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STRIKING THE RIGHT BALANCE BETWEEN THE PUBLIC AND PRIVATE INTERESTS IN COMPULSORY ACQUISITION OF LAND IN VIETNAM

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Abstract

Recently, there have been a number of complaints from private individuals who have been affected by planned development in Vietnam. The main source of complaints is against compulsory acquisition decisions, in particular disagreement with the level of the compensation set by the acquiring authorities. Those complaints, which are on the increase and tend to be increasingly prolonged, have a bad effect to the security and the social order. "Until now, the most pressing story is about prevention of corruption in land management; manage and limit land speculation, people's complaints about the land"¹

In these circumstances, the Vietnamese Government has been making many policies aimed at restoring the legal order and implementing land clearance and development demands more effectively. Since the state implemented this innovation, Vietnam National Assembly has four times approved Land Law with many amendments and supplements. The number of bylaws on land consisting of government decrees, circulars and regulations of the Ministry and Provincial People's Committee at this time was up to 500². In practice, those policies and solutions have indeed been effective in pushing construction projects forward, lowering the barriers to meet the time schedule, saving costs without detracting from the quality of development. However, there is evidence of problems ahead in so far as the more large-scale construction projects Vietnam aims for, the higher rate of development Vietnam pursues, the more demand for land acquisition Vietnam has to handle. Against the background of these pressures, the policies and solutions and some legal regulations from the Government inspire little confidence that arrangements will work effectively in practice. On the contrary, negotiations between the land users and the acquiring authorities have become more and more difficult in a lot of cases, and there is a widespread perception that the system is not properly functioning.

It is around this issue of conflict that the comparison revolves: How can the Vietnamese legal systems strike the balance between the public and private interest in land compulsory acquisition? The purpose of this paper is to answer this question.

The answer to this question will, hopefully, provide a certain contribution to improve our scholarly understanding of the law in the past, the present and to orient the future in state acquisition of property compulsorily for Vietnam which can be viewed in the light of experiences of other countries in East and Southeast Asia. By reviewing the current procedures, the study may have some recommendations for speeding up the process and reducing uncertainty. This makes practical sense while the "compulsory acquisition regulations" has been passed in Vietnam in term of Land Law 2013 and as the author has just finished the research "Proposed solutions to solve problems in site clearance in Cantho".³

¹ Prof. Dang Hung Vo, Former Deputy Minister of Natural Resources and Environment in Vietnam, Introductory the book: *"Frequently Asked Questions on compensation, support, resettlement when State recovers land"*. Phan Trung Hien, Publisher National Politics, October 2014, p.7, in Vietnamese.

² See Footnote 1, p.6.

³ Phan Trung Hien, LLD, Report: *"Proposed solutions to solve problems in site clearance in Cantho"*, Can Tho, Vietnam, from 2/2011 to 10/2013.

1 The theory of striking the right balance

The theme of “compulsory acquisition” can relate to many issues such as acquiring properties compulsorily, paying compensation fairly, settling new places etc. However, the main issue still resides in the question “Who needs land?”

Certainly, the State needs land for the national and public demands. One can imagine that, without compulsory purchase, we could not have immense motorways or huge international airports which could connect the people together no matter how far the distance is. Therefore, public demand must be satisfied.

In parallel, the individual also needs land to settle his or her life and to satisfy human needs. Without caring and respecting individual’s properties, the public facilities mentioned above and the compulsory acquisition which is supposed to serve the people does not make any sense.

So in which direction should the legal theory and the Vietnamese law proceed? Is it really useful to keep the balance between private needs and public demands? Is compulsory acquisition of land one of the most important elements in keeping the balance between public and private interests? Could other systems of law share Vietnamese’s view points? The answer to the last question may well be “yes” because “if correctly conceived, property law can reach beyond cultures...”⁴

1.1 What the “right balance” means

The balance of public and private interests can be seen as a right standard chosen to protect both parties: public demands and private interests. In fact, the scale of the balance between public interests may be toward each part in a particular period of time or a particular circumstance. It is obvious to say that:

Under war or economic crisis, the public interest needs to be more emphasised. If the people support it, they do not mind sacrificing their private properties for common purposes. In peace, public interest is one of the effective ways to harmonise the private interests of different classes in society. In a particular circumstance, because of the majority’s interest, private interests can come second. For example: when as a whole everyone in a community agrees to make their village’s footpath, everyone in that village must volunteer to share the cost and maybe lose parts of their piece of land.

In general, “balance between public interests and private property” is an artificial definition, which can be accepted in a certain way, in a certain time, not absolute. Like the law, “balance” is an ideal state, which governments want to make perfect but it can never be done. Life is changing; it requires a different element for different circumstances. Therefore, it needs to be said that:

Firstly, “striking the right balance between the public and private interests” is an objective of compulsory acquisition of land, which is tended to be and conditioned to qualify.

Secondly, to acquire land compulsorily, the government can be expected to develop the whole society. In that sense, land compulsory acquisition is one of the best ways to reach the right balance between public and private interest.

As a result, when exploring a practical system as comparison, the researcher needs to be flexible in setting and judging the right balance. As a consequence, using the ideology of right balance between public and private interests, the researcher should bear in mind the two following points

First, be aware of “flexible scale” for the right balance. That is flexible because it must be set by the culture, custom, legal jurisdiction, legal ideologies and policies accordance with all characteristics of each country. In general, basing on those criteria above, it can be different from one country to another in comprehending and implementing the right balance.

⁴ Hernando De Soto, *The Mystery of Capital*, first published 1941, Basic Books, 2000, page 226.

Secondly, it does not mean that there are no limitations on the scale of balance. In fact, there are still some upper and lower limitations, which can be set through the cross-national research. Even the scale of balance cannot be rigid, but at least there must be a standard, which is logically acceptable for every country. Exploring all differences, the researcher expects to get the core standard, which can be stood as a symbol to set the right balance in cross-national compulsory acquisition of land.

1.2 Compulsory acquisition of land and the overlap of public and private interests

In principle, the freedom of private property may only be established and guaranteed when the nation enjoys security. In other words, if national interests (or public interests) are protected, the people may have conditions to enjoy their private ownership. If the nation is under war, national security cannot be guaranteed, not only public interests are lost, but private interests are also. This is why the right to property under European Convention of Human Rights can be dangerous in war times⁵.

In peace, the public interest needs to respect private as well as public interest. First of all, if public interest is not respected, then the public infrastructures, public roads, public constructions can not be protected. In that case, there will be a problem or a contradiction between the current government (whether central or local government) and the people (or the group of individuals). If this problem cannot be solved, it affects directly the society and the politics at large. This affects directly individuals in that society. In those circumstances, it is impossible for the individuals to enjoy their private interest.

Secondly, if the government does not respect the private interest, denies its existence or puts it together with one public, the society may be a chaos. Without motivation and acceptance of private interest, there is no motivation for individuals to work, to improve their lives. This phenomenon may cause directly problems to the economy, society and politics. As a consequence, public and private interests are distinctly inter-connected.

Nowadays, in order to develop the economy, reconcile public administration for public purposes, the laws in every country all over the world give permission to administrative agencies to purchase land compulsorily. Authorised civil servants can unilaterally promulgate a decision without asking any consent of the individual. The individual may be consulted and have other opportunities to participate in decisions leading to the compulsory acquisition of land. The question that needs to be asked is how the law of compulsory acquisition of land in Vietnam has been applied through the assessment of the Vietnamese individual whose land was acquired.

1.3 Legal recognition of public and private interests in land

Land has existed before human beings appropriated, used and determined their legal recognition of it. Due to certain interests, land was divided by a border of a country, boundary of a province, a piece of land being an individual's property. Different from other possessions, which can be made by human beings, land cannot be made. All human beings can do is keep it, define it and improve the quality of it. Therefore, the legal recognition of the ownership of land may be diverse from one country to another. However, in general, it can be separated into two ways:

In the first case, land can be owned by the State, a State agency, an organisation or an individual if each of them satisfies the legal requirements of land-ownership. In this case, not only a public

⁵ For instance, Article 14, Section 01 of the ECHR: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status".

authority can own land, but a private individual can do so as well. Therefore, the land ownership in these countries, in a certain sense, is quite similar to the other property ownership.

In the second case, land can only be owned by the State (the State itself or on behalf of the people). In this case, public ownership is completely recognised, but private ownership is limited. In these countries, which only recognise public ownership, the individual can own all the properties, except land. Vietnam is a good example. In Vietnam, it is argued that the individual cannot make the land. Therefore, the individual cannot own the land. It needs to be held by a collective organisation, which can be representative of all individuals as a whole. Only the State can fill that position. So, the land must be owned by the people, represented by the State. This also fits with the recognition of Mark⁶ in property, which is based on public interests. As a consequence, private ownership in land in those countries defined and limited by “land use right” only.

2 Overview the survey

In order to understand the implementation of the compulsory acquisition of land law in practice in Vietnam, this research has decided to extend itself into practical aspects. The main questions were to examine how the acquiring authorities use compulsory powers; how significant are the application procedures in acquiring land grants to the people in practice; how far the people can react to the acquiring land decisions; how the people think of the Administrative Court in safeguarding their rights; and how acceptable is the people’s support in acquiring land especially with regard to the compulsory acquisition of land.

In looking for the right balance in compulsory acquisition of land, the researcher must explore ‘two sides’, the public authority views and the private opinions. In principle, the public side is expressed in the law, regulations and policies, the private opinions are not always apparent. In reality, full expression of public and private opinions can only be realised through practical implementation. Focusing on the public confidence, the research needs to test what the individuals think of compulsory acquisition of land, how they give feedback and how far they can compromise. With this aim, the questionnaire survey has been found as a suitable method which allows the researcher to get the opinions from public and private sides.

2.1 *The necessity of questionnaire surveys*

First of all, aware of the need of tracking solutions in Vietnam in order to solve the practical problems, the research will undertake some surveys by way of a questionnaire. This list of questions will be answered by an individual or family whose land and properties are under the compulsory acquisition of land process. This questionnaire will focus on the following matters:

- Whether the individuals or families are aware of the information about compensation, support and resettlement when it is placed in the public domain;
- Whether they think the compensation is fair and the land price is updated to the market;
- Whether they think of “job placement” after their land has been acquired;
- Whether the individuals or families are aware of the quality of household life when living in resettlement areas;
- Whether they think of any other damages needed to be compensated;
- Whether they can compromise and how they are going to do it;

⁶ Karl Marx, “Selected Writings”, edited by David Mc Lellan, First published 1977, Oxford University Press, page 87.

Those matters will be viewed in two main perspectives: the decision making process and the compensation.

2.2 The question types used

In Cantho, the pilot questionnaires are sent to a number of land holders and the experts in compulsory acquisition of land in order to test the reliability and validity of the questions. The questionnaire surveyed about 376 land holders who are all land owners. They are mainly home owners except for a small number of business land holders and tenants. The questions were structured using both qualitative and quantitative questions in order to allow the researcher to highlight the views, ideas and the experiences of the individuals who are affected by compulsory acquisition of land. Those questions can be categorised within three main types of questions: yes-no questions, multiple choice questions and ranking questions.⁷

2.3 Who participated the survey?

In order to get comments from landholders whose land is acquired in Cantho city, our group surveyed 376 households in Cantho, including three groups with three kind of questionnaires: (1) before their land is acquired; (2) after their land is acquired; (3) their land is requested for acquisition but they do not agree to deliver their land.

In the first case, the questionnaires are conducted in urban and rural area. In the second case, we surveyed the people who are living in resettlement areas set by the government and the people who are living on their remaining land plots. In the third case, we surveyed some households who have given objections to the local government because they do not agree with the compensations.

During the survey, along with the general opinion, the majority, we also noted the group of households with specific comments to get the characteristic elements of each project. On the other hand, interviews with the officers on duty were carried out. Therefore, we could exchange ideas and information between people (that had had their land acquired) and state officials. Of course, 376 households in the survey area may not be sufficient to represent the ideas and aspirations in all different projects in the areas of the country. However, this can be seen as a reference for the case of land acquisition in Vietnam.

2.4 The survey of face to face approach

The questionnaire is carried out face to face. This method was chosen for this survey because of the following reasons:

First, there are many land holders within the working class who have only primary school education. Another number of Vietnamese people do not know how to read or write. Therefore, the face to face method is the best way to allow the researcher to obtain their views and to explain the ideas posed in the questions in cases where there is lack of understanding.

Secondly, in Vietnam, many people do not want to get involved with paper work especially when it is related to their views about 'the government'. They would prefer to ignore it. So, it is more convenient to have a talk with them and ask them questions one by one through the talk. The questionnaire is completed during the talking time. After that, all the answers are reviewed with the land holders to make sure that what has been completed is exactly what land holders meant.

Thirdly, the post office in Vietnam, even after it has been improved recently, still does not satisfy

⁷ Thomas W. Mangione, *The Basics of The Question Design, Mail Surveys – Improving the quality*, Sage Publication, London 1995, page 8.

the social needs. In practice, it can take a long time to receive a letter. Therefore, a mail survey is not the appropriate way to conduct this exercise in Vietnam. The face to face approach in Vietnam can save time for the research because the results are immediate following the survey without waiting for the post.

Because of those goals set out above, the questionnaire was designed to be informal, providing a qualitative face to face approach which would allow the land holders to present their views and ideas on a number of issues related to the procedure and the compensation which face them in their lives. In order to collect quantitative and quality data, the interview was held in a relaxing and unchallenging environment which was conducive to the land holders being able to express their opinions and ideas. Those are some of the reasons to justify the face to face approach as the best way to survey compulsory acquisition of land in Vietnam.

3 The result of the survey

3.1 The issue of information of compensation, support and resettlement

When asked which forms of information about the compensation, support and resettlement are easily accessible, the number of 376 households answered as follows: The vast majority of respondents 85.9% said that meeting to inform the people about the project is optimal, but alternatives such as information directly to individual households or through the media accounted very small proportion. Most people prefer the meeting for the following reasons: (1) the meeting is legally binding with specific records, (2) the publicity for all the households in the project; (3) and the households can give feedback and exchange information. However, even though that is the choice of the majority in the survey, the people do not seem pleased about how the meetings are organized.

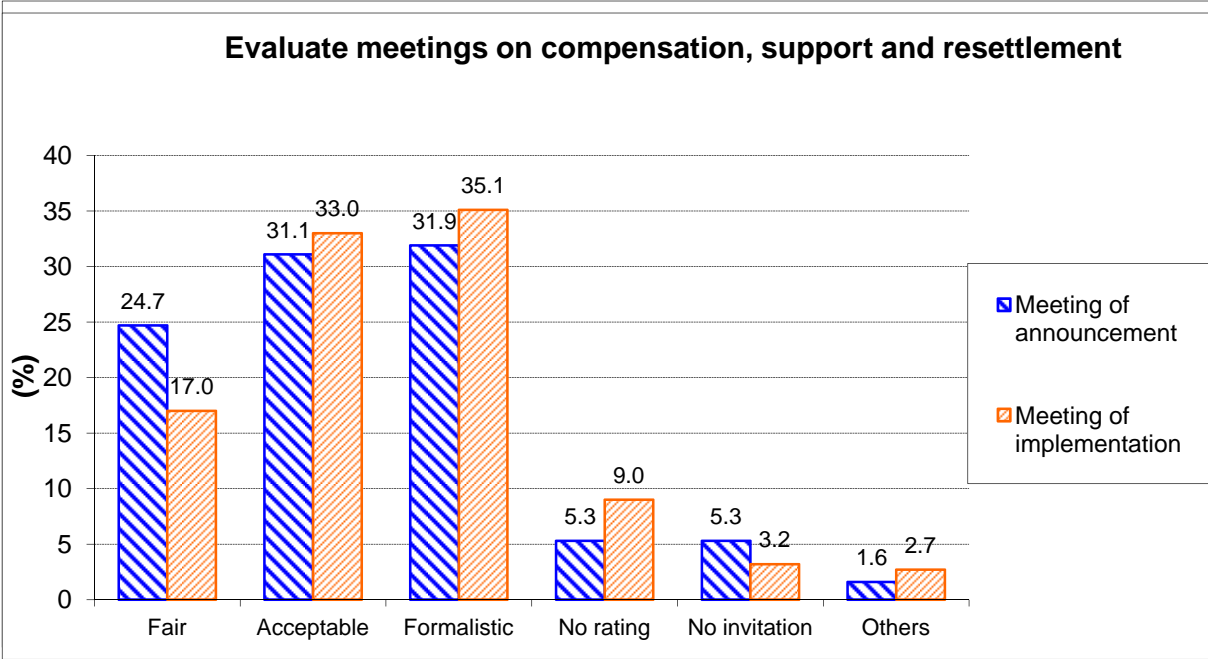


Figure 1. Evaluate meetings on compensation, support and resettlement

When evaluating the questionnaires of 376 households in the area surveyed, only 24.7 % said that the meeting of announcement of compensation, support and resettlement is fair; the meeting of implementation of compensation, support and resettlement have lower proportion, only 17 %. In particular, there are 31.9 % of households which said that meeting of announcement was superficial

and 35.1 % said that the meeting of implementation of compensation, support, resettlement was formalistic. The problem is that 5.3 % said that they were not invited to the meeting of announcement and 9 % said that they were not invited to the meeting of implementation. It shows that at the beginning stage, people were not happy with the process in term of fairness and transparency.

3.2 The issue of compensation and land prices

According to Vietnam Land Law, land compensation is paid through the decision of provincial People's Committee based on the land price list issued every 5 years. Land prices in compensation, support and resettlement are almost always determined by the system of state administration. Accepting that the provincial People's Council is responsible to give comments to land prices, there is no third party which can intervene in the price list issued by the provincial People's Committee, including the courts. On the other hand, the land law of Vietnam does not specify valuation date in the land acquisition process nor the time required to pay compensation. In some cases, the time of paying compensation is prolonged which creates difficulties for people.

Meanwhile, the Land Law 2003 stipulates that the land price issued by the provincial government must be “close to the market prices in normal conditions”. The term of “close” causes difficulty in calculating compensation. The Land Law in 2013 replaced the phrase "close" with the phrase "consistent". Although the term has changed the meaning stays the same but does not identify the price fairly. This leads to differences in paying compensation in each locality, each project which causes claims among households. Therefore, a new mechanism to ensure that land prices reflect the market price is an urgent demand.

When surveyed 376 households, including urban and rural areas, the majority of households thought that the compensation for the land is lower than the market price (87.2%), particularly in some urban projects, 100% of the households said that compensated price is lower than the market price. However, there are some people who said that compensation price is higher than the market price (2.4%). These ideas are mainly from the people in projects in rural areas and people who are living in resettlement areas set by the government.

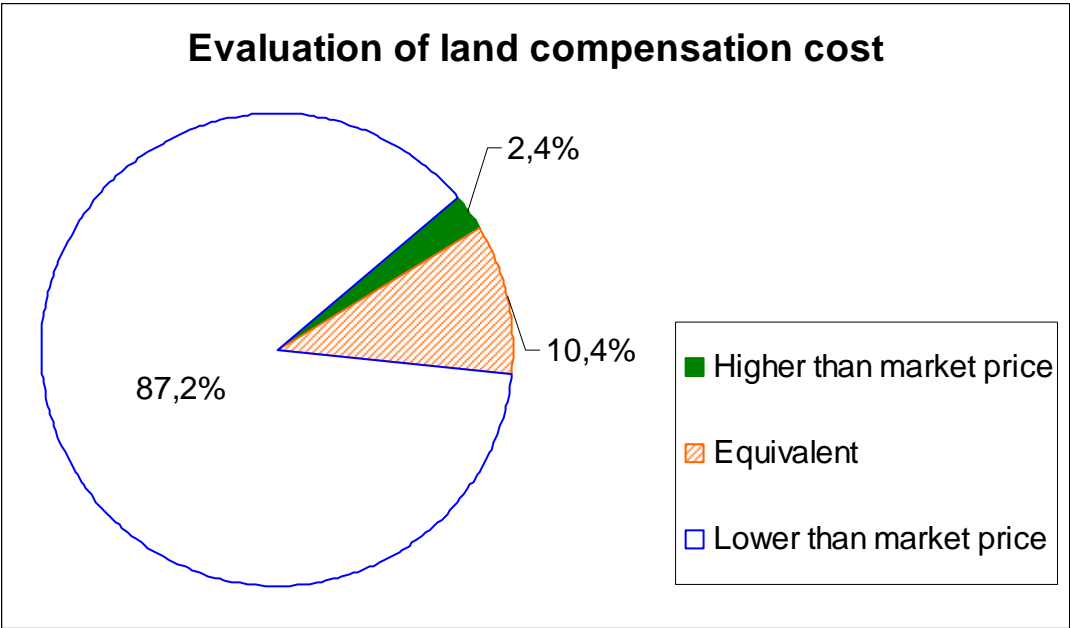


Figure 2. Evaluation of land compensation cost

When asked about the reason for the low price of land compensation, the majority of households

said that "land price is not close to the market price" (69.48%). In addition, some households also said that there was inflation during compensation delay (15.25%) or there are new prices issued but the local government still applies the old price (12.98%)...

3.3 Support issues and employment policies

From the early guidelines for compensation when the State acquires land, Vietnam Law has built a regulatory system to support land owners with diverse forms such as: life support stability and production, support career and employment... This shows the interest of the State for the life, the work of people whose land is acquired. However, the policy has not completely been implemented in many projects. The popular feeling is that the people are only supported "by cash" without care about "job placement".

When conducting the questionnaires with people in resettlement areas who have gone through the process of land acquisition, 37.8% of respondents said that they or their relatives do not think they can change their career despite the fact they are supported in ways by the government.

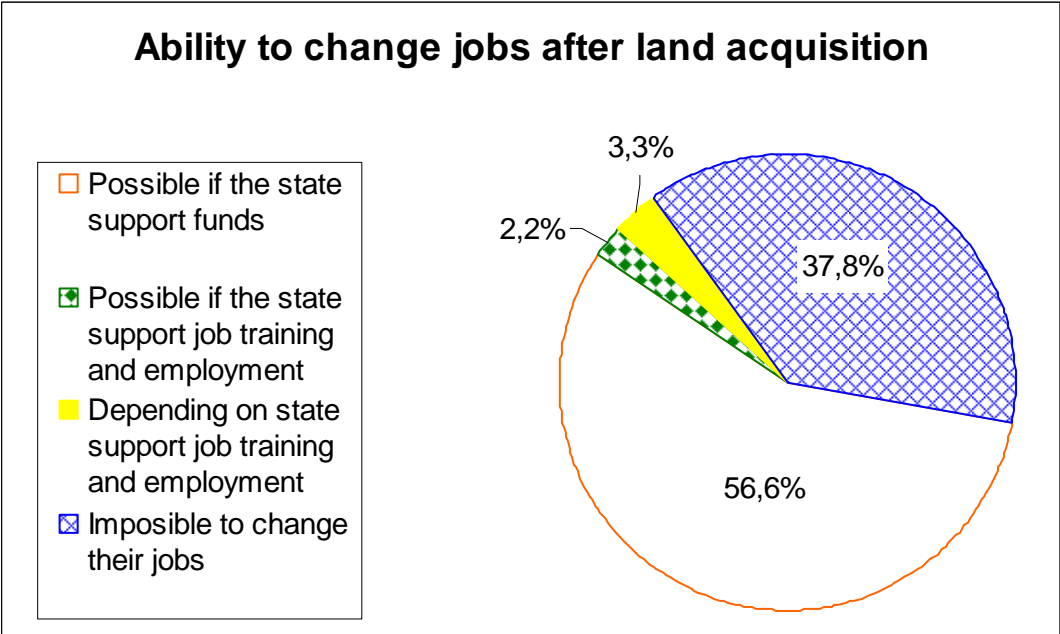


Figure 3. Ability to change jobs after land acquisition

3.4 The issue of resettlement and presidents habits

Current Land Law stipulates fundamental principles such as: resettlement region must be done before acquiring land, resettlement region must be planned for many projects in the area... However, Vietnam law does not contain a complete legal framework and solid foundation of responsibility, the resettlement rules are infringed such as: some resettlement regions has not been done before acquiring land; land users forced to deliver their land when the unfinished relocation or resettlement layout...

When asked to assess the living conditions in the resettlement areas, up to 28.9% of people who have had their land acquired confirmed that resettlement areas are not prepared for the people to move in. Meanwhile, 57.8% of households in the survey group had the opposite opinion: resettlement areas are good and ready for people to stay.

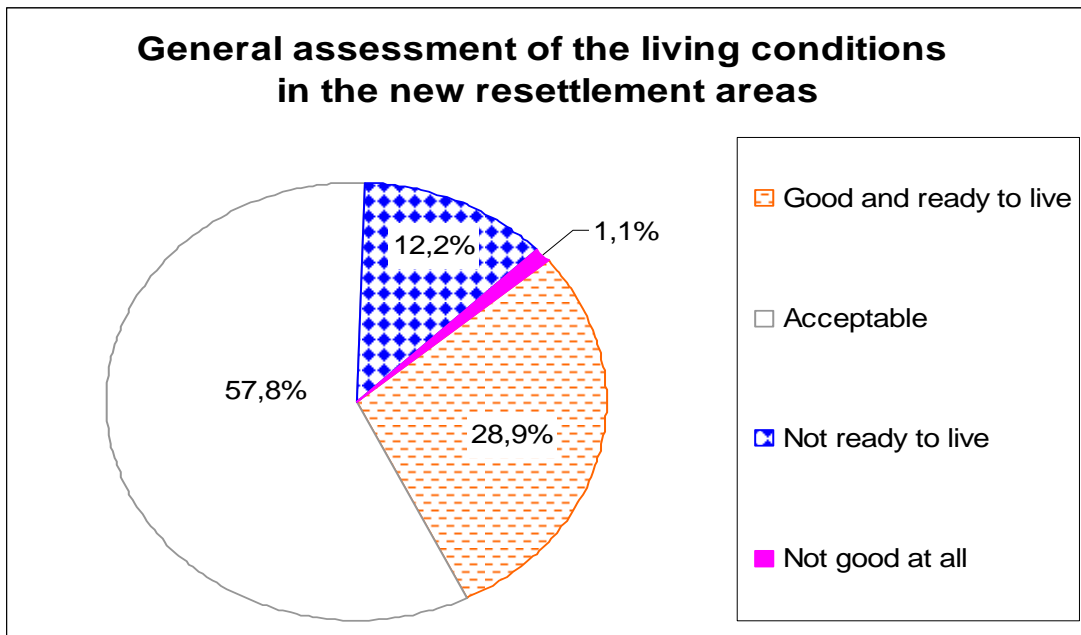


Figure 4. General assessment of living conditions in the new resettlement areas

On the other hand, many current resettlement areas are incompatible with lifestyle and living conditions. Therefore, quality of life, in terms of both material and spiritual, is not equal to the old place despite the fact it is new built. The situation of the households after resettlement areas of the survey project are described as follows:

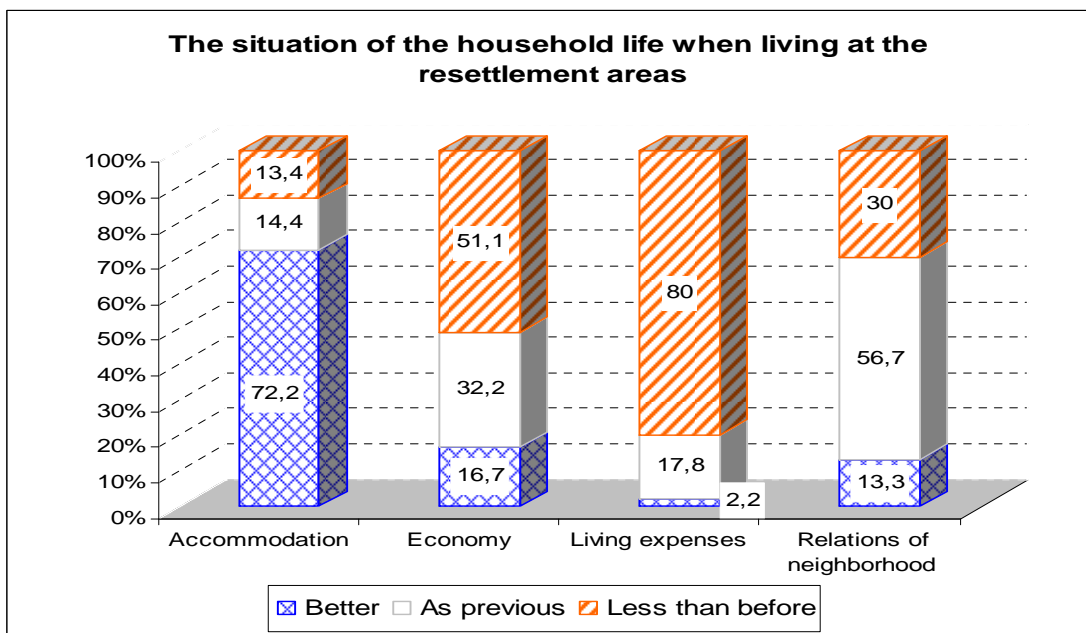


Figure 5. The situation of the household life when living at the resettlement areas

As shown in Figure 5 above, the majority of people surveyed agreed accommodation in resettlement areas is better than before (72.2%), but most of that economy is less than the old place (51.1 %), the spending activity is more costly (80% spend more than that). Particularly, 30% said their neighbourhood relations were worse than before, while only 13.3% said better than before. Also, when asked if they desired to move into another place, current residents 25.6% of households are living in the resettlement areas responded that they would like to relocate if possible. It shows ¼ of the

people are not happy with the resettlement places set by the government. Fortunately, the Land Law in 2013 has just considered the issue of resettlement areas and stated that it they must be consistent with habits and daily life of the locals.

3.5 The issue damage and intangible tangible

When asked what cause the households concern in terms of acquisition, more than 74 % said that their jobs were affected. In addition, 32.45 % said that the acquisition affect their children 's education, 35.55 % worry about having to relocate to a new place. Specially there are 12.85 % do not want to move away from their neighbours and 9.85 % worry about having to move their grandparents graves.

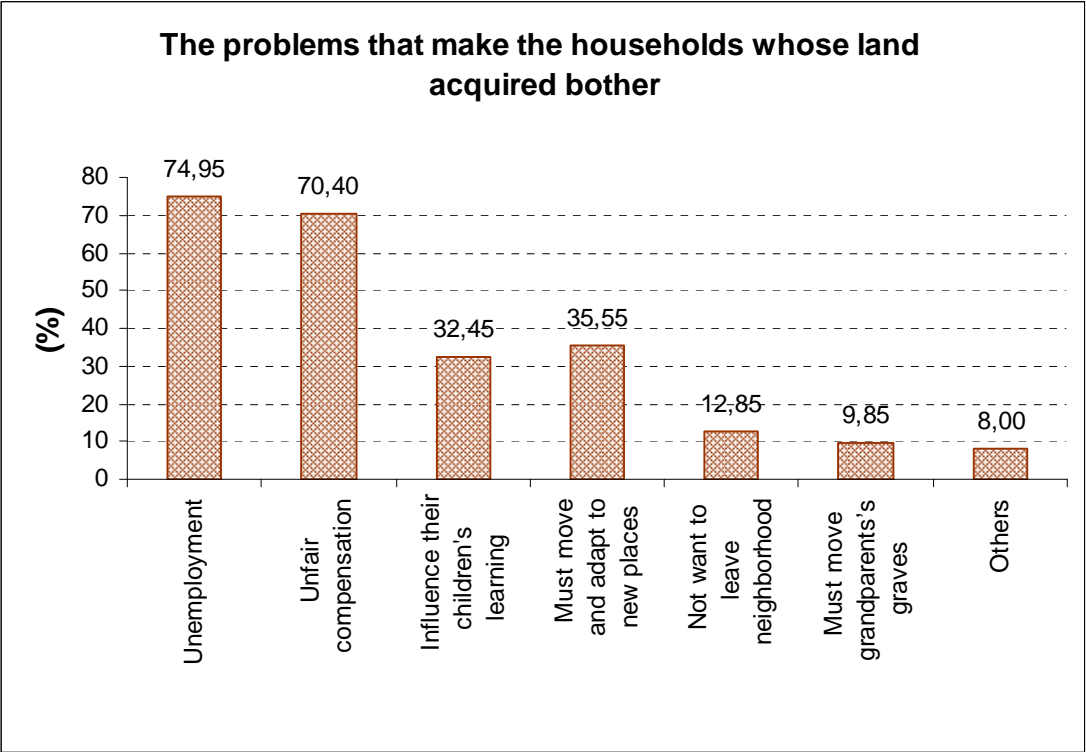


Figure 6. The problems that make the households whose land acquired bother

Many studies have identified that loss of land through acquisition not only does tangible damage but also a lot of intangible damage to property and spirits such as: lost business; lack of village neighbourhoods ; land plots were divided; obscured vision; the noise, the stress, anxiety. Even in some cases where their land is not acquired, people are still impacted, influenced...⁸

When conducting questionnaires with 376 people who have had their land acquired in the survey area, the people shared a desire to be compensated for losses in addition to the damage that the State has not yet calculated for compensation:

⁸ Phan Trung Hien, LLD, *Improve the law on land acquisition, compensation, support for resettlement in the current period*, Vietnam Legislative Study Journal, Vietnam Office of the National Assembly, Dec 2012.

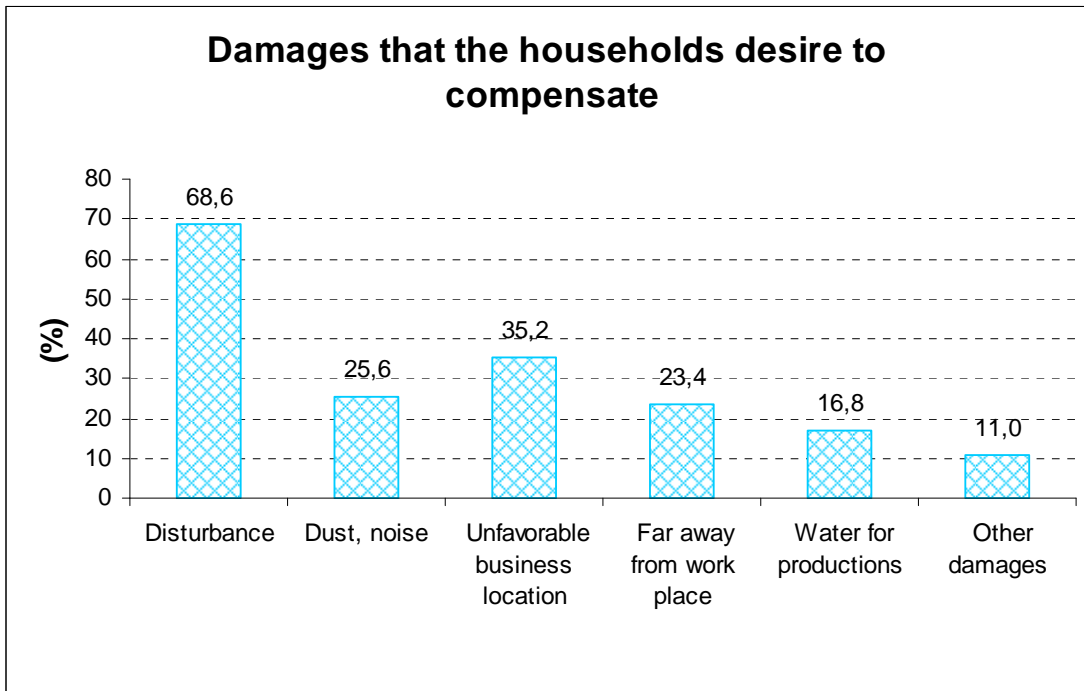


Figure 7. Damages that the households desire to compensate

Here 68.6% of people said that there was a loss of spiritual life due to disturbance, stress, anxiety. 35.2% said compensation for damage to business location was not favorable and 25.6% said that health was affected by smoke, dust, noise. Particularly they had difficulties when living far away from their work place (23.4%) and 16.8% have difficulties in their manufacturing...

3.6 The issue of complaints and claims

To consider the attitudes of 376 households in the project with the assumption in the case disagreed with the decision to withdraw the land, what will they do, the answer is 46.1% (a total of 29.8% + 13,6 + 2.7%) of households have said that they do not agree to deliver their land.

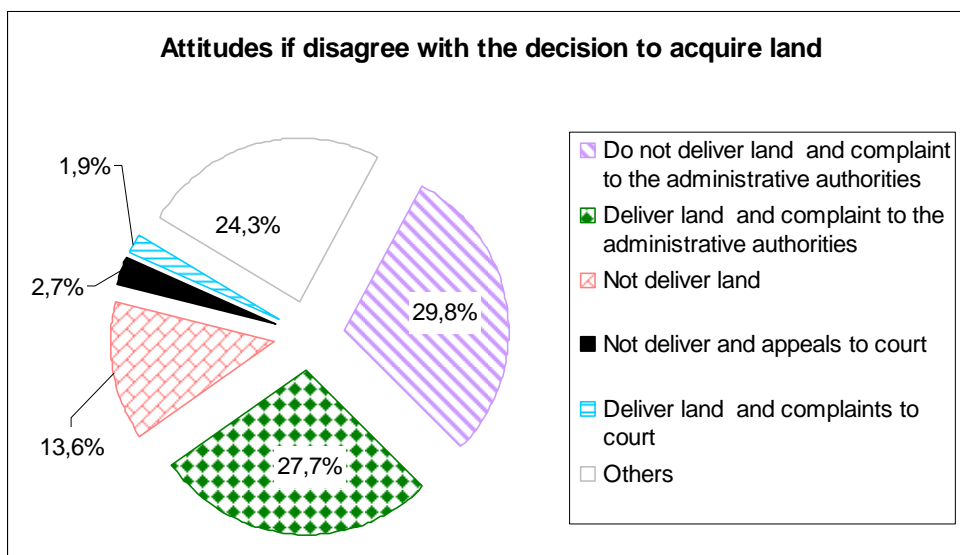


Figure 8. Attitudes if disagree with the decision to acquire land

However, the vast majority of households which have disagreements with the decision of land

acquisition will complain to the competent agency 57.5% (a total of 29.8% + 27.7%), while a few will complain to the administrative court 4.6% (total of 2.7% + 1.9%). This is also consistent with the fact that in Vietnam now the number of households who would like to go to the courts for land acquisition is less than the number of complaints that the state administrative agencies solve every year. To find out why this is so, the research team obtained the following results:

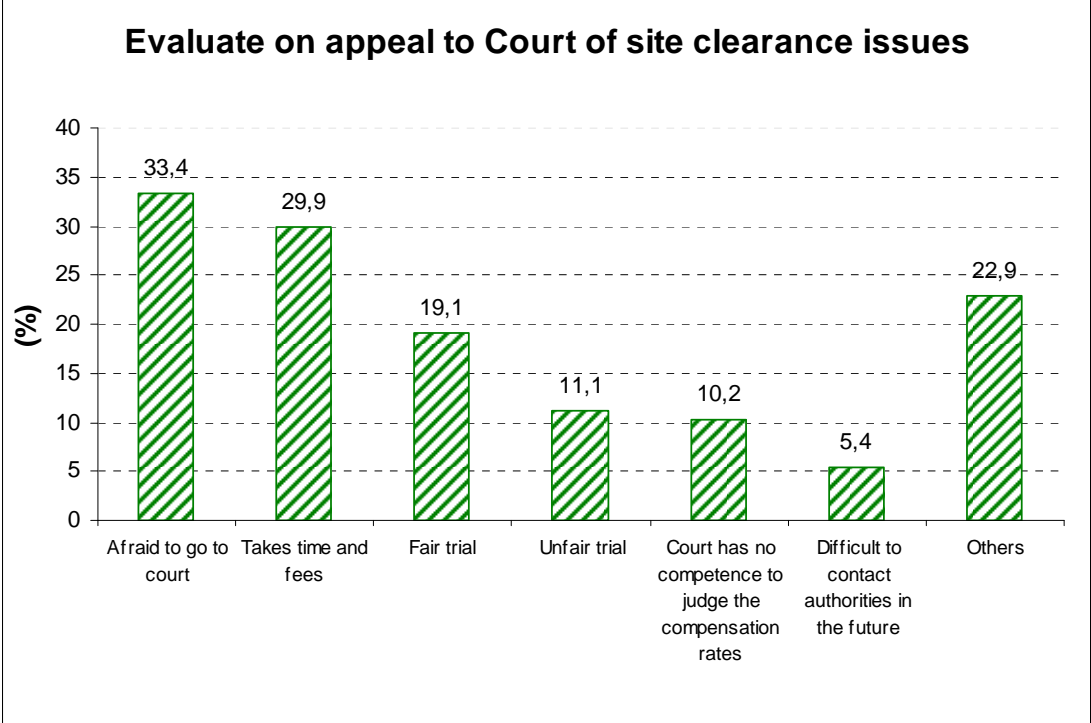


Figure 9. Evaluate on appeal to Court of site clearance issues

According to the survey, up to one third of households are afraid when complaining to the Court, this is folk psychology: "vo phuc dao tung dinh" (only go to the court when it is the last solution). Next, nearly 30% of households said that the court takes time, fees. This is close to reality; in order to resolve a lawsuit, the court must comply with procedures. On the other hand, the Court needs to collect evidence from the relevant subjects... However, only 10.2% of households said that the court did not resolve the issue of compensation although the Court was not given authority to review the reasonableness of the land price list issued by the provincial People's Committee.

3.7 Assessment of the level of satisfaction of people

To get an overview of the level of satisfaction of the households in the survey project, the research team has assessed the criteria for compensation, on-time performance, the attitude of staff as well as information on policies and projects. The results are as follows:

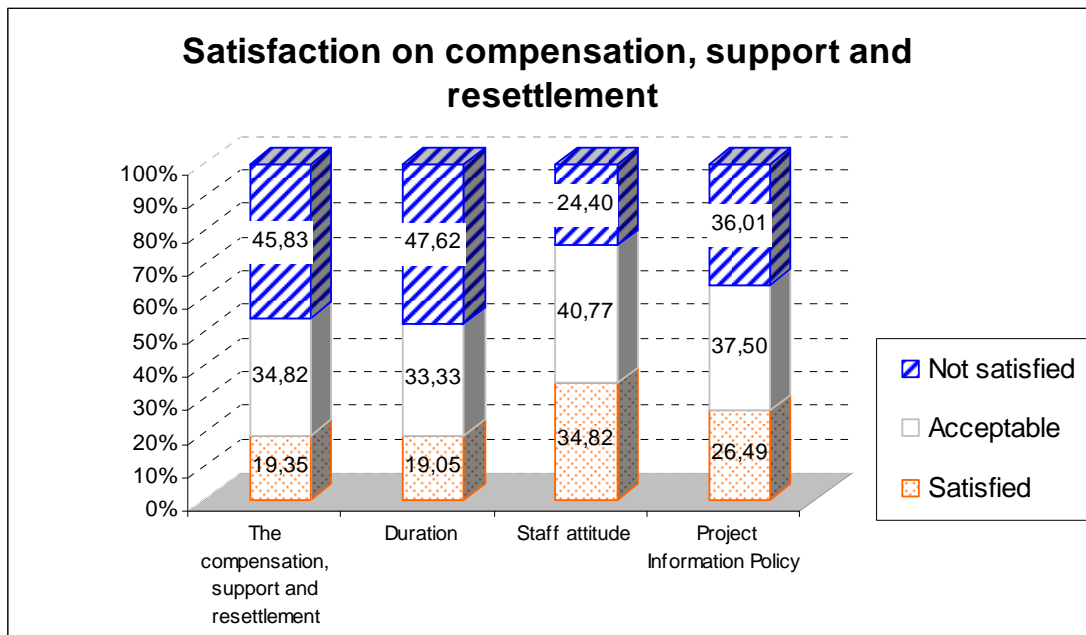


Figure 10. Satisfaction on compensation, support and resettlement

The highest rate of dissatisfaction is with compensation, support and resettlement (45.83%) and the duration of project (47.62%). Next 36.01% of the households are not satisfied with the information they received and 24.40% are not satisfied with staff’s attitude. Overall, the rate of satisfaction is relatively low.

4 Sugestions and conclusion

Standing on its own, the term ‘compulsory acquisition’ often relates to land, but of courses, it can apply to many other areas of public and private activity – other properties rather than land, economic and social development, health, national defence, and so on. Somehow, land is still the main subject of compulsory acquisition. In orther to keep the right balance between public and private interests, the law in Vietnam must be reformed as suggestions following:

4.1 Procedural safeguards for balancing between public and private interests

Public authorities are delegated to do compulsory acquisition subject to certain legal limitations. Because it relates to fundamental rights, this power is supposed to be regulated strictly and satisfy three main requirements. First, it can only be done in certain conditions set by law (public purposes). Secondly, it can be done only through certain authorities limited by the law and with limited functions. Thirdly, it must process through a very strict procedure, which guarantees that the authorities cannot abuse the power and the individual cannot abuse their rights.

In respect of compulsory purchase, the acquiring authority should be empowered to confirm uncontested orders. However, how to do it successfully is not only “a matter of power”, but also “a matter of social work”, “a matter of society”. The decision- makers can have their power delegated by law:

- Acquiring land according to public demand regulated by law;
- Reply to the individual’s comments in accordance with the legal proposal and lawful procedure;
- Solve the complaints on the basis of law and related regulations;
- Use other authorities empowered by law

As a consequence, compulsory acquisition of land is a laborious process in which many public agencies and private citizens are involved. It involves a wide range of conflicting interests. Compulsory acquisition of land law is a means (supposedly) by which attempts are made to resolve these conflicts.

“Compulsory acquisition” is “a fundamental matter” which needs to have adequate safeguards to protect the human rights of those whose property is taken. The most important way to legitimise the procedure is to guarantee the protection of individual citizens as well as to guarantee the public interests. However, in theory as in practice, the balance usually trends to the public interest where the government holds the power; the state issues the constitution and the law. Therefore, first of all, we need to ensure that the procedural safeguards for private interests exist.

These can be stated that the landowners must be aware of the “land taking” decision in advance when it is still a proposal. They must have compensation negotiated which is based on the market price. They must have the opportunity to object to the decision. Their objections must be heard by decision-makers. Especially, if disagreements happen and the decision-makers can not solve the problems, those objections must be heard by the administrative court etc. It must also be consistent with international convention. These safeguards can be seen as one of the most important principles of procedural safeguards for finding the right balance, which could be generalised by the following rights:

- Right to make comments before the proposal is put on public view (before being revised) and be made aware that those comments are considered;
- Right to be aware of the proposal and the limitations regarding the time table of that proposal related to compulsory acquisition;
- Right to have fair compensation;
- Right to be heard by the administrative decision makers;
- Right to be heard by the court if the decision makers cannot solve the disagreement;

Certainly, with these rights above, individuals must also obey and follow some other duties. These can be stated as that the individual must respect the public interests, obey the public orders in accordance with the law, is not allowed to make use of taking land to “go-between” etc. In parallel, there is a need to protect public interests.

4.2 Fair compensation for private individual

Compensation is the most significant part, which affects land -owners most. Basing the issues on fundamental rights, there are some characteristics of compensation that should be emphasised:

- Compensation plays the decisive role in compulsory acquisition of land. Without it, or without adequate compensation, the decision of compulsory acquisition can not work fairly in practice.
- Dealing with compensation, the court and the other authorities need to use the justifications not only from the Statute of Parliament, but also other regulations.

State acquired property, and its relationship to fundamental rights, private properties, public properties, social organisation properties etc has been spawned a vast literature. The principles of assessment of compensation for acquiring land, and also the method by which these principles shall be applied and the amount of compensation paid must be determined.

In general, compensation can be understood as a payment from the acquiring authorities under the laws to compensate for the lost caused by compulsory acquisition of land. Those damages are defined in a different ways from one country to an other, but it is supposed to be fair, equitable, and consistent. Especially, Vietnam needs to build an independent law on compensation, support and resettlement when the State acquires land rather than using land law. This will improve equality and

fairness. Fairness is not only for investors, but also for the State and individuals, households whose land is acquired. More importantly, fairness must be guaranteed among households in the same project and across the various projects.

Land grabbing, conflict and agrarian-environmental transformations: perspectives from East and Southeast

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