

MODULE 8

SPECIFIC CIRCUMSTANCES

I. Postconflict Situations

This guidance addresses displacement caused by projects in areas previously affected by conflicts, not resettlement of people displaced as a direct result of conflicts.

Private-sector investment and its role in creating sustainable livelihood opportunities are recognized as important catalysts for peacebuilding following conflict. Undertaking land acquisition and resettlement in such environments can present significant challenges (see example in box 8.1) and as such needs careful planning and implementation (see table 8.1 on key aspects to consider in postconflict situations). Some common characteristics of postconflict situations relevant to resettlement planning and implementation include the following:

- Widespread dislocation and separation of people from their legal or customary dwellings, land, and property, and in their absence, the emergence of conflicting claims or occupation by others
- Destruction or disturbance of property and physical traces of occupation and ownership on the ground making it difficult to discern property boundaries
- Disruption of formal state property rights systems and capacity to provide cadastral information or resolve property grievances; lost or destroyed land tenure records
- Social rearrangement, including weakened local government; changes in local institutions, authority, and legitimacy; and presence of newcomers such as demobilized former combatants, refugees, and IDPs
- Occurrence of special types of vulnerability among women and children, but also political and ethnic minorities, IDPs and refugees, and those traumatized or experiencing loss of identity
- Increased risk of GBV in affected communities
- Complex grievances, claims for restitution, and competing claims for land and property
- Presence of unexploded ordnance (UXO) restricting safe access to land
- Risk that the processes of verifying property ownership and providing compensation and assistance to some, but not others, will reignite conflict
- Residual law and order challenges; security for displaced people, resettlement teams, and those building replacement housing or delivering livelihood programs
- Refusal of victorious powers to contemplate land claims from people claiming to have been displaced by conflict
- Layers of ownership claims to land

Box 8.1. Montelimar Identification of Replacement Land

Montelimar Sugar Plant (henceforth Montelimar), owned by Corporación Montelimar S.A., has been in operation for nearly 50 years. Two small communities, with a total of 33 houses, were located next to the sugar production plant comprising 26 and 7 houses, respectively. The communities lacked basic sanitation and running water, and the houses were in poor condition. A small number of the residents were employed as workers at the sugar plant, and some were seasonal workers on the farms, who supplemented their income with fishing and other kinds of temporary work.

Montelimar's expansion plans created potential health, safety, and security risks for the residents due to the communities' proximity to the plant. In addition, the communities' only access route to the school and other services traversed the industrial plant's operations. After consultation with the communities and evaluating various mitigation measures, it was agreed that the households would be relocated to a safer area. Montelimar contracted HABITAR, a local firm with resettlement expertise, to conduct socioeconomic studies, consult with community members to identify the resettlement site, design the replacement houses, and plan the resettlement process.

Identification of replacement land for the resettlement site proved challenging due to the impact of the Nicaraguan civil war on land ownership and titling. The conflict and its aftermath resulted in successive waves of nontitled users being allocated land in a guns-for-land exchange. This led in some cases to different people being offered the same piece of land, creating multiple users claiming ownership. A World Bank titling project was underway with the government but had not reached the area of the project. The process of land titling still has challenges due to the continued political situation and now exacerbated by COVID-19.

Finally, a site (Nueva Jerusalén) was located that had clear title, in close proximity to the old community (as a result livelihoods would not be affected) and had good access to electricity, water services, and social services (such as health and education), as well as public transportation.

In partnership with the municipality of San Rafael del Sur, Instituto de la Vivienda Urbana y Rural (Institute of Urban and Rural Housing), and ANF (American Nicaraguan Foundation), Montelimar built 37 replacement houses on land with security of tenure. Additional improvements included the following:

- Housing constructed with durable material, on plots with sufficient land for residents to have kitchen gardens and raise chickens
- Access to electricity, water, and sanitation services
- Proximity to primary and secondary schools and health centers
- Proximity to mill, farms, and cogeneration facility site to access existing employment

Montelimar partnered with ANF to develop livelihood-improvement programs for some of the relocated people that were chronically unemployed. The programs included the establishment of chicken raising and capacity building in small-scale farming. Through robust resettlement planning in partnership with the affected persons, Montelimar improved the standards of living and economic situation of these communities. (See photos in this box.)

(Box continued on next page)

Box 8.1. (Continued)



Original housing conditions.



Visit to the new resettlement site with affected communities.



Community consultation with residents.



Building a new house in Nueva Jerusalén.



A new house with a garden in new resettlement site.



Community school in new resettlement site.

Table 8.1. Key Aspects to Consider in Postconflict Situations

STAGE	SPECIFIC ASPECTS
Scoping	<p>Engage specialists to complete a robust conflict analysis. Look at interethnic and intercommunity relations, particularly where there are IDPs or refugees in the project’s area of influence.</p> <p>Look at implications of conflict on land tenure:</p> <ul style="list-style-type: none"> • Are registries of land still in place and up-to-date; is there a state- or United Nations (UN)–sponsored program to update land registries to account for forced displacements? • Is there significant illegal or informal occupation of abandoned properties? • What is state mid- to long-term policy in regard to refugees or IDPs (relocate or repatriate when circumstances allow or seek to accommodate them where they are)? • What is the current security situation in the area? Will an MoU with public security forces be required? Is it safe for project staff and community members to move about freely? • What is the land tenure status given by the state to IDPs or refugees, if any, for both residential and agricultural lands? • Is there a state or UN program to compensate displaced people for the properties they abandoned? • What is the government’s policy with regard to long-term security of tenure for IDPs and refugees? • Is the judiciary system functional to address ownership disputes resulting from the conflict and from forced displacement or haphazard IDP/ refugee settlement? <p>Look at socioeconomic and livelihood implications of conflict:</p> <ul style="list-style-type: none"> • Vulnerability associated with conflict and its aftermath (child-headed households, woman-headed households, physical disabilities, mental health issues, etc.), including food insecurity and implications of any emergency aid packages being or having been delivered • Specificities of livelihoods in the transitional period for IDPs and refugees • Specific issues associated with demobilized soldiers or militiamen • Risk of violence, including GBV • Governmental or nongovernmental livelihood programs supporting conflict-affected persons in the project’s area of influence • Implications of conflict on long-term community governance and cohesiveness, as well as on family structures

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Table 8.1. (Continued)

STAGE	SPECIFIC ASPECTS
Planning	<p>Where relevant, have an UXO specialist undertake a hazard assessment over all lands required for the project and for resettlement purposes (including agricultural livelihood replacement).</p> <p>Make budget and schedule provision for UXO clearance.</p>
Stakeholder engagement	<p>Pay attention to information dissemination, inclusiveness in discussions, and transparency in all project transactions, taking into account recommendations of the conflict analysis.</p> <p>Set up robust grievance and dispute resolution systems that are demonstrably independent and impartial and that include parties trusted by affected persons.</p> <p>Ensure the stakeholder engagement team is inclusive of different ethnic, political, or tribal groups, as relevant.</p>
Baseline collection	<p>Carefully reconstruct land and property ownership; take extra care to validate the legitimacy of land and property ownership claims.^a</p> <p>Pay special attention to vulnerable groups; be prepared to provide individual legal assistance, counselling, and psychological support to enable them to participate fully in resettlement consultations and surveys.</p>
Implementation	<p>Plan for additional time in schedules for establishing legitimacy of land titles, resolving completing claims, and undertaking UXO clearance.</p>
Livelihood restoration	<p>Allow more time in project schedules and the completion audit timeline for livelihood restoration. For any agricultural programs, consider the land tenure situation and potential for further evictions.</p>
Monitoring and review	<p>Monitor per the normal RAP/LRP process but allow enough time for timeline of completion audit and ensure that vulnerable people are adequately monitored over sufficient time for potential hardship.</p>

^a Conflict over the same parcel of land can go back several decades as waves of IDPs, returned soldiers, and refugees occupied land. While the project may not be able to solve the conflict over land, failure to understand and attempt to resolve the issue can result in an inability to obtain a social license to operate and may present a reputational risk. Creative considerations to compensate for historical losses can include community development programs, scholarships, or training to improve livelihoods.

II. Government-Led Land Acquisition

IFC PS5 (paragraph 30) requires that “Where land acquisition and resettlement are the responsibility of the government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with this PS. In addition, where government capacity is limited, the client will play an active role during resettlement planning, implementation, and monitoring.”

In many jurisdictions, there are gaps between local legislation and IFC PSs, including one or several of the following:

- Acquisition of land by the state usually involves limited consultation—there will generally be prior disclosure in various forms of the state’s plans but no consultation on entitlements and other aspects as required by international standards.
- Public interest and expropriation may be triggered without prior attempts to reach negotiated settlements.
- With a few exceptions, compensation for structures is at market or depreciated value rather than full replacement cost.
- Compensation for land may be at the cadastral value (or similar mandatory requirements), which is generally lower than the market or full replacement cost.
- Government annual and perennial crop compensation rates are often out-of-date and hence not at market value.
- Provisions for compensation of businesses generally fall short of international requirements.
- People cannot choose between several compensation options—compensation is typically in cash only, although some jurisdictions have provisions for resettlement, replacement properties, or property exchange.
- Informal users are typically excluded from compensation—it can even be illegal to compensate informal land use.
- Evictions may have taken place with limited safeguards or due process.
- Livelihood restoration is usually not required, and livelihood or other socioeconomic baseline information is not gathered as a result.
- There are usually no provisions for vulnerable people in land-acquisition legislation, although other legislation addressing vulnerable people generally exists.
- Forced eviction may be practiced.
- Gender-related risks are rarely considered.
- Planning documents (RAP/LRP) are generally not required.
- Monitoring is not required.

Even where land acquisition is the responsibility of the project proponent, the government may have to intervene (through expropriation) to provide a legal avenue to address difficult cases (absent or deceased landowners, people refusing to negotiate, people refusing to vacate land after they have been compensated, etc.).

Where local law or specific project legal arrangements require the government to lead land acquisition, these gaps may be difficult to overcome unless addressed specifically by the project proponent early in the process of developing the project, with a legal formalization in project agreements or other legal documentation.

Government agencies may be reluctant to provide better treatment to PAPs affected by a specific project and invoke a “precedent effect” that they believe will make further land acquisition per usual government conditions difficult or impossible.

Government agencies may be legally prohibited from providing better treatment for PAPs where such treatment exceeds local legal requirements, because such “generosity” can be interpreted as unnecessary and illegal use of taxpayers’ resources.

Scoping these issues as early as possible is essential, so that mitigations can be developed and legally formalized. This typically requires long negotiations with government and should be factored in the project schedule.

Table 8.2 illustrates key aspects that particularly apply to government-led land acquisition.



Table 8.2. Key Aspects to Consider in Government-Led Acquisition

STAGE	SPECIFIC ASPECTS
Scoping	<p>Check the legal background for government-led land acquisition and identify gaps through a gap analysis process (see Module 1. Scoping of Land-Acquisition Impacts).</p> <p>Engage government and provide capacity building if required: hold a workshop with relevant officials on PS5 and good practice, and present the business case of PS5 for the state, for the project, and for the affected population (reducing claims, expediting project, mitigating human rights and impoverishment risks, reducing overall cost, enhancing bankability of further government projects, etc.).</p> <p>Seek formal agreement from government on key areas where regulations are not aligned with PS5, with particular focus on the following:</p> <ul style="list-style-type: none"> • How to effect compensation at full replacement cost and related valuation methodologies (detailed analysis of gaps in government valuation methods against replacement value required) • How to effect in-kind compensation (e.g., resettlement, land-for-land) rather than cash only • Consultation and negotiation prior to compulsory procedures being triggered • Rights of informal users • No forced evictions • Baseline studies • Livelihood-restoration programs • Formalization of government commitments in an agreed supplemental RAP/LRP or a resettlement framework (RF) or livelihood restoration framework <p>Check at what level of government the RAP/LRP will have to be approved (ministerial, cabinet, etc.).</p> <p>Understand any legislative changes that may be needed to support RAP/LRP implementation, how they can be enacted, and expected timing.</p> <p>Benchmark other projects benefitting from international finance institution (IFI) support in the country. It is not unlikely that other IFI-backed projects have been faced with similar difficulties in aligning government practice with PS5 (or other similar IFI standards), and their experience should be used.</p>

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Table 8.2. (Continued)

STAGE	SPECIFIC ASPECTS
	<p>Check the acceptability to government of a “top-up” approach, whereby government takes care of compensation per their requirements, while project-specific top-up measures are developed and paid for separately by the project. Where cash top-ups are not acceptable to government, look at the possibility of implementing in-kind top-ups.</p> <p>Look into cost-sharing arrangements whereby the government provides the funds for compensation per local legislation, while the private project proponent finances supplemental costs arising from the application of IFC PSs (compensation top-ups, livelihood restoration, compensation to informal users).</p> <p>Look into fund channeling and government money disbursement issues (channeling processes and approval procedures from the central budget to the affected person or household) and make sure funds can be available in time before land is required (compensation to be paid or effected prior to land entry).</p>
Planning	<p>Seek demonstration in the RAP/LRP or RF that proposed supplemental measures do not violate local legislation and do not trigger a precedent effect that might disturb further government efforts in other, non-IFI-backed projects.</p> <p>Where national law or policy does not provide for compensation at full replacement cost, or where other gaps exist between national law or policy and the requirements with respect to displaced people detailed in PS5, the client should apply alternative measures to achieve outcomes consistent with the objectives of PS5.</p> <p>Engage government on the RAP/LRP or RF (via workshops) to seek buy-in. Do not neglect local authority levels in government engagement efforts, as often they are designated to implement compensation measures.</p> <p>Seek final approval of RAP/LRP or RF by government at the required level to ensure enforceability.</p> <p>Where government approaches do not account for replacement cost, the client should develop supplemental mitigation measures and packages.</p> <p>Where the project ascertains that the outcome of the government-managed resettlement is unlikely to meet the requirements of PS5, and the client is unable or not permitted to fill the gaps required to meet those requirements, consideration should be given to the risks associated with proceeding with the project.</p>

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Table 8.2. (Continued)

STAGE	SPECIFIC ASPECTS
Stakeholder engagement	<p>Use best efforts approach to implementing the RAP/LRP process (see Module 3. IV. Do's and Don'ts).</p> <p>If relevant, seek to ensure that traditional government “top-down” engagement approaches are mitigated by additional, more conducive stakeholder engagement.</p> <p>Ensure that there is a level of independent scrutiny in the grievance management system.</p> <p>See the preceding planning guidance in this table. Government is the most critical stakeholder. Government engagement efforts may take significant time and need to be factored in the project’s overall development schedule.</p>
Baseline collection	<p>Take into consideration mandatory government requirements for asset surveys and include such in the survey strategy. (For example, mandatory survey forms may be required and will have to be used, certain commissions will have to be established involving government representatives, or certain sign-offs from government representatives will have to be obtained on asset surveys).</p> <p>Check that land held under informal regimes and unregistered structures (and associated owners and/or users) are included in asset surveys.</p> <p>Make sure that vulnerable people are properly identified (and particularly that all forms of potential vulnerability are included).</p> <p>Where certain groups may be marginalized as a direct or indirect result of certain government policies, ensure that such groups are not excluded from baseline surveys and engagement. This may apply to certain ethnic groups or to communities held by an opposition party.</p> <p>Involve local authorities in the design and planning of survey campaigns so they are not taken by surprise when teams are deployed in the field. Check whether they need to be represented in the field together with project survey teams. Propose project logistical support where local authorities’ resources are insufficient to perform their mandatory tasks in a timely fashion.</p>

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Table 8.2. (Continued)

STAGE	SPECIFIC ASPECTS
Livelihood restoration	<p>As mentioned under the planning guidance in this table, additional livelihood-restoration packages (including in-kind items such as agricultural equipment) may be a way to offset compensation paid below full replacement cost.^a</p> <p>Livelihood restoration is typically not considered by land-acquisition legislation. It is best in most cases to seek links with existing agricultural or other economic development initiatives and to ensure that affected persons can benefit from these. Such initiatives may include the following, among others:</p> <ul style="list-style-type: none"> • Government-led agricultural or rural development programs • Government-run vocational training centers and schemes • Government-led employment plans, including making sure that affected persons can register for monetary support and training measures meant for unemployed or underemployed people
Implementation	<p>It is critical to define the respective roles of government and the project clearly where implementation responsibilities are shared between parties.</p> <p>Seek to define clearly which government agencies are involved and engage them all.</p>
Monitoring and evaluation	<p>Always seek to provide a layer of independent monitoring, including compliance reviews and completion audit. Ensure that this is captured in the supplemental RAP and agreed upon up front by relevant government agencies.</p> <p>Independent completion audit obligations arising from PS5 remain applicable.</p>

^a The project could achieve outcomes consistent with PS5 using this approach if livelihoods are restored or improved. Examples of this could include provision of agricultural inputs, fishing gear, or additional replacement land.

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Table 8.2. (Continued)

STAGE	SPECIFIC ASPECTS
Documentation	<p>A supplemental RAP meant to address gaps in government practice against PS5 should include, at a minimum, the following:</p> <ul style="list-style-type: none"> • A summary of impacts supported by a brief project description • A legal and institutional review, with the identification of key gaps • A detailed description of measures meant to address gaps in key areas of compliance (compensation and resettlement, livelihood restoration, grievance management, support to vulnerable people, stakeholder engagement, and monitoring, with an evaluation of gender sensitivity of these measures) • The identification of any residual deviations against PS5 • Identification of past land acquisition and resettlement • A detailed description of institutional and financial arrangements to implement these measures, as well as roles and responsibilities, including a budget and identification of sources of funding and an implementation schedule • A demonstration of endorsement of the plan by both the sponsor and the government

III. Public-Private Partnership Projects

In many projects (and particularly in public-private partnership [PPP] projects), the contractual agreement with the developer obliges the granting authority to deliver land required for establishment of the project to the concessionaire “free of encumbrances,” meaning in practice that the granting authority carries out land acquisition prior to the concessionaire taking possession of the land.

If the concessionaire seeks finance from an IFI applying international resettlement standards such as IFC PSs, a contradiction may arise because the concessionaire is obliged to meet such standards while the granting authority is not. However, the involvement of a private concessionaire generally provides more flexibility in aligning with the requirements of PS5 than in a strictly government-led land acquisition in which the government may face legal constraints with PS5 alignment.

For key aspects to consider in land acquisition for PPP, projects see table 8.3.

Table 8.3. Key Aspects to Consider in Public-Private Partnership Projects

STAGE	SPECIFIC ASPECTS
Scoping	<p>See section II. Government-Led Land Acquisition of this module and Module 1. Scoping of Land-Acquisition Impacts</p> <p>Define who will handle land acquisition—the granting authority or the concessionaire? Review in-country PPP legislation if available and/or the PPP agreement and other relevant legal documentation pertaining to respective responsibilities of both. Experience shows that in some cases, and notwithstanding the principles in the initial PPP agreement, the granting authority may be amenable to letting the project fund the land acquisition and take most related operational responsibilities. Where possible, this solution will offer more flexibility, and it is always advisable to explore it up front with the granting authority.</p> <p>If the granting authority is responsible for land acquisition, consider the following:</p> <ul style="list-style-type: none"> • What standards will it adopt? Local regulations and IFC PSs? Is it prepared to adopt any higher standards than required locally, such as IFC’s PSs? How can this be legally formalized? • What is its track record of past land acquisition for similar projects? • Has land acquisition already started? Is it possible to carry out an audit against IFC PSs of past activities? • Will expropriation be used? Is it possible to seek negotiated settlements with landowners prior to expropriation being triggered? • Is there a significant risk of forced evictions should some individuals refuse to move? • What are the potential gender implications? • Can a RAP or a supplemental RAP be prepared? Can government endorsement of such be sought? • Can a cost-sharing arrangement be devised and legally sanctioned whereby the granting authority funds costs per local legislation while the concessionaire finances supplemental costs arising from the application of IFC PSs? <p>See also section II. Government-Led Land Acquisition of this module for focus areas.</p> <p>If the concessionaire is responsible for land acquisition, consider the following:</p> <ul style="list-style-type: none"> • Is the granting authority comfortable with the concessionaire undertaking land acquisition and resettlement in accordance with IFC’s PSs, or are there issues (such as the precedent effect) invoked by the granting authority to oppose the application of IFC PSs? • Can the nonobjection of the granting authority to the application of IFC’s PSs by the concessionaire be legally sanctioned, whether in the PPP agreement or otherwise?

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Table 8.3. (Continued)

STAGE	SPECIFIC ASPECTS
Planning	See section II. Government-Led Land Acquisition of this module and Module 2.
Stakeholder engagement	See section II. Government-Led Land Acquisition of this module and Module 3.
Baseline collection	See section II. Government-Led Land Acquisition of this module and Module 4.
Livelihood restoration	See section II. Government-Led Land Acquisition of this module and Module 5.
Implementation	See section II. Government-Led Land Acquisition of this module and Module 6.
Monitoring and evaluation	See section II. Government-Led Land Acquisition of this module and Module 7.

IV. Past Land Acquisition and Resettlement Issues

Addressing past land issues is one of the most challenging problems in resettlement. Past land acquisition and resettlement issues stem from a wide variety of causes: from armed conflict to agrarian reform to government or private-sector development. In most cases, records of the resettlement and location of the displaced people are inaccurate, the land-acquisition sponsors are not available, and reconstructing events is a challenge. Experience has shown that failure to address these issues, even when they stem from events that are half a century old, can continue to cause grievances and unrest.

Finding solutions is rarely straightforward. Some cases involve finding housing for a few households, whereas other cases involve physical and economic displacement of entire villages. The following table offers guidelines for addressing these issues. But as with resettlement in general, each situation is case specific (see table 8.4).

Table 8.4. Key Aspects to Consider in Past Land Acquisition and Resettlement

STAGE	SPECIFIC ASPECTS
Background	<p>It is not uncommon for a private sponsor to have to address past resettlement issues under the following circumstances:</p> <ul style="list-style-type: none"> • Where a government agency (see table 8.2) has taken responsibility for land acquisition prior to the involvement of the private sponsor, for example, in a PPP context (see table 8.3). • Where a previous project sponsor (or a cosponsor) has handled land acquisition prior to the acquisition of the project by the current sponsor (often the case in mining, where a first company takes responsibility for exploration and the first phases of design and construction before selling its interest in the project to another company that finalizes construction and takes charge of operations). In such situations and if past land-acquisition and resettlement activities have been significant, the project sponsor may require an independent audit of past land-acquisition and resettlement activities (see box 8.2). Where deficiencies are observed, a Corrective Action Plan may be warranted to address past gaps and mitigate ongoing impacts. • Past land acquisition and resettlement can be recent (several years earlier) or distant—decades prior to the current project. There is no time-based criteria for determining how recent a land acquisition/resettlement is. Instead, in assessing such issues, the client should consider the residual as well as current risks and impacts associated with such historical land acquisition and develop appropriate mitigation measures that are commensurate to such risks and impacts. • In some cases, an addition or a change to a preexisting venture (such as an expansion or a privatization) or a dramatic political change (such as the end of a dictatorial regime) will awaken old grievances (e.g., compensation that was never paid or poor quality resettlement). Where the project is taken over by a private sponsor, it is good policy to identify and proactively manage these grievances up front, as they may otherwise jeopardize all further activities with the aggrieved communities.

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Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
Scope of the audit of past land acquisition and resettlement issues	<p>What was the scope of past land-acquisition, expropriation, and resettlement exercises in terms of footprint, communities, and people affected? The following should be considered when determining the scope.</p> <p>Available information:</p> <ul style="list-style-type: none"> • When did the past land acquisition and resettlement take place—when did it start and when did it conclude? What were the circumstances? Is land acquisition continuing? On the same or different terms? • Was a planning document prepared? When? By whom? Is it available? Was it disclosed? When? To whom? Was it prepared to PSS requirements? How close is it to complying with PSS requirements? Can it be reused, and how significant are the update requirements? • Were monitoring reports prepared? Are they available? Are they adequate? Do they contain information on the whereabouts and circumstances of displaced people? Do they contain information on specific groups (informal users, women, vulnerable people, etc.), including risks to these groups? Was a completion audit prepared, and if so what are its conclusions? Were measures recommended by the completion audit implemented? By whom and when? Were they evaluated? • Can affected persons be contacted? How? <p>Census, cutoff, and surveys:</p> <ul style="list-style-type: none"> • Are there still people living in or using the area in spite of the past land-acquisition and resettlement exercise? Did they settle after or before the land-acquisition and resettlement exercise? If a cutoff was declared, did these people settle after the cutoff? Are they aware of the cutoff and is the cutoff still relevant or has too much time passed? How does the local administration consider them: Will they have to be compensated; are they illegal but tolerated at this point; or are they squatters to be evicted as soon as possible? How do these people themselves and neighboring communities consider their occupation rights (e.g., do they accept that they have no rights and are prepared to leave, or do they consider themselves rightful occupants)? • Was there a census of affected persons? Are the results still available? Are there files, whether paper or electronic? Who keeps them? Are these files accessible?

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Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
Scope of the audit of past land acquisition and resettlement issues <i>(continued)</i>	<ul style="list-style-type: none"> • If no census was done or its results are not available, is it possible to obtain lists of affected persons from the local authorities or from affected persons? Can most people's whereabouts be traced, or are there significant numbers of people whose whereabouts are unknown? • Has a cutoff been established? Through what legal mechanisms? How was it communicated to affected persons? Is it known by affected persons? • Was a socioeconomic baseline prepared? How adequate is it to properly assess impacts and risks to people and livelihoods? • Was an asset survey carried out? How adequate is it? Did it include input from women in affected communities? What opportunities were affected persons given to review the outcome of this survey and to lodge claims if warranted? <p>Expropriation and forced evictions:</p> <ul style="list-style-type: none"> • Was expropriation (or similar compulsory acquisition procedures) used to acquire land for the project? Did this generate tension in the communities? Was the process followed legally sound? Has it been challenged in court? Are there ongoing open expropriation cases or other litigation? • Was any forced eviction carried out? How did it happen? Was there use of public force, and if so, was that documented? Were there any incidents of GBV as a result? • Were there protests or other forms of public discontent regarding the land-acquisition process? <p>Valuation and full replacement cost:</p> <ul style="list-style-type: none"> • How were the valuation of affected assets and calculation of compensation carried out (methodology, benchmarks)? Were fixed cadastral values, market values, or replacement values used? Was the valuation carried out by professional valuers? • How close were the proposed values to full replacement cost? Was the valuation based on centrally set rates that may be outdated or inadequate? Were current market values used in the calculation of full replacement cost or outdated market values? Was depreciation included in the calculation?

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Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
<p>Scope of the audit of past land acquisition and resettlement issues <i>(continued)</i></p>	<p>Eligibility and entitlements:</p> <ul style="list-style-type: none"> • Did the entitlement matrix consider all types of impacts? • Was the cutoff principle reflected in eligibility rules? • Were informal users taken into consideration and have they been compensated and/or assisted to restore livelihoods? Are there lists of such beneficiaries? • Were users of community resources considered (women, fisherpeople, users of NTFPs, herders, etc.)? • Were tenants and other occupants holding no ownership rights considered? • Were businesses and their employees considered? • Were gender issues considered in the establishment of the entitlement matrix? • Were unregistered land and structures considered? How? • What are affected persons' views of the adequacy of entitlements and eligibility rules? <p>Stakeholder engagement activities:</p> <ul style="list-style-type: none"> • Has a plan for SE been devised regarding land-acquisition and resettlement activities? Has it been implemented and monitored? • Are there records of past SE? Were outcomes of engagement considered in devising entitlements? • Was a gender-diverse committee (or several committees) established? Is it still in place? Can members be contacted? • Were specific documents prepared to support SE activities? Are they available? • Were grievances (including allegations of sexual exploitation and abuse) managed? How? Are there statistics available? • Are there outstanding grievances? What are they about? • Is there ongoing litigation? What is it about? <p>Payment of compensation:</p> <ul style="list-style-type: none"> • Was compensation effected prior to impacts taking place? • Was compensation in cash paid directly to affected persons, or were intermediaries used?

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Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
Scope of the audit of past land acquisition and resettlement issues <i>(continued)</i>	<ul style="list-style-type: none"> • Where needed, was any training on cash management provided to recipients of cash compensation? • Where compensation was paid in cash, is there any indication of what it was used for? Are there differences with respect to gender in use of compensation? Have people restored their livelihoods? • How do affected persons perceive the adequacy of cash compensation? Delivery of resettlement packages: <ul style="list-style-type: none"> • Are houses adequate? Do they meet local standards? Are they safe for women and girls? • Are houses large enough to accommodate all types of households in decent conditions? • What are general structural soundness and temperature issues, quality of roofing material, quality of finish, and so forth? • What is the level of satisfaction with house design, size, and construction, taking into account opinions of both men and women? • What is the level of satisfaction with site planning (streets, location of public infrastructure, plantations, etc.), taking into account the opinions of both men and women? • What is the level of satisfaction with community infrastructure (schools, health centers, places of worship, etc.), taking into account the opinions of both men and women? Are they adequately located, designed, and built? Look at use and condition. Gender: <ul style="list-style-type: none"> • Were specific gender issues and sensitivities considered in the planning and delivery of resettlement packages and compensation? Was local legislation complied with in terms of spousal agreement (if applicable)? If spousal consent is not envisioned by local legislation, is there another way to obtain spousal consent and ensure that interests and wishes of women are safeguarded in the compensation decision process at household level? • Did women have a say at the planning stage? How was their opinion recorded and considered? • Were women represented in committees representing affected persons? Were they able to provide their inputs?

(Table continued on next page)

Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
<p>Scope of the audit of past land acquisition and resettlement issues <i>(continued)</i></p>	<p>Livelihood restoration:</p> <ul style="list-style-type: none"> • What livelihood-restoration activities were implemented for men and women? Over what period of time? With what resources? • Has the effectiveness of livelihood restoration been measured? How? What is the outcome? Are there significant gaps in livelihood restoration that would require correction, that is, for certain categories of affected persons such as informal users, fisherpeople, gatherers, and herders that may have been missed, or for vulnerable people or women? • Was the promotion of gender equality actively applied and successful in livelihood-restoration work? <p>Monitoring:</p> <ul style="list-style-type: none"> • Are any monitoring reports or data available? • What are the outcomes of any available monitoring documentation in terms of gaps, complaints, livelihood restoration, satisfaction with resettlement packages, use of compensation, potential for homelessness, or joblessness?
<p>Scope of the corrective action plan</p>	<p>Where corrective actions are limited in number and scope, the corrective action plan can be integrated into the project environmental and social action plan (ESAP). For situations where corrective actions are many and broader, it may be more convenient to separate the corrective action plan from the ESAP and prepare a stand-alone document.</p> <p>The corrective action plan should be structured similar to an ESAP, as follows:</p> <ul style="list-style-type: none"> • Background (project description and sponsor, requirements, key results of audit, period of execution, and authors) • Results of any supplementary baseline information recommended by the audit and pertaining to the pre-displacement situation: for example, additional socioeconomic baseline surveys, additional livelihood surveys, and additional asset surveys • Results of any investigations recommended by the audit and pertaining to the postcompensation and resettlement situation, that is, surveys of resettled households in resettlement sites, surveys of compensated people, surveys specific to certain groups that may have been missed in the initial land-acquisition and resettlement exercise, and so forth

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Table 8.4. (Continued)

STAGE	SPECIFIC ASPECTS
Scope of the corrective action plan <i>(continued)</i>	<ul style="list-style-type: none"> • Results of any technical investigations recommended by the audit, such as assessment of certain services (e.g., water and power) at a resettlement site, or assessment of the quality of housing or site development • Outcomes of SE carried out for the development of the corrective action plan, including consideration of specific gender issues <p>The action plan may be in tabular form, as follows:</p> <ul style="list-style-type: none"> • Gap, issue, and audit recommendations • Description of activity meant to bridge the observed gap • Timing of activity • Success indicator and responsibility, timing, and method for measurement of indicator • Responsibility for the activity • Cost and responsibility for funding • Further SE activities, including specific gender issues and consideration of vulnerable people in SE activities • Monitoring, including closure and/or completion requirements

Box 8.2. An Audit of Past Resettlement in a West-African Country

When appraising a large market project in a major West African city, Agence Française de Développement (AFD) realized that prior to contacting AFD for project funding, the local municipality had evicted a significant number of informal traders from the site earmarked for the market development in an exercise locally known as *déguerpissement*. AFD therefore required an audit of past displacement and resettlement and hired independent consultants (one international and one local) to undertake it. The first condition for the success of this audit was to obtain some buy-in from the municipality so that the consultant could interview municipality staff that undertook the *déguerpissement* and obtain access to lists and other information collated by the municipality.

The consultants established a detailed history of the site using a chronological sequence of publicly available satellite images to identify that there had been other evictions and reoccupations in the past, which interviews confirmed. The municipality and local knowledge allowed the consultants to identify a few representatives of affected persons (usually by occupational categories, such as mechanics, welders, scrap-metal collectors, food sellers, etc.). Interviews with these representatives, usually in focus groups to avoid one-on-one interaction, allowed the consultants to establish reasonably accurate lists of affected persons.

The municipality had sought to engage with affected persons, and they had been informed beforehand of the upcoming site clearance. However, the affected persons' input (particularly on resettlement sites) had not been properly considered.

While the municipality had provided resettlement sites to some (but not all) of the categories of affected businesses, these sites were typically inadequate (too distant, too small, difficult to access, poorly developed, with no sanitation or water, etc.) and were not used by affected persons.

No additional compensation was provided, and the affected businesses were not prioritized or otherwise considered in the design of the new market.

On the positive side, no disproportionate force was used. In fact, a police force was present and monitored the operation, which was carried out by municipal personnel, and there was no violence.

A corrective action plan was developed with several key recommendations. The new project would provide for the proper development of resettlement sites (access, sanitation, water) so that they become more attractive to affected businesses. The action plan would consider activities (e.g., mechanics or scrap metal collectors) in the location and design of resettlement sites. Finally, it would ensure that the new market could accommodate some of the affected businesses (such as food or garment traders).

