between assessment of a committee and an individual appraiser. I think committee would be reasonable.

On the other hand, Mongolian is rich language. Is it really necessary to use the word "urtugch-affected entity"? I've only heard it in the battlefield. In our regulation, we have the term "resettled entity". This is clear and coherent. Please review clauses 8.3, 8.4, 8.5.

Resettlement of the families whose land plots are overlapped with partial general plan of the 7th district has began. Resettlement activity will be carried out till 2015. It is necessary to consider the linkage between job and duties of municipally owned enterprises established by Citizens Representative Khural and the agency in charge of land issue.

Please focus on how the amount of compensation will be determined with this draft law. Or will it be provided by certain regulations? For example, how will compensation of citizens who lost their job be determined? It is understood that the compensation grant will be regulated in many ways. It should be studied carefully and comments from people have experience performing an operation are needed. Thus,

1. I think it is necessary to involve public in this draft law and get their feedbacks.
2. There will be more comments and feedback if we cooperate with people from the capital and ministries.

I see chances of loophole in this draft law.

Chinzorig B, Consulting Team: Land package draft law is being discussed through the State Great Khural as well draft law on re-planning and development of urban areas has been drafted by the MRTCUD. By adding our draft law to these two drafts, MRTCUD assumes that these draft laws should be discussed in this spring session. For this reason, relatively short time was given to us, but we are working as we can and of course there are limitations to capacity. And we are collaborating on this our draft law with Land Office and Urban planning agency. As it was said before by someone, representation of human rights organizations is not enough in this workshop. We are trying to get feedbacks by involving as many relevant people, organizations as possible by sending invitations, but unfortunately it is common that they do not come. So please do come for the next meetings, not just this one, and give your comments. You can give written feedbacks, too. Generally speaking, whether this draft law becomes approved or not, not it has become political issue and we are meeting all parties to get their feedbacks as we can when it is basically not our concern anymore. Enkhtamir and Tsengelmaa, do you have anything to add?

Enkhtamir, V. Consulting Team: Shall we begin with the last question. It was said before how it is to conduct through Land Office. Law on Land is the umbrella of this draft law. So we drafted this law basing on the existing infrastructure of Land Office which implements this law nationwide. Whether you want it or not Land Office will be the backbone to implement this draft law.

I agree with you on clarifying the terms used in this draft law. I hold the position that explanation of this draft law's clauses and articles must be attached, because this draft law is a legislation which will regulate new types of land affairs for Mongolia. I appreciate if you have any specific recommendations about the terms, choice of words and writing.

Asking about wouldn't arise a conflict of interest when citizen chooses his/her own appraiser. Existing land assessment in Ulaanbaatar is basically done by administrative rules and approaches. According to this draft law, when that specific land belongs to that person, and if he/she can't participate then at least his/her chosen appraiser should participate in assessment process. We have invited appraisers' NGO, so feel free to give your feedbacks.

Consulting Team has planned to attend to the matter comprehensively and will regulate with a single law, because we have received a complaint that this draft law has a very wide range of regulation. It is possible if the Government of Mongolia decides to separate these relations into land acquisition for mining and road. But it is doubtful if it's a right thing. In my opinion, an effort should be made to regulate with a single law.

Chinzorig B. Consulting Team: I have to give an explanation. This draft law won't be only implemented by Land Office. For instance, you worked on a project in the 7th district. As for your project, project implementation unit was established by Citizen Representative Khural of UB city; on the other hand, project implementation unit of 14th district was established by MRTCUD. It is included in this draft law; land acquisition is implemented not only by Land Office, but also by authorized entity. It includes you. It is possible to specify again and include in the project if it is unclear (03.13.49)

03:14:41 Enkhtuya PPP

1. Construction of this draft law must be revised. I understand the main goal of this draft law as decision of land acquisition and resettlement must be legal. Secondly, it must be regulating compensation and interests of people who lost their land issues. But almost 50 per cent of this law is copied from other legislations. If these change, this draft law becomes pointless. So, I

- think it is necessary to clarify in the first part what will be the principle of adjudication, who will decide and which law will regulate the adjudication? And please include the involvement, rights and interests of those described as affected entities.
2. I'd like to exclude the 4th chapter about re-planning and development. Generally speaking, according to the legislation, what is the basis of land acquisition? It is understood like someone from implementing side will acquire the land. If the land was acquired for public and state special need, it should be sold with an auction. If you are going to appoint an implementer, it should be regulated by law on concession or law on government procurement. It gives the impression that this law was drafted for implementers, because of this whole project implementer chapter. So, chapter 4 is not needed.
 3. I think "responsibilities and duties of the mediation council" was described wrong. There is nothing to mediate and negotiate. Because the decision should be made by state administrative organization according to general administration law. It is not necessary when you can regulate arguments according to this specific regulation. When someone's rights are violated, he/she goes through 3 stages. But in your draft law it is 7-8 stages. It's absurd and such unnecessary clauses are included in this draft law.
 4. In the chapter 4, there are land acquisition, resettlement and compensation activities. I think this part should be the 50 percent of your draft law. Is it really necessary to include the term "development, project or activity"? Legal terminologies, public and state special need, exist in current land and urban development laws, so it is unreasonable specifically mention this terminology ("development, project or activity")
 5. More detailed clauses are needed for the compensation issue. Because compensation is a very important part of this draft law. When regulating the compensation issues, there are state administrative organizations as well affected entities. Every affected entities representative, whose rights and interests were violated, should be separated by residency of ger districts, khoroos, bags, varying ages and gender. And representative from the state should also be involved. There should be an organized way of solution for compensation issue of development activity, because it is unclear in this draft law.
 6. I recommend organizing a public referendum on whether to approve this draft law or not. Because this draft law arises the issue of citizens' ownership right, which is granted by the Constitution. So it is too early to discuss it with spring session.

Chinzorig, B. Consulting Team: Thank you for your recommendations. We will review those clauses and writings that you mentioned. And next time please give specific recommendations. Enkhtamir, please give attention to this matter.

Mediation council is not compulsory; this draft law regulates that citizen is able to approach this organization on their own will. I think it is possible to discuss about whether this structure is necessary or not. As for the organizer and initiator of the development activity, we think this is necessary. For instance, if it is possible for mining companies to implement the land acquisition activities itself, we tried to adopt the public and private partnership principle in land acquisition issue. Please make sure, private entity's activity related to land acquisition shall be under state control. We assume it is reasonable to specify it by adding a new article. We will improve the writing and terminology.

That term "development activity" is associated with the land acquisition activity. For example, as stated in the Law on Land, if the land becomes strictly protected area, then development activity won't be done. And if land is acquired for infrastructure and road purposes, then of course there will be development activity, so this term is necessary.

Do you have anything to add from other Consulting Team members?

Enkhtamir, B. Consulting Team: I need to make an explanation about discussing it through the spring session. Firstly, we are the technical members of the project. Secondly, discussing this through the spring session is the matter of the government so forth State Great Khural. So we have drafted the first version of this law and taking your recommendations. It is possible to organize public referendum about this draft law. In other words, project team and ADB did not make plans to discuss this draft law with the spring session and it is impossible and we have no rights to.

Chinzorig, B. Consulting Team: We are holding the first meeting of this draft law. Basing on this after we upgrade this draft law we have plans to post in daily papers and online in order to hold a meeting with public. Tsengelmaa, could you please answer the question concerning mediation?

03.25.30 Tsengelmaa, S. Consulting Team

According to your comment, another structure is included when it can be settled with Law on Administrative Procedure. Land acquisition and resettlement is very specific itself. It takes time to get approved and implement when it affects someone's lives. In that time, citizen makes complaints. And it is necessary to attend to this matter and settle immediately. It might be long process if we use the existing system. Therefore, we established a mediation council with various types of representatives in order to settle complaint issues immediately.

03:27:24 Lkhagvadorj. Land-Movement NGO

1. As an affected entity, I'd like to comment. I think you should listen to us more carefully because we are the ones that this draft law will be implemented. What kind of a resettlement? Was there any natural disasters or something? I am just living. Where are you resetting me to? The impression I got from reading this draft law, there are citizens from ger district. And these people are trying to make their lives better. Like they are trying to decide about WWII Jews or American Indians. 20 years ago there was the democratic revolution and private properties were approved. Enkhtamir was talking about this land resettlement, which was cancelled. I was granted the biggest right in this world, to own a land. I live the way by having the right to know my land. So I'm doubtful about you making my life better for me. And it's true. Khoros number 9, 10, 11 of the Sukhbaatar district will be acquitted to build the 7th district, khoros number 13, 14 of the Bayanzurkh district will be acquitted to build the 14th district, household lands from Televiz and Gandan will be acquitted. Blueprints are already done. Looking at this process, private business companies want to start a new business and initiate a legislation project and when that project is refunded, developed, submitted, implemented and in the end we get banished. This is all where it goes. Such thing should never happen. This draft law of yours can only be implemented in North Korea, where they recently chose their young leader. There this draft law will be implemented nicely. I really don't like what people are saying. I have a high degree of legal knowledge. You say: the headstone of this legislation is the resettlement of citizens. But that headstone must be human rights, my rights, in an open democratic society. It must be how that person is living after that resettlement. And here it does not include such matter. You say: we have learned from other countries' experiences. You quote a lot from different countries' experiences when you initiate a legislation project. For example, it's said that Singapore has built tall buildings and that's how they found the solution for population. Of course, what are you going to do in Singapore when there is no place to step on? Or people talk about South Korea. Then choose

such country that has the same geographical position, population density, lifestyle and historical tradition. Mongolia should follow the same path as Poland, which was socialistic and now post-communist country. Poland has included in their law that providing housing for its citizen is the utmost duty of the state. Poland and Mongolia is located between 2 big countries and sometimes it depends on those 2 in certain cases. There they say “let’s provide with shelter”. And here, you only want to resettle the residents from ger districts. Is there anything that says “let’s build a building”? Talking about the Constitution, there is only one thing that is definite in the Constitution, which is society. And now people convert it to public need and everybody started to understand and translate it on their own. Such thing should not exist. The biggest accomplishment of the Constitution is immunity of private properties. So your draft law looks like it’s going to become an advanced version of existing regulation which originates from UB city administrative office. In which it says, if 60 percent gives the permission, other 40 per cent will be just banished. And that has become 10 percent in your draft law. I thought in a democratic society, it should be for a single person’s right, but not like “we are the post-communist country” and honor public need. Stop this. Residents from ger districts will not approve this. The land that you are trying to acquire belongs to native citizens of the city. For example, my grandfather used to establish a new avenue. And now I’m living there. This thing should be measured and be attentive. But you should ask residents of the ger district before implementing.

Chinzorig B.: (previous person leaves the room). I think we should make an explanation when the commenter is present. Next person to comment, please ask your question.

03:34:25 Basbayar. Zuv Garts NGO

1. It is a big step that implementation of this law is gathering people to take recommendations from citizens. I’ll explain in short what is going on there, because I think nobody really knows. Since 2002, land is privatized and state issued full power to use it accordingly. On the other hand, land privatization is extended till May 2013, which confuses me.
2. Private land property, possessed land, rented land; these should not be labeled as one.
3. If household land overlaps with the proposed road project, it should be resettled. But it should be bought and sold with a decent market rate. However, UB city administration has given land plots of citizens, who have the ownership rights, to 4-5 companies. It is the same as saying “let some wolves in the barn and kill their sheep“. For instance, that person was talking, that 10 out of 12 families are managed, what about the other 2? In 2006, when implementing road construction activity, the state provided those affected with the compensation at most equal 1-2 million tugrik. When citizens disagreed, they threatened. Resettlement destination was set in the far Belkh, Takhilt. 2008’s housing program was a total failure and citizens were very disappointed. And when citizens became careful to the resettlement issue, in turn this law is being drafted. It should be done carefully. There is no land specialist in the land acquisition workgroup. Relate to citizens and explain it to them.
4. Citizens should be able to understand these legal phrases.

Chinzorig B. Consulting Team: We are working on getting people involved. We invited every relevant people; you are the only ones that came. We are the technical team, which works according to the contract made with ADB and MRTUD by meeting the requirements. We are not working by someone’s orders and representing their interests. We did study other countries experience. We are Mongolians and professionals too. So we understand perfectly that there is no country same as

Mongolia. We read legislations from countries like Kazakhstan, Kirgizstan. Some of people here have met us before the project. Things that you are saying are more associated with re-development of urban areas, so it should be regulated by the relevant law. But what should we do in case of road construction for the purpose of public need? The dust is difficult for the people living there and moving away. Generally speaking, this draft law is not only for the residents of the ger district. For example, because of the planning in 14th district construction of road or line will be made through the land of your house. In this case, someone's land has to be acquired. We should separate the issue of involving the land owner in urban re-development matters from our draft law.

03:44:10 ADB, Urban development sector project

1. It is said that resettlement will be avoided as much as possible. If so, what is the extent of not implementing the resettlement?
2. In 5.1.4, can we include health in public necessity? And can we include separately depending on construction type?
3. As mentioned in 5.1.5, where do we include when rights are given? Is it necessary to take in account the fact that the citizen paid land taxes for affected citizen's duty?
4. According to the draft law stated in 8.3, granting rights should be tied up with cutoff date.
5. I recommend that social welfare measures directed to vulnerable group citizen should be separated from the part where compensation issues are involved or it should be refunded from a different source.

Chinzorig, B. Consulting Team

We will consider your recommendations.

Enkhtamir, V. Consulting Team

Paying taxes is an issue we were considering during the project development. To pay the taxes is citizen's duty. But we can't interlink tax and compensation with this draft law by making it the basis for compensation. Compensation means apologizing and saying "here is the compensation for your loss".

1. Using the chance to speak I'd like to say one thing to the other person. We did not do this work by someone's orders. And I'd like to say that we love our country too. In 2005, if you remember, there was a road construction activity connecting the roads between National University (Ikh surguuliin gudamj) and 32nd circular route. After making agreements, at last there were 2 families and almost whole society hated them. At that moment representatives of those people came to me to get an advice. They straightforwardly asked me to tell that they had the rights to get the money they wanted. If we don't move, ger districts will be the same and the air pollution too. It is impossible not to get the necessary infrastructure when there are hundreds and thousands of families behind one single family. This draft law should regulate this.

03:52:12 Soyolkhuu, UB Land Office

1. As Enkhtamir gave a clear description basing on his own experience, in the last 20 years land affairs have changed abruptly. Today's main issue is to protect interest of citizens who already own properties. In the old days, they were just forced to move to a new place.

2. 10 years ago, an open space surrounded with fences in the 7th district was 100.000 – 200.000 tugrik. Today the owner says whether to exchange it for 3 room apartment or not. This is a development. We are covering capitalism's 200-300 year long path only in 20 years. There is a unique unit named Land Expropriation Department in Land Management and Planning Division's structure. This unit acquires land for road, school and kindergarten by negotiating with citizens. Basically, they work without any law adjustments. That is why this draft law is socially ordered.
3. It is reflected in this project that Citizen Representative Khural will make the decision to force the eviction and gradually to give the permission for land acquisition. It also says that court can decide the forced eviction. What is the difference between these two? I think it is better to be decided with Citizen Representative Khural. Citizen Representative Khural's main liability is different, but coordinating council has the tendency to implement its land acquisition duties.
4. It is better if forced eviction is not only Land Office's duty. If we had the budget, we could establish another organization for forced eviction. As a professional, I'm not relishing to tear down or preserve someone's property. The main duty is the implementation of law on land, so I think it's right to stay in Land Office.
5. This draft law is socially ordered. Our vice-director is in this working group. I will introduce this seminar to our administration and maybe we will give some feedback.

Chinzorig, B: Thank you. I would like to ask you all to talk briefly, because there are a lot of people who want to comment.

04:00:12-04:02:55 Jamiyan, Ya., Professional Inspection Agency of the Capital City, Geodesy and Cartography Control

1. If this draft law becomes approved, there will be land acquisition issues. And issues concerning person with no ownership rights. It shouldn't be like this. Premise is a land. When court says "resettle", it is not done. Court is making a wrong decision. Study closely the law on land. Include the monitoring. What professional inspection will monitor? Court won't and can't solve the 10 percent. It may become so that it acquires a lot of land because of the Law on Mineral Resources.

Enkhtamir, V: It was mentioned before, we are being judged that we quote too much from other laws. I have an explanation to this. If this draft law becomes confirmed, there is a tendency that many governmental organizations will actualize and function. For example, when there is already a law on execution of the decision of the court, we decided it was not necessary to regulate or legalize relations of forced eviction by court procedure. If it is done so, on the other side it won't be necessary to intersperse the law on execution of the decision of the court. The land affair policy of the government is in the Law on Government and that's why we didn't copy but quoted from Law on Government. In other words, it is not copying, but quoting.

Chinzorig, B: It is necessary to say that we followed relevant procedures of drafting a law. But we understand that explanation is needed on some clauses and articles, so project team will work on this in the near future.

04:11:00 Natsagdorj, Ts. Association of authorized appraisers

1. People were giving suggestions concerning the choice of appraisers. As it is stated in the Law on Property Evaluation, client has the rights to choose the external appraiser independently. Thus, it's not allowed to violate someone's rights and appoint an appraiser. Besides, government makes the decision to force the eviction. In other words, if costumer appoints and sets up a commission itself, it will cause conflict of interests. For this reason, please consider this when drafting this project.

2. If this draft law becomes approved, compensation and assessment issues will be the most important. So I am holding an offer to organize another meeting separately with appraisers. We are ready to cooperate.

Chinzorig, B. Consulting Team: Thank you. The project team is focusing on ensuring the involvement of citizens and professional organizations. Earlier we met citizens from 7th and 14th districts. I understand that now we need to set up a meeting in cooperation with appraisers and lawyers. We will make a plan and hold the meeting. On the contrary, if you are going to participate, please make sure to involve all relevant and suitable people. We are planning to ensure the involvement of citizens by advertizing in papers and to bring up for discussion with the Citizen Hall under the President of Mongolia.

04:13:12-04:18:22 Galmandakh, “Anand and Batzaya” Law Firm

1. A social interest is a tool of repression. Luckiest and most valuable thing we have is our rights. My rights are restricted with social interests, but it should not be violated by it. Generally, the main cause of violation of human rights is social interests and ideology in favor of society's wellbeing. If it is the 70% of citizens from ger district, why their interests are being affected? Can government provide compensation to all? Even when the compensation is provided; can someone's property be assessed correctly? When it is impossible to find a land in the capital city, exchanging with the same land is a difficult issue. There are a lot of problems if you read the draft law carefully. There is no land as same as others.
2. There was a clause stating forced eviction is the aftermost solution. Although the Great State Khural and the government have made the decision, constitutional court has the rights to cancel. Because this draft law violates citizens' rights, and when it becomes approved, it will all fall on the constitutional court. Such as matters must be considered.

Chinzorig, B. Consulting Team: I'm grateful that people are being critical to us. It is true that 70% lives in ger districts. It was said before; understand the difference between some fundamental matters. The issue of the 7th district is subject of urban re-development and it will be regulated with this draft law. When we execute the planning of ger districts, we will discuss it with the citizens, owners of the property. Government should provide the residents of ger district with healthy and safe place to live. How will the government install central heating in order to fulfill its duty? It complies with specific engineering, technical conditions. This matter should be settled with this draft law. Some of the things you said are being deeply associated with good governance and public management.

04:21:20 Tsengelmaa, S. Consulting Team

I'd like to comment on the aftermost solution.

There are only a few occasion that sets the goal of land acquisition. State has an obligation to its citizens. For this reason, ensuring safety of citizens, building sustainable base for livelihood, providing infrastructural and educational and basic health service is a must. And we must establish necessary condition for fulfillment of those duties. For instance, what if all lands are already owned and you want to build a school? A group of citizens asks government to build a school on the land that they are living. So we will count it as necessary social need, when government is required to fulfill its duties. Therefore, government must negotiate with citizens and let citizens know which activities will be carried out by including it in the plan. Furthermore, government will provide the compensation fairly to citizens. And if negotiation is impossible, forced eviction is the last solution. You just can't tell them "we are building a school here, please go away."

The main feature of this draft law is the eminent domain. It means affected entity by land acquisition, which performed with plenary powers of government, owner of the land has no rights to say "I'm not going to give my land". But that person should be given choices and he/she has the rights to negotiate. And if negotiation doesn't work out, eviction will be forced with the plenary powers of the government.

No matter what kind of organization, private sector or public administration, is acquiring the land, negotiation offers and suggested conditions should be all documented. And then if remaining 2 or 3 families can't be relocated, the forced eviction request should be submitted to the public administration. Only public administration has the rights to give permission for forced eviction, but not any private sectors. Please understand that this is the difference.

Enkhtamir, B. Consulting Team: I need to explain something. Only court will make the aftermost solution of forced eviction if citizen has complains about the decision of forced eviction.

04:25:07 "Ongi river movement"

1. It is necessary to review terms in this draft law. Please consider the term "affected entity".
2. In the structure of this project, legislation must be divided to rural and urban areas, while gathering feedbacks from ministries. I'd like to get a clarification on "the fact that we know our rights, but not our duties". Many clauses are not necessary in this draft law. It should be coordinated with Law on Legal Status of UB capital city.

04:28:49 Naranbold, "ZovGarts" NGO

1. People used to be put under pressure in order to acquire land. 7th district has become the business market. But by making a general law, it will serve in the wrong direction.
2. The assessment issue is not clear.
3. Please expand the 4th chapter. For instance, before making a preliminary assessment, surveys must be taken from citizens. Procedures must be open and it should be detailed. Public meeting must be carried out too.
4. It is advised to hold at least 3 Citizen Representative Khurals. There is an anxiety in general to gather a crowd.

04:34:05 Sainbayar, executive director of Association of Land Organizers.

1. Within the scope of law, I think it should be understood clearly. Objective of this draft law is intended for forced eviction. It is necessary to specify how citizens' interests will be

protected. Mining is included in the clause 6.1.g. I advise you to include the assessment of situations like when non-strategic mining companies force eviction and destroy the pasture land. And in this matter, professional organizations and citizens could be involved.

2. I'd like to give credit for the Consulting Team of this project. But in terms of terminology, I suggest to establish an implementing and monitoring team for land acquisition and resettlement and split it to assessment, legal, compensation, civic, professional teams.
3. Please separate and clarify the terms "public need" and "national safety".

04:38:31 Resident of the 7th district

1. Very high assessment was set to get voted in the election. They deceived many families and took their land by telling them that a land equals 3 room apartment and 100,000,000 tugrik. Therefore, involvement of the government should be reduced in this draft law. Citizens should have more priority and we have to soften this term, if not, citizens will get it wrong. It should be more comprehensive and detailed about land quality and value. Land issues of citizens should be fairly legalized and there should not be duties of affected entity. Why do we have to be responsible and report when we get our lands robbed?

04:42:20 Gankhuyag. Land-Movement NGO

1. Law on land is the original draft. Mongolia has large territory, so more cities must be established. Therefore, I support the concept of forced eviction for the purpose of infrastructure. It should be more like Americans' single storey building, but not stretch upward. I think it is right to establish satellite cities. By referring to the law on land, income must be divided fairly. Because, now that government is powerful, loans should be granted to citizens in order to build residential buildings.
2. The basis of the 6th clause must be developed carefully. There should not be a clause of land acquisition that states land is acquired for the purpose of the ger districts re-planning and construction. You can't acquire someone's land in order to build a school or kindergarten.
3. Land on which a building was built illegally must be acquired. There are 2 types of problems arising in Mongolia because of the rich and poor. Because of today's development speed rate, assessment is changing too.
4. The term "re-development of urban areas" should be changed to law on development of urban areas. Because it sounds like development of the urban area has stopped and started again.
5. How will you assess the future efficiency of land? The cost of land has increased 10 times since 6 years ago.

04:46:40 Altantuya, Amnesty International organization

The fact that this draft law is being developed and submitted is very important. On the other hand, if law that violates human rights becomes approved, it is a disaster. For this draft law Amnesty International holds a position to have a conclusion from international human rights researchers. But if Law on Land and other relevant legislations are discussed and approved by spring session because of political reason, this might bring bad outcome. If such law, which was not assessed by human rights professional, becomes approved, it might be followed with violation of human rights.

1. The fact that this draft law cannot be the aftermost solution to Law on Re-planning and Development of Urban areas, Law on Land and Law on Pasture Land, is risky.
2. The term "affected by land acquisition" about forced eviction and resettlement, does it fit to international standards? For example, as UN has described "land that has become unlivable"

or when herders cannot live on that land because of mining, and because of that they had to resettle. So we should consider the herders who evacuate because of mining and if they get compensation for it. In association with this, I'd like to give another example: a group of citizens was resettled in Dambadarjaa because of a construction of road. The neighbors, whose land was not in the way of proposed road, were still in 1 meter from it. These people won't know in couple of years, but after 3 years there will be health problems like hearing of an infant because of dust. In this case they will have to resettle for the sake of their baby and not get the compensation. In other words, we should weigh the consequences of not giving the clear description to the "affected entity".

3. The issue about sacrificing and limiting one's interest for the public is being criticized severely in the today's global trend. But it is creating an argument how it was defined as special public need in the Constitution. Human rights never conflicts with public interest. Social special need protects basic human rights like right to health, right to acquire knowledge. But in the Constitution, according to the special public need, it is stated that forced land acquisition shall be permitted and compensation will be provided. Now that a clause of the Constitution is being drafted as legislation project, it is necessary to upgrade and include human rights issues. It may bring a bad outcome if one of the rights is violated, because then the problem will arise associated with all other rights.
4. Concerning human rights, also cultural rights must be protected. Says, building construction of the ger district. If one elderly says that he/she wants to live in an open place, but not in a damp apartment with 4 walls around, why does he/she have to be resettled? Furthermore, this is affecting the national culture. In one of the daily papers, it was written that ger-canteens will be built into motel buildings. Mongolians have to live in a ger to preserve their culture and nationality. It violates cultural rights and right to choose where you live.

04:51:45 Bayarsaikhan. Unlimited Step NGO

Our NGO works for human rights. Especially for relocated citizens affected by mining in rural areas and for those who had to evacuate and whom compensation was provided. This draft law is special because it includes many sided interests. I think the initiating workgroup of this draft law and project unit have conflict of interests themselves. Because land specialists, MRTUD, ADB, they all have conflict of interests and I don't think they have the rights to initiate and draft this law. How to prevent from corruption in the future implementation of this draft law? How to handle the bribery? As a result from many surveys, Land Office has most high rate of bribery. How to control this? Ulaanbaatar city's A grade living space is in possession of few people. Land Office grants these permissions. I feel offended that expressions are used in such way that it attacks straight to citizens and residents of ger districts, who don't have necessary information and are not able to express their thoughts. Besides, it includes land for mining. Mining companies are robbing lands which were issued to citizens by the state and making the residents evacuate. This is how they take away with a little money the living source of citizens'. Land is the living source. There are many problems like this. As you said, if you are all just individuals to develop this draft law, but not officials, this project should be cancelled. It is too early to implement and approve this draft law for Mongolia. Land price has increased 10 times for the last 2 years. The place, the land you are living on becomes more expensive the longer you live there. It is said that it will be assessed according to the existing currency rate. It shouldn't be like this. There are no methods for fair assessment in Mongolia. So how do we make right assessments by not damaging the citizens in this case? The time hasn't come for this draft law. If it becomes approved many citizens will protest. That's why this project should be cancelled. It is sad that ADB is willing to refund such thing. There are other issues which needs funding. It is not re-

enforcing, but causing diversion to the framework of Social Welfare. There was a project implemented in Erdenet with funding from ADB. It had negative impacts on environment. That was the road construction in Dambadarjaa and project implemented for development of public utility in Umnugobi aimag. They all pollutes the environment, and becomes the project that damages the citizens. Funding is given to such projects. And this backwards puts the country in debts.

04:58:54 Delgermaa, Economic and Legal Consulting LLC

I have a few comments. The fact that there are a lot of critiques, and people are anxious, is because of this draft law's operational arrangement. This project, which has been discussed for a year now, was distributed only a day before. And you should have made a more specific explanation about works done during the introduction which was before noon. Of course, this draft law will get the approval. So, next time attend be more comprehensive to this matter and give more attention to providing human rights. Especially, associate with the usage of pasture and interest of herders. I want you to spread the advertisement about this draft law to citizens.

On the contrary, wish to keep the patrimonial land is appropriate, but it is occupying most of the parts of Ulaanbaatar and causing air and soil pollution. Herein, the power given by the state to the Land Office should be considered. Director of the UB Land Office (Нийслэлийн газрын алба) said, you can exclude us from this project. It was mentioned in the draft law that displacement expenses will go to the Land Office. This furthermore, is not clear how it will be regulated. Even though we are a business organization, we stated that we are going to participate from lawyers' ethical point of view in this kind of conflicting situations. I'm saying this as a lawyer because I have experience working on comparative research of international laws in property rights project.

At last, I hope that involvement of external, independent representatives will be built and hereafter their feedbacks reflected, because land rights and relations itself is a very problematic issue.

05:03:04 Resident from #12 khoroo, Bayanzurkh district

1. Let's think about expanding the city. There should be a moderate approach for everything. Please don't talk about international standards. We, ourselves, must think. There is a Science Academy. People talk a lot on the spot, but does nothing. We are wrong by centralizing the city and saying that we'll build 1000 apartments for families. Whom it includes? Of course, countrymen. Instead of it, we should build and develop satellite cities. And it is wrong to banish those families by building a few gas stations and warehouses in order to broaden, develop.
2. We have a lot to look back. Maybe we should associate other issues with this draft law.

05:22:54 Mandakhbat, Ministry of Justice and Home Affairs

1. We should take responsibility what are saying and where. And we should thank ADB. It would be better, if you talk after reading the main problem. I hope many legislation projects are drafted and feedbacks sent to ministries and legal policy departments. We will work closely on that. These projects cover a lot of things, and I wish it develops by gathering many critiques and recommendations.

05:25:07 Sukhgerel, Oyu Tolgoi Watch

1. I would like if there is an advice, in which law social impact assessment will be included. It does not include the assessment of the environment.

2. National Committee for Human Rights must sign all legislations concerning human rights. But representatives from National Committee for Human Rights did not attend this meeting. Involvement of representatives from National Committee for Human Rights is necessary because there might be a forced alienation.
3. A question from ADB:Oyu Tolgoi project has done the assessment of impact on environment according to Mongolian legal standards. But it was concluded that IFC could not refund Oyu Tolgoi because it was not implemented according to international standards. How will you include that in this draft law?

Bayarbat, MRTAUD

Thank you for participating in today's meeting. Today's meeting's main goal is to introduce this draft law and get recommendations. I would like if any given feedbacks will be included in this draft law in the future.

Sure, not only land acquisition question is being raised but re-planning and development of urban areas is being discussed widely. It's necessary for ministry in charge of land affairs will take in attention your recommendation in other relevant laws. There are three ways to draft this law: firstly, order from society: When discussing about land issues you think that it tends to violate human interests. According to development need it's important to do urban development. Hereupon, public interest arises. It is obvious that it's impossible to do the urban development without solving land issues. Secondly, development need. Lastly, it is legal requirements.

On the other hand, this draft law does not represent interests of any state organization. Plus, there are no such requirements as any draft law should be developed within given time. It should protect the public interests and be based on social needs to become approved no matter of time. Consulting Team should proceed by reflecting these feedbacks on their work in the future. It is necessary to separate and give clarification to the concept of state special need in this draft law's description, because it is a widespread concept.

To sum up, I think that today's meeting was a success.

Mandakhbat, Ministry of Justice and Home Affairs

There might be some critiques and comments, because this issue covers a broad range, and refers to all areas of the development of Ulaanbaatar city. Representatives and NGOs are expressing their complaints. Critiques can be given to specific things, but I think it should be limited too. In the future many laws will be drafted. I hope relevant people from ministries and agencies will participate and give their feedbacks.

ANNEX 4: WORKSHOP BUDGET

Item	Unit	Quantity	Unit Rate US\$	Total US\$ budgeted	Total US\$ Actual	Actual In local currency/MNT
Rental fee for workshop room	Hours (7 hours + 1 hour for group discussions)	8	75	600.00	541.80	700000
Lunch	Participants	80	22	1,760.00	1,857.59	2400000
Tea & coffee	Participants (2 times x 5\$)	80	10	800.00	743.03	960000
Fresh water	bottles	140	1	140.00	148.61	192000
Stationary	Participants	80	5	400.00	284.83	368000
Simultaneous Interpretation	Hours	6	150	900.00	1,050.00	N/A
Copying workshop materials for participants	Participants 80 x 70 pages	5600	0.04	224.00	216.72	280000
Preparation of workshop materials and registration (purchase of stationary, sorting & binding of copied materials, name tags, transportation and delivery etc.)	lump sum (total of 16 work hours x 25 USD)	1	400	400.00	400.00	N/A
Equipment for synchronous translation	piece	1	120	120.00	116.10	150000
Rental fee for headset	Participants	70	2.6	182.00	189.63	245000
Projector and screen					27.09	35000
Total				5,526.00	5,575.39	N/A

USD/MNT rate 1,292.00 rate of Golomt bank of April 6, 2012