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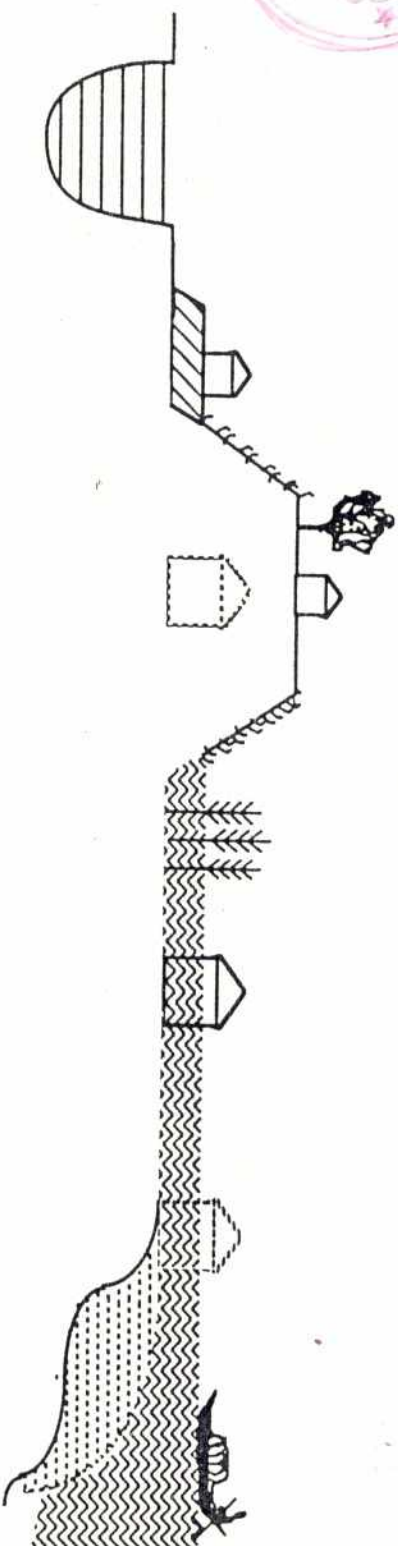
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FAP-15

D R A F T

FAP - 15: LAND ACQUISITION AND RESETTLEMENT STUDY

Summary of Findings and Recommendations

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I n t r o d u c t o r y N o t e

1. This is a working paper for participants at the Workshop on FAP-15: Land Acquisition and Resettlement Study conducted jointly by HIFAB International and MARC, and funded by SIDA.
2. The objective of this Workshop is to inform the relevant experts in government, academic, NGO and donor circles about the main findings and recommendations of the study and to obtain their comments and reactions, based on which the Draft Final Report will be finalised.
3. The format for presentation linking summarised findings to each element of the TOR sequentially, is unconventional and adopted in the hope that participants will find it easier to focus on the issues more sharply and trace the basis of recommendations more easily. It gives rise to some duplication now and then, which can be mitigated by cross references.
4. The study had five main objectives, namely
 - o to assess the social and economic impacts of land acquisition on families whose land was acquired for the construction of water sector projects in the past;
 - o to assess how land acquisition procedures and methods of payment may be streamlined to benefit households whose land is acquired in the future;
 - o to identify ways in which displaced families can be resettled so that their economic viability can be assured;
 - o to develop criteria and approaches for use in the design of Action Plan projects so as to minimise the land acquired and to facilitate rehabilitation of displaced families; and
 - o to develop criteria, guidelines and procedures for land acquisition and resettlement in Action Plan projects.
5. The methodology and analytical framework of the study are briefly described along with illustrative diagrams at Annex-1 (page 32).

TOR - (a) : review both available studies on land acquisition in Bangladesh and World Bank and bilateral donor guidelines on involuntary resettlement in development projects;

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1. Studies on land acquisition and resettlement are relatively few in Bangladesh. M.H. Hamid's detailed study of two BWDB projects reviews legal issues and procedural matters related to land acquisition under the 1982 Act; it also verifies the mechanism of determining land values and its impact on the affected people. Mahbubul Islam's study, based on a survey of three projects, concentrates mainly on procedural matters under the same Act. Both studies make similar observations : the administrative procedures are cumbersome and lengthy, the notices of acquisition not properly served, the consultation process insufficient, local government offices non-cooperative, the land recording system poor, and the payment of compensation irregular and inadequate.

1. More in-depth studies on land acquisition under different Acts, including the 1989 Act, are needed. Particularly, a review of the juridical framework to handle arbitration is urgently needed.

2. Studies on resettlement efforts in several countries of Asia, Africa and Latin America in the book entitled 'Land Settlement Policies and Population Redistribution in Developing Countries' (edited by A.S.Oberai), led to somewhat somber conclusions :
'Despite the substantial investments in planned settlement schemes, their performance has not been very encouraging. These schemes are costly relative to the number of persons settled, and frequently suffer from low productivity and high rates of desertion. If not complete failures, they have, in almost all parts of the world, given settlement officials and policy-makers serious cause for concern'.

2. Resettlement, although not a major issue under FAP, needs to be evaluated in respect of some other projects such as the Jamuna Bridge Project and Ershad nagar Project in Tongi. The lessons of other countries need to be taken into account in designing resettlement projects and procedures.

The video production 'Price of Progress' makes an interesting audio-visual presentation on involuntary settlement of affected

The audio-visual media should be more fully

Summary of
Findings

people in various World Bank financed projects, bringing in diverse perspectives from academics, doctors, grass-roots practitioners of development, as well as World Bank officials. The viewpoint of potential beneficiaries or local politicians however are not adequately covered.

3. Adverse experiences of resettlement and rehabilitation efforts by governmental organizations have generated donor interest in NGO involvement in this process. This assumes that NGOs work as a link between the local committees and the implementing authority. Although it creates tensions between the NGOs and the government, eventually implementation improves (Cerne, 1988).

There is hardly any serious study in Bangladesh which highlights the above excepting a Report prepared for the Ministry of Land, on Evaluation of Khas land Distribution Programme of the Government in Cooperation with NGO Coordination Council (Rahman, et al 1991). Findings frustrate expectations that were raised about NGO involvement in implementation and bring out the weaknesses of an uncritical partnership between the government and the NGOs.

FRM Hasan's study on the Process of Landless Mobilisation in Bangladesh (1985) emphasises the role of NGOs in respect of mobilisation rather than merely economic programmes.

A Ph.D dissertation by Tasneem Siddiqui titled 'Non-Governmental Organisations as Catalysts of Alternative Development' (University of Griffith, 1991) concludes that NGOs have deviated from their stated goals of participatory mobilisation due to donor pressure, government control, rural elite's role and the change in the character of NGO leadership.

Recommendations

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utilised for informed policy formulation. All points of view should be covered in addressing debatable issues.

3. A proper understanding of the role of GOs and NGOs in various development project is a dire need, and can only be obtained through a methodology of action research.



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Legal Framework

While recognising the importance of mobilisation and conscientisation as complex processes of social development, simpler efforts towards familiarising the poor with laws relating to resettlement should not be underestimated. Land Acquisition Act and You (Kalpana Vaivani, et al, 1990), a simple handy manual prepared by Multiple Action Research Group in India seems to be of enormous help to the people facing land acquisition. This manual explains laws regarding compensation of share tenants, especially in West Bengal.

Important information on land acquisition and related matter should be produced in simple booklets and widely disseminated.

TOR - (b) : undertake socio-economic surveys of households whose land was previously acquired in order to assess, *inter alia*, the impact of acquisition on the economics of households, the ways in which money paid in compensation was used, and the perception of those affected of the acquisition procedures and how these could be improved;

Recommendations

Summary of Findings

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1. Impact on assets :

According to a survey of 3858 households in 26 villages from 6 embankment project sites, 36% households lost land, 2.3% lost homesteads 19% lost crops, 2% lost trees, as a result of land acquisition.

1. Physical resettlement on a large scale is unlikely to be required under FAP.

Of the total land in adjoining villages about 15% is lost to acquisition which showed no class bias, proportionately more of the large land owners lost land, while the small landowners, if affected, lost proportionately more land.

Riverside households should be included in a category deserving some form of compensation. See recommendations on resettlement under Tor - (1).

About 52% h'h in adjoining villages have their homesteads on the riverside, experiencing depreciation in land value, increased vulnerability from floods and erosion and are often forced to squat on the embankments, 17.5% of them being squatters compared to 10.4% from the countryside.

2. Impact on income and employment :

Overall, monthly income of affected households decreased 8% on project completion and then increased 14% above pre-project levels. Considerable site wise variation exists, Moulvibazar and Mirpur showing declines of 28% and 24% respectively, explainable by special factors. Sirajganj showed the largest gain (84%). No class bias

2. Income and employment increases leave room for improvement. Whether income increases are trailing too far behind economic rates of return (ERR), estimated and achieved, need

Summary of Findings

was observed, the biggest gainers being the functionally landless groups (21% increase). followed by the subsistence farmsize households (87% increase). The highest declines are in the top (5.0+ acres) and the bottom (landless) categories, both reporting a 12% decline.

Within the household the long term gain in income was primarily from members other than the head; they gained 148% as compared to 2% by the heads.

Employment during construction work was obtained by 7% of the affected households to the tune of 55 persondays per h'h on average.

The affected households on average showed marginal improvements in the quality of life after the project in terms of housing, water and sanitation, although households who had to move homesteads, faced short-term hardships.

3. Compensation and arbitration :

There was universal dissatisfaction with valuation, affected households estimating undervaluation of 73% on average. Even when compensation was fixed at above market prices, the initial satisfaction soon evaporated with galloping land price inflation. Receiving compensation is marked by delays, harassment, extortionist extractions by land administration functionaries and touts.

On average 40% affected households sought arbitration.

Recommendations

Procedure/Activities

Administrative and Legal Framework

to be further analysed.

Project feasibility study should obtain quality data on income structure to be used for rehabilitation planning.

Donors and BWDB should make changes in the Tor of Feasibility studies and/or detailed design.

3. Compensation estimation and

disbursement as well as arbitration procedures require to be changed; see recommendations under Tor - (c) and Tor - (d).

Summary of Findings

It was a lengthy process taking about 9 notices, 3 hearings and 2 1/2 years of waiting for a verdict and over 4 years for final compensation.

Most households (87%) incurred extra legal expenditure ranging between 1 to 5 thousand takas in most cases, but exceeding 10,000 takas in every 9th case.

Compensation money was used in a variety of ways, 12% for land 16% for house construction/repair. Consumption accounted for 22% while 36% was invested in business, cattle, money lending and bank deposits.

4. Consultation :

Consultation was claimed not to be adequate by the affected households, of whom

- o only 3% remembered alignment being discussed
- o about a quarter agreed that project was discussed
- o about 50% admitted to have received notice of acquisition.

There was a demand for free and frank discussion of the entire project and land acquisition issues involving participation of govt functionaries and local leaders including chairman/members of UP, school teachers and village elderlies.

Recommendations

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Administrative and Legal Framework

- 4. Consultation process needs to be more systematic and conducted by a representative committee; see recommendations under TOR - (c)
- 4. A new kind of organisation is needed; see recommendations under TOR - (c).

TOR-(c) : review in detail the legal, administrative and regulatory framework of land acquisition in Bangladesh (including inter alia, the Acquisition and Requisition of Immovable Property Ordinance, 1982) as applicable to projects undertaken by national as well as local government agencies and recommend ways to improve the land acquisition process, so that land acquisition is carried out in a timely way and to ensure that negative impacts (e.g. the acquisition of unnecessary land) are minimised ;

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Procedure/Activities	Administrative Framework	Legal Framework
<p>1. The Acquisition and Requisition of Immovable Property Ordinance of 1982 and the Act for Emergency Acquisition of Property Act IX of 1989, cover land acquisition in Bangladesh. The 1989 Act runs out in 1994 and needs to be extended or the two acts amalgamated into one single act, as advocate by most DCs.</p>	<p>1. A Parliamentary Subcommittee may be formed to formulate and place a bill to the Parliament and organise national debate on Land Acquisition. The Ministries of Land and Law may provide technical assistance to the Subcommittee.</p> <p>Legal experts may be coopted into the Subcommittee.</p>	<p>1. A new/amended Act on land acquisition is required.</p>
<p>1. The 1982 Ordinance may be amended to incorporate special provisions for emergency projects as well as projects of great national importance such as FAP. The new Act should consider appropriate time limits for different procedures including civil court procedures.</p>	<p>2. The criteria in this regard should be prepared by the Ministry of Land, debated by experts and put to the Parliament.</p>	<p>2. The criteria should form a part of the new/amended Act.</p>
<p>2. There is a prevailing notion about the 1989 Act being appropriate for FAP. The experience of its applications in Dhaka Embankment and Jamuna Bridge Projects raise question about this issue.</p>		

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
<p>3. The main differences between the two Acts are wrt imposition of time limits for different steps/procedures, delineation of authority to decide on land acquisition and stages of payment of compensation.</p> <p>These differences are reflected in greater delays in acquisition under 1982 Ordinance.</p> <p>There is room for improving the procedures under both Acts in respect of decision about acquisition, notification, determination of awardee, determination and payment of compensation.</p> <p>Negative impact in respect of land is discussed under TOR-(i).</p>	<p>3. Notification should be wide, incorporating beating of drums in haats and bazars, posting of notices at Tehsil offices, mosques/temples, schools; use of TV, radio and popular local newspapers.</p> <p>Time limits are to be introduced in case of all projects and measures undertaken to ensure their adherence.</p> <p>For emergency projects or major projects approved by EONEC, the CLAC and DLAC should have no further role in acquisition decisions. All concerns about appropriateness of acquisition should be verified at the stage of detailed engineering design/survey and joint verification by RB and AB.</p>	<p>3. A Flood Action Plan Authority (FAPA) should be responsible for land acquisition for FAP, with the help of 5 regional FAPAs and required number of local level FAP Coordination Committees (FAPCC); see proposal a separate issues papers, and under TOR-(c).</p>	<p>3. A new Act will be needed to set up the proposed Authority, which will last for the duration of the Flood Action Plan.</p>

TOR-(d) : Review present methods of determining levels of compensation for land to be acquired and of making payments, and recommend any changes needed for projects under the Action Plan (e.g. , develop procedure to more realistically assess levels of compensation, including relocation grants; ensure more timely provision and payment of funds; institute time limits for the payment of compensation);

Recommendations

Summary of Findings

1. Present methods lead to unsatisfactory evaluation, resulting in prolonged arbitration and consequent human suffering, social and economic costs.

Stepwise problems are as follows :

2. Determination of value of land by reference to sales records of last one year from sub-registrar's office provide either under or over valuation or lack of records in adjoining areas. Collusion between LA officials, land owners, lawyers, touts and land registration officials is frequently alleged.

3. Joint verification by AB and RB often get delayed first as a result of manpower shortage at

Procedure/Activities

1. Methods for determination of compensation should be changed, expending greater efforts in achieving more accuracy in estimating market prices and instituting fairer principles of compensation.

2. Land valuation should be based on prices of different types of land annually determined for each upazila by an expert committee at district level.

3. For FAP projects RB should do a well-structured assessment of land category, structures, trees, etc at time of

Administrative Framework

1. FPCO should propose the following changes in admin and legal framework for consideration and necessary action of appropriate ministries and the Parliament.

2. Instead of DC, a district level Land Valuation Committee chaired by an MP from the region and DC as member secretary with required technical expertise, should be entrusted with the task.

Legal Framework

1. Amendments in the relevant Act/s will be needed.

2. Amend the Act.

3. Recognise need for accurate and speedy valuation and incorporate time limits

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
DC's office, and secondly because of usual difficulties in getting all parties together in the verification exercise.	detailed design of embankments and AB should quickly verify it, even without the presence of RB and should have a joint meeting only to sort out cases where differences arise.	task for RB and AB with time limits set for them; additional manpower for big emergent projects should be assessed at feasibility stage and included as project costs.	for different procedures in an amended Act.
4. The process of realising compensation is time consuming and costly. Reports of harassment and extortion are endemic. Demand for spot payment is universal.	4. Spot payment of compensation cheques is recommended to reduce peoples' suffering. Cash payment may be made when expressly desired by incumbents. Banks should be accountable for speedy handling of disbursements.	4. FAPCC may play a role in ensuring timely disbursement. Improve role of DC office in making payment. Appropriate instructions to commercial banks are to be formulated.	
5. Arbitration is a longer process compared to land acquisition, primarily because of no time limits and insufficiency of legal personnel.	5. Right of appeal against compensation award may be exercised at two stages.	5. The proposed FAPA may have an appellate role on the non-judiciary side.	5. Amendment of the Act required.

First, an attempt should be made to adjudicate disputes at the non-judiciary level because of non-existence of time limits in civil courts; failing this recourse to civil courts is open.

TOR-(e) : Review present methods of consulting households whose land is to be acquired and recommend ways in which such processes can be improved and ways in which displaced households can be encouraged to participate to the maximum extent possible in decision about their relocation and rehabilitation;

Recommendations

Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
<p>1. Public consultation is not carried out in a systematic and organized manner. Feasibility study guidelines contain instructions to consult public. There are Govt. instructions to water scheme planners to ensure public participation. But to a large extent the process is dependent on the initiative of the individuals.</p>	<p>1. Consultation procedure has to be made more systematic and organised. All interest groups must be met separately and jointly. The venue, representation and content of consultation should be carefully worked out.</p>	<p>1. A quasi political institution under with dedicated leaders at national and local levels is to be developed. The proposed FAPA in collaboration with elected local bodies should be tried.</p>	<p>1. Amendment of the Act is needed.</p>
<p>2. Explanation of projects is not comprehensive and seems not to reach a large proportion of the affected persons (see TOR-b).</p> <p>There appears to be a need for explaining all the aspects of the projects, particularly its costs and benefits at individual and collective levels. All</p>	<p>2. The project must be explained in clear and unambiguous terms and its costs, benefits and funding arrangements fully stated.</p> <p>A more comprehensive definition of beneficiaries and displaced persons is to be evolved, to ensure participation based on fairness, equity and self-reliance.</p>	<p>2. The technical explanations and educational materials should be produced by the RB in consultation with community experts. Dissemination should be spearheaded by the local elected representatives, national leaders and economics teachers under the guidance of the Authority.</p>	<p>2. The role of various bodies in the task of consultation should be indicated in the new/amended Act.</p> <p>All categories of beneficiaries and displaced persons should be recognised in the Act; see also TOR (f).</p>

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
<p>categories of beneficiaries and adversely affected persons are seldom considered in cost benefit analysis, e.g. the river-side people and share croppers in some regions. The beneficiaries do feel the moral pressure of sharing of costs if projects are well conceived and quickly implemented. Their agreement to share costs is easier at pre-project rather than post project phase.</p>	<p>Discussions on sharing costs and benefits including principles of compensation and taxation should be undertaken.</p>	<p>Cost sharing will need to be debated in various expert groups and public fora; the ministries of Planning and Finance, universities and national research bodies should take initiatives.</p>	<p>Eventually there may be an independent Act on this principle. Amendment of relevant existing Acts may be an intermediate measure.</p>
<p>3. Public meetings are generally not held. Before project implementation BWDB, in certain cases, holds a meeting in the DC's office, attended by local office, representatives of local bodies, schools teachers, representatives of farmers, etc. Group meetings are held even earlier, starting from the conceptual stages.</p>	<p>3. For major projects a national consensus through the Parliament and/or referendum is desirable. At the local level public meetings should be held where public representatives and engineers explain the project in clear and simple terms; so that it is widely debated, understood and supported. Any objections to land acquisition and its rationale must also be clearly articulated,</p>	<p>3. The Parliament, FAPA and FAPCC, AB, RB and NGOs, all have a role.</p>	

Summary of Findings	Recommendations		
	Procedure/Activities	Administrative Framework	Legal Framework
	understood and eventual consensus obtained through better explanation of costs and benefits, and exhortation to rise above petty self interest. The genuine difficulties of the poor need also to be addressed unambiguously.	National media, local news papers, schools and NGOs may have special role.	
	To ensure wide dissemination, project plans should be exhibited at public places and booklets distributed to appropriate institutions e.g. Haats-bazars, Union offices, schools, etc.		
	The costs of education and public awareness campaign must be built into the project costs.	BWDB, or the proposed FAPA, should incorporate this in feasibility study guidelines.	
4. Participation in relocation and rehabilitation require empowerment of the affected household, as discussed under Tor (f) below.			

TOR-(f) : Review present approaches used in planning the resettlement of households which are displaced in the construction of FCD/I projects and to recommend how these approaches should be modified to ensure the welfare of these households and to streamline project implementation. This would include, inter alia exploring the possibility of resettling displaced people on reclaimed land and devising institutional mechanisms for resettlement;

Recommendations

Summary of Findings

1. Land acquisition for embankments is along a narrow strip rather than spreading over large communities. It affected 35-40% households and involved 15-20% land in villages touching the embankment according to FAP-15 survey. Those losing homesteads constituted less than 3%. Hence, need for large scale resettlement is unlikely for FAP projects.

In FCDI projects resettlement of displaced households are not done. However, experiences of Jamuna Bridge Project and some urban resettlement projects indicate the following :

2. Adequate and quick compensation will ensure a self-managed resettlement to a large extent as long as it

Procedure/Activities

1. Comprehensive rehabilitation rather than resettlement (i.e. provision of homesteads only) is suggested.

Specific steps towards rehabilitation are divided in three phases i.e. Pre-land Acquisition, Land Acquisition and Post-land Acquisition.

Pre-land acquisition would include a socio-economic survey with landownership, land use, resources and employment structure of the affected people along with formal and informal community decision making mechanisms.

2. During the land acquisition phase adequate and quick compensation should be generally emphasised in all

Administrative Framework

2. Project designers under FAP should make cost-benefit analysis of the two alternatives and

Legal Framework

Amendments in the acquisition Act will be needed to recognise the categories more comprehensively.

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
<p>is sufficient to buy land within the community on the countryside.</p>	<p>FAP projects rather than large scale resettlement programmes, except for the very needy.</p>	<p>present findings to the decision makers.</p>	
<p>3. Disruptions in socio-economic networks in large scale resettlement projects make people some what reluctant to move.</p>	<p>3. When resettlement is away from original communities early attention is needed in recreating social and economic networks. Minimally, markets, schools and mosques need to be incorporated in settlement plans.</p>	<p>3. NGOs and GOS can jointly do this.</p>	
<p>The burden is particularly acute for women whose household work load increases. However, with time infrastructure develops and opportunities increase for rehabilitation.</p>	<p>Tubewell programmes and tree plantation need to be emphasised, particularly to reduce women's burden in fetching water and children's burden in collecting wood.</p>		
<p>There is expressed preference of homestead losers to resettle within the existing communities.</p>			
<p>4. The largest group who appear to be in need of temporary resettlement are the riverside households and Char land people who squat on embankments</p>	<p>4. Resettlement along side the embankment has been proposed under Tor-i.</p>	<p>4. The people on the river-side suffering additional burden of flooding need to be recognised as displaced, as mentioned under Tor (b).</p>	<p>4. Amendment in relevant Act/s needed in respect of definitions of displacement.</p>

Summary of Findings		Recommendations		
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during the flood season and cut embankments when threatened. Sometimes squatting becomes permanent.		also be considered, where feasible.		
Resettlement by the side of embankments is lacking in current practice.				
5. Physical resettlement in itself does not guarantee future security for the poor who are uninformed about their rights and weak against the existing power structure.	5. Empowerment of the affected should be emphasised which should include para legal training. Government functionaries and NGO field activists should receive settlement training.		5. NGOs, if existing should take a lead in cooperation within local government and volunteers from the area. Survey Settlement training should be imparted by the appropriate Land Administration Authorities and national NGOs having such capabilities will be responsible.	
Legal redress is expensive, time consuming and beyond the means of the poor.	Legal aid support by NGOs is recommended.		NGOs should work out the programme with NGO Bureau, Legal experts and FAP Authority.	
6. Need exists for credit and skill development programmes for special categories of households.	6. Credit and skill development programmes should be made available by NGOs and GOs.		6. NGOs and GOs may review and decide on the issue.	
For rehabilitation	Target group concept			

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
work in the embankment regions existing target group is defined too narrowly by NGOs. Land owners between .5-1.5 acres of land were found to lose more than 50% of their land.	needs to be extended up to 1.5 acres land holders.		
7. Lack of consultation and participation in embankment projects have been widely reported (see TOR-b).	7. Maximum dissemination of information through publicity campaign regarding land acquisition process should be carried out both by the local government, government development agencies and the NGOs to ensure public accountability of the acquisition process. Interaction between implementing bodies, local level government authorities, NGOs and the groups of the affected poor should be enhanced.	7. Local level FAP Coordination Committee, could play a strong role ; see TOR -(c).	
8. Maintenance of embankment is not adequate under the existing arrangements.	8. Local level participation is to be ensured. People settled next to embankment may play a role.	8. Local government in coordination with local level FAPCC should ensure this.	

TOR-(g) : review the system for the registration of land ownership; assess any problems experienced in using the system for land acquisition and resettlement, including adjudication of disputes; and recommend any special procedures for surveys needed in Action Plan projects;

Recommendations

Summary of Findings

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Legal Framework

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <p>1. The existing systems of land records and registration of transfer deeds as well as the partly dependent systems for evaluation of compensation and proceedings for land acquisition are deficient in many respects.</p> | <p>1. Two recommendations are made for improvement of land records one with more fundamental changes than the other.</p> | <p>1. Each recommendation has strong administrative & budgetary implications. Ministry of Land should initiate/support a Pilot Project on each.</p> | <p>1. Change in legal framework depends on which recommendation is accepted; see below.</p> |
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| <p>2. Records-of-rights are revised with heavy costs from time to time by a complicated procedure, but are more or less out of date at the finalisation of the revision. They are then poorly maintained and updated.</p> | <p>2. Within the frame of existing system :</p> <p>a. Rationalise transfer deed to one standardised page with essential information</p> <p>b. Transfer this to a much reduced 'Balam' book with a certified photocopy (i.e. an improvement over the present LT notice) to the land administration office (AC, Land)</p> | <p>2. All registration offices must have ready access to a functional photocopier.</p> <p>Administrative orders may be issued to effect the updating of record of rights on the basis of time limits; and to refer all cases of transfer prior to registration.</p> | <p>2. No change in legal FW needed.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|

- c. Make updating of record of rights on the basis

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Summary of Findings	Recommendations
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of improved LT notices obligatory within time limits	
d. Introduce a system of checking of title before registration of transfer, by reference to the record of rights updated on the basis of LT notices as mentioned under sub-section b and c above	
3. Land registration has low validity concerning rights in land and as a base for finding market values. Concerning rights to land they are not only incomplete but also subject to fraud, mistakes and manipulation.	3. Bring Directorate of Land Registration under the Ministry of Land Administration.
3. Within the frame of a changed system :	3. Change and/or amend the necessary laws.
a. Update all land title records and make continuous updating to records of rights a legal requirement	There should be a pilot project run in an existing FAP area, probably at the site of the compartment trial.
b. Computerise the land record system at the upazila level with subsequent aggregation at the higher levels	
Arrange for a new breed of modern well-trained professionals who can run a computerised system.	

TOR-(h) : review existing rural development projects (e.g., cooperatives under BRDB, LGEB, Operation Thikana and the Khas Land Redistribution Programme, programmes of national NGOs such as BRAC, Proshika and Nijera Kori) in order to identify and recommend ways in which such projects can be used to support households whose land has been acquired (e.g., by providing new homestead sites nearby; by making credit available; and through skill development and training programmes) and to help them become socially and economically viable and self-sustaining in their new location;

Recommendations

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1. Programmes of both NGOs and GOS can hardly be recommended as self-sustaining and economically viable for the target group. There is no clear conception of graduation in any NGO, GO programme.

1. Programmes should include a concept of graduation within a specified period agreed upon by the organisation and the target people on a participatory basis. In this regard the role of long term supporting programme needs to be clarified.

FAPA should take up this issue with the NGO bureau and leading national NGOs. Decision in this regard will have wider implications.

2. Income generating programmes of NGOs & GOS like credit and skill training show some signs of improvement among the recipients.

2. Credit and skill development programmes should be emphasised and made area specific on the basis of economic studies of the regions.

NGOs and GOS should incorporate these programmes in designing rehabilitation. Early consultation with the relevant credit institutions and human resource development organisations is suggested.

3. Due to service delivery by NGOs general living condition shows some improvement.

3. Programme of service delivery should be strengthened, like tube-wells, sanitation,

FAPA should consider this in the design stage as part of rehabilitation programme.



Summary of Findings		Recommendations		
		Procedure/Activities	Administrative Framework	Legal Framework
4.	There is a serious collusion of interest between big land owners and bureaucracy in the khas land distribution programme.	Empowerment components like para legal training and legal aid should have priority in rehabilitation programmes.	4. FAPA should ensure appropriate steps in consultation with relevant govt depts and the NGOs.	4. Recognition and appropriate warnings/measures in the legal framework are desirable.
5.	Resettlement programme like that of Guchchagram has been planned without considering employment opportunities for the beneficiaries.	NGOs and GOS active in the region or desiring to act should consider employment opportunities before resettling people or include training programme for new employment.	5. GOS and NGOs with such programmes should be consulted by FAPCC.	
6.	All the programmes reviewed, except Nijera Kori, do not touch on the issue of socio-political empowerment of the poor. Other programmes attache more importance on the economic empowerment.	6. In conditions of dislocation and relocation empowering programmes are necessary particularly initially.	6. NGOs with empowering components should be encouraged to extend programmes in the FAP regions.	
7.	Programme designs sometime lack environmental considerations.	7. Unintended consequences of programmes on environment should be foreseen and considered in	7. Design criteria of both FAP and NGOs should include short and long term envi-	

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
8. Beneficiaries become dependent on the organisation. Target people have little control over the organisation, as such new dependencies arise.	8. Programmes and organizations should create space for target people so that participation in democratic decisions and the accountability process of the organization may increase.	8. NGOs and GOs should include the target people in the decision making process of the organization.	
9. All these programmes that have been reviewed include segments of settled communities only.	9. Since dislocation and relocation are disturbed social conditions, programmes for such segments of the population should be designed differently. Rehabilitation process should begin right through conceptualisation to completion of the projects. Since rehabilitation and embankments are linked processes, programmes should be designed on these interrelationships (i.e. embankment repair, social forestry etc.)	9. NGOs and FAPA should coordinate in designing such programmes. See also Tor - (i).	

TOR (i) : review (in consultation with engineers working on other activities under the Action Plan) the design criteria used for embankments and other physical works with a view to recommending ways in which projects could be built so as to minimise land acquired while, at the same time, suggesting ways in which embankments could be constructed (e.g., with roads and associated new settlements for displaced households) to facilitate the rehabilitation of those whose land is acquired;

Summary of Findings

Recommendations

Procedure/Activities

Administrative Framework

Legal Framework

1. Mainly three principal factors determine the extent of displacement and suffering inflicted on people due to construction of embankment.

1. Each of these factors need to be attended to as recommended below :

a. Amount of land acquired for embankment and borrow pits for the earthfill. Recently the practice is to discard borrow pits, specially on the country side and obtain soil for the earthfill by paying royalty. So, room for improving design to reduce the base width is minimal and is dependent on detailed information on type of soils and their use in appropriate engineering design techniques.

a. More information on soils from the proposed embankment sites, particularly where variation is large and dead river beds occur, should be obtained and used in design. Design engineers should be effectively associated during feasibility and implementation stages of a project.

a. The TOR and guidelines for project design and feasibility studies should be amended and/or made clearer, and their implementation ensured.

b. Alignment. This affects

b. Much greater attention

b. BWDB guidelines for

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
<p>the number of households in two ways: by being further away from the river so as to keep the alignment at a safe setback distance from the bank, and by passing through densely populated areas. There is room for cost benefit analysis at the design stage based on actual field information on distribution of households along potential alignment options.</p>	<p>to alternative alignments and their costs and benefit data are required to be calculated and analysed at both feasibility and design stages.</p> <p>This will be facilitated if the land record system is modernised, updated and computerised; see TOR (9).</p>	<p>feasibility and final design studies are to be modified and updated based on actual field experience.</p>	
<p>c. <u>Stability of embankment:</u> Failure in the embankment resulting from improper design & construction as well as lack of maintenance and bank erosion catch people unaware and cause great damages. Subsequently, further sufferings result from land acquisition for retired embankment.</p> <p>Erosion based failures can only be redressed</p>	<p>c. <u>Stability analysis of soil</u> to minimise breaches from failures in design, construction standards and regular maintenance should include improved design (already mentioned above), more judicious choice of earth fill material and compaction during construction, planting of appropriate species of plants on the embankment crest, slopes and berms to reduce soil erosion and wave action.</p>	<p>c. BWDB guidelines for design, construction, supervision and O & M are to be modified.</p> <p>FAPCC guidelines are to include the task of involving local people in O & M.</p>	

Recommendations			
Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
by river training. Not much consideration has been given to this field.	Proper and systematic arrangements should be evolved for the regular maintenance of embankments. River training measures need to be seriously considered in embankment design, specially in case of erosion prone banks of major & medium sized rivers, and its cost benefit analysis done by a multi-disciplinary team, on the basis of various alternative options and pilot projects based on them and considering the loss of land & subsequent retiring of embankment.	FAP should have one or more pilot projects on river training in major and medium size rivers; results should be used in planning embankments and other structures under FAP.	
2. <u>Resettlement</u> : Embankments are frequently used for squatting and/or temporary shelters by displaced people. They include both the loser of homesteads on the alignment as well as those on the river side who experience higher depth of flooding for a longer	2. Resettlement of displaced households, those losing all land or homestead or those forced to quit homestead during flood seasons, such as people on the river side, can be provided as described below : Additional land on the country side may be acquired to resettle		

Recommendations

Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
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duration.

these people. Their houses may be built/rebuilt on a low embankment of width 15' and height depending on the main embankment, to be constructed for them so as to prevent them taking earth from the main embankment, thus endangering the stability of the same.

3. Rehabilitation : Given proper opportunities and rights, the displaced people could be engaged in income generating activities based on tree plantation on berms, production of grass and other appropriate shrubs along the slopes and rhizoid rooted plants on the crest, as proposed by some forestry experts.
3. Small shops could also be constructed on the low embankment particularly when the embankment is used as a road.
3. Suitability of embankments as roads for local or regional transportation should be considered at project feasibility and design stages.

This comes under the TOR for local level FAPCC.

The most important rehabilitation measure could be an involvement of the displaced people in construction as well as maintenance of the embankment.

Recommendations

Summary of Findings	Procedure/Activities	Administrative Framework	Legal Framework
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Existing barriers to employment of women and local people stem from traditional notions on gender efficiencies and indiscipline of local employees.	Owners of lands adjacent to the embankment should not only be made responsible for the maintenance of the portion of the embankment along the width of their lands but should also be encouraged and allowed to produce grass and appropriate shrubs on the top and slope of the embankment, to plant, and enjoy use right of, trees on the berm on both sides of the embankment, except for the river side of hilly areas.	Arrangements need to be worked out between FAPCC, RB and the people on the basis of trials & final procedure covered by law.	The LA Act should reflect new arrangements, particularly in respect of rights and responsibilities of groups and bodies.
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TOR-(j) : review the system for the allocation and use of funds for land acquisition and recommend changes needed to ensure the timely availability of adequate funds for land acquisition and resettlement.

Recommendations

Summary of Findings

Procedure/Activities

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1. Allocation for approved projects in the ADP are made on a quarterly basis and is often subject to revisions and cuts. When such cuts occur or compensation for land acquisition exceeds earlier estimates, funds shortfall delays acquisition and RB is blamed for it by AB. Since for most projects at pre-sent land acquisition is a conditionality for loan disbursement, the quarterly payment system delays implementation further by upsetting other activities. BWDB has recently put up a proposal for placement of the total annual LA funds at the beginning of the year.
1. Fund placement delays and shortfalls should be overcome by
 - a more realistic assessment of compensation at detailed design stage; and
 - placing annual allocation with RB at the beginning of the fiscal year for land acquisition to be carried out during that year.
1. The government should approve the BWDB proposal at an early date, and make necessary amendments in the rules of business of respective ministries.
2. Delays in acquisition occur even when adequate funds are available. In the current year, for instance, BWDB has put
2. Procedural delays in land acquisition need to be reduced for better utilization of allocated funds.
2. Ministry of Finance should review this particularly in respect of LA.

Summary of Findings

up proposals for Tk.40 crore worth of acquisition and with more than half a year gone, the DC offices have not been able to acquire even half.

Recommendations

Procedure/Activities

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Recommendations in this regard are made under ToR - (d).

However, minor delays in land acquisition on the part of the AB, resulting in funds being returned and the whole process re-initiated, need to be reviewed and revised towards a more rational strategy.

TOR - (k) : recommend criteria, guidelines and approaches to be used in project planning, appraisal and implementation of projects under the Action Plan. These should make it possible for project management to assess whether the arrangements proposed or being implemented are adequate and feasible and whether, when implemented, they are likely to ensure that displaced households are adequately resettled and that adequate support services will be provided to enable them, largely through their own efforts, to rebuild their livelihoods.

TOR - (l) : recommend ways in which these criteria and guidelines can be incorporated in the planning and implementation of water resource development programmes of government outside the Action Plan.

Recommendations have been made in this summary report under TOR-(b) to TOR-(j); and they will be integrated under selected issues and presented in the final report as well as in separate issues papers.

TOR - (m) : organize a workshop of national experts to review specific aspects of the land acquisition and resettlement process and to review the draft report and recommendations of the study. Members of the Implementation Committee, Panel of Experts, professionals taking part in other activities under the Action Plan, other government official and representatives of non-governmental organizations would be invited to participate in the workshop.

This workshop is scheduled to be held on 5 February at Hotel Sonargaon, for which this summary is a basic document. The Draft Final Report, or chapters thereof, is/are available to reviewers on demand.



A note on the methodology of FAP-15 Study

1. Four different components of the Study :

The study was divided into five major components, each responding to one of the five major objectives of the study (see page 1), and each requiring a different approach and/or methodology. Findings from the four components provided the basis for making recommendations on criteria, guidelines and procedure, which was the fifth major objective of the Study.

2. Different methodology, but a common analytical framework :

First, the overall process of land acquisition is conceived as consisting of four broad activities or sub-processes, namely project identification, land acquisition, project implementation and arbitration of protests, which brings about the interface between the people, affected or otherwise, and the technocracy, the bureaucracy and the judiciary.

Second, implementation of an embankment project leads to various impacts on individuals, economic sectors and the environment. Some of these impacts may be beneficial while others are detrimental. These impacts are not confined only to those who lose land or those who are inside the embankment.

Third, to cope with the adverse impacts and take advantage of the beneficial ones, there would be responses of different degrees and types from the government, the NGOs and the people themselves.

Eleven household categories were defined on the basis of land configuration and used in clarifying notions and definitions about an embankment's overall impact on households in adjoining villages. The broad analytical framework and the household taxonomy are shown diagrammatically on pages 34 and 35.

3. Methodology for the socio-economic component of the Study :

A sample survey was carried out involving 3858 households of whom 1407 were affected, in 26 villages at six purposively selected BWDB project sites, namely

- | | |
|-------------------------------------|-------------------------------------------|
| (i) Kurigram Irrigation Project | (ii) Brahmaputra Right Embankment Project |
| (iii) Monu River Project | (iv) Dhaka City Flood Protection Project |
| (v) Kalidaskhali Arpara Project and | (vi) Meghna Dhonagoda Irrigation Project. |

The selection of sites were based on ecological and economic considerations. Questionnaires were used for a household census, a detailed enquiry on the experiences of LA and its impact and a more detailed enquiry on the impact of LA,

using successively smaller subsets of the earlier samples. There were also community consultations on important issues. Additionally, a quick survey was carried out at Jamuna Bridge Project site in Tangail and about 50 households were interviewed about their land acquisition and resettlement experiences.

4. Methodology for the review of LA Compensation and Arbitration :

The laws, rules, manuals, executive orders/instructions giving LA processes were scrutinised and compared. Several LA cases pending at different stages were reviewed to identify reasons for delays. DCs and other LA officials were interviewed in eight districts and from 18 districts, their opinions were sought through mailed questionnaires on problems of LA and how to improve it. Field visits were made to offices of the land registration at upazilas, districts and the DLR's office at Dhaka. Findings from the socio-econ survey were used to get people's view points and experiences.

5. Methodology for the review of resettlement and rehabilitation efforts at govt and NGO levels :

Field survey was done in selected sites of 3 NGOs (BRAC, Nijera Kori, Proshika MUK) and 2 govt (BRDB, Guchhagram) programmes. A sample of 30 members were selected at each site and interviews were on the basis of a questionnaire. Informal discussions were also held with them as well as their programme organisers. Resettlement experiences at Jamuna Bridge site were investigated.

6. Methodology for the review of engineering design and planning :

Discussions were held with experts from different disciplines, including design engineers, sociologists, foresters and maintenance engineers, literature was reviewed and field visits made.

Chart 1

**An Analytical Framework on Land Acquisition : Impact on People and Economy
and Responses from Government, NGOs and People**

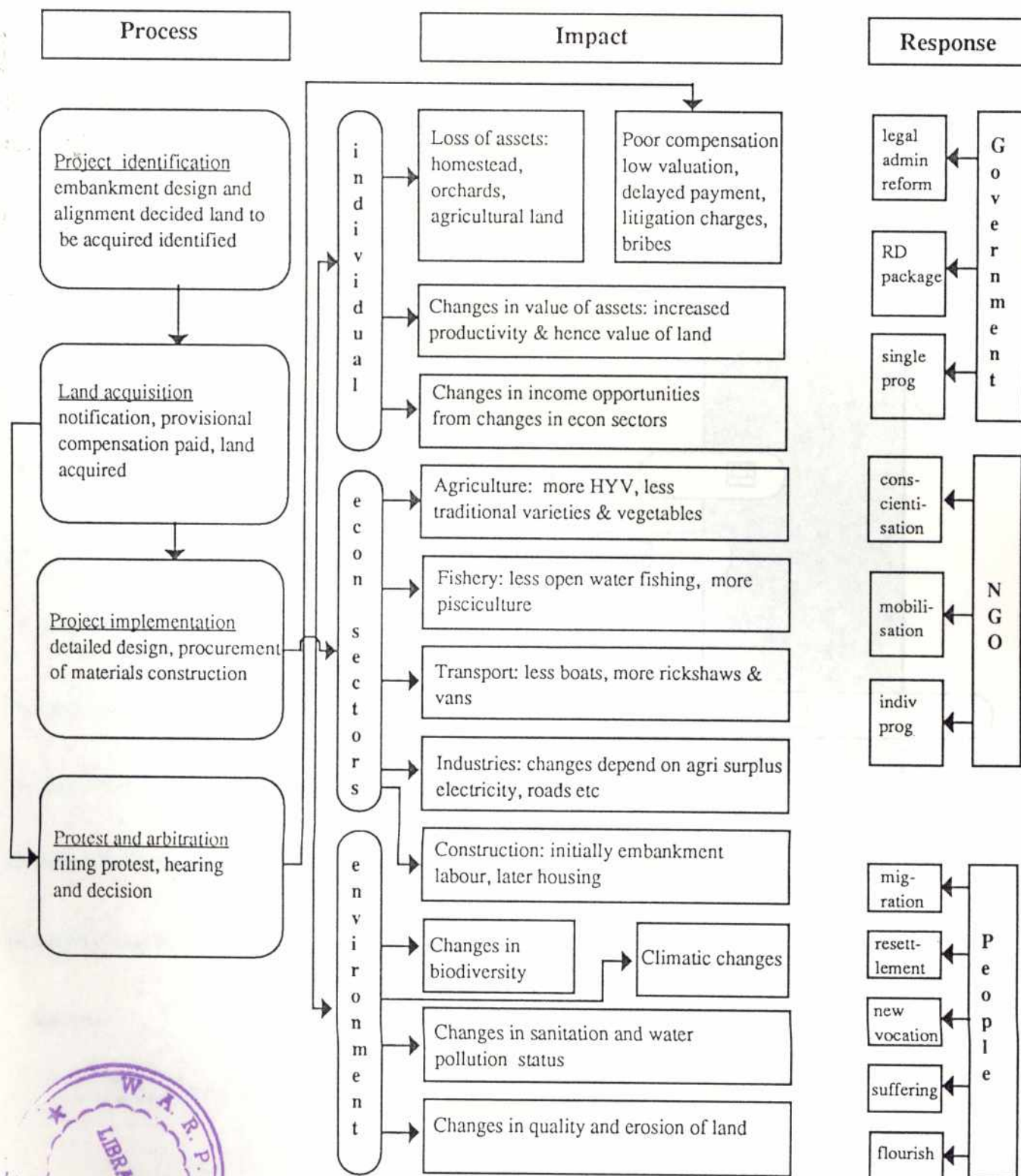


Chart 2

Typology of Land Owners Effected by Land Acquisition

