

## WHY DO CITIZENS GET ANGRY?

– Cognitive Biases & Dispute Resolution for the Involuntary Resettlement of Road Projects–

### **OGURA, Kenji (Mr.)**

Hanshin Expressway Co. Ltd.

4-1-3 Kyutaromachi Chuo-ku

Osaka 541-0056 Japan

Email:

kenji-ogura@hanshin-exp.co.jp (Office)

kenjiogura2@gmail.com (SOHO)

Co-author

### **OKUMURA, Tetsushi (Professor/Mr.)**

Graduate School of Economics

Nagoya City University

1 Yamanohata, Mizuhocho, Mizuhoku

Nagoya 467-8501 Japan

Email: Tet418@hotmail.com (Office)

### **Introduction**

Ministry of Land, Infrastructure and Transportation of Japan (MLIT) has issued “The Guideline of Public Involvement for the Planning Stage of Road Projects<sup>i</sup>” (hereinafter referred as to the Guideline). The guideline urges government organizations to enhance transparency, objectivity, rationality, and fairness in the planning stage of road projects. However, disputes and even litigations have still occurred between government organizations and project affected persons (PAPs) since issuance of the Guideline. This paper analyzes that some disputes in the involuntary resettlement are caused by cognitive biases. The analysis of cognitive biases created in the involuntary resettlement helps for public officials to find out PAPs’ real feelings and their interests. The authors recommend public officials obtain knowledge of cognitive biases and interest-seeking communication ways for the dispute resolution by using the Interest-Right-Power model (IRP model)<sup>ii</sup>.

### **“The Guideline of Public Involvement for the Planning Stage of Road Projects” issued by MLIT of Japan**

The objectives of the Guideline issued by MLIT in 2002 include:

- To enhance transparency, objectivity, and fairness by promoting public involvement in the early planning stage of the road projects
- To contribute to making road projects better by reflecting public voice on the projects
- To promote rationality of the planning decision process in accordance with the following sequence;
  - (1) Judgment regarding the necessity of the projects from the point of view of public interests
  - (2) Arrangement of balance between public interests and the local community’s (citizen’s) interests

The Guideline has been amended to apply for the earlier planning stage-so called “drawing stage” since 2005, aimed to promote transparency, objectivity, rationality, and fairness in the planning stage of road projects.

The Guideline would certainly contribute to preventing and even solving conflicts and disputes that occur in the road projects; however, the Guideline alone cannot solve all collisions. According to the Japanese legal precedent search system<sup>iii</sup>, 30 litigations have been raised since 2005, in which some cases include suspension of the road constructions and execution of the eminent domain rights on private properties.

The authors analyze the precedents and the dispute structures base on the practical experiences, and have found out cognitive biases trigger some collisions in the resettlement negotiations. Sorts of cognitive biases are listed up in the next section.

### **Cognitive Biases**

Cognitive biases<sup>iv</sup> would often be created in the public meetings and the relocation negotiations. Both citizens (local communities) and government officials might have feelings of egocentricity, irrational escalation of commitment, framing, halo effect and so on during the meetings and negotiations. These biases would lead to misunderstanding and disputes between both parties. Typical cognitive biases that are often seen in the public meetings and relocation negotiations are as follows;

- **Egocentricity**  
There is likelihood among people who focus on their interests to protect their own property and local communities. Not-In-My-Back-Yard (NIMBY) and Locally-Unwanted-Land-Use (LULU) are common expressions to describe local community's egocentricity.
- **Irrational Escalation of Commitment**  
This is one of the cognitive biases to hinder people and organizations from making a rational decision. Organizations, affected by the past successful experience and a large amount of spent budget, sometimes make an irrational decision. A highway project that has been already started is seldom cancelled since irrational decisions about new investments are being made and justified on basis of previous investments, even if it is likely that the new investments are not worth it given the expected outcome.
- **Framing**  
Framing is a thinking way to benchmark a standard. People accept things in different ways, depending on each standard even though objective values may be similar. "There is merely a half glass of water." "There is enough of a half glass of water." Even though its quantity is the same, decision making would go in a different way.
- **Anchoring**  
The first proposed amount is likely to be a benchmark in a relocation negotiation. This cognitive bias is often created in a relocation negotiation even though no zoning of possible agreement (ZOPA) exists in public works in Japan since the amount of relocation expense is calculated according to the standard formulated by the government.

- **Halo Effect**  
The halo effect is a cognitive bias in which your judgments of a person's character can be influenced by your overall impression of them. It can be found in a range of situations—from the courtroom to the public meetings and in everyday interactions.
- **Endowment Effect**  
People tend to assess their own things at more than its fair value. This means people add a feeling of affection onto the fair price. In Japan, people think property handed down from ancestors is much more valuable than its fair market value.
- **Fixed-Pie Perception**  
By its mere nature, there is a limit or finite amount in the thing being distributed or divided among the interested parties; hence, this type of negotiation is often referred to as 'The Fixed Pie'. The proportion to be distributed is limited but also variable. In this cognitive bias, interested parties collide with each other and those who belong to each party tend to have either a winning or losing feeling.

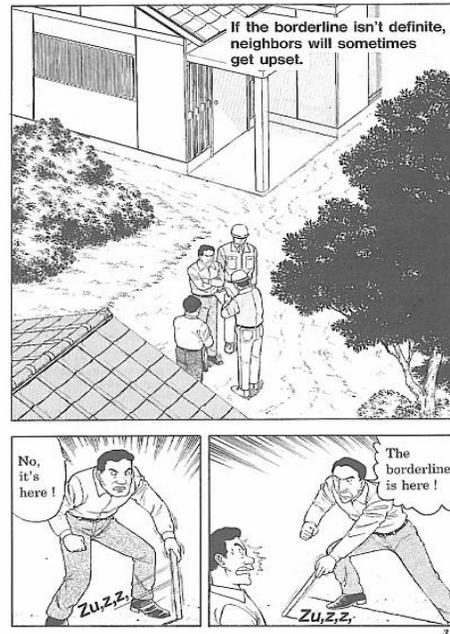
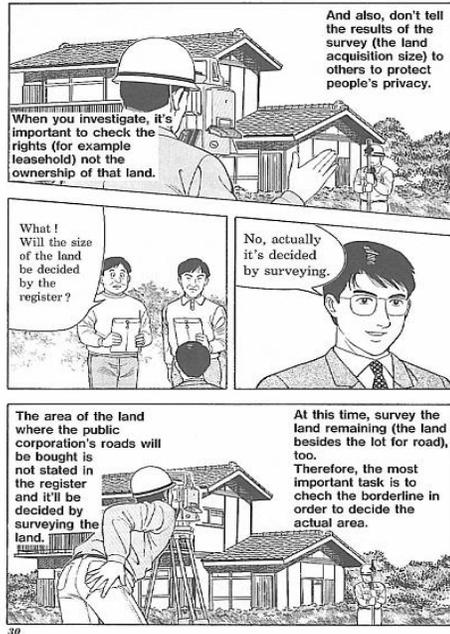
The next section describes three case studies to analyze dispute structures in which cognitive biases exist in each case study.

### **Case Studies for the Dispute Analysis in the Involuntary Resettlement**

The next three case studies contain a cognitive bias that triggers disputes and/or value conflicts. Each case of the following cartoon strips<sup>v</sup> is abstracted from the anecdotes which often occur in practical negotiation scenes. The cartoon strips are made for the training material so that the public officials who are in charge of the involuntary resettlement can train and experience themselves in the virtual reality.

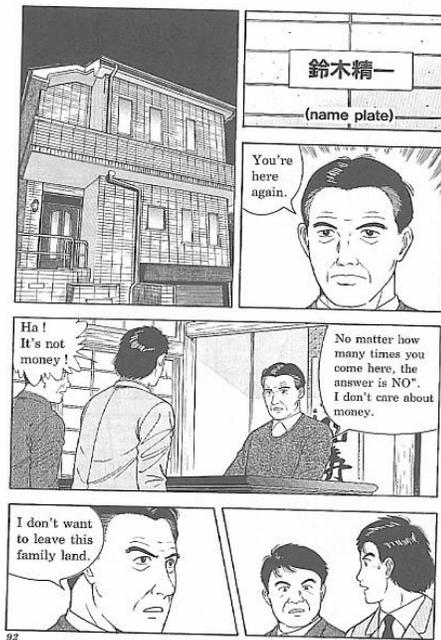
The authors have converted the cartoon strips to the education material for the public officials to analyze what kind of cognitive biases exist in the involuntary resettlement and what kind of interests the opponents against the road projects have.

- **Case 1**  
Case 1 depicts a boundary dispute that happens during the land survey. The persons who are land owners collide with each other for the land demarcation since they are biased toward "Fixed-Pie Perception". The public official in charge had better stop the boundary dispute and change their interest from the land demarcation to the total amount of compensation if their actual interest exists in the amount.



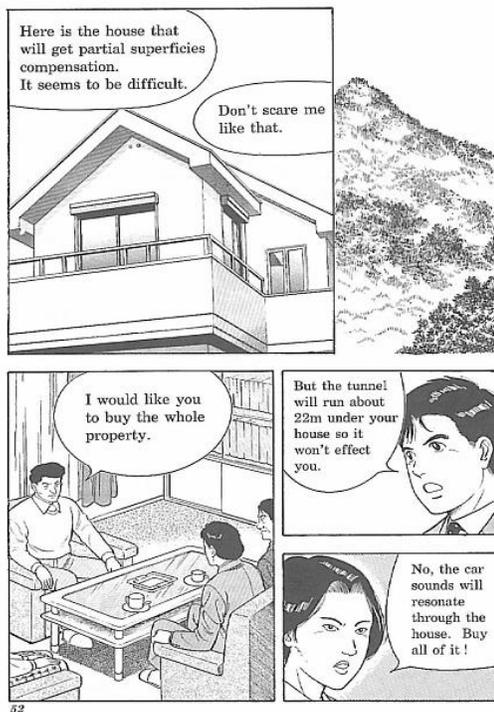
● Case 2

Case 2 depicts the house owner declines the relocation offer from the public officials. The owner adheres to the property handed down from his ancestors. The owner's perception is regarded as "Endowment Effect". The public officials have to keep frequent dialogues and persuade him to acquire a new premise in another place so that he can keep his ancestral will at the new place.



- Case 3

Case 3 depicts the house owners urge public officials acquire the whole property even if the planned road penetrates its deep underground without any conflict with the premise. Such attitudes are called NIMBY and/or LULU. “Egocentricity” is found as a cognitive bias in the story. Another important finding is that owners are concerned about the noise caused by the passing-vehicles. Public officials have to keep dialogues with the owners and show them the noise proof system is installed in the tunnel structure and its noise level is kept low under the maximum permissible level required by the law/ordinance.



The above three cases depict typical stories that are often seen in the involuntary resettlement. Three types of the cognitive biases exist in each case. It is important for the public officials to analyze what kind of cognitive biases exist in each conflict and/or dispute and what kind of interests the opponents against the road projects have. The authors conclude how important the analysis of dispute structures is in the next section.

### **Recommendations**

It can easily be imagined that the local communities (citizens) collide with public officials in the public meetings and involuntary resettlements. However, the opponents show a particular concern and/or interest in the dialogues (negotiations). This is what we have learned through the above three case studies.

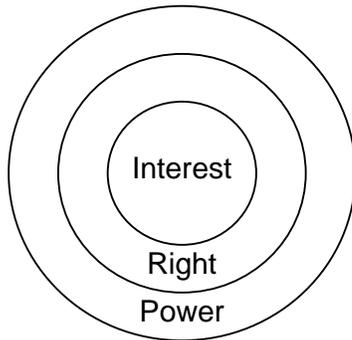


Figure 1. Interest-Right-Power Model for the Dispute Resolution

The IRP model forms three layers (Figure 1);

- Interest allocation?
- Who owns rights?
- Who manages power?

Generally speaking, it is least costly to focus on interest among three approaches (interest, right, power). It is less costly to depend on “right” approach than “power”.

In this model, the cost is measured by the following factors;

- #1 Bargaining Cost (Consumed Time, Financial Resources, Psychological Energy/Damage, Opportunity Loss)
- #2 Degree of Satisfaction for the Outcome of the Resolution
- #3 Influence on the Relation with the Counterpart
- #4 Possibility of the Dispute Recurrence

IRP model shows critical importance to convert a conflict structure between opponents and public officials to a collaborative relationship. Building the collaborative relationship enables both parties to cope with shared issues (e.g., amount of compensation, ancestor’s premises, and concerns about the unpleasant noise).

The authors recommend public officials obtain knowledge of cognitive biases to focus on the opponent’s interests. The approach would certainly contribute to building a collaborative relationship with local communities (citizens).

---

### **References**

- <sup>i</sup> [www.mlit.go.jp/road/pi/2guide/chapter1.html](http://www.mlit.go.jp/road/pi/2guide/chapter1.html)
- <sup>ii</sup> William L. Ury, Jeanne M. Brett and Stephen B. Goldberg. “Getting Disputes Resolved” 1988 –Tetsushi Okumura (Translator) Japanese Translation Ver. 2002
- <sup>iii</sup> [www.courts.go.jp/search](http://www.courts.go.jp/search)
- <sup>iv</sup> Max H. Bazerman and Margaret A. Neale. “Negotiation Rationally” 1992–Tetsushi Okumura (Translator) Japanese Translation Ver. 1997
- <sup>v</sup> Hanshin Expressway Right-Of-Way Institute. “How to negotiate in the Involuntary Resettlement” -English Translation Ver. 1997