Success through Innovation and Negotiations: Land Acquisition in India

The World Bank considers land acquisition as one of the most challenging tasks in the process of implementing infrastructure projects. Systematic and procedural bottlenecks such as inadequate compensation to the landowners as well as lengthy and complex formal procedures – with inadequate information in terms of claims and benefits, ineffective land records and administration – continue to make this a complex and daunting challenge in client countries. In the case of World Bank-assisted projects, the Operational Policy on Involuntary Resettlement acts as a safeguard to assist displaced people in their efforts to improve or at least restore their standards of living. Social Safeguards specialists assist implementing agencies to prepare World Bank projects in the South Asia Region and are continuously developing innovative approaches to speed up the land acquisition process while devising ways to provide compensation payments in a fair and transparent manner.

This note highlights the key lessons from four State Highway projects in India (in the states of Tamil Nadu, Punjab, Uttar Pradesh and Gujarat) and the Rampur Hydroelectric power project in the state of Himachal Pradesh, India. These particular projects are exemplary given the manner in which issues like inadequate compensation and the typically lengthy process of land acquisition was addressed through innovative valuation and consultations.

1 This Dissemination Note was prepared by Saurabh Naithani at the South Asia Social Development Unit (SASDS) based on inputs provided by I.U.B. Reddy and Parthapriya Ghosh, Social Development Unit, The World Bank, New Delhi. The World Bank also acknowledges the support provided by the respective officials in providing the required data, comments and feedback on the note. All pictures provided by project teams.

2 The Operational Policy on Involuntary Resettlement particularly applies where the compensation is required to be paid at replacement cost and the compensation must be paid prior to taking of the land and other assets, such as in these projects. While Resettlement and Rehabilitation (R&R) assistance was also paid in some cases in addition to compensation, this paper specifically covers compensation enhancements.
**Gujarat State Highways Project**

This project was implemented over a period of seven years starting in 2000 with the total private land under consideration covering 53 hectares which was broken into 665 separate cases of acquisition. The project adopted an innovative method of payment for the Land Acquisition (used interchangeably with ‘LA’) compensation through a ‘Top-up Money’ approach. Under a two-step process, LA was first carried out through the traditional method of applying procedures under the official Indian Land Acquisition Act, 1894. The compensation paid under this act to the land holders was then compared with the current valuation procedures (of assets) followed by the Gujarat state government’s Town Planning and Valuation Department and the difference was paid by the project as a ‘top-up’. Under the Town Planning and Valuation Department’s method, land values are estimated by taking into consideration the type and shape of land, access, annual inflation, potential use of land, proximity to amenities such as bus and railway station, and airports, and therefore make the compensation relatively fair by arriving at a much more accurate value of land.

While a large number of landowners did not require additional top-ups (173 from a total of 619 identified landowners), the analysis of top-up money shows that 26% of landowners received top-up money that was more than a hundred percent of the compensation award while another 19% received between fifty to a hundred percent higher amount as top-up money. This breakdown is shown in Figure 1 below. As the figure further displays, about 28% received no additional top-up money since the assessment of their lands showed that the valuation amount was found to be similar to the amount paid under the official LA act. At the same time, nearly fifty landowners refused top-up money and fielded court cases for enhancements of their compensation.

This approach has resulted in a large proportion of landowners receiving higher compensation, and the proportion of court reference cases being reduced considerably. The 46 recorded court references cases translate into only 7% of the landowners. The top-up approach to cover the difference in compensation under the LA Act and the market prices has since been used in other major state highway projects in India, particularly in the state of Orissa.

**Rampur Hydro Power Project**

Under implementation since 2007, this project involved a relatively small amount of private land, approximately 30 hectares, from the districts of Kullu and Shimla in the state of Himachal Pradesh. In addition, 50 hectares of state forest land was acquired from the government through compensation. Once again, LA was initiated using the Indian Land Acquisition Act. The project involved Revenue Department officials from the state government from the onset. These officials shared market rates with landowners prior to declaring the compensation awards. In this case however, a majority of the landowners expressed serious disagreement with the compensation rates and approached the power company Satluj Jal Vidyut Nigam Limited (a joint venture between the Central and the State governments) for higher compensation rates.

In response, the state government constituted a Special Committee comprising of senior state-level government officials that included the Deputy Commissioner (as Chairman), Superintending Engineer (Public Works Department - PWD), representatives from the Forest Department, and others. The special committee took various parameters into consideration in order to arrive at a land compensation that was higher than what the landowners would have received under the formal process. The key challenge encountered is that in spite of heavy compensation, some landowners have made court reference cases for enhancement of compensation, presumably under the influence of lawyers. A few ways in which this challenge can be pre-empted are mentioned by the project staff and listed in the Lessons Learnt section.

In Rampur, consultations were held with the landowners and consideration was given to recent sale transactions, compensation paid by private negotiations for private hydro projects.

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3 One hectare is equivalent to 10,000 square meters, or approximately 2.47 acres, of land.
and, revised compensation rates in LA enhanced by recent court rulings. Based on these parameters, the committee fixed new rates for different affected villages. In addition to this rate, an extra 30% was paid as a solatium while 12% was paid as interest for the waiting period. Compensation provided by the committee varied by the type of land; in the case of irrigated land for instance, the compensation was four times higher while with non-irrigated lands, it was ten to twenty times and over. Landowners were also given additional support through rehabilitation grants.

The mechanism here did more than just provide higher compensations: the compensation rates established served as a guide for additional acquisitions and they were subsequently followed for the purchase of additional land required for resettlement sites – and for additional civil works identified during the implementation. This approach helped to complete LA well in advance of civil work commencement on the hydro power project in Rampur while no civil works were affected due to delays in acquisition. The project also did not face any major opposition to the land acquisition. This innovative approach has helped the project complete critical activities two years ahead of schedule and therefore saved time and money to the project. This also helped some landowners to earn additional income during the land acquisition waiting period. The income earned by the people was in fact substantial considering the amount of lease rent paid by the project. This practice is now being replicated in the proposed Luhuri Hydro Project in the same state and lease agreements are already under way with landowners. As these individuals are now being notified on the land acquisition that is to follow, the efficiency in valuations, the consultations, and the open nature from the proceedings in Rampur are expected to be strong features of this hydro project as well.

This project also used another innovative way of securing land for urgent works. In general, once the land acquisition process is initiated the land will be available only when the compensation award is established and is offered to the landowners. This process of land acquisition may take about 2-3 years. Instead of waiting until completion of LA for the possession of the land, the project has adopted an innovative approach in securing land for critical activities such as office complexes and approach roads/bridges to save time. The project has entered into an agreement with those landowners whose lands were notified for acquisition. Their land was offered to be taken on a lease basis and the project then preceded with the construction urgent works (offices, building an approach road/bridge) pending the completion of the LA process. A total of 1.5 hectares (about 5% of the total private land subject to land acquisition) was taken on lease from 15 landowners by entering into an agreement with them to construct the office complex and road/bridge. The lease rent paid ranges between Rs. 19,000 to 27,000 per hectare per month (approximately $400 to $600, USD, at current rates). The lease period varied from 11 months in the case of two landowners, 24 months in the case of 10 landowners and 30 months in case of the remaining three landowners.

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Punjab State Roads Project

This roadways project is currently in an advanced stage of implementation. Although the acquisition concerned a relatively small amount of private land – 20 hectares – there were 891 landowners from 28 villages who were involved! The affected landowners also comprised of over seventy residential-cum-commercial properties. In order to move along the land acquisition process at a steady pace in parallel to the project, a Private Negotiations’ process was adopted. Land needed for the project was acquired through direct negotiations with the landowners. The process of negotiations as outlined in the Resettlement and Rehabilitation (R&R) Policy Framework included a timeframe of 45 days for carrying out negotiations with the landowners from the date of the first negotiation – with a provision for four rounds of negotiations. Negotiations were conducted in each village that was affected and a Negotiation Committee was formed by the state government headed by the Sub-Divisional Magistrate (-cum-Land Acquisition Officer). Members included the Executive Engineer of the government’s Power and Water Department (PWD); the Block Development Officer and the Panchayat Officer; and, a state Revenue Officer. The committee was further supported by a non-governmental organization (NGO) representative⁴ as well as community-level village officials such as the local Patwari, the village-level revenue official responsible for maintaining land records. Project-related documents such as the Executive Summary of the required Resettlement Action Plan (RAP) were translated into the local language while the compensation rates and revenue records of the land tracts were also made available to landowners.

The project gave at least two weeks’ of prior notice to the landowners for negotiations and announced dates of these meetings on the public address system of the Gurudwara, the local Sikh Temple (a key social and religious center in a predominantly Sikh state). The negotiations were generally conducted in Gurudwara premises while the minutes of the negotiations were recorded in the local language and shared with all the participants. Under the private negotiations, the base value of land was offered at one and a half times the circle rate (if the circle rate was not updated, 10% was added for each passing year cumulatively to cover the inflation). A solatium of 30% was added over the final circle rate and the final negotiated rates were sent to the state government for approval. The final land value agreed upon varied considerably from 5% to over 300% over the base value offered.

The private negotiations resulted in the negotiated price being agreed upon in the first round of negotiations itself (ex-

⁴ The NGO Development Initiatives for Systems Alternatives (DISA) was hired to implement the RAP; DISA also assisted the government during the LA negotiation process. DISA is based out of Lucknow (Uttar Pradesh, UP) and has assisted the UP Public Works Department in implementation of the World Bank-funded UP State Roads Project. DISA has extensively worked in watersheds and gender-based programs along with R&R.

⁵ The government every year calculates the land value in the state depending upon its location (distance from the highways or district road; distance from the urban centre; irrigation facilities; etc.). This valuation is called the Circle Rate. The primary objective of the circle rate is to establish the registration fee which varies from 6% to 12% depending on the Indian state’s policy. The circle rate is revised every year by the state’s Revenue Department based on inflation. Many a times, the revision gets delayed and such was the case in Punjab.
The largest amount of land acquisition among all the state highway projects that are currently financed by the World Bank in India. The total private patta land acquisition involved in this project is just over 400 hectares, in addition to another 200 hectares of government-owned land, 29 hectares of temple lands, and three hectares of forest land. The large-scale land acquisition in this project is meant to accommodate the inclusion of various bypass roads that serve to avoid congested townships. Once again, private negotiations were used to speed up the acquisition of private lands required for the project and compensation rates and payments were fixed based on the prevailing guideline values.

A Negotiation Committee was formed, this time under the chairmanship of the District Collector and a special revenue and survey team from the Revenue Department was assigned to assist this project to speed up the LA process. There was again a high acceptance for the compensation rate under the private negotiation method. A number of provisions were made for the landholders. Out of the grand total of 11,121 landowners, 550 landowners (about 5%) have received severance allowance of 25 percent in addition to the compensation amount, while another 444 landowners (4%) have received an additional compensation of 25 percent towards a land purchase grant. Of the 400 hectares, only 9% (37 hectares) was acquired invoking the official Tamil Nadu (TN) Highways Act - procedures since the compensation offered under the private negotiations was not acceptable to those landowners and in some cases private negotiations could not be initiated as the lands were disputed.

Tamil Nadu Road Sector Project

This project commenced in 2003 and is also in an advanced stage of implementation. The project involves strengthening and widening over 700 kilometers of existing state highways including thirteen new bypass roads. The project required the

Targeting women for information sharing and consultations.

Consulting landowners; identifying land plots in consultations with landowners.
Under private negotiations, the lands were registered by paying the full amount of compensation prior to taking over of the land by the Highway Department for this project. Though the guideline allowed for negotiating the compensation to more than 150 percent of the guideline values, the District Collectors did not go beyond the minimum negotiated prices by arguing that similar projects in the vicinity had offered lower compensation amounts and it would be unfair to increase the compensation package merely for this project. The landowners themselves did not protest against the minimum negotiated amount since the process was open, simplified, and resulted in faster payment of compensation (Figure 2 below). There were probably apprehensions that the compensation award through TN Highway Act would in any case be lower and would take a much longer time to arrive at.

A minimum of 150 percent prevailing guideline value was fixed as the minimum compensation; wherever the guideline values are more than one year old at the time of negotiations, an additional 5 percent was added per year towards adjustment of inflation. In cases where the lands had provided employment and income to the landholders, an additional 25 percent of compensation was provided to them. Further, in cases where the land-holding size was reduced to less than 1 hectare of irrigated (or 2 hectares of unmitigated land) after the land acquisition, a land purchase grant that amounted to 25 percent of the compensation was also provided. At the end, the compensation offered to the land owner under the private negotiation method in Tamil Nadu varied between 159 to 209 percent of the current guideline values – depending upon the type of impact that acquisition had on them, with an inflation adjustment.

Data from the project shows that the time taken to complete the LA process and payment of compensation was significantly faster using the private negotiations instead of the TN Highways Act. A total of 1,069 landowners sold 366 hectares of private land under the private negotiations method the project adopted while 1,052 landowners sold 37 hectare of land using the TN Highways act. In case of private negotiations, the land acquisition was completed in less than 2 years for 53% of the cases, whereas the LA process took more than 2 years in case of 85% of landowners under the TN Highways Act.

Uttar Pradesh State Roads Project

The Government of Uttar Pradesh recently completed the implementation of the State Roads Project that concerned the widening of approximately 1000 kilometers of roadways. Two hundred hectares of private land was acquired using the Consent Award approach – available under the Uttar Pradesh Land Acquisition Rules (1971) that concerned the ‘Determination of Compensation and Declaration of Award by Agreement’. A government order was issued in 2005 to use this facility. To arrive at the base price, NGOs contracted for implementing RAPs along with the Resettlement and Rehabilitation Officer of the PWD collated land price information from (a) registered price of land in the last three to five years; (b) the latest circle rate; and finally, (c) the agriculture productivity rate (with a multiplier of 20 – approved by the state government). All three rates were compared and the highest rate was offered to the landowners. The negotiations were chaired by the District Magistrate of the concerned district or his/her representative.
The consultations were carried out in two phases. Two NGOs were hired; DISA that worked with the Punjab project, and Sugam International, a Lucknow-based NGO which works extensively in R&R. This NGO, apart from assisting the state PWD in RAP implementation, has also assisted National Highways Authority of India and Indian Railways in RAP implementation for roads and rail projects. These NGOs consulted landowners in specific groups in order to inform them and make a case for the consent award. Specific groups were formed for consultations that consisted of titleholders, household members and village elders. One-to-one consultation was also carried out separately with each and every titleholder. Once the land replacement value was arrived at, the second phase of consultation was carried out by the NGOs to inform the same groups. Again, along with the group discussions, each titleholder was consulted in an individual capacity. Local and state government participation in these consultations was highlighted by the fact that the Resettlement and Rehabilitation Officer (RRO) as well as Revenue Officer (the lekhpal) accompanied the NGOs for every consultation.

Prior to the negotiations, every individual was informed in regards to the price arrived at and a copy of the R&R policy in Hindi (the local/regional language) was distributed to inform the Project Affected Persons (PAPs) about all the benefits beyond direct land compensations. Post-negotiation, the NGOs again carried out one-to-one consultation for the consent letters. On an average, it took 10 to 14 months to acquire land. The various activities carried out as part of land acquisition included consultations with landowners, valuation of affected structures, verification, and eventual registration. The consent award approach followed in this project once again considerably reduced the time taken for land acquisition and the landowners received a marginally higher compensation than what was available under the land acquisition act.

**Lessons learnt**

**Strong participation of crucial stakeholders** was common in all projects, and the reason that the compensation and acquisition process was successful. The ability of the agencies that were designated or created to engage civil society and landowners – the special committee set up in Rampur, negotiation committees in Punjab and Tamil Nadu – all were crucial to strengthen understanding of the process and make it more transparent. Most approaches also involved local and state government officials. The ability to convince landowners on the criteria and procedure in arriving at the compensation rate and explanations on the advantages of this method was another key to success.

In each project, there were multiple consultations; in Punjab, for instance, the process of negotiations were an integral part of the project and included a time frame of 45 days – with a provision for four rounds of negotiations. The negotiations were conducted village-wise and in many cases, the Gurudwara, Sikh temple, was used to raise public awareness and participation. In Uttar Pradesh, a two-phase consultation involved discussions between facilitating NGOs and landowners’ groups; negotiations with focus groups including land titleholders, household members and village elders; one-to-one consultations with each and every titleholder; and, the involvement of RROs and revenue officials (lekhpal). On an average, it took 10 to 14 months to acquire land. Project teams managed to identify and involve key entities – a strategic move on the part of the Tamil Nadu project was the involvement of the state government’s Revenue Department, for instance. This definitely resulted in a substantial reduction in time required for official approval from the state government since relevant officials were already aware and involved with both the project and the negotiations.

The involvement of civil society organizations, here in the form of local and regional NGOs, greatly enhanced engagement between the project teams, the landowners, and the affected communities. The NGO’s role in Uttar Pradesh for instance included providing advance information to the landowners on the date and mode of compensation; the relevant documents to the landowners; vehicles to ferry landowners from the village to the negotiation centre; explaining the methodology of arriving at the base value to the landowners; documentation of negotiation process and results; and, dissemination of minutes of negotiation in the local language. Here the NGO also as-

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8 The Resettlement and Rehabilitation (RRO) Officer is the project client’s counterpart for RAP implementation. He/she is responsible for guiding the NGO in RAP implementation; land acquisition; and for monthly and quarterly progress reporting. The RRO is also responsible for mid-term and end-term evaluation of RAP implementation.
sisted PWD and landowners in the transfer of land rights from the landowner to the government while working out the exact compensation amount based on the extent of land loss. The NGOs prepared and disbursed compensation checks, assisted in the opening of bank accounts, and assisted landowners in purchasing other land parcels.

Private negotiations that factored in **current realities in regards to the land value** were pursued in all cases **while not by-passing the official acquisition process**. This approach received great traction among the land holders since the project team displayed a sense of fairness and displayed awareness and flexibility in calculating the changing value of land over time. In the case of the Gujarat project, LA was carried out under the Indian Land Acquisition Act (1894) as a starting point. It was then compared to the much more recent valuation by local authorities, the Town Planning and Valuation Department, and the ‘difference’ was paid by the project in addition as top-up money. The same model was followed in Rampur and in Punjab, and in a different manner in Tamil Nadu and Uttar Pradesh; a majority of landowners in all cases were receptive and were satisfied with the end process.

In these projects, since **land acquisition through private negotiations** was completed much faster, the Government avoided cost and time over-runs in construction by handing over of the land to the contractors on time. If the government was to adopt the procedure under the Tamil Nadu Highways Act in the case of the road project there, for example, it may have led to significant delays as the process takes much more time (**see Figure 2**) and the landowners have an option to go to the courts to get higher compensation and unintentionally prolong the process further. By adopting the negotiated price, the land owner received a higher compensation in most cases, and much faster. The project team in Punjab stated that the overall land acquisition time took eight months compared to the usual two to three years in the state under the Indian Land Acquisition Act.

World Bank teams have continued to refine their approach by building on the lessons from these projects. The staff at the Rampur hydro project in Himachal sees a number of improvements that could be applied in the future in regards to LA such as disclosing the rationale behind constituting the special committee for fixing the compensation rates to the landowners; differentiating the compensation for irrigated and un-irrigated lands; and furthermore, fixing compensation rates based on a better evolved land classification and awarding compensation rates through consent award to court references for compensation enhancement. This would avoid contested claims and further increase transparency and confidence in the process.

Although the approaches and compensations were only applicable for the projects above, the level of participation, consideration of true values of land, and the relative speed at which the process was completed, all serve as valuable lessons for future land acquisition projects in the country and in the South Asia Region.