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Reducing the Gaps between the ADB Safeguard Policy and Involuntary Resettlement Safeguard System in Sri Lanka

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Outline

- Review of national laws and legal gaps analysis (extents of equivalence with ADB Safeguard policy)
- Good practices in resettlement planning , implementation and monitoring in two case studies (acceptability assessment)
- Implementation issues
- Actions taken to further strengthen the country safeguard system after TA completion in 2012
- Recommendations for further strengthening the system

Components of involuntary resettlement safeguard system

National policy and laws

National Involuntary Resettlement Policy (2001)

- Land Acquisition Act of 1950
- Land Acquisition regulations 2008
- Land Acquisition regulations 2013
- Proposed amendments to the Land Acquisition Act in July 2016
- National Environmental Act of 1980 and its regulations

Non-legal instruments

- Cabinet memoranda on compensation and LA procedures
- Land Ministry guidelines
- Court judgments related to land acquisition and compensation
- Established good practices and institutional arrangements

Equivalence Assessment (equivalence)

- **Legal provisions cover equivalence (40%) compared with the elements of ADB safeguard policy principles**
 1. PP 3 - Compensation for land and structures at replacement value
 2. PP 4 - Needed assistance
 3. PP 4 - Better housing at Resettlement sites
 4. PP 4 - Displacement support
 5. PP 7 - Compensation and assistance for non-titled holders
 6. PP 5 - Improve the standards of living for the displaced poor and vulnerable groups
 7. PP 3 - Restore/improve living standards (PP3)
 8. PP 1 - Project screening

Equivalence Assessment (partial)

- **Legal provisions cover partial equivalence (40%) compared with the elements of ADB safeguard policy**
- PP 2- Consultation
- PP 2 - Information disclosure
- PP 2 - Participation
- PP 2 - Grievance Redress system
- PP 2 - Social preparation
- PP 3 - Prompt compensation
- PP 10 - Compensation before displacement
- PP 3 - Benefit sharing
- PP 10 - Involuntary resettlement as a development activity

Equivalence Assessment (No equivalence)

- **No Legal provisions (20%) compared with the elements of ADB safeguard policy principles**
- PP 6 – Purchase of land after negotiation
- PP 8 - Prepare a resettlement plan
- PP 9 - Disclose a draft resettlement plan
- PP 12 - Monitoring and assessment of resettlement outcomes

Good Practices in Southern Transport Development Project and National Highways Sector Project

- Compensation at replacement value (STDP and NHSP)
- House plots given to encroachers (STDP)
- Preparation of resettlement sites (STDP)
- Assistance for livelihood recovery (STDP and NHSP)
- Resettlement plans prepared and disclosed (STDP and NHSP)
- External monitoring (STDP and NHSP)
- Establishment of GRCS (STDP and NHSP)
- Preparation of the gender action plan (STDP)

Implementation issues

- Delays in land acquisition and resettlement up to 3 to 5 years
- Reasons for delays are: 1) weak multi agency coordination, 2) lack of clear title and disputes over land ownership, 3) no linkage between land acquisition and project timelines and 4) lack of resources
- Application of urgency clause Section 38 (a) deprives the right to object and has not expedited the process of acquisition

Progress in reducing the policy gaps between ADB safeguard policy and CSS

2013 and 2014

- Regulations to LAA (2013)
- Cabinet appointed a special committee in August 2014 to identify measures to reduce adverse impacts of involuntary land acquisition and to recommend new regulations or amendments to LAA

2015 and 2016

- Amendments to LAA submitted to the Cabinet Sub Committee for approval in 2015
- Hon. Prime Minister appointed the Expert Technical Working Group in May 2016 to review the draft amendments and to formulate the new LAA or amendments for national priority projects

Recommendations

- New sections to the LAA for **preparation of RIPs and disclosure** to implement NIRP principles
- **New procedures for land acquisition for projects of national importance without using Urgency clause (Section 38 (a))**
- Enabling the project proponent to **purchase land through negotiation by introducing new sections to LAA**
- Approval for the RIP through **independent technical committee**
- **Delegate more responsibility to the project proponent** to prepare documents related to LAR **upfront for national priority projects**
- Establish a **dedicated LAR unit** within the Ministry of Land, the Survey Department and Valuation Department
- Establish a **Tribunal** to mediate on land disputes

Use of CSS

Sri Lankan Government is moving gradually towards achieving the full equivalence and once the gaps between ADB safeguard system is significantly reduced It will request the use of CSS to ADB in near future.

THANK YOU