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Contextualising Compulsory Land Acquisition Strategies for Sustainable Urban Development in Burundi

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ABSTRACT :

Compulsory land acquisition is inevitable for developing countries so that they can implement projects in urban areas for the quest of sustainable urban development. However, the decisions on land acquisition have to be contextualised so that the PAPs should be protected from disruptions and loss of livelihoods that may lead to uncertain sustainable urban development. This paper examines two projects implemented in Bujumbura City through compulsory land acquisition. A desk review and checklist question have been mobilised to collect data that are source of information presented herein. The results show that compulsory purchase, purchase by agreement and the combination of the two have been applied to acquire land. Furthermore, these approaches caused the eruption of informal settlements and petty trading activities where PAPs were involved in. Therefore, the paper recommends to have a contextualised approach in the process of compulsory land acquisition.

Keywords:

Land acquisition, Livelihoods, Sustainable land development, people affected Projects

1. Background Information

Governments all over the world are struggling to meet the 2030 Agenda for Sustainable Development Goals set in 2015. For urban development sector, the Goal 11 is to be implemented by governments in collaboration with their development partners so that cities and human settlements can be inclusive, safe, resilient and sustainable (United Nations, 2015). The implementation of the Goal 11 requires decision makers of all levels to act wisely on creating new neighbourhoods, regularise or upgrade the existing settlements that are in critical situation. Also, new infrastructure in urban areas and economic projects are needed or need to be expanded to cater for the needs of users. All these necessitate land. However, literatures show that many developing countries do not have free land to accommodate these needs (Azuela and Herrera, 2007). Subsequently, land acquisition becomes the only means of securing land for these projects where lands that are privately or commonly owned are acquired. Wanyonyi et al. (2017) and Keith et al (2008/1) acknowledge that compulsory land acquisition is the main tool used by the governments through eminent domain strategy to acquire land from individuals or communities.

Lindsay (2012) and Azuela and Herrera (2007) point out that compulsory land acquisition can be known as eminent domain, expropriation, takings, and compulsory purchase in some countries. Whatever the appellation, Keith et al., (2008) underline that land acquisition involves the governments to use their power to acquire private rights in land for a public purpose, without the willing consent of its owner or occupant. "Without willingness, but with compensation". The debate on the determination of the public use, public purpose " *utilité publique*" "*utilidad pública*," as expressed in many countries is still hot as highlighted by Azuela and Herrera (2007). These authors clarify that in Africa, there is no such clarification as it is observed in developed countries where even a catalogue of projects to be for public interest is availed. In developed countries like in Western Europe and others, compulsory purchase of land is undertaken when the land holder is not adequately developing the land. Therefore, it will be like a penalty so that the land can be used for public interest. In this situation, the process does not affect many people given that the public interest will be respected.

For in most African cases, the compulsory land acquisition is initiated to secure land for development projects like creating new neighbourhoods for urban expansion, capital projects like construction of dams, railways, roads, schools, markets, and so on, under the same motivation of public interest (Keith, et al., 2008; Lindsay, 2012, & Wanyonyi et al., 2017). In Kenya, Tanzania, Ethiopia, Uganda, Burundi, Cameroon and other African developing countries not mentioned here covered by the literature used compulsory land acquisition in securing land for agricultural projects and capital projects (Makupa and Alananga, 2018; Legesse, 2016 and Keeley, 2014, & Wanyonyi et al., 2017; Manirambona, 2018 and Fonjong et al., 2017). Also, most of these countries have supporting legal frameworks that guide the land acquisition. This sentence needs to be restructured to correctly convey the author's point of view. Land for agriculture may be the sole source of livelihood for some citizens. Use of livelihood in reference to a country is incorrect. Almost all developing countries have legal and institutional frameworks that clarify the land acquisition process and related issues. For example, FDRE (2019, p. 11795) underlines the compensation of varied considerations ranging from 'compensable properties and lost economic interests and the principles thereof ...and compensate whose landholdings and property are expropriated or damaged... fair and equitable compensation'. The land Act 2011 of Burundi in its article 411 is clear also about expropriation with fair and

equitable compensation. Also, Ordonnance Ministérielle n°720/304/2008 that was concerned to update the compensation tariffs.

Even though legal and institutional frameworks are provided in developing countries, execution of compulsory land acquisition has not been efficient, effective, fair and equitable. The literature shows many projects that have been undertaken with resettlement have left the Project Affected People (PAPs) to the misery and extreme poverty. Keith et al (2008, p. 7) denote that 'compulsory acquisition is inherently disruptive. Even where compensation is generous and procedures are generally fair and efficient, the displacement of people from established homes, businesses and communities entails significant human costs'. The impact may escalate in reference to the amount of land is acquired and as well as how this land is acquired. Also, the level of development as democratisation where the governments may be economic oriented or democratic sensitive.

In general, two strategies are commonly used. These are (i) acquisition by agreement and (ii) compulsory purchase. Some countries may have many other strategies that can be formulated in reference to the laws (Arden, 2018). The two commonly observed approaches have different concepts and context where acquisition by agreement is flexible and negotiable on time and cost. But, the compulsory purchase has benefits on the certainty of getting vacant lands by purchase from individuals or communities and fixing the price through negotiations or existing law. Limitation of the two approaches are that acquisition by agreement, the willingness of the property owners to sell is guaranteed. Compulsory purchase power approach is time consuming due to statutory process, the expense in the making and confirmation of the order, and uncertainty to accept orders.

To sum up, the sustainable urban development is still challenged by the lack of free land given that land acquisition has led to disruptions, and that the process displaces families from their homes, farmers from their fields, and businessmen from their neighbourhoods. Many projects separate families, interfere with livelihoods, deprive communities of important religious or cultural sites, and destroy networks of social relations (Wanyonyi et al., 2017, & Turimubumwe, 2015); leave people homeless and landless, with no way of earning livelihood, without access to necessary resources or community support, and with the feeling that they have suffered a grave injustice (Legesse, 2016, & Keeley, 2014). The projects requiring land acquisition seem to be for public interests, but, at the end of the projects many problems are observed directly to PAPs or indirectly to the surrounding neighbourhood. Kalakou et al. (2018) give explanation on how some projects in urban areas fail due to lack of conceptualising these projects. They are of the view that most projects are procedurally copied and pasted from existing experience by ignoring that each project has its procedures, challenges and opportunities. For these authors, each project has to undergo a comprehensive characterisation and contextualisation survey in order to assess the socio-demographic, economic, cultural and political context as well as its actual situation in terms of activities and their limitations in this field (ibid, p.2, §1). Capacity assessment for the PAPs and surrounding neighbourhoods should be undertaken when the compulsory land acquisition is envisaged so that capacity indicators, qualitative gap analysis and urban context highlighted.

2. Problem and objectives

In Burundi, the same situation is observed in many projects that government has applied the compulsory land acquisition arrangements without capacity assessment as means of contextualisation. Literature consulted up to now leaves a big cleavage between the compulsory land

acquisition strategies in urban areas and the contextualisation of the process as well as the linkage to sustainable urban development in Burundi. In this optic, the paper aims to shed light on how the compulsory land acquisition in Burundi has not been contextualised and has threatened the sustainable urban development as a main goal. Then, two specific objectives are (i) to document on compulsory land acquisition strategies in Burundi and (ii) to assess the impacts of compulsory land acquisition strategies on sustainable urban development in Burundi are formulated to achieve the major objective. Finally, this paper tried to respond to the questions like (i) how compulsory land acquisition in Burundi have been operationalised, and (ii) what are the impacts of compulsory land acquisition on sustainable urban development in Burundi?

3. Methodology

This paper uses a qualitative research approach to collect data (primary and secondary data). The motivation behind to use qualitative approach in this paper emanates from Palmer & Bolderston (2006) and Hancock, et al. (2009) who explained when a researcher has to apply qualitative approach in detriment of quantitative or a mix of the two. The authors underline that qualitative research emphasise on how people or groups of people see the reality. The approach also is concerned with the real-world context rather than the assumptions. It tries to present on “reports of experience or on data which cannot be adequately expressed numerically” (Hancock, et al., 2009, p. 6). In this research, the need to explore the projects implemented via compulsory acquisition and their impacts on urban sustainability requires to explain why government does acquire land by following such process. Also, the paper finds out what are opinions and attitudes developed by the two sides (government and landowners, how these landowners are affected by acquisition.

To successfully address the above-mentioned questions, the land acquired compulsorily is the unit of analysis. As defined by William (2006), unit of analysis is the analysis you do in your study that determines what the unit is. Merton (1975) argues that unit of analysis is only the “what” or “whom” that is being studied. The unit of analysis constitutes the substance of the study on which the researcher can be able to say something at the end of the study (Patton, 2002). Units of analysis are therefore the individual units about “what” or “whom” descriptive or explanatory statements are to be made. Accordingly, units of analysis could be individual, people, clients, students, programmes, neighbourhoods, communities, cities, states, cultures and so forth.

Different methods and tools were also engaged to collect data in various sources. Desk review is the main method applied through consultation of different documents as the main tool. Reports from the Ministry of Public Works and Urban Planning have been consulted to get data on the two projects that were undertaken within 10 years back (2010-2020) that involved in the compulsory land acquisition. These projects are namely the President’s Office Construction project known as ‘Ntare Rushatsi House’ and the Quartier Miroir neighbourhood. Also, newspapers archives (online) were perused to retrieve the updated and breaking news on the projects that were hitting during and after the implementation of these projects. In addition, fifteen interviews were conducted to officials working with Bujumbura City Council in different departments related to urban planning management and managers of the projects to generate data to complement desk review and researcher’s observation and experience. Among the offices visited include Physical Planning Office, Housing and Shelter Office, and Public Security Office, Social and family office, and Land Office. From all these offices, the researcher collected various data related to land acquisition strategies and

process, the outcomes and situation after the process to the PAPS, and the impacts of the process on the sustainability of Bujumbura City. The results from desk review were analysed through content analysis approach. Pictures and figures as evidences for some cases and raised issues are provided as appendices to support the argumentation.

4. Findings and discussion

Two projects namely the President's Office Construction known as Ntare Rushatsi House and the Quartier Mirroir neighbourhood are all projects that have been recently executed by acquiring land from landholders in periphery of Bujumbura City.

4.1 Brief history of the projects

The first project (construction of President's Office) has an historical background dating from 2001 when the project was supposed to start. A site of 4.4 ha was demarcated and landholders compensated. It is said that only four people were holding that land and that were compensated fairly. However, the project did not see the day and the landholders also did not evacuate the land. Then, eight years later, the landholders started to sell the land to individuals. It was identified that 65 households were living or owning land in that place.

In the second project, the land was under state land. Step by step, people acquired the land informally for farming activities. As a low land, rice was being grown. Due to climate change effects where in 1999 Burundi recognised a prolonged dry season, the area also became dry and people started developing small huts and other temporal houses. From 2005, people started selling the land to land seekers and the area was developed in the lapse of time. It is estimated that in 2000, there was 12 households; in 2005, 45 households; in 2012 when the project started 160 households plus 45 under construction houses.

4.2 Motivation behind the projects

In the first project (P.1) as highlighted previously, the project was supposed to start in 2001-2002. But, the information that is not official reveals that the funds allocated for the project was reallocated to other projects. Due to this obscure situation that was even disclosed to the media and public, the then government did not protect the land by any physical sign or even demolish the houses of landholders who were compensated. In 2011, the government of China proposed the government of Burundi to choose one project that can be financed by the People of China as a sign of good relationship. The government chose to construct the President's Office given that the government was spending around 8 million BIF per month as rent for the President's Office. The eminent power was used as defined by Keith, et al. (2008) previously but without considering the context of the land holders especially on how they acquired land and what will be the future for their livelihoods.

For the project two (P2), the site is along the major road to International Airport and is located also at 1/2 km from the airport. The neighbouring site is experiencing an eruption of informal settlement. Therefore, the government and the city council were concerned with the image of the city and the country in general by stopping the evolution of this informal settlement. To address the issue, the government proposed to acquire the land and develop it with high-rise houses so that it can give a presentable image to the country. For that, the Neighbourhood was named "Quartier Mirroir" that can be translated "Mirror's Neighbourhood" in English. Also, it was an opportunity to avail land for different political elite, businessmen and international diplomatic corps as well as NGOs to have plots of land for their homes and offices. Here, the issue of public interest as expressed by Azuela and Herrera (2007) is questionable. The land was acquired for individual and some private interests.

4.3 Strategies used to acquire land

In the P1, the government used the compulsory purchase where there was no discussion with landholders. As highlighted in previous discussion, the government got conditional funds that were supposed to be used on spot. Also, the government assumed the people who were settling at the site were encroachers. However, the government was supposed to carry out a survey and listen to the landholders. But, the government generalised the case by adopting a forfeiture approach whereby landowners were evicted with little consideration for their future. This where the research pinpoints the need of contextualising this strategy. By hearing the PAPs, the government may understand each case and have a legal approach to assist each PAP.

In the P2, the research reveals that there was a kind of hybrid of two strategies. Along the main road, compulsory purchase was used where land holders were resettled in other places. This area was dedicated to have a special development (high-rise buildings, same colour and building materials). In the inner part, of the site, acquisition by agreement was initiated where the land holders were given chance or option to remain or to be resettled. However, to remain in the site, you were supposed to be able to development the plot according to the specifications therein. Ardent (2018) does not cover this section where the hybrid or the combination of strategies can be applied in one site. This can be one of the interesting finding of this paper.

4.4 Compensating affected people

As it is stipulated by the constitution and other legal framework of Burundi, everyone who is resettled or his property taken for public interest is entitled to have a compensation. Also, the compensation should be the one that makes the PAP to continue living in his normal life or even further improved. However, in P1, it is estimated that 40 families of (180 persons) who were living in the site and 15 families (75 persons) who have started constructing their houses were not procedurally compensated. Only, a sum of money was deposited to their bank account and be asked to vacate the site within 45 days. No alternative site or resettlement site was given to them. All PAPs were considered as they have been compensated for their lands in the first compensation of 2001. Instead, the government was supposed to treat all cases of PAPs separately given that all cases are not similar so that they can sort out individual concern and identify the needs of PAPs individually. Given that the PAPs profiles and historical background is not the same, government was supposed to consider this differences. Furthermore, the government did not consider what will happen to these PAPs once they are evicted in such manner. For this case, the injustice as highlighted by Tibabu (2016) and Keeley (2014) is observed given that the government was to consider and analyse each case. The problem of generalisation and lack of contextualisation of cases by the governments in developing countries are the source of the vices that PAPs suffers during and after compulsory land acquisition.

In P2, a total of 160 families of (610 persons) living in the site were compensated and 45 (170) families who have already started constructing their houses were considered in the compensation. As highlighted in the previous sections, there was a group of people who were resettled in other areas or within the site. Compensation package included the value of the land and improvement made on land. Also, disturbance allowances and transport fare for those who were to be resettled were given to the PAPs. The consulted PAPs in this project acknowledge that there was a common understanding on compensation except on land. They underline that the land value was not based on black market. They disclose that, that time, 1sqm was BIF5500 whereas the government paid BIF 1500. The lack of updating the tariff of compensation is a problem for many countries. Ordonnance Ministérielle

n°720/304/2008 that was concerned to update the compensation tariffs, but it was not the case for this project. As results, the PAPs faced the bankrupts or failed to cope with the economic requirements in the resettlement sites.

5. Compulsory land acquisition and sustainable urban development

As seen in the existing knowledge globally, regionally, and nationally compulsory land acquisition has not been favouring the PAPs. This research reveals the same is true in the urban setting in terms of form and function.

5.1.1 Eruption of informal settlements

It is now obvious to see informal settlements in Bujumbura city especially along planned areas in the rivers' buffer zones, hazardous lands such as flood prone areas, and steep slopes. The existence of the PAPs of the two projects in these informal settlements was proved in different tragedies that happened in different times due to effects of climate change. The research found that in 2014 when floods took lives of 24 persons. It was highlighted that 18 of them were persons resettled from the two projects. The recent floods and landslide (2019) that took the lives of 28 people, 16 of them were also from these projects.

A sustainable urban development is one that can provide decent shelter in safe and secure areas (United Nations, 2015). Therefore, it can be deliberately said that the sustainable urban development is difficult to achieve if the government continue to acquire land without making adequate provisions in line with targets 1.3 and 11.1. The target 11.1 ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums. This target can be met by the PAPs. Also the same to Target 1.3 (United Nations, 2015) that urges countries to enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries.

5.1.2 The informal petty trade and street vendors

The existence of petty trading activities in city centres in developing countries is obvious, however, it is induced by many factors. For the case of Bujumbura City, compulsory land acquisition has contributed in one way or another on the increase of informal petty traders and street vendors. Dominated by young people and women, the police report on the security (2018) shows that among the apprehended people, there were those coming from PAPs in P1 and P2. Those who were resettled, opted to come in the city for the business given that their new settlement surrounding was dominated by farming activities. They were familiar with off-farm activities, thus, to switch to the on-farm activities was not easy. The report also highlighted the street children (75) that were caught (24) of them were coming from the families of resettled and evicted during the projects. This is where the research proposes to contextualise the process so that the talents, potentials, willingness and preparedness, the way and means of livelihood of PAPs can be considered in the resettlement areas as advocated by (Wanyonyi et al., 2017, and Turimubumwe, 2015). Also, the capacity of PAPs in many and various domain has to be evaluated as highlighted by (Kalakou et al., 2018). For example, one of the PAPs in P2 disclosed that they are given a huge amount of money whereas they are not familiar with managing such amount. Another one points out that women are not considered when it comes to giving the money during compensation. She said "...sometime the I (wife) may be smart in managing the money than my husband, but, we are ignored". Another showed her melancholy that some men have used the compensation money to get married with the second wife or misuse it. So, the government has to localise the process than technocratizing it.

6. Conclusion and recommendation

The research has disclosed the strategies used to acquire land and the results reveal that compulsory purchase, purchase by agreement, and a hybrid of these two first approach have been used to acquire land in Burundi. Moreover, the two projects have left the PAPs in disruption situation where resettlement and integration of PAPs has been followed by loss of livelihoods. Furthermore, the informal settlements, petty trade that were initiated by PAPs have affected the sustainability of the urban areas in Bujumbura City. Therefore, it can be underlined that sustainable urban development in developing countries is uncertain if the land acquisition will continue to be a cause of disruptions to the PAPs. However, if the governments will try to undertake the land acquisition with prudence; consider all factors, that is, the project output and the livelihoods of the PAPs; and then contextualise the process through analysis of isolated cases by avoiding generalisation; sustainable development will be enhanced.

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9. Key terms definitions

Compulsory land acquisition: An approach used by government to access to land that is privately owned for the use of public interest. It is said compulsory because the owner is obliged to sell the land to the government or be given another land.

Livelihood: a set of activities that contribute to someone's survive. Also, it can be a way of earning an income by external support but which is permanent.

Informal settlement: An area or place where settlers accessed to land without following formal process and developed it into settlements. The land may be accessed through encroachment, invasion or purchase.