



Photo : ILRI/Mann, flickr.com

Land Acquisition and Involuntary Resettlement:

Protecting human rights
when displacement occurs

Frank Seier
Right2Respect

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R2R **RIGHT2RESPECT**
Business and Human Rights Advisors

Outline

1. Disclaimer/Limitations
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6. Recommendations for Making Resettlement Human Rights-Compliant

1. Disclaimer/Limitations

- Experience in projects involving resettlement (Mozambique, China, Myanmar)
- Not a resettlement expert
- Contractual client/advisor confidentiality
- Presentation based on most recent information in public domain

2. Conceptual Framework

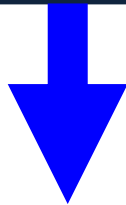
- “land acquisition & involuntary resettlement” = government and proponent-led

- “resettlement” = planning, implementation, monitoring, completion audit

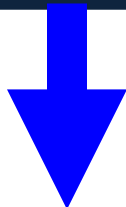
- “displacement” = physical relocation, economic disruption, or both

3. Human Rights & Business Framework

**2005 - 2008:
Protect Respect &
Remedy Framework**



**2008 - 2011:
Guiding Principles**



**2011-2014: UNWG /
Implementation**

1. **State duty to protect** against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication
2. **Corporate responsibility to respect** human rights, which requires companies to act with due diligence to avoid infringing on the rights of others, and to remedy any adverse impacts
3. **Access provided, by government and business, to effective remedies** for victims of human rights abuses

UNGPs (2011):

- Broad-based & widespread support
- “Global standard of expected conduct”

“Human rights due diligence is the steps a company takes to identify, prevent, mitigate and address the adverse human rights impacts of its activities and relationships.”
(Ruggie, 2011)

- 2 main Human Rights Due Diligence steps are:
 - assess impacts on human rights
 - integrate findings into risk management systems

4. Human Rights in Resettlement Context



HUMAN
RIGHTS
WATCH

“What is a House without Food?”

Mozambique’s Coal Mining Boom and Resettlements



Photo : HRW/Muscati

Community use of the Revuboe River – swimming, laundry and community gatherings – they also get drinking water and fish for food



The bridge over the Zambezi River, connecting Moatize Town and Tete City – communities in the coal-mining region depend on these urban centers for services, employment and markets for their products



Photo : UGroningen/Van der Ploeg

The resettlement village of Mualdazi – a water-stressed location, with no permanent water sources and poor quality soil, and 50 kms from closest urban center



Photo : UGroningen/Van der Ploeg

The village of Capanga, one of the major villages that was resettled to Mualladzi – with the Revuboe River in the background and Moatze Town and Tete City 5 kms away

- Involuntary resettlement, by definition, involves a power imbalance
 - Government & Companies (powerful) vs. Affected communities (powerless)
 - Jobs, revenues, profits (outsiders) vs. Social disruption, loss of resources, inaccessibility of jobs (locals)
 - Benefits vs. Burdens

Human rights can help address
power imbalances

“Business enterprises can have an impact on virtually the entire spectrum of internationally recognized human rights” (Ruggie, 2011)

- The most salient human rights issues for resettlement:
 - Right to information and participation in decision-making (ICP)
 - Right to water (for drinking and sanitation)
 - Right to an adequate standard of living (food, housing, livelihood)
 - Right to property
 - Access to remedy (i.e. grievance mechanism)
 - Right to participate in cultural life
 - Rights to education and health (directly or indirectly)

- Company connection to human rights impacts:
 - Causation (e.g. company changes the relocation timeline without community consultation, thereby preventing the harvesting of crops, and adversely impacting the coming year's community food supply)
 - Contribution (e.g. company fails to monitor the quality of resettlement housing construction by contractors)
 - Direct linkage through business relationships (company operates on land acquired by a government from the former owners or users without ICP/FPIC)

*“The client will consider feasible alternative project designs to **avoid or minimize** physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable.” (IFC PS 5)*

- Challenges of avoiding/minimizing resettlement:
 - Subsistence-based livelihoods often require extensive land use – there are people everywhere
 - Fossil fuel deposits (i.e. oil & gas, coal) in proximity to riverine environments (Tete, Cabo Delgado)
 - Land-based infrastructure, which may require resettlement, is encouraged as a way to stimulate regional economic development (Cabo Delgado)

“Because human rights situations are dynamic, assessments of human rights impacts should be undertaken at regular intervals: [e.g.] prior to a new activity...”. (Ruggie, 2011)

Resettlement is a significant “new activity” and a major change in the human rights context of a project

Therefore, resettlement requires an assessment of human rights impacts

6. Defining Human Rights Content - The AAAQ Tool -

- Challenge of respecting human rights is understanding their content
 - Human rights treaties establish qualitative principles, not quantitative standards
 - Some generic international standards exist
 - Others depend on local context

- AAAQ Tool is an analytical framework being developed by DIHR:
 - to define the content of
 - the rights to water, food, housing, education and health
 - based on qualitative and quantitative indicators

- AAAQ means:
 - **A**vailability (i.e. quantity)
 - **A**ccessibility
 - **A**ceptability
 - **Q**uality

7. Recommendations for Making Resettlement Human Rights-Compliant

- Conduct a Human Rights Impact Assessment of RAP, using AAAQ framework to determine pre-resettlement baseline and establish post-resettlement benchmark of adequacy
- Investigate and monitor government-led components of the resettlement process
- Promote and participate in all government-led community consultation (i.e. resist government gate-keeping)
- Ensure inclusion of all rights-holders in compensation/benefits framework (including those indirectly impacted by resettlement)
- Ensure meaningful community consultation regarding RAP planning, implementation, monitoring and completion

- Ensure resettlement commitments/compensation agreements are in writing, and understood and ratified by communities
- Involve affected communities in RAP preparation, implementation monitoring/completion audit
- Improve benefits/burdens balance – IBAs, local content, revenue-sharing, company/community partnership
- Continuously communicate with affected communities regarding resettlement implementation timelines
- Establish an accessible and effective grievance mechanism

The background of the slide is a photograph of several people, possibly indigenous, in a natural, grassy field. They are wearing traditional or patterned clothing. The image is covered by a semi-transparent dark blue overlay. The text "Thank You" is centered in white.

Thank You

- **Right to information and participation in decision-making (ICP)**
- **Right to an adequate standard of living**
- **Access to remedy (i.e. project-level community grievance mechanism)**

- Challenge of respecting human rights is understanding their content
 - Human rights treaties establish qualitative principles, not quantitative standards
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 - Others depend on local context

Availability (i.e. quantity)

In the context of the right to water:

- Minimum requirement
 - Prevention of disease, available on a regular basis
 - 5 lts/person/day
- Adequate level
 - satisfies basic personal and domestic needs (drinking and sanitation)
 - 20lts/person/day

Accessibility = physical, economic, equal, and participative/informed

- Minimum requirement
 - reasonable number of outlets/waiting time
 - within reasonable distance
 - no threat to personal security
 - with equitable distribution of water facilities
 - financial assistance for vulnerable groups
 - no discrimination against vulnerable groups
 - informed participation in water strategy development

■ Adequate level

- within or in immediate vicinity of residences, schools, workplaces
- maximum 30 minutes collection time (incl. waiting time)
- recommended maximum 5 minutes
- affordable for all - direct and indirect costs do not threaten realisation of other human rights
- total household water costs \leq 5 % of total household income
- opportunity to seek, receive and impart information concerning water issues

Acceptability = culturally appropriate; gender, life stage and privacy-sensitive; and acceptable characteristics

- Minimum requirement
 - no generic benchmark
- Adequate level
 - facilities and services that are culturally appropriate and gender, life-cycle and privacy-sensitive
 - acceptable colour, odour and taste

Quality = safe, disease-free, with disease-management delivery system

- Minimum requirement
 - safe; disease-free; facilities/services ensure management of waterborne diseases
- Adequate level
 - compliance with WHO guidelines/standards

“Since I was born, I have taken baths here in the river. I have washed my clothes here.... Even my children have grown up here in this river. They know how to swim. Where we are going we will be given water in small containers. I’m not used to that kind of thing.” (Ana Maria B., Mwaladzi - HRW Report 2013)

- Companies may be directly linked to human rights impacts where governments encourage/demand they develop their projects in a way that requires resettlement