

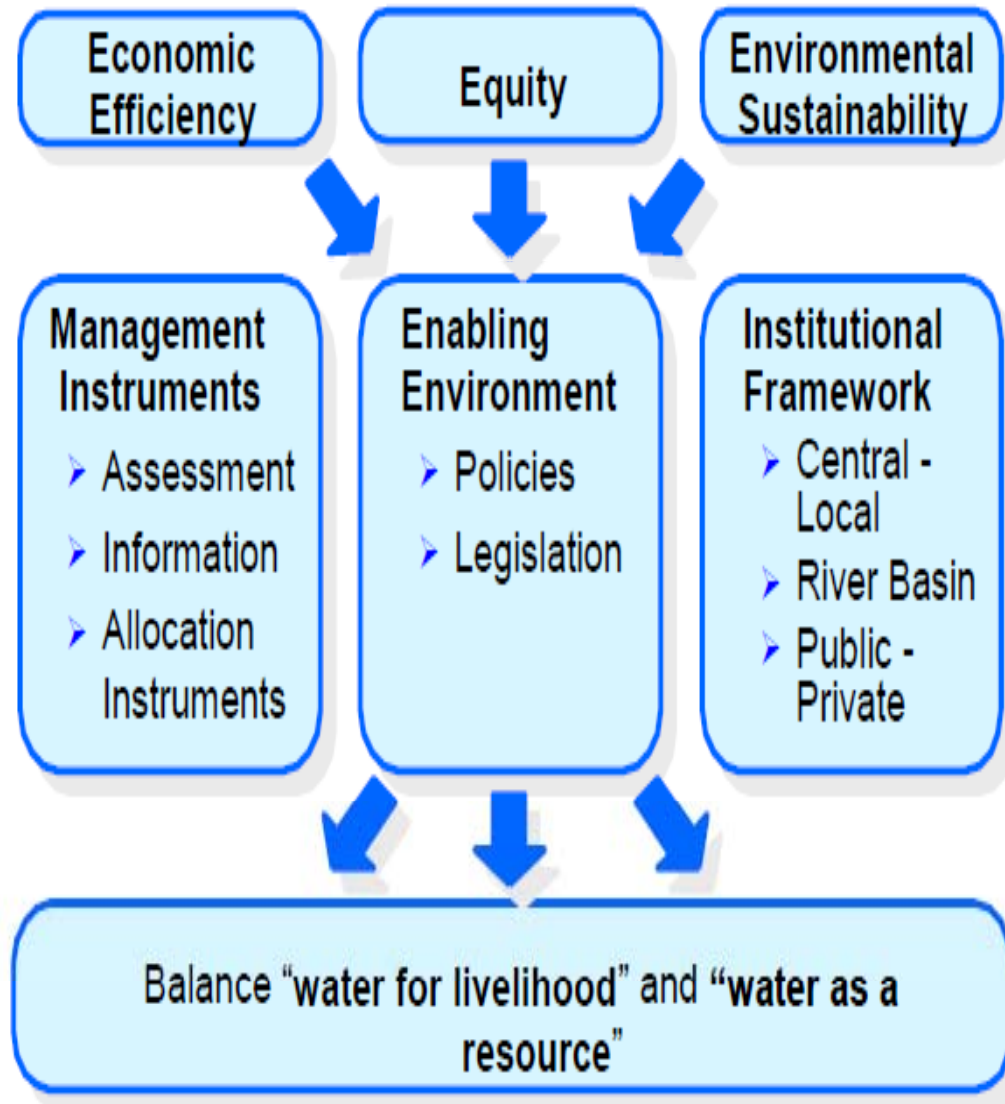


Right Of Way and Resettlement Policies for Water Resource Projects: Flood Control in River Basins



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International Good Practice in Integrated Water Resources Management (IWRM)



Core IWRM =
➤ Dublin principles
➤ 3 (+1) pillars

← Investments (for infrastructure) is fourth important pillar

Delayed Implementation of
Water Infrastructure Projects

Right of Way Acquisition
Problem

Property
Valuation

Resettlement/
Relocation

Judicial Process on
Resolving Disagreements
over Valuation and
Relocation

Guiding Principles: Right Of Way

- ☑ The constitutional guiding policy on ROW acquisition is that “ private property shall not be taken for public use without just compensation”
- ☑ The acquisition and management of ROW for national infrastructure projects is guided by laws governing ROW
- ☑ Republic Act. No. 10752 “The Right-of-Way Act” enacted in 2016 (Amended the previous 2000 ROW Law RA 8974)

Salient Points of Implementing Rules And Regulations (IRR) RA 10752

- ✓ Donation between 2 government agencies is allowed
- ✓ The current market value of the land is the present basis for negotiation
- ✓ Owners of Structures/improvements with no rights to the lands shall be paid provided he/she is not a professional squatter under RA7279
- ✓ Government to freely enter and use lands exceeding 50 meters below the surface is allowed for acquisition of subsurface right-of-way
- ✓ Implementing Agency shall pay for the Capital Gains Tax, documentary stamp tax, transfer and registration fees

Modes of Acquiring Real Property

Donation

Negotiated sale (current market value)

Expropriation

Other mode of acquisition as provided by law
(quit claim, easement or barter)

Negotiated Sale

The implementing agency may engage the services of:

- ✿ Government financial institution with adequate experience in property appraisal
- ✿ An independent property appraiser accredited by the Central Bank (Bangko Sentral ng Pilipinas, BSP) or a professional association of appraisers recognized by the BSP
- ✿ The property owner is given 30 days to decide whether or not to accept the offer as payment for his property
- ✿ If the property owner does not accept the price offer, the implementing agency shall initiate expropriation proceedings

Expropriation

- ❁ Expropriation is resorted when the owner of a private property needed by the government implementing agency does not agree to convey his property to the government by any modes of acquiring and/or transferring ownership of the property
- ❁ The government shall exercise its right of eminent domain by filing a complaint with the proper court for the expropriation of the private property

Expropriation

- ✿ The implementing agency shall deposit to the court in favor of the owner the amount equivalent to the sum of the following:
 - 100% of the current Bureau of Internal Revenue (BIR) Zonal valuation of the land
 - Replacement cost of the affected structure
 - Current market value of the crops and trees

- ✿ Upon compliance, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project

Exchange or Barter

- ✿ Property owner may request the government to exchange an old abandoned road or government lot near the project instead of being paid the money value of his lot

Easement

- ✿ Easement of Road Right-of-Way, or the right to use private property for public use
- ✿ The value of lot is too nominal that surveying expenses alone would cost more than the value of the lot
- ✿ The owner still retains ownership of the lot traversed by the road.

Compensation

- ✿ Government shall pay **just compensation** after the contract of sale has been executed between the property owner and the government
- ✿ Compensation price shall be the sum of the current market value of the land, replacement cost of structures and improvements and current market value of crops and trees

Mode Of Payment For Purchase/Negotiated Scale

| Land | 50% of the affected land, exclusive of taxes | 50% | At the time of transfer of title in the name of the state; For partially affected land- annotation of a deed of sale |
|--|--|--|--|
| Affected structures, improvements, crops and trees | 70%, exclusive of unpaid taxes | 30%, provided land is cleared of structures, etc | |

Consultation Meetings with Project Affected Persons (PAPs)



Project Affected Persons (PAPs)

Severely-affected PAPs

- ✓ Will lose more than 20% of their assets
- ✓ Entitled to full payment for the fair market value of the entire land and the full replacement cost of the entire structures and other improvements affected.

Marginally-affected PAPs

- ✓ Will lose less than 20% of their assets
- ✓ Entitled to full payment for the fair market value of the land to be taken and the full replacement cost of the portion of the structures and other improvements affected.

Basic Issues and Concerns of Project Affected Persons (PAPs) in River Basin Flood Control Projects

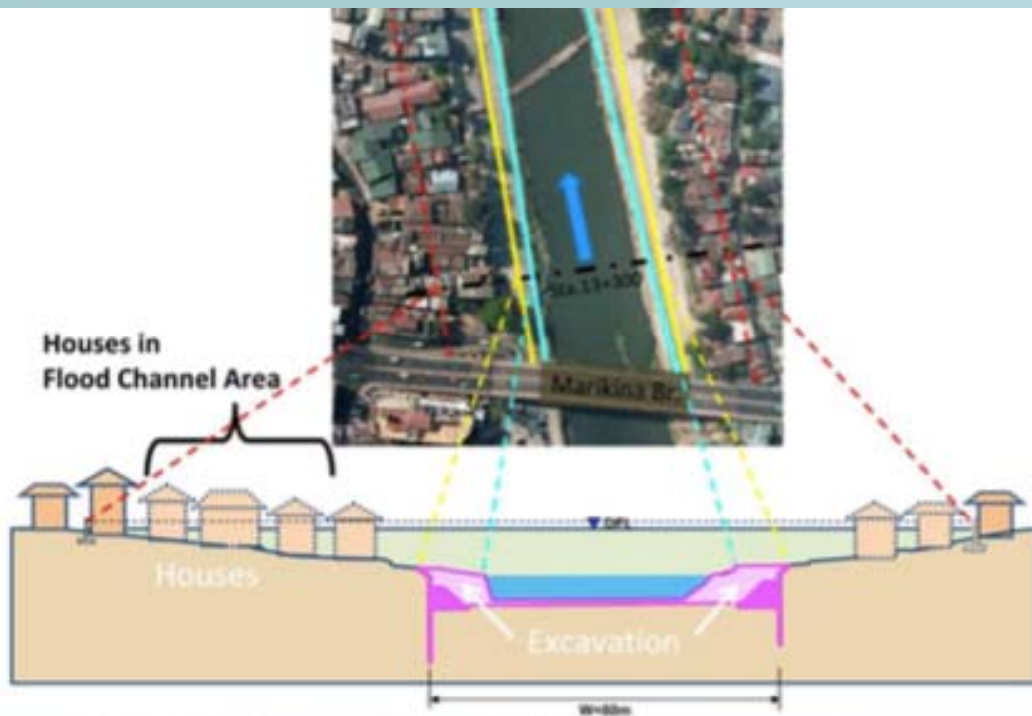
| Social | Comments/Concerns/Inquiry |
|------------|--|
| Relocation | <ul style="list-style-type: none"><li data-bbox="573 675 1966 810">➤ Accessibility of relocation site (good access to school, hospital, church, etc.<li data-bbox="573 826 1951 962">➤ Relocation site at the city center for business opportunity<li data-bbox="573 978 1861 1121">➤ Utility status at the relocation site such as water and electricity<li data-bbox="573 1137 1854 1273">➤ Entitlement of relocation of renters or big families<li data-bbox="573 1289 2002 1425">➤ Psycho-social issues especially women on their resettlement to the relocation |

Basic Issues and Concerns of Project Affected Persons (PAPs) in River Basin Flood Control Projects

| Social | Comments/Concerns/Inquiry |
|-----------------------|---|
| Compensation | ➤ Compensation of affected lot/house, private properties |
| Livelihood assistance | ➤ Livelihood assistance; business opportunity in the relocation site |
| Others | <ul style="list-style-type: none"> ➤ Non-assimilation of diverse culture ➤ Disturbances on peace and order ➤ Safety and health risk ➤ Women's welfare ➤ Displacement of residential houses, agricultural and tree farm ➤ Institutional measures to prevent further incursion of informal settlers in the river bank easement, now and after the project |

Land Acquisition, Resettlement, Rehabilitation and Indigenous Policy (LARRIP)

- ✓ The overriding goal of resettlement planning is to ensure that the social and economic base of project-affected persons (PAPs) are at least restored, if not improved, after the project
- ✓ PAPs include any person or persons, household, a firm or a private or public institution who, because of the need to acquire ROW for the implementation of an infrastructure project, will lose their land, house, and other improvements
- ✓ Tenorial Status: Land owners, Structure owners on private lots and Informal Settlers



Affected industrial lots with structures



House structures occupied by Informal Settler Families (ISF) along waterways

Resettlement Options

National Housing Authority sites with ready housing units

Local Government Unit (LGU) In-city resettlement site

LGU Off-city resettlement site

“Balik-Probinsya” (Back to the Province)

Financial Assistance

Challenges For NARBO

- * Documentation, Analysis and Network Sharing of cases for lessons on governance in river basins, to wit:
 - Settlement in hazard areas is a driver of disaster and delays the implementation of water and flood infrastructures
 - Social dimension of flood control projects is critical in implementation
 - Strict enforcement of environmental laws ensure smooth implementation of river basin projects
- * Development of indicators for IWRM that reflects these aspects of governance in river basins



*Thank You For
Your Attention !!!*