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**Safeguarding involuntary resettlement**

In a previous article on these pages – published on Feb 20, 2021 – I had presented a summary of the evolution of land acquisition laws in Pakistan and legal protection enshrined in them against displacement due to the development projects.

In this article, I will discuss the social safeguard policies and principles against involuntary resettlement in large-scale development projects. As I discussed in my previous article, Pakistan does not have its own policy principles on involuntary resettlement and therefore relies upon the social and environmental safeguard policies of donors and lenders. For the most part of the large-scale development projects involving resettlement and adverse environmental impacts, Pakistan uses the social and environmental safeguard policies of International Financial Institutions (IFIs) like the World Bank Group and Asian Development Bank. The objective here is not to rephrase the social and environmental safeguard policies of IFIs but to simplify them so that those who are affected by development projects are better equipped to understand the legal obligations of the public and private sectors towards people.

Do environmental and social safeguard policies matter in the development projects? The answer to this question is always an affirmative one in a public policy debate. However, let us explore this further and contextualize the debate in line with the existing global performance standards on social safeguard management. Environmental and social safeguard policies matter but they are only a small part of environmental and social due diligence in identifying and minimizing the risks of development projects. Nonetheless, the new paradigm of these safeguard policies allows for thinking beyond the do-no-harm approach in a development project which is likely to have adverse social and environmental impacts in a given context. This new paradigm of going beyond the do-no-harm approach helps mainstream social and environmental aspects in the projects’ design to enhance sustainability.

Hence, the objective of safeguard policies is to ensure that all development projects are socially and environmentally sound and sustainable. This also entails informing the decision-makers about social and environmental risks through appropriate analysis of actions and their likely social and environmental impacts. For instance, the World Bank’s Operational Policy 4.01 covers the natural environment – air, water and land – human health and safety and social aspects like involuntary resettlement, indigenous people and physical cultural resources.

The Operational Policy 4.01 known as Environmental Assessment (EA) considers natural and social aspects in an integrated manner and it is triggered in a project with adverse environmental impacts in the area of influence. During the environmental assessment, projects are classified into four categories depending upon the magnitude of their impact on the environment.

Projects whose impacts are sensitive, diverse, cumulative, irreversible and/or unprecedented are placed in Category A. Projects whose impacts are site-specific, reversible in nature, less adverse than those of Category A and can be overcome through mitigation measures are placed in Category B. Likewise, the projects under Category C do not require any environmental assessment because they have very minimal or no adverse environmental impact.

The fourth category in the classification is about the financial intermediary – Category FI, which could include A, B and C level subprojects where EA may be required. Let me explain this a bit. When investment is made through a financial intermediary the sub- projects in this arrangement may result in adverse impacts and hence trigger the social and environmental assessment. Generally, an Environmental Review Committee is formed which determines each of these environmental categories vis-a-vis the projects of direct investment lending and the subprojects of investment lending through a financial intermediary.

The Operational Policy 4.12 gives primacy to avoid involuntary resettlement or minimize and mitigate its adverse impacts due to social and/or economic displacement. If displacement becomes the only option in a development project, it calls for mandatory action to resettle and rehabilitate the displaced persons. This means that the displaced persons will be assisted preferably to improve their livelihood or at least restore their incomes and rehabilitate their standard of living to the fullest. The compensation will not be limited only to land acquisition from someone having the ownership but also assets used by any person whose livelihood is associated with the acquired land regardless of the legal entitlements.

Let me simplify it further. Compensation is paid to those who either have legal rights on affected lands or have claims that can be regularized. Resettlement assistance is provided to those who have no recognizable legal right or claim to the affected land but who occupy the land before the cut-off date. No assistance is provided to those who have occupied the land after the cut-off as per the notification under the Section 04 and 05 of Land Acquisition Act 1894 or a locally established cut-off date.

A comprehensive Resettlement Action Plan is required when more than 200 persons are affected by a development project while for less than 200 people an abbreviated plan or a Resettlement Framework is prepared. Some key ingredients inherent to resettlement planning are stakeholder consultations, information disclosure and special provisions for resettling indigenous or tribal peoples.

There are eight performance standards that clients have to meet throughout the life of an investment by IFIs. The performance standards provide guidance on the ways to identify risks and impacts in projects so that they are designed to avoid (wherever possible), mitigate and manage risks and impacts in a sustainable way. Stakeholder engagement and disclosure obligations of the client vis-a-vis the project-level activities are integral parts of performance standards. I will discuss the details of these performance standards in a separate article as they are a very important part of clients’ obligations, rights of the local people and resource use patterns.

The objectives of performance standards are to minimize displacement by exploring alternative project design, avoid forced eviction, minimize adverse social and environmental impacts, improve and restore the livelihoods of affected persons and improve the living conditions among physically displaced persons. The operational processes of a development project are guided by a well-defined statement of principles and the adherence to 10 fundamental principles becomes an unavoidable obligation on the part of the client or borrower of investment lending. These principles are known as the Equator Principles of risk management which provide the framework to determine, assess and manage environmental and social risk in project finance.

For the comfort of readers, let me summarize the gist of the Equator Principles of environmental and social sustainability. The principles outline that when a project is proposed for financing, the financial institutions-which have adopted the Equator Principles review and categorize such a project based on the magnitude of its potential impacts and risks in line with the environmental and social screening criteria. For instance, if a project falls under Category A or Category B after the review, it becomes obligatory on the part of the borrower to conduct a Social and Environmental Assessment through an independent expert. It is also necessary to have a well-functioning grievance redress mechanism in place in projects in categories A and B so that the grievances of affected or displaced people are addressed in an effective and timely manner.

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