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Title: The role of institutional factors on the implementation of the rights-based approach in the resettlement projects

Case Study: Resettlement Process in “El Plumon” caused by the massive transportation system project - Megabus

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The role of institutional factors on the implementation of the rights-based approach in the resettlement projects Case Study: El Plumon Pereira

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Summary

The rapid augment of population and the increasing level of urbanization have caused an important challenge on the public infrastructure. In this context, governments around the world have implemented different development projects in order to cope with the necessities of the population on the cities. Colombia has not been the exception. One of the services that have been affected by this situation is the transportation system in the different cities. In this sense, due to the necessity to improve the urban transportation in different municipalities of the country, the National Government started the implementation of the National Project on Urban Mobility. In order to prepare the cities for the new transportation systems, the construction of different roads, central stations for the new buses, and other different infrastructure projects took place. Although these processes were performed by a public interest purpose, they generated involuntary displacement processes. This situation pointed out the necessity to start resettlement processes for compensating the affected people for their socio-economic losses.

Different approaches have been used for the analysis of resettlement processes around the world; one of them is the rights-based approach. Most of the time this approach as Filmer-Wilson (2005:224) argued “goes no further than rhetoric”. However, and due to the importance of this approach, this study is focused on investigate how this approach can be applied in real situations, through institutional factors. In this sense, this research aims to analyze how the institutional factors can facilitate or constrain the application of the rights-based approach in resettlement projects. In order to achieve this main objective, this research has structured its findings in three different questions: i) how the rights-based approach has been included in norms and policies related with resettlement processes caused by development projects?, ii) what is the role that national and local organizations play in the application of the rights-based approach in resettlement processes caused by development projects?, and iii) in what extend the processes applied by local governments in resettlement processes follow the rights-based approach?.

In order to answer the questions of how the norms, the institutional arrangement and the processes facilitate or constrain the application of the rights based approach, this research used an explanatory case study, specifically a holistic single case. The case study chosen was the resettlement process done by Megabus in El Plumon, a neighborhood in Pereira, Colombia. In this case, this research had into account the national and the local perspective through semi-structured interviews to national officials and experts, local officials and experts and community. Moreover, this study included a policy analysis to complement the findings.

The principal findings were structured in terms of norm, the institutional arrangement and the processes and the relation of those factors with the five variables (universalism and inalienability, equality and non-discrimination, indivisibility and interdependence, participation and accountability) included such as part of the rights-based approach. In terms of the norms, there is clear that although there were enough general norms, those were scattered which pose a risk on the protection of affected people rights. In addition, the fact that the general laws did not include specific procedures, also constrain the application of the rights-based approach.

In relation with the institutional arrangement, it is important to highlight that each organization should count with the sufficient human and financial resources, in order to fulfill their obligations. Moreover, an important finding at this respect, is that it is very important that all organizations that take part of the resettlement process understand the resettlement process such a human matter and not a property matter.

Finally, in terms of the processes, it was clear that in relation with this factor, the application of the rights-based approach depends largely on how the norms, the policies and the institutional arrangement work. Moreover, the stage of application of the variables included in the rights-based approach by the processes depends on three elements: i) the mandatory level of norms, policies and guidelines and how clear those aspects are, ii) the available resources in order to implement the different activities, and iii) the level of commitment and will of the officials in order to develop better processes.

In conclusion, comparing the conceptual framework and summarizing all the findings, it can be extracted from this case study, that the institutional factors play a crucial role in the application of the rights-based approach in resettlement processes. The institutional factors can facilitate the application of the rights-based approach if the country counts with three factors: i) norms and policies that based on the local realities give guidelines about general rights but also about specific processes; ii) actors that understanding the resettlement process, count with a strong institutional capacity in order to implement the different processes required and iii) processes that following the norms established, can assure the fulfilment of the economic rights, but at the same time the social and procedural rights (participation, accountability, information). The success on the rights-based approach implementation is a consequence of the integration between norms, institutional arrangement and processes, and how well those act together.

Key words: institutional factors, rights-based approach, resettlement caused by development project.

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Abbreviations

CONPES	Consejo Nacional de Política Económica y Social (National Council of Social and Economic Policy)
DANE	Departamento Administrativo Nacional de Estadística (National Department of Statistics)
DNP	Departamento Nacional de Planeación (National Planning Department)
DIDR	Development-Induced Displacement and resettlement
IGAC	Instituto Geográfico Agustín Codazzi (Geographic Institute Agustín Codazzi)
OHCHR	Office of the United Nations High Commissioner for Human Rights
O.P.	Operational Policy
POT	Plan de Ordenamiento Territorial (Land Use Plan)
WCD	World Commission on Dams

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Chapter 1: Introduction

This chapter seeks to present an introduction of this study, by showing different general aspects not only about the study case but also about the structure of the research. Firstly, it will address the general background of the case study, including information about the case study, and the characteristics of the location. Secondly, it will present the problem statement of the case study. Thirdly, it will look into the objectives of this research. Fourthly, it will present the provisional question, where this research started from. Then, it will analyze the significance of this study in terms of the academic and policy world. Finally, this chapter is going to look at the different limitations that it has.

1.1. Background

1.1.1. General Background

Like most Latin American countries, Colombia is configured as a highly urbanized country, with about 32 million people in urban areas representing 72% of the recent national population (National Planning Department, 2004). According to projections from different organization of the National Government, these numbers are continuously growing. The growth of population in different cities and the rapid urbanization in big, i.e., population between 1 and 5 million persons, and middle, i.e., population between 100.000 and 1 million persons, cities in Colombia, has created an important challenge on the public infrastructure. One of the more important services that have been affected by this situation is the transportation system, which in many cities has been unable to deal with the demand of the people in a sustainable way.

In this context, and following the policies proposed by the National Development Plan, the National Government have started the implementation of the National Project on Urban Mobility, which includes the generation of mass transportation systems for big (cities with more than 600.000 citizens) and middle cities (between 250.000 and 500.000 citizens), in order to improve the mobility in those cities and generate a sustainable development (Ministry of Transport, 2004). This proposal from the National Government, tried to attract the attention of local governments in the creation and implementation of more efficient mass transportation systems.

In order to develop this kind of project and based on the Art. 2 of the Law 310 of 1996, the national government and its decentralized entities will participate in the financing of transport public services projects, as long as: i) the municipalities has constituted a corporation that manage this kind of processes, ii) the project has received the approval from the CONPES, iii) the Mass Transportation System Plan proposed is consistent with the respective Urban Development Plan of the City, and iv) the city should have a single entity that manage the system (Law 310, 1996).

Although the Ministry of Transport recognizes the benefits of the mass transportation system such as the reduction of contamination levels and travel times, it also recognizes the constraints that this type of infrastructure construction can bring to the livelihood of people. In order to mitigate the impacts of involuntary displacement that can be caused by those projects, the Ministry of Transport elaborated a resettlement guideline. According to the Ministry of Transport (2004) these guidelines where developed following the involuntary resettlement policy of the World Bank and the guidelines mentioned by the Inter-American

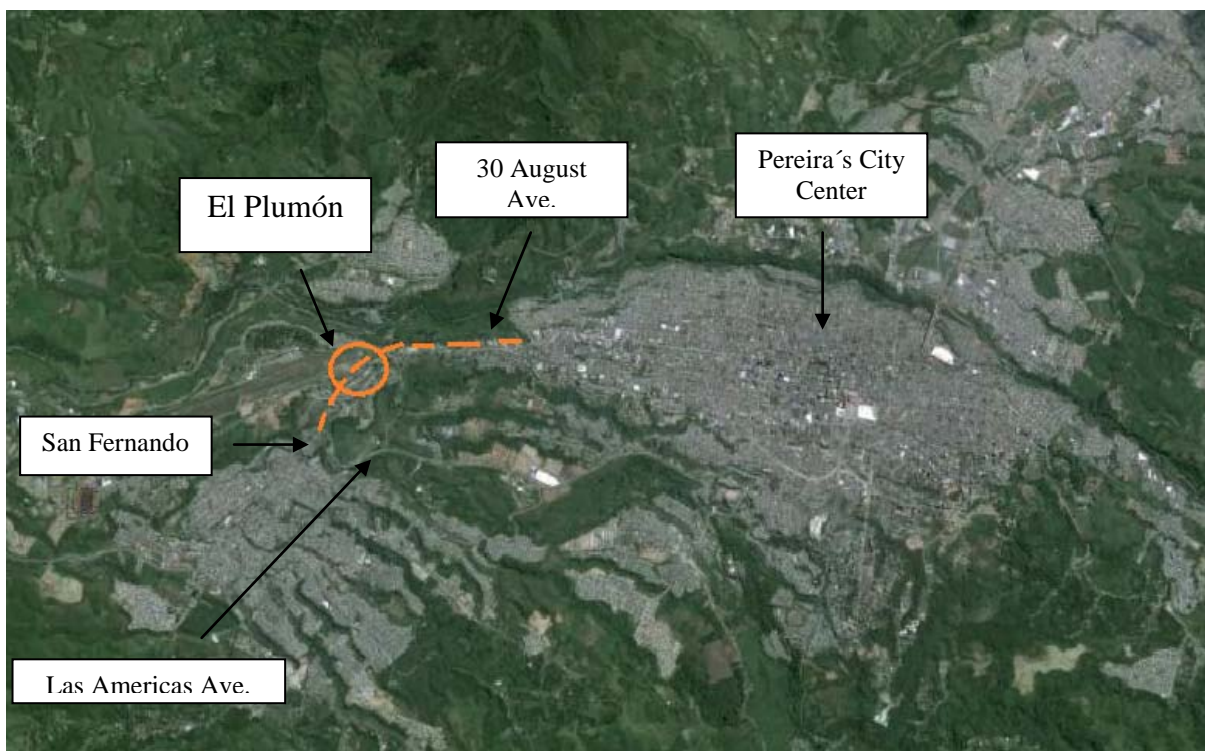
Development Bank in this issue. In addition, these guidelines were created in order to support the restoration of socio-economic conditions of the affected people.

In this context, the government of Pereira, the capital of Risaralda, considered as a middle city in Colombia, with a projected population of 464.719 persons for 2013 (DANE, 2005), was attracted by the idea of having a massive transportation system that could be as an efficient solution for the increasing demands of new forms of transportation within the city and with the closest municipalities such as Dosquebradas and la Virginia. In 2002-2003 the cities of Pereira and Dosquebradas created a public entity named Megabus, in order to construct the necessary infrastructure and to manage the massive transportation system (Megabús, 2009).

In order to cover most of the city with this service, there were necessary to initiate very important infrastructure projects. For instance, an important part of these projects was the construction of an exclusive lane on the San Mateo Avenue, to facilitate the movement of articulated buses used by Megabus. In addition, it was necessary to construct a round point and a new road to connect the San Mateo Avenue with the Cuba's neighborhood and Las Americas Avenue in the South-West part of the city.

According with the Municipal agreement 23 of 2006, by which the city of Pereira adopted the plan review of the land use plan – POT , this project led by Megabus it is seen as a strategic project in terms of connection from the center to the South-West of the city. This infrastructure project, affected three different sectors: i) San Fernando, ii) 30 of August Avenue, and iii) El Plumon.

Map 1: Location of the Infrastructure Project



Source: based on a googleearth maps

The three sectors that were part of the infrastructure project are very different not only in terms of the conditions of the people that live there but also in terms of the affectation that they received from this project.

The first sector where the project started is called San Fernando, which is a neighborhood with complete facilities that only suffered a partial affectation of fourteen (14) properties from the project; which means that nobody had to be moved to another place. In order to construct an exclusive road for the articulated buses, the affected people in this area only sell Megabus a part of their property.

The second sector is called 30 of August Avenue, which is a middle – high sector of the city, very well located, and also it has all the public facilities. In this sector Megabus carried out twenty one negotiations.

The third sector is called El Plumon, which is a more vulnerable sector with an informal settlement on it. This area sector was the most affected one, with a total of seventy six negotiations, which includes sixty six improvements (properties where the dwellers does not have a legal title of the land), and ten properties with legal land title (Megabus, 2009). According with Megabus Resettlement Office´s coordinator (interviewed on 28.06.2013) in order to develop the infrastructure demanded by the project in this area, Megabus undertook it in two stages The first stage started in 2009 and finished in 2012 with a total of forty three (43) negotiations concluded, the households were resettled and the construction of the road was finished (Megabus officials, interviewed on 28.06.2013 and 12.07.2013). The second stage of this process includes the remaining thirty three (33) negotiations with the different households, process that will start according with the Megabus Resettlement Office coordinator (interviewed on 28.06.2013) will start at the end of this year.

Regarding all the information about the different sectors within this project, this research is going to be concentrated only on the resettlement process that occurred in the sector of El Plumon, specifically having into account the stage that is already finished.

Map 2: Location of the case study



In order to cope with the damages caused by this construction, Megabus planned and implemented a resettlement plan for the area affected. This plan was developed in 2009, by the officials of Megabus, with the support of the team from the Ministry of Transport (Megabus, 2009). According with Megabus (2009), the resettlement plan included six principles: i) communication, ii) transparency, iii) equality, iv) equity, v) inclusion, and vi) consultation. The main objective of this resettlement plan was to provide social, legal and technical support to the social units in the process of acquisition of their new homes, and in the mitigation of the socio-economic impacts generated by involuntary displacement (Megabus, 2009).

In order to fulfill with the principle objective of this resettlement plan, there are going to be four components: i) information and attention to claims and grievances, ii) acquisition and negotiation of properties, iii) restitution of socio-economic conditions, and iv) monitoring plan (Megabus, 2009).

1.1.2. Characteristics of El Plumón

According with a local leader, cited by the socio-economic study, that is part of the resettlement plan (Megabus, 2009), “El Plumon” was founded on the 1970’s. The neighborhood is split in the Old Plumon and the Low Plumon. What the people denominated as the Old Plumon is the part of the neighborhood located on the 14th Avenue (Cra. 14), which counts with all the public services, good roads, and the houses are made of concrete or brick (Megabus, 2009).

Picture 1: Old Plumon



The other part of the neighborhood which is called the Low Plumon is an informal settlement. They have water and energy services, but there is a lack of a sewerage system and roads (Megabus, 2009). According to the socio-economic analysis made by Megabus (2009) the houses in this area are made of plastic, mat, wood, and other not resistant materials. In addition, this area presents different social problems such as overcrowding, drugs traffic, and presence of infectious and viral diseases. Finally, most of the economically active population is engaged in informal employment activities such as construction, agriculture and sales (Megabus, 2009).

Picture 2: Low Plumon



Source: Megabus S.A., (2009). Paper: Plan de reasentamientos Proyecto Avenida San Mateo. [pdf], Available at: <<http://www.megabus.gov.co/wp-content/uploads/2011/02/s-mateo-2009.pdf>> [Accessed 25 June 2013].

During the socio-economic analysis process of the area, Megabus (2009) has found four different types of properties. The first type of property is the land owned by private organizations or persons, which only required a negotiation for the price of the land (Megabus, 2009). The second type is related with people that own the improvement that is located in land owned by the municipality (Megabus, 2009). The third type is related people that own an improvement that is located in land owned by privates (Megabus, 2009). Finally, the fourth type is related with informal dwellers, with no title either of the improvement or the land (Megabus, 2009). After the negotiation with land owners, and the municipality itself in order to acquire the land, Megabus started the process with the people that were living in this area.

In order to make easier the structuring process of compensation package, Megabus (2009) divided the housing situation in two groups: i) improvements with consolidated housing and ii) improvements with characteristics of informal settlement (mejoras tipo invasión in Spanish). Those improvements with consolidated housing belong to the Old Plumon, which are in general composed by two storey houses that count with good public services and better socio-economic conditions. In contrast, the second group was concentrated in the Low Plumon, with not consolidated houses that do not count with sewerage system and roads; situation that makes these houses worth less than 50 minimum monthly waged in Colombia (approximately 11.500 Euros), which is the average price for a social housing (Megabus, 2009).

The neighborhood's income varies according with the two groups of households previously mentioned. The people that live in the consolidated houses receive their income from renting them, informal jobs such as domestic work, construction and driving. In contrast, according with Megabus (2009), the income of the second group (improvements with characteristics of informal settlement), in most of the cases is less than the Colombian current monthly minimum wage (approximately 230 Euros), which accentuate their vulnerability.

1.2. Problem Statement

According to De Wet (2009; 94) "Forced resettlement seems unavoidable in the context of public good development projects". In Pereira, the implementation of a mass transportation system called MEGABUS, induced displacement in the Plumon neighborhood. On one hand, it brought benefits for the development of the city, generating accessibility to different places within the city. On the other hand, some of the households of this neighborhood saw in this project a threat for their livelihood assets.

In this context, approaches such as the rights-based approach have been applied to the resettlement policies, in order to protect the people affected by development projects. In Colombia, the National Government developed some guidelines related with this issue, having into account the international policies. However, the application of these concepts in reality, brings with it different questions and challenges about the role of the institutional factors, i.e., norms, institutional actors and processes, in the proper implementation of the rights-based approach in local environments.

1.3. Research Objectives

This research aims to understand in what extent the norms and policies, the institutional arrangement and processes facilitate or constrain the proper implementation of the rights-

based approach on resettlements in Colombia, specifically in those related to development projects, such as massive transportation systems. Therefore, the specific objectives are:

- Analyze how the rights-based approach has been applied in the laws, and policies related with the resettlement processes.
- Examine the institutional arrangement in the application of the rights-based approach in resettlement processes.
- Identify to what extent local resettlement processes caused by development projects follow the rights-based approach.

1.4. Provisional Research Question

What are the institutional factors that facilitate or constrain the application of the right-based approach in resettlement projects?

1.5. Significance of the study

This research aims to make an important contribution to the application of the rights-based approach in resettlement projects not only on policies issues but also to the scientific world.

In terms of resettlement policy, this study can contribute in the understanding of how the guidelines from the Colombian National Government related with resettlement processes have been implemented by local organizations. Also, this study can help in the assessment of the efficiency of those guidelines in relation with the rights-based approach and can show some conclusions about how to strength not only the guidelines, but also the organizational arrangements and the processes applied in reality.

In terms of the academic world, this study intends to cope with the challenge that Filmer-Wilson (2005:224) presented when he argued that “the introduction of the human rights agenda into the international development circle goes no further than rhetoric”. In this sense, this research aims to contribute in the understanding and explanation of how the institutional factors can help or obstruct the application of this approach in reality, not only at the national level, but also at the local level.

1.6. Scope and Limitations

In order to achieve the main objective of this research, this study is going to address three questions:

- How the rights-based approach has been included in norms and policies related with resettlement processes caused by development projects?
- What is the role that national and local organizations play in the application of the rights-based approach in resettlement processes caused by development projects?
- To what extend the processes applied by local governments in resettlement processes, follow the rights-based approach?

Following these questions this research is going to be focused on the institutional framework of resettlement in Colombia, caused by development projects. In this sense, it includes the understanding of how policies, norms and organizations are translating the meaning of rights-based approach into the Colombian context. It will explore the relation between the

guidelines established by the national government and its application in real projects such as the one developed by Megabus in Pereira. In addition, this research is going to concentrate itself in the analysis of the resettlement project developed for one area of the city of Pereira, i.e. El Plumon.

In terms of limitations, there are two issues: i) the external validity of the study, and ii) the difficulty of contacting affected people. The first limitation has to do with the fact that when a single holistic case study is used for a research, then the lessons cannot be generalized. In order to cope with this limitation, it is understandable for this study that its results are going to be just lessons applicable for the situation of this specific project in Pereira. However it can be a beginning for new studies in this field.

For the second limitation, due to the fact that the resettlement process was carried out individually, it was very demanding to find and to make contact with the individuals involved. This situation was confirmed on the field, and it was a limitation in order to make the survey that this study planned to do before field work. However, in order to cope with this limitation, this study used information from other sources different than the public organizations, such as the local university of Pereira, and other consultants that had knowledge about this project.

Chapter 2: Literature Review

This chapter aims to cover the theoretical concepts related to the analysis of the role of institutional factors, i.e., including policies, processes and actors, in the application of the right-based approach in resettlement projects in Colombia. It is important in this chapter to have a deeper understanding of the most important models that are the base for this research. First of all, it will address the concepts of institutions, processes and organizations that the livelihood approach gives.

Secondly, it will look into the institutional approach, its background and the definition of resettlement that this approach gives. Furthermore, it analyzes through three categories of analysis (norms and policies, organizational arrangement and processes) the importance of institutional framework in the design and implementation of a successful resettlement process.

Thirdly, it will analyze the rights-based approach, highlighting the importance of the people centered perspective, through the recognition of human rights. In addition, it will address the main features and the five principles that give the meaning to the rights-based approach, and make it different from others approaches.

Finally, this chapter is going to show the conceptual framework of this research. In this part, the research analyzes the way of understanding the research question from different theories.

2.1. Livelihood Approach

Poverty has been and is still a complex challenge for societies worldwide. Different models have been applied in order to understand poor's needs, and how to measure and solve those needs. One of the most commonly used models has concentrated itself in monetary terms such as the case of the monetary approach that which according to Stuart, et al. (2007:7) "it identifies poverty with a shortfall in consumption (or income) from some poverty line". In contrast with this theoretical framework, there is the capability approach which was developed by Sen, and that established that "development should be seen as the expansion of human capabilities" (Stuart et al. 2007: 15). In this sense and as Stuart, et al. (2007) stated the capability approach highlight the idea that well-being should be measured by indicators of the freedom to live a value life and not anymore such a monetary income issue(Stuart, et al. 2007).

There is also another approach called social exclusion, which is an essential part of the EU social policy. In this approach, according to European Foundation (1995:4) cited by Stuart, et al. (2007:20) poverty is defined as a "process through which individuals or groups are wholly or partially excluded from full participation in the society in which they live". Although these approaches seem to be useful for some governments and researchers, there are still different questions about the real meaning of poverty and how to deal with it.

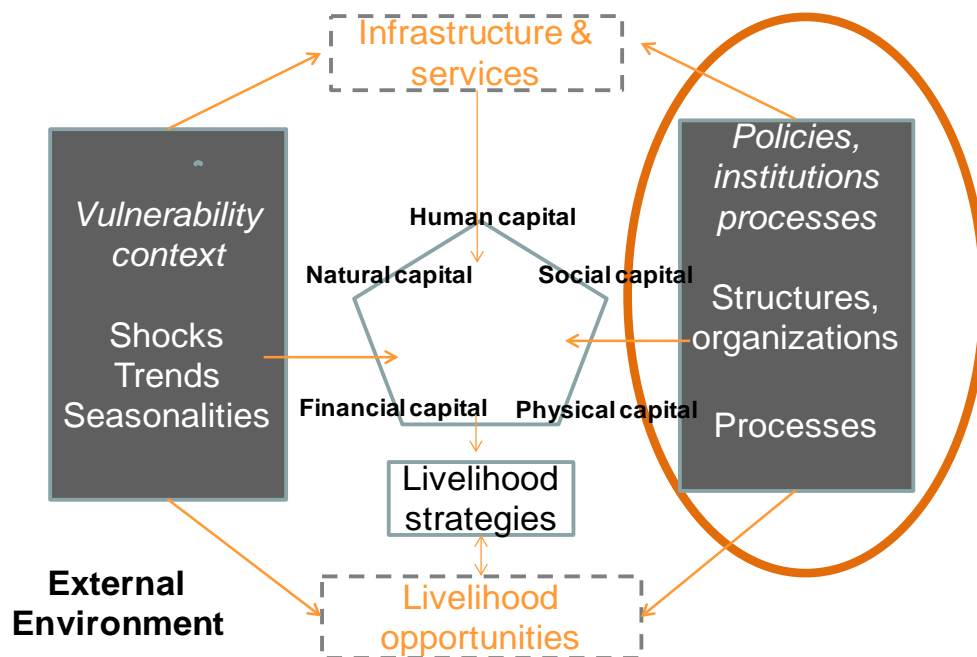
As Chambers (1995:173) stated "the realities of poor people are local, complex, diverse and dynamic", those are not just related with money or lack of specific services. In this sense, it is important to include into the study of poverty, the views of poor people themselves, i.e., get poor people to participate in the decision of what it means to be poor and the measure of it (Stuart, et al. 2007). The type of approaches that include this kind of notions are called participatory methods, and in this framework there is a very innovative approach called the

livelihood approach, which allows the policy makers to go deeper into the causes, consequences and ways of poverty, having into account the context where the processes happen.

According to Chambers and Conway (1992: 7), cited by Morse, et al. (2009: 4), “a livelihood comprises the capabilities, assets and activities required for a means of living”. In this same framework, Chambers and Conway (1992:7), cited by Morse et al. (2009: 4), argued that “a livelihood is sustainable where it can cope with and recover from stress and shocks, maintain or enhance its capabilities and assets, and provide sustainable livelihood opportunities for the next generation; and which contributes net benefits to other livelihoods at the local and global levels and in the short and long-term”.

In this approach, the core issue is called the assets (human, social, physical, financial, and natural capitals) which people use in order to build their livelihoods; and which are influenced by the context (shocks, trends, seasonal cycles), by policies, organizations and the relationships between individuals and organizations (Rakodi, 2002). In this context, individuals and households apply different strategies, in order to generate better or less well-being (Rakodi, 2002).

Figure 1: Livelihood Framework



Source: Developed from DFID Sustainable Livelihoods Guidance Sheets, Section 2.1 by TonyLloyd-Jones, cited by Rakodi (2002:9).

In order to make the research more precise, and focus the analysis on the specific research question, i.e., organizations, processes and policies roles in the implementation of the rights-based approach on resettlement projects, there are two important concepts to have into account from the livelihood framework: i) the part of the framework related with institutions, processes and organizations, and ii) the people centered concept included in this approach.

Firstly, in this framework, according to Ellis (2000:38), cited by De Haan and Zoomers (2005:36), “institutions comprise both formal rules and conventions and informal codes of behavior, so include laws, property rights and markets”. In order to implement those rules or norms, there are different structured actions called processes that the organizations, i.e. public and private structures, in the local, regional or national level apply. As Morse, et al. (2009) said, in order to develop strategies that can enhance livelihood, it is relevant, the support not only from government services but also from those non-governmental or even private agencies.

In the livelihood framework, institutions, organizations and processes have a very important role, because according to Farrington et al., (1999:1), cited by De Haan and Zoomers (2005:31), those determined different options for the households, and also those “influence entitlements and can constrain access to different assets, whether intentionally or unintentionally” (Rakodi, 2002:16). In this context, as De Haan (2008) argued, the livelihood approach should be more careful about the power relations that are legitimized and continuously used by them.

Secondly, the livelihood approach as Kaag, et al. (2004) stated “is used mostly as a sensitizing concept indicating an approach to poverty issues that aims to be people-centered, non-sectoral and grounded in the multidimensional reality of daily life”. In this perspective, the importance of the people is not just about economic issues, but about the people as whole, where according to Alkire & Deneulin (2000), and Kaag (2001), cited by Kaag, et al. (2004) all the ideas, fears, norms, etc. are taken into account. Furthermore, according to Appending (2001:24), cited by De Haan and Zoomers (2005:30), “the central objective of the livelihoods approach was to search for more effective methods to support people and communities in ways that are more meaningful to their daily lives and needs, as opposed to readymade, interventionist instruments”. In this sense, the analysis of the situation is based on the necessities of the people, and the households became not only beneficiaries but also part of the solution.

2.2. Institutional approach - Development-induced displacement and resettlement

2.2.1. Background

According to United Nations figures, cited by Courtland Robinson (2003), “with urban growth rates exceeding 6 percent annually, by the year 2025 more than two billion people will be living in large cities of more than one million inhabitants”. There is a reality that the construction of new infrastructure in the cities tends to increment, and the trend of development-induced displacement worldwide is expected to increase. In this context, the development-induced displacement has attracted the attention of the academy, and different public and private organizations in order to highlight the great damages that these kinds of projects bring with it, not only in social and economic terms, but also to the environment. According to Dwivedi (2002), these studies also stressed the importance of regulatory policy, legal frameworks and effective institutions in order to have success in the resettlement processes.

In the path of trying to understand the development-induced displacement, its causes and consequences, there are three argumentative approaches of it: i) the managerial; ii) the

movementist; and iii) the institutional. In the first approach as Dwivedi (2002) affirmed, the displacement is an inevitable result of development; in this sense, this approach focuses its attention in the understanding of the consequences of this process. In contrast, the second approach considers the displacement such as a manifestation of a crisis in development, i.e. it focuses itself in the causes (Dwivedi, 2002). The third approach tries to be in the middle of the last two approaches, and it states as Dwivedi (2002) argued, that the main problem of the development-induced displacement is the credible governance and the lack of agreement.

In order to analyze the research question, the central analysis is going to be focused on the consequences, i.e., resettlement process, and in the role that the institutional framework plays on it. In this sense, it is important to know about the arguments developed on the institutional approach as a start point for the analysis.

In the institutional approach, the principal author is the World Commission on Dams (WCD) with its report of 2000 that focused the attention in the properly balancing of interests, which puts the problem at a higher level than the managerial approach (Dwivedi, 2002). The World Commission on Dams (2000) proposes a rights and risks approach. According to Dwivedi (2002: 728) this approach calls not only “for appropriate and adequate institutional measures, such as participatory decision-making, regulatory/legal frameworks, accountability and transparency mechanisms, and recognition of rights” but also “for risks to be identified, articulated and explicitly addressed rather than dealt with in a formulaic manner” (Dwivedi 2002:728).

In the side of the rights perspective, the analysis of the development-induced displacement projects should include “rights as self determination, the right to consultation in matters that affect people’s lives, the right to democratic representation of people’s views on such matters, the right to remedy and the right to an adequate standard of living, freedom from arbitrary deprivation of property, freedom from violence, freedom of thought, conscience and religion and freedom of opinion” (World Commission on Dams, 2000:200); and also, as the report of the WCD (2000) mention a right to the environment as a fundamental matter for human well-being.

The policy framework proposed by the World Commission on Dams (2000:202) includes the application of five core values: “equity, efficiency, participatory decision-making, sustainability, and accountability”. In addition, in this framework the decision-making based on negotiated agreement is a central concern to take care about (Dwivedi 2002).

This framework also includes seven strategic priorities for decision-making in order to have a sustainable development, with the application of big projects, i.e. specifically on water and energy: “i) gaining public acceptance, ii) comprehensive options assessment, iii) addressing existing dams, iv) sustaining rivers and livelihoods, v) recognizing entitlement and sharing benefits, vi) ensuring compliance and vii) sharing rivers for peace, development and security” (The World Commission on Dams 2000:214). From the seven priorities, there are four priorities that are general, and that can be applied to different projects.

The first priority is gaining public acceptance, which “emerges from recognizing rights, addressing risks, and safeguarding the entitlements of all groups of affected people, particularly indigenous and tribal peoples, women and other vulnerable groups” (The World Commission on Dams 2000: 215). The second priority is to have a comprehensive options assessment, which according to the WCD (2000) gives the opportunity to explore different

alternatives and analyze the full range of policy, institutional, and technical options. The next priority is the one related with the recognition of entitlements and to share benefits, which recognize successful mitigation, resettlement and development such as fundamental commitments and responsibilities of the State and the developer (The World Commission on Dams 2000). Finally, there is the priority related with the compliance, where all commitments made for the planning, implementation and operation of dams should be fulfilled based on applicable regulations, specific guidelines and project-specific negotiated agreements (The World Commission on Dams 2000).

Although, this approach have received different criticisms in terms of its failure to address the space of dislocation as a site of conflict and its ambiguity on dislocation to development (Chakrabati, 2010), it put into the international scenario the need to find new ways of understanding the development-induced displacement, such as the case of seeing it from the perspective of rights-based approach.

2.2.2. Resettlement definition from the institutional perspective

Before getting into the discussion of what a successful resettlement program is, it is important to define the resettlement concept in the context of Development-induced displacement and resettlement. According to De Wet (n.d.; 1) resettlement can be defined as a situation which includes the following features: “i) a development intervention is taking placed, ii) people who are in the path of the development intervention are either moved away or are allowed to move away by themselves, iii) compensation is made for the fact that they have to move, iv) the move is effectively permanent”. In this perspective, resettlement involves displacement, but also it implies an effort to provide reparation for the damages that the affected people have suffered (De Wet, n.d.).

In this context, and as De Wet (n.d.) stated, in order to have a successful resettlement, the process should include three factors: i) a voluntary decision from the affected people to move, ii) enabling conditions in the procedure elements and iii) sustainable outcomes. In terms of the first factor, it should necessarily include the people’s wish to move, and the right to decide how to do it.

The second factor implies the application of four preconditions. It includes the establishment of appropriate legal and administrative mechanisms that allow the participation and the protection of rights for the affected people. Furthermore, it includes the free flow of information to all the interested actors. A negotiated compensation package that generates different options for the affected people is also another precondition (De Wet, n.d.). Finally, part of the enabling conditions is the monitoring of the project (De Wet, n.d.).

The sustainable outcomes includes according to De Wet (n.d.:4), that “resettlers should be better-off than before resettlement in terms of income levels, autonomy over their productive activities, property rights and access to services and infrastructure”.

2.2.3. Institutional Factors’ definition from the institutional approach

In the analysis of institutional factors in resettlement processes, the institutional approach includes three different perspectives to look at it: the norms and policies, the institutional arrangement and the implementation process. Those three perspectives bring with it factors than can either facilitate or constrain a proper implementation of a resettlement project.

2.2.3.1. Norms and Policies

According to Bartolome, et al. (2000) the norms should include basic rights and processes, in order to set the standards for policy to follow. This situation would “guarantee the basic inviolability of rights and processes and also, it will allow for any violation or aberrations in policy to be remedied through a legal process” (Bartolome, et al. 2000:41). In contrast, De Wet (n.d.) argued that legal instruments appear to not have important beneficial results in terms of protecting resettlers’ rights, rather than those related with the provision of compensation.

Although, sometimes the application of norms and policies do not seem such as a sufficient factor to protect affected people rights in resettlement processes, it is necessary to have those framework in order to generate an obligation for “the state and implementing agencies to negotiate the terms of resettlement with affected people who have enforceable rights” (De Wet, n.d.:23). Moreover, according to De Wet (n.d.), regulatory frameworks for the interaction of different actors and for ensuring accountability are necessary, to endow the process with transparency and equity.

2.2.3.2. Institutional arrangement

The institutional arrangement includes the role of the national and local, public and private actors and the relations between them. This is the structure that makes the resettlement plan a reality. As Bartolome, et al. (2000:35) stated “the best of resettlement and development plans will collapse if they are not backed up by strong and appropriate institutional arrangements”.

In this sense, there are two important characteristics to have into account when the institutional arrangement is studied: “i) institutional capacity, and ii) institutional continuity” (Bartolome, et al., 2000: 35). According with the examples given by Bartolome, et al. (2000), the institutional capacity is related to the capacity of organizations in terms of knowledge and resources (physical, human and financial) which each organization public or private count on to deal with this situation. In relation to the institutional continuity, this implies a clear division of roles and responsibilities between actors not only within the local level, but also in relation with the national level (Bartolome, et al., 2000).

In relation with the institutional arrangement, Bartolome, et al. (2000) argued that there are different actions that facilitate the implementation of a resettlement process including: i) the involvement of all relevant organizations in all the stages of the resettlement project, ii) the capacity building of all organizations that are involved in the resettlement process, and iii) the capacity to apply the different experiences of resettlement into guidelines and real actions. In contrast, De Wet (n.d.:18) argued that “one of the key institutional constraints confronting the attempt to achieve resettlement with development has been the role of the overall authority co-ordinating resettlement, and its relationship to central government funding and authority”.

2.2.3.3. Implementation processes

In the implementation process, there are seven aspects that are very important to have into account in order to have a proper resettlement process: i) baseline, ii) right to information, iii) defining eligibility for benefits of resettlement, iv) compensation, v) planning resources, vi) negotiation process, and vii) monitoring process.

Firstly, in terms of the baseline, one of the most serious problems that the international experience highlight is the absence of comprehensive baseline studies. According to Bartolome et al. (1999) cited by Bartolome, et al. (2000: 27) “if there is no clear idea of the categories and numbers of potentially negatively affected people, there can be no clear idea of the costs involved, and accordingly no way of making a decision on the least displacing option or the implication of choosing an option”.

Secondly, the right to information is related with the right of affected population to know about the project since the beginning of it. It includes having access to the draft resettlement policy with reference to the financial and institutional arrangement, assessment of all costs and expected benefits, the assessment of the range of technical and locational options, information about the process itself, and the criteria for eligibility for benefits. (Bartolome, et al. 2000).

Thirdly, the option of defining eligibility for benefits includes according to the World Bank Report (1998) cited by Bartolome, et al. (2000: 29), two direct groups that are entitled to compensation for loss of land or other assets: “i) those who have formal legal rights to land or other assets, and ii) those who do not have formal legal rights, but have a claim to such legal rights”. There is also a third group of displaced persons that although they are occupying lands in violation of the land administration laws of the country, have uninterrupted possession of the land for at least one year prior to the commencement of the census (the World Bank Report, 1998, cited by Bartolome, et al.2000: 29). In this last circumstance, the people are entitled to resettlement assistance instead of land compensation.

In terms of the compensation, Bartolome, et al. (2000:30) argued that “compensation has to go beyond market value of land and assets”. In this sense, a resettlement plan should include transparent mechanisms to calculate the value of assets and “the date for calculation should not be the date of original notification, but instead the date on which the compensation is actually disbursed” (Bartolome, et al., 2000: 31).

Affected people should be compensated for all the assets that they lost. This compensation must be given by the organization that is managing the resettlement process a year prior to any physical dislocation (Bartolome, et al., 2000: 31). According to De Wet (n.d.:17), compensation packages should include different options for the resettlers, such as “the choice between self-settlement and scheme housing or the division of the compensation for housing into two parts: a core house and a cash component, to enable people to improve their houses as they chose to”.

In terms of planning resources, the institutional approach highlights the necessity to have a long term view of the resettlement, where this process is more than just a relocation project. The planning resources also imply the availability of financial resources to implement the resettlement project, including not only the physical relocation, but also a social and economic development (Bartolome, et al., 2000). According to Bartolome, et al. (2000:39), “the resettlement component should be budgeted for separately from the rest of the project, so that its allocation will not be compromised by other components of the project”.

The implementation process also implies the necessity to have a negotiation process with the affected people. “People cannot be better off in a new situation which involves all the potential socio-economic risks that resettlement does, unless they have been directly involved in the negotiation” (De Wet, n.d.:23). According to Bartolome, et al., (2000) experiences in

different countries have proven that the resettlement process should be based on collective negotiations with the affected people, having into account a development strategy, in order to protect affected people from impoverishment following removal.

Finally, the implementation of a resettlement process also should include monitoring mechanisms. According to Maphalala (1999) cited by Bartolome, et al.,(2000:43), “government, project authorities and other project developers must take responsibility and enter into binding enforceable contracts for compensation and resettlement programs”. Another possible idea is to create a body that monitors the costs and benefits, the process of negotiation and the activities that the resettlement plan includes (Bartolome, et al., 1999).

2.3. The Rights-based Approach

This part of the chapter aims to explore the rights-based approach. First, it will look into the background and the concept of rights-based approach. Secondly, it will analyze the main features of the rights-based approach in relation to the legal basis, the normative framework and the process goals. Finally, it will address the five principles that help in the operationalization of the rights-based approach in reality: universalism and inalienability, equality and non-discrimination, indivisibility and interdependence of human rights, participation and accountability. Thirdly, it will analyze the difficulties to apply this model.

2.3.3. Background

According to Oliver-Smith (2009:3), “resettlement has been so poorly planned, financed, implemented, and administered that these projects generally end up being development disasters... affecting virtually every aspects of life”. In this context, it is very important to bring into the study new ways of understanding these processes, such as the case of applying human rights into it. For this approach, not only the affected population became the center of the problem and part of the solution; but also the bad effects that the development projects can cause in terms of displacement, became a higher concern for the governments and the international community as a violation of human rights. As the Office of the United Nations High Commissioner for Human Rights (2006:15) argued, “it seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress”.

The rights-based approach is founded on the United Nations Charter (1945), the Universal Declaration of Human Rights (1947) and most recently the Declaration on the Right to Development (1986) and the Rio Declaration on Environment and Development (1992) (The World Commission on Dams, 2000). As the Office of the United Nations High Commissioner for Human Rights - OHCHR (2006:15) stated “the human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights”. In this sense, according to United Nations Development Program cited by Filmer-Wilson (2005) this approach analyzes the different situations not only in human needs terms or development requirements, but also in terms of society’s obligations with the rights of people. The Human Rights are universal, equal, indivisible and interdependent, legally protected, internationally guaranteed; also, those cannot be waived or taken away, and those impose obligations of action and omission not

only on governments but also other duty-bearers (Office of the United Nations High Commissioner for Human Rights, 2006).

Human rights norms distinguish three groups of agents: i) rights-holders, ii) duty-bearers, and iii) other actors. According to Ljungman (2004:4) “all human beings belong to the first group”, meanwhile, “the states by signing human rights treaties are the principal duty bearer in their respective countries”(Ljungman 2004:4). This role generates an obligation to the government in order to respect, protect and fulfill all human rights (Ljungman 2004).

Although, there is not an unique formula for human rights-based approach, there are some general worldwide accepted priorities proposed by the United Nations agencies. According to the Office of the United Nations High Commissioner for Human Rights (2006:15) the main priorities are: “i) to fulfill human rights, and ii) to identify rights holders and their entitlements and corresponding duty-bearers and their obligations, and works towards strengthening their capacities”.

In addition, this approach as the Office of United Nations High Commissioner for Human Rights (2006) argued, contributes in different ways: i) it protects the rights of the excluded and marginalized populations, ii) it includes an holistic view of the environment, iii) it brings national and internationally recognition and legitimization, iv) it assures a participatory process, v) it helps to make policy formulation process more transparent and accountable, vi) it supports the monitoring state commitments, vii) it leads to better sustained results. In this sense, this approach provides the opportunity to promote the national and international laws and fulfill those, to think more carefully about the importance of the people-centered approach, not only in the outcomes but also in the process.

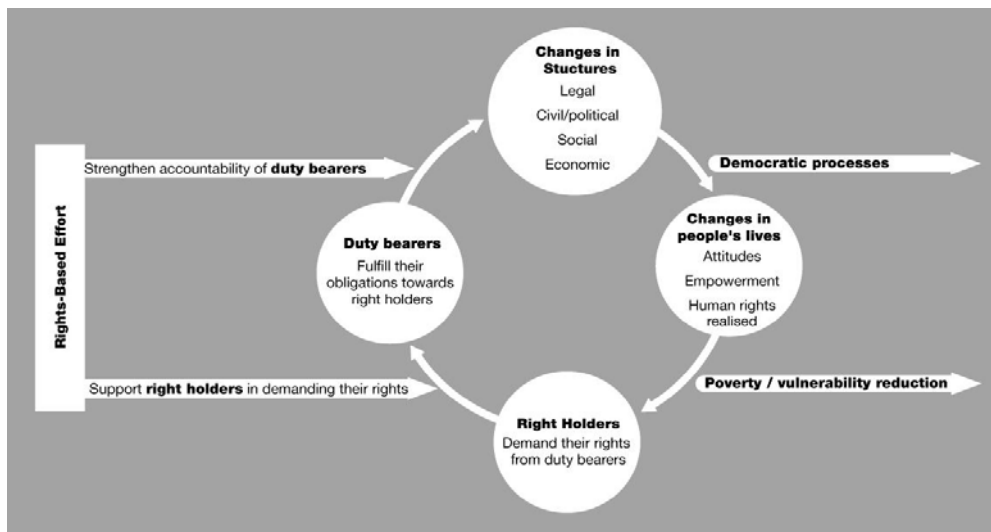
Although, the rights-based approach is nowadays a very relevant and useful approach, there are some difficulties that are important to have into account in order to apply it in a successful way. According to Farrington (2001), the rights-based approach has different difficulties related to: i) this does not incorporate a time dimension in the consideration of rights, ii) it does not generate a proper balance between rights and responsibilities as this approach demands, and iii) it is hard to resolve tensions among different levels at which rights are conceived. In addition to these conceptual difficulties, the implementation of rights-based approaches poses major difficulties in terms of financial and time constraints (Farrington, 2001).

2.3.4. Features of the rights-based approach

According to Ljungman (2004) there are three specific characteristics that differentiate the rights-based approach from other approaches: i) the legal basis, ii) the normative framework and iii) the process goals.

The first characteristic is relate with the fact that the rights-based approach’s start point is in international law, which make States to fulfill the international treaties about it and generate all the necessary legislative, policy and administrative measures to provide solutions in case of any violation to those (Ljungman, 2004).In this sense, as Filmer-Wilson (2005) stated, the rights-based approach recognizes and works towards strengthening the capacity of rights-holders to claim their rights and also, it works in order to enforce duty bearers, i.e. State and non-State actors to fulfill their obligation towards such rights.

Figure 2: Rights-based approach



Source: Ljungman, C. (2004). Applying a Rights-Based approach to Development: concepts and principles. [pdf] Manchester: n.d. Available at: <<http://www.sed.manchester.ac.uk/research/events/conferences/documents/Winners%20and%20Losers%20Papers/Ljungman.pdf>> [Accessed 20 May 2013].

The second feature is related according to Ljungman (2004), with the fact that international instruments and the organizations in charge of the human rights treaties, can offer a normative roadmap or guidelines in order to develop policies within the countries.

The third aspect is related with the importance of the process of achieving human rights when the rights-based approach is applied. As Ljungman (2004:13) argued, “human rights are thus by necessity dependent on the participation of individuals and groups, i.e. active; and they must be applicable in the daily lives of people, i.e. practical”.

2.3.5. Principles of the Rights-based Approach

The rights-based approach is constituted by five principles or components, which make easier the application of this approach in reality. Those are: i) universalism, ii) equality and non-discrimination, iii) indivisibility and interdependence of human rights, iv) participation, and v) accountability (Ljungman, 2004).

2.3.5.1. Universalism and inalienability

According to Ljungman (2004:9) “all persons are entitled to enjoy his or her rights simply by virtue of being human and those cannot be taken away from someone or voluntarily given up”. In order to fulfill this principle, an effort to raise awareness of the people about it, is necessary (Ljungman, 2004). This awareness can be providing, either by civic education, accessible information and training about human rights and duties (Ljungman, 2004).

2.3.5.2. Equality and Non-Discrimination

The equality and non-discrimination principle is related with the fact that “all persons within a society enjoy equal access to the available goods and services that are necessary to fulfill basic human needs” (Ljungman, 2004:9). In order to assure this principle, as Ljungman (2004) argued, it is important that the excluded groups do not be discriminated by state policies, and also that there are legal and administrative measures to remove legal inequalities.

2.3.5.3. Indivisibility and interdependence

In terms of the principle of indivisibility and interdependence of human rights, this is related with the fact that “the enjoyment of one right is indivisibly interrelated to the enjoyment of other rights because all rights are inter-dependent. The inter-dependence of rights is a reflection of the multi-dimensional character of well-being” (Ljungman, 2004:10).

2.3.5.4. Participation

According to Ljungman (2004:11) the principle of participation means that “all persons are entitled to participate in, contribute to, and enjoy civil, economic, social and political development”. In specific the rights-based approach claims as Filmer-Wilson (2005) and Ljungman (2004) argued for a free, active and meaningful participation at different stages of the development process, which give people a decision control and the influence over the processes. According to Filmer-Wilson (2005: 221), in order to achieve it, it is necessary that “stakeholders are first provided with information on the project, trained in communicating and negotiating effectively, and trained in the required skills for managing and implementing the project themselves”. Finally, the rights-based approach includes in its strategy about participation not only the strengthening of rights holders capabilities to advocate for their rights, but also the enhancing of duty-bearers’ capacity to recognize and fulfill the participation right (Ljungman, 2004).

2.3.5.5. Accountability

In terms of accountability, Filmer-Wilson (2005:217) argued that “by framing development in human rights terms, the rights-based approach not only establishes claims but it also establishes obligations to meet these claims and identifies the corresponding duty-bearers”. As Ljungman (2004:12) said, the significance of accountability is based on the importance of this process “to ensure open, transparent, effective, efficient and responsive systems which can lead to good governance”.

In the rights-based approach, governments are the major duty-bearers, and their main obligations are of three kinds: to respect, protect and fulfill human rights. According to the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997), cited by Filmer-Wilson (2005), “respecting human rights means that State laws, policies, programs and practices must accord with human rights”. Those can not impede the use of the right in any way. In terms of protection, it is related with the duty of preventing the violation of rights by other actors (Filmer-Wilson, 2005:). “Fulfilling human rights requires States to take appropriate legislative, administrative, budgetary, judicial and other measures toward the full realization of such rights” (Filmer-Wilson, 2005:218). It is important to highlight that the accountability process should be applied not only to the government, but also to others actors that impact with their actions the development process. In order to make this value a reality, it is important to have indicators, which can be monitored.

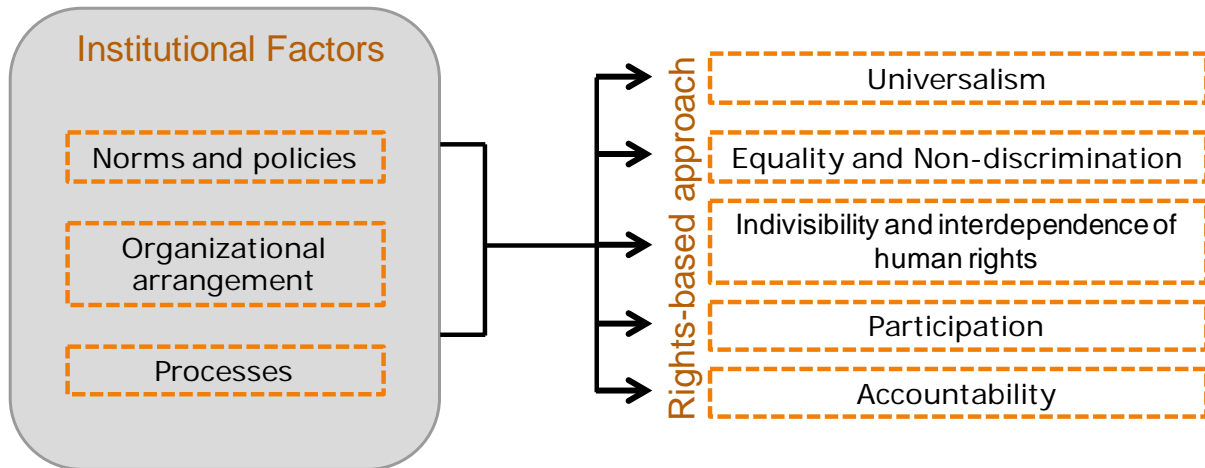
2.4. Conceptual Framework

The conceptual framework of this research has its core point in the analysis of how the institutional factors facilitate or constrain the application of the rights-based approach. In order to analyze it, this research is going to be based in three different approaches: livelihood approach, the institutional approach and the rights-based approach. The first model provides the meaning of institutions, organizations and processes that this research is going to use such as basic concepts of institutional factors, while the second model gives more specific details

about how these factors work in a resettlement process. The third approach, give the inputs to make operational the rights-based approach in resettlement process.

In this sense the livelihood approach and the institutional approach are the base to define the institutional factors: norms and policies, organizational arrangement and the processes, and the role of these factors in the application of the rights-based approach. Each of these factors is studied in relation with each of the five principles that define the rights-based approach in order to answer the research question.

Figure 3: Conceptual Framework



Chapter 3: Research Design and Methods

3.1. Revised Research Question

The main question that this study is going to answer is:

How do the institutional factors facilitate or constrain the application of the rights-based approach in resettlement projects?

In order to answer this main question, the study is going to be concentrated in three aspects:

1. How the rights-based approach has been included in norms and policies related with resettlement processes caused by development projects?
2. What is the role that national and local organizations play in the application of the rights-based approach in resettlement processes caused by development projects?
3. In what extend the processes apply by local governments in resettlement processes, follow the rights-based approach?

3.2. Research approach and techniques

In order to answer the research question, the technique that is going to be used is an explanatory case study, specifically a holistic single case design. The motivation of choosing the explanatory case study such as the type of research that this thesis is going to use, includes four reasons.

The first reason responds to the intention of answering a how question, which according to Yin (2003) cited by Baxter and Jack (2008) is one of the central reasons to choose a case study. The question of how do institutional factors facilitate or constrain the application of the rights-based approach, implied to understand not only the factors, but also the way those factors affect the implementation of the rights-based approach in reality.

The second reason is related with the idea of Yin (1991) who stated that a case study gives the opportunity for the researcher to study more variables of interest than data points, in a specific context. In this term, this research aims to analyze legal, organizational and procedural factors in a determined national (Colombia) and local (Pereira) context. Different authors such as Filmer-Wilson (2005), Farrington (2001), and organizations such as the Office of United Nations High Commissioner for Human Rights (2006), have studied the rights-based approach during several years, and how it can be applicable to different realities. However, the rights-based approach concept has been used just in a rhetoric way (Filmer-Wilson, 2005), forgetting the real-life context. In this sense, the explanatory case study explains how the institutional factors affect the implementation of this approach in reality. For instance, an important part of those contextual conditions have to be with the political environment, and the political will that public organizations have in order to apply this approach or not.

The third reason is related with the fact that this case is a typical case, argument that Yin (1991) stated, such as one of the reasons to choose a single case study. The MEGABUS case has been selected from a group of cities that are part of a National Program on the implementation of massive transportation systems, and as part of this national process, it should follow the general guidelines gave by the Ministry of Transport and the World Bank.

In addition, in terms of institutional arrangement it has the same structure as the others projects within the program. In this sense, this experience can be a typical institutional example of how the application of the rights-based approach works in reality; it can demonstrate common situations of analysis in the study of the role of institutional factors in the implementation of the rights-based approach in resettlement processes caused by transport development projects where an external entity, in this case the World Bank is involved. As Yin (1991:41) argued “the lessons learned from these kinds of cases are assumed to be informative about the experiences of the average person or institution”. It is important also to mention that although is a typical case within the National Urban Transport project; it is still very different from the other resettlement processes caused by development projects where there is no involvement of the national government or international entities.

Finally, the interest of this study is more concentrated on the global nature of the implementation of the rights-based approach in resettlement processes, than on specific characteristics of subprojects, this is why the holistic view is more useful. In this research, the importance is concentrated on the understanding of the application of rights-based approach in laws, policies and processes, and how the organizations implement this on reality.

3.3. Changes made on the case study during the field work

When this research started, the intention was to take such as the case study, the resettlement process caused by Megabus in Cuba’s Park and Brisas del Consota. Due to the construction of a central station for the massive transportation system – Megabus, a total of 85 properties were affected, of which 34 belongs to the Cuba Park and 51 to the “Brisas del Consota” neighborhood (Megabus, 2005).

After the first interview made to an affected people in Cuba’s Park (this interview is not included in the final analysis), and with the first talk with the Megabus official, there was some information that shift the interest of this study in that specific case and it started to look into the case study of El Plumon.. The first finding was that most of the affected properties in Cuba’s Park were commercial, and the few remaining were medium income houses. Also, after talking with the Megabus resettlement-official (interviewed on 17.06.2013), it was clear that they made some variations in the infrastructure project, which produced a change also in the previous affected area. At the end, this project only affected the Cuba’s Park, and not the most vulnerable neighborhood called “Brisas del Consota”. In addition, in this same interview, the case of El Plumon was mentioned which included not only formal properties, but also an informal settlement.

After the first day of the field work, the case study was changed, from the Cuba’s Park to El Plumon, having into account two important facts: i) the continuity in terms of institutional factors, and ii) the interest on a complex case such as the one presented in El Plumon. In terms of the first fact, before took the decision to change the case study, this research analyzed very careful the institutional factors embedded in both cases, and the conclusion about it was that both of them in terms of norms, institutional arrangement and processes, were carried out by Megabús following the same general procedures. In this sense, the change did not mean a risk or limitation for the general structure of the research. In terms of the second factor, what the case of El Plumon brought with it was the possibility to enrich the

analysis by showing a more complex scenario that included not only formal but also informal settlements in an individual resettlement process.

3.4. Operationalization: variables, indicators

In order to understand clearly the application of the rights-based approach through norms, organizations and processes on resettlement plans, the following session of this study is going to present a set of variables and indicators.

Table 1: Operationalization Sub-question 1

Research Questions	Concept	Variables	Indicators
1.How the rights-based approach has been included in norms and policies related with resettlement processes caused by development projects? (Normas and Policies)	Rights-based approach	Universalisms and inalienability	The recognition of international norms related with the rights that the affected people have in resettlement processes Existence of norms, policies and guidelines that protect the rights of affected people in resettlement processes.
		Equality and non-discrimination	Existence of norms and policies that protect an equal treatment on the resettlement processes.
		Indivisibility and interdependence of human rights	Existence of norms and policies that consider the implementation of compensation packages for affected people in resettlement processes.
		Participation	Existence of norms and policies that consider the mechanisms of participation in resettlement processes.
		Accountability	Existence of norms, policies and guidelines that ensure open, transparent and responsive systems.

Table 2: Operationalization Sub-question 2

Research Questions	Concept	Variables	Indicators
2.What is the role that national and local organizations play in the application of the rights-based approach in resettlement processes caused by development projects? (Organizational Arrangement)	Rights-based approach	Universalisms and inalienability	Level of knowledge about the duties of the public organizations in terms of human rights respect and protection in resettlement processes.
		Equality and non-discrimination	Number of organizations involve in the preparation of the baseline
		Indivisibility and interdependence of	Number of organizations related with the process of compensation.
		Participation	Type of organizations that participate on the negotiation process
		Accountability	Existence of monitoring processes from other public and private organizations to the resettlement process.

Table 3: Operationalization Sub-question 3

Research Questions	Concept	Variables	Indicators
3. In what extent the processes applied by local governments in resettlement processes, follow the rights-based approach? (Processes)	Rights-based approach	Universalisms and inalienability	Level of knowledge of right holders about their rights in the resettlement process.
		Equality and non-discrimination	Existence of a baseline of the affected people.
		Indivisibility and interdependence of human rights	Type of aid included in the compensation package.
		Participation	Type of meetings used as a part of a participation process
			Existence of a negotiation process
Accountability	Existence of a program of grievances and claims		
	Existence of monitoring processes from the community		

3.5. Sample size and selection

Before the field work, this research decided that in order to do the semi-structured interviews in the national and local level, the sampling was about key informants. This decision was based on two factors: i) the specialized knowledge that is necessary in order to talk about the topic of this study and ii) the specific position in an organization that manage this kind of processes. In this sense, the people selected were key informants for this study. During the field work, this situation remained the same. Moreover, it was confirmed during that period that it is necessary either a specialized knowledge about this topic or to work with it, in order to give more precise and clear information, that can help on the development of better conclusions.

In terms of the affected people, before the field work period, this study intended to work with two types of sample selection. The first one was related with key informants of the process. In relation with it, the key informants were supposed to be those leaders that were more active in the negotiation of the resettlement processes. The second sample selection was related with the survey that this study was planning to carry on, which tried to use a random sampling in order to have about 30 people to do it.

The situation regarding the affected people was very different from what it was planned before the field work period. First, in terms of the intended selection, in this process there were not active leaders, because it was a process of negotiation dealt one by one. Moreover, in terms of the survey, the process of contacting the people was very hard, and time consuming, and at the end there were not sufficient number of people in order to have a valid survey. It is important to remember that in this case study the resettlement plan was an individual process, which means that the people were scattered throughout the city, and in some cases they moved out of the city.

At the beginning the Megabus resettlement office official provided a list of affected people that this study had into account. Although, different calls were done in order to contact them, it was very difficult to reach them, or trying to make an appointment with them. In addition, this research also tried a snowball sampling method, but none of the people contacted either from resettled people or the people that still live in the area, did know about a way to contact other affected people.

This situation was an important limitation in order to fulfill with the planned sample. However, it does not pose a risk to this research, because it is concentrated on the institutional part of the process. The intention of these interviews with the community was more on the sense of checking from the perspective of the affected people, if the processes, the norms and the organizations work in the way policy documents mentioned, and how this institutional factors really works in favor or against the process itself.

3.6. Validity and reliability

Although, the case study is the most convenient method in order to answer the research question of this study, there were four challenges that it had to cope with: “i) internal validity, ii) external validity, and iii) reliability” (Yin, 1991: 19).

In order to generate internal validity, the study used triangulation through the actors and the data collection methods. In relation with the study of norms and the institutional arrangement, the triangulation is made by contrasting the information given by National Government officials, with the one given by the local officials, and the one given by the group of experts. Moreover, the results of these three groups were contrasted with a policy analysis. In terms of the examination of the processes, the triangulation is made by comparing the information that local officials gave with the information that the experts and the community gave. This information is also contrasted with the guidelines developed by the Ministry of Transport, and also by the resettlement plan of San Mateo Avenue made by Megabus.

In relation with the data collection methods, the research used different kinds of data collection methods such as semi-structured interviews (for public national and local organizations, and communities), expert interviews (university researchers and specialized consultants), and policy analysis.

In terms of external validity, it is important to understand that the lessons of this case cannot be generalized to the general context. In this case the results can only be an explanation for a resettlement process caused by a mass transportation system's project in El Plumon in Pereira's situation.

Finally, in order to cope with the reliability, the study used a case study protocol, in which there were included all the details of the research, including the data collection process and the explanation of how data were analyzed. Furthermore, the study has a database of all the original collected data. All the changes and details of the field work and the data analysis of this research are covered in this chapter 3.

3.7. Data collection methods

In order to develop the case study of Megabus Pereira, and to answer the questions that are included in this study, it was necessary to use primary data as well as secondary data. In terms of the first sub-question of the study about how the rights-based approach is included in norms and policies, it was important to use secondary data, in order to make a policy analysis, as a start point in the research. The kind of data that was included in this component was related with norms, policy papers such as the CONPES (National Council of Economic and Social Policy) for this project, and general guidelines such as the one developed by the Ministry of Transport, the Operational Policy 4.12. of the World Bank and the resettlement

plan itself developed by Megabus. During the field work period, this information was contrasted with the national and local officials, and also with the different experts.

In terms of the second sub-question, this study used for this analysis a combination of secondary and primary data. The secondary data included all the norms, policy papers and general guidelines mentioned in the first component. The primary data was collected by using semi-structured interviews not only at the national level but also at the local level, including officials and experts.

The third sub-question, that includes the analysis of the implementation process, was developed also with a combination of secondary and primary data. The secondary data included the resettlement plan of San Mateo Avenue, the guidelines implemented by the Ministry of Transport and the Operational Policy 4.12. of the World Bank. In terms of the primary data, this was collected using semi-structured interviews with local authorities, Megabus staff, local researchers, and affected people.

Before the field work period, this study planned to do a total of sixteen (16) semi-structured interviews and a survey of 30 people. However, due to the limitation of reaching the affected people, explained before in this chapter, the survey could not be done. In this sense, and in order to face this limitation, this research included a total of five more semi-structured interviews. Those changes are shown by the table on the Annex 1.

In the following tables, there is a complete register of the people interviewed. This study is not going to use names for the experts and officials interviewed, in order to maintain the confidentiality of their perspective. In this sense, and trying to be more precise in the use of the information provided by them, this study is going to use only the organization and the position of the person, and the date when the semi-structured interview took place. In terms of the community, this study is going to use their names, because the people agreed on that.

Table 4: Data Collection methods and National Informants

Type of respondent	Organization	Position	Interviewed
National			
Expert	National group of experts on resettlement - Los Andes University	Coordinator	Semi-structured interview (20.06.2013)
Expert	National and International Consultant on Urban Planning issued	Expert	Semi-structured interview (21.06.2013)
Expert	Institute of Urban development in Bogotá	Expert	Semi-structured interview (25.06.2013)
Expert	World Bank	Consultant. This expert helped during this process as a part of the Ministry of Transport Team. Nowadays, this expert is working for the World Bank as an adviser on social development.	Semi-structured interview (29.07.2013)
Official	Ministerio de Transporte	Adviser Sustainable Urban Mobility Unit	Semi-structured interview (16.07.2013)
Official	National Planning Department - DNP	Assistant Director of Housing and Urban Development	Semi-structured interview (24.06.2013)
Official	National Planning Department - DNP	Adviser Sustainable Environmental Development	Semi-structured interview (24.06.2013)
Official	National Planning Department - DNP	Coordinator Infrastructure Department	Semi-structured interview (24.06.2013)

Table 5: Data Collection Methods and local informants

Type of respondent	Organization	Position	Interviewed
Local			
Official	Megabús Resettlement Office	Coordinator	First approach (17.06.2013) / Semi-structured interview (28.06.2013)
Official	Megabús Resettlement Office	Social worker	Semi-structured interview(12.07.2013)
Official	Pereira Town Hall - Government Secretary - Physical Control	Adviser	Semi-structured interview (24.07.2013)
Expert	Universidad Tecnológica	Researcher	Semi-structured interview (20.06.2013)
Expert	Universidad Tecnológica	Director - Graduate School of Environmental Sciences	Semi-structured interview (27.06.2013)
Expert	Expert - Social Worker	She was part of the auditing group for the infrastructure project.	Semi-structured interview(12.07.2013)
Expert	Infrastructure Department - Pereira Town Hall	Director. He worked on different projects of Megabús.	Semi-structured interview (27.06.2013)
Community	Jhon Fredy Moreno Hernández	Affected person	Semi-structured interview (02.07.2013)
Community	María Ludibia Herrera	Affected person	Semi-structured interview (09.07.2013)
Community	José Parmenides Calderón	He was the representative of Lida Soraya Currea in the negotiation process, because she was on the jail.	Semi-structured interview (04.07.2013)
Community	Celia Rosa Mejía	Affected person	Semi-structured interview (15.07.2013)
Community	Nelson Vélez Durán	Affected person	Semi-structured interview (05.07.2013)
Community	Yolanda Aguirre	Affected person	Semi-structured interview (10.07.2013)
Community	Luz Dary Parra	Participant in the community action board (Junta de Acción Comunal). She was part of the oversight committee for the construction of the road.	Semi-structured interview (15.07.2013)

3.8. Data analysis methods

3.8.1. Qualitative data

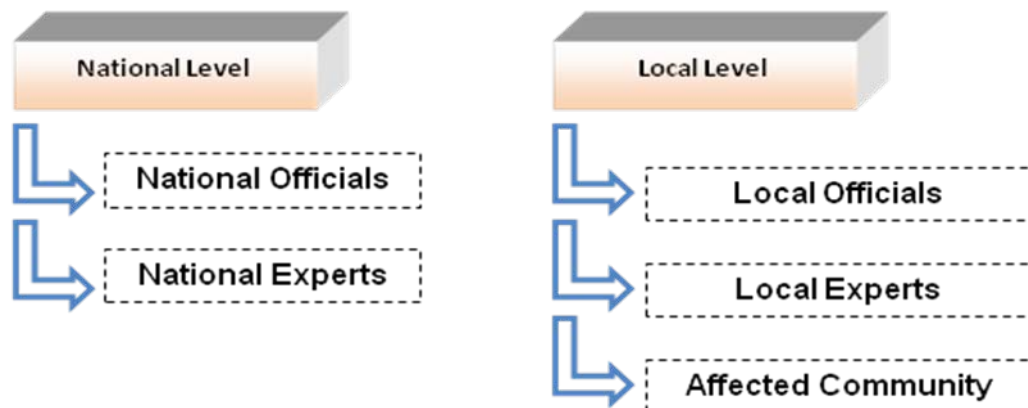
In order to understand the phenomenon of the resettlement process, and the application in reality of the rights-based approach on it, the collection of qualitative data was very relevant. Through the understanding of the facts, the perspectives from different actors of how the process was implemented and how the different organizations at national and local level implemented what the norms and policies said, it is easier to understand about how institutional factors facilitate or constrain the application of rights-based approach in resettlement processes. According to Johnson and Onwuegbuzie (2004), cited by Sadovnik (2007: 423) “the qualitative research helps to understand complex phenomena, because it helps to describe not only the case itself but also the context”.

The qualitative data was processed in the program Atlas ti. This program allows the researchers to codify the data and organize it by families (groups) in order to make easier the final analysis. In this sense, the organization that this study used in order to organize the information was as it follows:

Families:

In order to organize the analysis of the final data, this research used five different families: i) national officials, ii) national experts, iii) local officials, iv) local experts and v) affected community. This division helped with the understanding of different perspectives, and also it was really important in order to do the triangulation of the information.

Figure 4: Families for the Qualitative Analysis



In order to check the answers and cope with the challenge of reliability that case studies always present, in this study a triangulation process was carried out within the families (national and local) and between the two families:

- a. Triangulation within the families

This study tried to make a balance between the public and the private organizations (university researchers or experts). The details that these two groups brought to the study were compared with the information that the norms and guidelines gave.

In addition, the information given by the local officials was contrasted with the information that the affected people gave.

b. Triangulation between the families

In order to check the link between the national guidelines with what happen in reality, the information given for national officials was compared with the one that the local officials gave, in order to face the reliability challenge.

Code List:

In order to organize the information collected during the field work period, regarding the variables evaluated this study designed the following code list:

NORMS AND POLICIES

- Norms and policies related with Universalism and inalienability
- Norms and policies related with Equality and non-discrimination
- Norms and policies related with indivisibility and interdependence of human rights
- Norms and policies related with participation
- Norms and policies related with accountability

INSTITUTIONAL ARRANGEMENT

- Institutional arrangement - Universalism and inalienability
- Institutional arrangement - Equality and non-discrimination
- Institutional arrangement - Indivisibility and interdependence of human rights
- Institutional arrangement - Participation
- Institutional arrangement - Accountability

IMPLEMENTATION PROCESS

- Process - Universalism and inalienability
- Process - Equality and non-discrimination
- Process - Indivisibility and interdependence of human rights
- Process - Participation
- Process – Accountability

During the data collection period, the research also found other important issues to have into account such as part of the code list. This is not information directly with specific variables, this is more general facts and perceptions that can enrich the analysis and the conclusions of this study.

- Characteristics of the area
- Helpful elements on the protection of human rights in resettlement processes
- Limitations on the protection of human rights in resettlement processes
- Perceptions about the resettlement process

3.8.2. Quantitative data

Due that this study could not carry out the survey, the analysis was concentrated on qualitative data and policy analysis.

3.8.3. Data record

In order to record the data this research used two techniques. The first technique was related with a diary, where not only the interviews but also the contextual situations were addressed. All this information from the diary was contemplated on this chapter (Chapter 3). The second technique was the use of a tape recorder, which allowed this research to have a complete backup of the information, and a complete view of how the data collection methods were developed.

Chapter 4: Presentation of data and analysis

This chapter aims to present the research findings and the analysis of the different variables included in this research. The analysis is based on the information obtained from the semi-structured interviews, and the secondary data such as the case of norms, policies and general international, national and local guidelines. Firstly, it will address the different options that are included in Colombia legal framework in terms of the acquisition of properties due to public interest, such as the case of infrastructure projects. This general overview is an introductory part in order to see the resettlement process from a general perspective first, and then go into the specific details that the case study will present.

Secondly, this chapter is going to present the specific data and the analysis in relation with the indicators that composed each of the variables of analysis mentioned in Chapter 3. In order to do this, at the beginning of each part, there is going to be a framework that shows an introductory perspective of each institutional factor in relation with the rights-based approach. After this, each variable of the rights-based approach is described and analysed.

Thirdly, it will present a summary of the general findings in terms of norms, institutional arrangement and processes with the objective to generate an integrated analysis between those different factors.

4.1. Legal options in the case of public interest – infrastructure project

It is important for this study, in order to understand how a resettlement process caused by a development project works, to have into account the general legal framework where all the process start. According with the Art. 58 of the National Constitution of Colombia “the property is a social function that implies obligations” which means that the public or social interest is above the private interest. In this context, the first important fact to define is if a specific project is or is not a case of public interest, in order to define what is right to do.

In Colombia, according with the Art. 58 of the Law 388 of 1997, one of the purposes to declared public utility or social interest is “the implementation of infrastructure projects such as roads or massive transportation systems”, purpose that is confirmed also by the Law 1450 of 2011 (National Development Plan 2010-2014). When the declaration of public utility is done, then the Law 388 of 1997, also stated three ways of acquisition by public or social purposes: i) voluntary disposal (*enajenación voluntaria* in spanish), ii) judicial expropriation, and iii) administratively expropriation.

The first procedure, is regarding with the situation where the owner voluntarily accept the purchase offer from the authorities (Law 388 of 1997). The second way, which is called the judicial expropriation, take place if there is a declaration of urgency and if after thirty (30) working days of the first offer from authorities, the owner has not accepted the initial proposal or there is no sale agreement (Law 388 of 1997). This type of expropriation according with the Law 388 of 1997 can be made by the national government, local

government or by an association of municipalities. In the expropriation process, the owner has the right to receive compensation which according with the Constitutional Court Judgment C-1074 of 2002, “it is not limited to the payment for the market value of the property, but also can include the payment of the damages suffered by the person affected by the fact of expropriation”.

Finally, the judicial expropriation, took place when the projects do not count with an urgency Decree, and after thirty (30) working days of the first offer from authorities, the owner has not accepted the initial proposal or there is no sale agreement (Law 388 of 1997). This process is made by the judicial system. In this case the owner also has the right to receive compensation, but the compensation does not go directly to the owner, the authorities give the resources through the judicial competent system (Law 1450 of 2011).

4.2. Findings of institutional factors in relation with the rights-based approach

4.2.1. Background: Norms, and policies related to the rights-based approach

Colombia counts with a variety of norms related with the processes involved in a resettlement projects, i.e., the public interest norms, the urban planning processes and compensations, and human rights norms.

In relation with the public interest norms, there are two important norms: i) the law 388 of 1997, which in its Art. 58 stated the situations when it is possible to declared public utility or social interest, and ii) the Law 1450 of 2011 (National Development Plan 2010-2014) which stated in its Art. 83, the public interest purposes in the transportation systems projects.

In terms of norms that establishes the general framework for urban planning processes and compensations in cases of areas declare such as public interest purposes there was initially the law 9 of 1989, then the Law 388 of 1997 that modified the Law 9 of 1989, and finally there is the Decree 1420 of 1998 which partially regulated the articles related with the value of properties for compensation of the Law 9 of 1989, Decree-Law 2150 of 1995, Law 388 of 1997, Decree-Law 151 of 1998 (Decree 1420 of 1998).

Finally in terms of the human rights, Colombia due to its internal conflict has advanced in the development of different norms. First, Colombia recognizes the Universal Declaration of Human Rights, the international Covenant on Economic, Social and Cultural Rights, the San Jose de Costa Rica Convention and the San Salvador Protocol. Those last two are international treaties that protect the human rights. In the national context, the most important norm is the National Constitution of 1991, which stated the protection of human rights in its three firsts chapters. Other norms in this respect are: i) the Law 288 of 1996, through which there are established the instruments for damage compensation to victims of human rights violations, ii) the Decree 2429 of 1998 through which the Special Committee of investigations on human rights violations was created, and iii) the Decree 321 of 2000, which

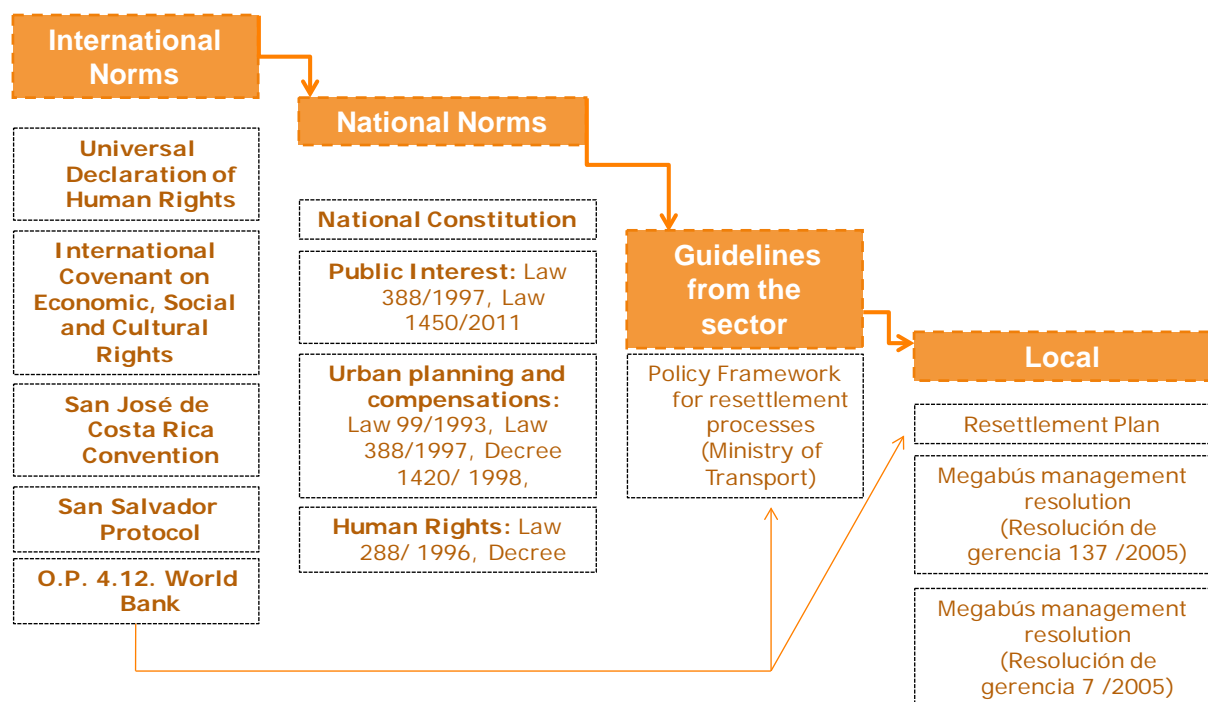
created the Permanent Inter-Sectoral Commission for Human Rights and International Human Rights' Law.

However, it is important to point out, the fact that Colombia does not have a specific norm or either policy that grouped all the requirements in order to design and implement a resettlement process. This fact was confirmed not only by the policy analysis that this study carried out, but also it was confirmed by national experts and officials during the field work. According with an expert from the World Bank (Interviewed 29.07.2013) “Colombia still has an historical debt with people affected by resettlement process, and is the fact that we still do not have a proper and institutionalized resettlement policy”.

Having into account the legal framework described before, it is clear the effort that Colombia has been doing about having national general parameters to guide the different issues related with the resettlement process. In addition, it is important for resettlement processes and the protection of human rights the recognition of international legal basis, giving a more strong meaning and importance to such as relevant issues.

Although, this is a hopeful start for making a national framework for successful resettlement process, there is still a risk on having such as general and scattered framework. The risk is the fact that there is not a specific procedure that applies for all the cases, specifically in the resettlement processes. In this case, what happens in reality is what the coordinator of the National group of experts on resettlement from Los Andes University (interviewed 20.06.2013) called “the necessary minimum”, which represents the act of following the norms but with the minimum effort.

Figure 5: Norms related with the resettlement process caused by development projects



4.2.1.1. Norms, and policies related to Universalism and inalienability

In order to define the relation between the norms and the principle of universalism and inalienability of the rights-based approach, this study used two indicators: i) the recognition of international norms related with the rights that the affected people have in resettlement processes, and ii) existence of norms, policies and guidelines that protect the rights of affected people in resettlement processes.

In terms of the first indicator, Colombia follows the Universal Declaration of Human Rights, the San Jose de Costa Rica Convention, and in this specific case study the requirements established by the Operational Policy 4.12 of the World Bank. According with the article 17 of the Universal Declaration of Human Rights, “no one shall be arbitrarily deprived of his property.” In addition, the San Jose de Costa Rica Convention (1969), ratified by Colombia through the law 16 of 1972, established in its article 21 that “No person may be deprived of his property except through the payment of fair compensation, for reasons of public utility or social interest and in the cases and according to the forms established by law”. Finally, the Operational Policy 4.12. of the World Bank recognized the importance of designing and implementing a resettlement plan, which includes not only the compensation for losses, but also different support processes in order to help the affected people to deal with the changes and damages that an involuntary displacement process can cause.

In terms of the second indicator, there are different norms, policies and guidelines at the national level that protect the rights of affected people in resettlement processes. First, there is the National Constitution, i.e., the more important norm in Colombia, also the Law 388 of 1997, and the Policy Framework of the Ministry of Transport. According with the Art. 1 of the National Constitution (1991), “Colombia is a social state of law ...founded on the respect of human dignity”. Moreover, the Art.2 of the National Constitution (1991) established that “an essential goal of the state is to serve the community, promote general prosperity and ensure the effectiveness of the principles, rights, and duties established in the National Constitution”.

In addition, there is the Law 388 of 1997 that modified the Law 9 of 1989, not only mentioned on different policy documents such as the Policy Framework of the Ministry of Transport, but also recognized by different experts, and officials from national government during the field work such as the main law that regulates the issue of resettlement processes in Colombia. In the article 1 of this law, it is mentioned the duty of the government “to ensure that land use is adjusted to the social function of property and to effectively implement the constitutional rights to housing and public services ...” (Law 388 of 1997). Also, the article 3 of this Law established such as one of the main goals of the public function of the urban planning, “to improve the quality of life of the inhabitants, the equitable distribution of opportunities and benefits of development process and the preservation of cultural and natural heritage” (Law 388 of 1997).

Based not only on international norms, but also on the national ones, the Ministry of Transport developed a Policy Framework for resettlement processes initiated by the execution of the National Project of Massive Transportation System in different cities in

Colombia. This policy framework which became a route map for local authorities included in the objectives for the preparation and implementation of a resettlement process “the reestablishment of the socio-economic conditions of the affected population” and “the mitigation and compensation of the impacts caused by involuntary displacement when this is unavoidable”(Ministry of Transport, 2004).

In terms of norms related with the protection of the rights of affected people, it is clear that in Colombia an important legal framework exists that recognizes their rights. Due to the fact that the rights are included on those norms, if there is any violation, then, the affected people can claim the protection and the fulfillment of those by legal procedures.

In addition, the development of specific guidelines that not only contemplate the recognition of the people affected’ rights, but also give a procedure to follow in order to protect those, really facilitate the application of the rights-based approach in the local context. Firstly, the effort of the Ministry of Transport to generate a resettlement process guideline for the sector is a good start point for institutionalized the understanding of a resettlement process such as the reestablishment of economic and also social conditions. Moreover, this guideline can help local officials to know how to develop a resettlement plan when is need it. However, it can be a risk for the country that every sector has its own guidelines for the resettlement process, without having a general and institutionalized policy of resettlement for the country. For instance, during the process of secondary data collection, this study found two different policy frameworks of resettlement process, one from the Ministry of the Transport (2004) and the other from the Ministry of Housing (2013).

Secondly, in this specific case, the participation of the World Bank as an active actor in the process, and its O.P. 4.12., also helped in the recognition of affected people rights. The fact that a special condition from the loan that the World Bank offer to the national government and its local governments, is to respect and to follow the O.P. 4.12. (World Bank expert interviewed 29.07.2013), generated a commitment from the local agency in order to develop the resettlement plan and recognize the rights of affected people. This observation extracted from the policy analysis that this study did, was confirmed by the importance that the Megabus Resettlement Office gave to this policy. For instance, the answer of the coordinator of the Megabus resettlement office to the question in which norms and guidelines were the resettlement process based on?, was “this process was based on the O.P. 4.12., guideline that the Ministry of Transport used in order to develop a resettlement framework for the Colombian context, tool that we also used to develop our resettlement plan” (Interviewed 28.06.2013).

4.2.1.2. Norms, and policies related to Equality and Non-discrimination

In order to define the relation between the norms and the principle of equality and non-discrimination of the rights-based approach, this study used one indicator: i) existence of norms and policies that protect an equal treatment on the resettlement processes. In this specific issue, there is the National Constitution, the Policy Framework from the Ministry of Transport and the local resettlement project itself that have this principle into account.

The National Constitution (1991) in its article 13, established that “all people are born free and equal to law, entitled with equal protection and treatment by the authorities and should enjoy the same rights, freedoms and opportunities without discrimination ..., the state shall promote conditions to make equality real and effective and adopt measures in favour of discriminated or marginalized groups”. In addition to the National conception of the equality such as a very important principle in every project, the Policy Framework for resettlement processes developed by the Ministry of Transport also included it as a guide for the design and implementation of resettlement project on municipalities. In this framework, the equality was conceived such as a principle where “every family or economic activity that is subject to resettle will receive the same treatment and will access on equal terms to the various programs that are offered” (Ministry of Transport, 2004). Finally, the resettlement plan developed by Megabus, also mentioned in its principles the equality, but it did not develop the specific activities or the meaning in the specific case.

The relation between norms and equality shows again the commitment of the Colombian Government to protect equal treatment in all processes. Also the inclusion of these principles both in the policy framework of the Ministry of Transport and the local resettlement plan for San Mateo Avenue, is a prove of the different efforts in terms of the protection, the respect and the fulfillment of the rights-based approach on resettlement processes. Nevertheless, after the policy analysis, this research did not find a specific methodology or procedure of how protect the equal treatment in reality. This fact presents a challenge for local authorities in order to define the specifications of how to make this principle to work on reality.

In this sense, there is again a risk on the general way how this principle that is very general, can be protected in real processes, without been just a sporadic will of an official in one specific situation. It is important to remember what the expert from the Institute of Urban Development of Bogota argued during the interview “the protection of human rights should not be an issue that only depends on the will of the official that is in charge of the process” (Interviewed 25.06.2013). In this case the protection, the respect and the fulfillment of the affected people’s rights should be a permanent duty of the state.

4.2.1.3. Norms, and policies related to Indivisibility and interdependence

In order to define the relation between the norms and the principle of indivisibility and interdependence of the rights-based approach, this study used one indicator: i) existence of norms and policies that consider the implementation of compensation packages for affected people in resettlement processes. In terms of this issue, the national context has a defined method about how to compensate the affected people, information that was confirmed also by the national officials and experts during the field work.

In this aspect, the Law 388 of 1997 which modified the Law 9 of 1989 defined the procedures of purchase and payment for the property in the cases when there is a declaration of public interest. In addition, the operational policy 4.12 of the World Bank, the Policy Framework developed by the Ministry of Transport, and the local resettlement project developed by

Megabus also highlight the importance of the compensation package in a resettlement process.

According with the Art. 61 of the Law 388 of 1997, “the acquisition price will be the commercial value of the property, which can be defined either by the Geographic Institute Agustín Codazzi or the registered private experts” and also “the payment of the purchase may be in cash or in kind, construction and development rights, rights to participate in the project to develop or exchange” (Law 388,1997).

Regarding this principle, the O.P. 4.12 of the World Bank, mentioned as an important part of a resettlement process the compensation of losses, and also advises to consider on the resettlement plan all the specific measures that the agency in charge is going to take in order to assist each category of eligible affected people.

In addition, the Policy Framework for resettlement processes developed by the Ministry of Transport (2004) included in its principles the restoration of economic and social conditions, which means that on this process it should be not only a recognition in money but also it is necessary to implement complementary efforts in order to restore or improve their social and economic conditions.

Based on the O.P. 4.12. of the World Bank, and the Policy Framework for resettlement processes made by the Ministry of Transport, the local resettlement project designed by Megabus includes a program of acquisition and negotiation of properties, and also a program of restoring the social conditions. Moreover, in order to establish the procedure of calculation of economic compensation for the affected people, Megabus has two administrative internal resolutions for it: resolution No. 137 of 2005, and No. 70 of 2005.

Regarding the relation between norms and the principle of indivisibility and interdependence, what this situation shows is a more clear definition of the procedures in order to protect this principle. There is clear not only at the national level but also at the local level, that there are specific procedures in order to value properties, and to measure the compensation of the losses. However in those laws, specifically in the Law 388 of 1997, there is still a gap to solve, in terms of the fact that it does not contemplate any mechanism for the acquisition of improvements, i.e., “mejoras” in Spanish (Ministry of Transport, 2004).

Although it is very important to guarantee general rights in laws, it is also important that those laws and policies represent the reality. This fact was emphasized by the two researchers of the Universidad Tecnológica de Pereira (Interviewed 20.06.2013, 27.06.2013), when both argued that “the lack of understanding about the local situation, can lead to harmful policies”. In this sense, the gap on the national law about the definition of how value the improvements can open the door to different violations to the rights of those informal households.

Finally, it is important also to mention, that in order to protect, respect and fulfill the rights of the affected people, it is not enough the economic compensation, it is also necessary to implement other support activities in order to reestablish the socio-economic conditions of the affected people. It is important to remember as the coordinator of the Megabus Resettlement office (interviewed 28.06.2013) said “the center of this kind of projects should

be the people and not the road”. In this sense, when you are thinking about the people and their needs, it goes beyond the house and the payment for it. This kind of conception is represented on the O.P. 4.12. of the World Bank, the Policy Framework for resettlement processes developed by the Ministry of Transport and also by the resettlement plan itself, but it is still missing on the national laws.

4.2.1.4. Norms, and policies related to Participation

In order to define the relation between the norms and the principle of participation of the rights-based approach, this study used one indicator: i) existence of norms and policies that consider the mechanisms of participation in resettlement processes. Regarding the issue of participation in resettlement process, the Law 388 of 1997 in its Art. 4, considered that “in the different activities in the urban planning, local governments, and metropolitan district should the participation of local people and their organizations, regarding between the social, economic and urban interests”.

The O.P. 4.12 of the World Bank also mentioned the participation process in two different perspectives. The first one is related with a more active role of resettlers and host communities, through the inclusion of people’s views in the preparation of the resettlement plan (World Bank, 2001). The second one, mentioned in the abbreviated resettlement plan, is the consultation with displaced people about acceptable alternatives (World Bank, 2001).

In addition to what the Law 388 of 1997 established, and based on the guidelines of O.P. 4.12. of World Bank, the Policy Framework for resettlement processes developed by the Ministry of Transport included in its principles the consultation and communication. This document describes the consultation such as the right that social units (families and commercials) have in order to be consulted about the different solutions to the resettlement and the plans formulated for it (Ministry of Transport, 2004). In terms of the communication principle, according to the Ministry of Transport (2004), the affected people must receive clear, accurate and timely information about their rights, duties and the different programs that the government offers.

The local resettlement project, formulated by Megabus includes such as part of its principles the consultation and the communication. However, when the components of the resettlement plan are developed, the document does not address directly the participation process; instead of it, it only mentioned a project of information and grievances and claims attention, and a project of negotiation (Megabus, 2009).

In relation with the variable of participation, Colombia has advanced in the path of facilitating participative mechanisms for the people, and to include this principle into the urban planning and specifically on the resettlement processes. However, and as it was clear on the policy analysis, there is not a consistent perspective of the participation, situation that was showed by the inclusion of different terms such as consultation and information in the implementation documents.

4.2.1.5. Norms, and policies related to Accountability

In order to define the relation between the norms and the principle of accountability of the rights-based approach, this study used one indicator: i) existence of norms, policies and guidelines that ensure open, transparent and responsive systems.

In this type of indicator, although Colombia has been advanced in generating initiatives of open, transparent and responsive systems, on the different organizations, there is not a national law that includes the accountability in the resettlement process. In this sense, in this aspect there are only general guidelines.

The O.P. 4.12 of the World Bank, considered the monitoring and evaluation processes such as part of the resettlement project. According with the World Bank (2001) the monitoring processes should be supplemented by independent monitors as well as by the displaced persons. In terms of the evaluation, this operational policy, also said that it is important to have “an evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed, using the results of resettlement monitoring to guide subsequent implementation” (World Bank, 2001).

The Policy Framework for resettlement processes developed by the Ministry of Transport also includes the transparency such as an important principle for the resettlement process. In this Framework it is argued that “the process of land acquisition and resettlement will be disseminated and validated so it is known to all participants” (Ministry of Transport, 2004: 11). Moreover, this guideline includes a monitoring process, in terms of “verifying the level of restoration of the socio-economic conditions of families, i.e., housing, public services, access to education and health care, and income, and also of commercial units, i.e., continuity of the economic activity and public services” (Ministry of Transport, 2004: 42). There is also contemplated on this guideline, a monitoring process to the activities developed by Megabus.

Finally, Megabus included a component on the resettlement project related with the monitoring process. Unlike the previously mentioned documents; in this document it is only mentioned a monitoring process to the conditions of the people, and not to the process itself. However, the two officials from Megabus (interviewed 28.06.2013 and 12.07.2013), mentioned during their interviews, the monitoring processes that the World Bank, the Ministry of Transport and also each of the affected people carried out during the process,

Regarding the variable of accountability, and the specific indicator, at least from the O.P. 4.12. of the World Bank and the Policy Framework for resettlement processes, there is a common understanding of the necessity to apply internal and external monitoring processes. The internal processes were related with the monitoring process that Megabus was supposed to carry out in terms of verifying the new conditions of the families. The external processes were related with the monitoring processes that the World Bank, the Ministry of Transport and also each of the affected people carried out.

Although both processes were in the guidelines, the resettlement plan did not have into account both of them. The external perspective and the measures of it were missing in the

resettlement plan, situation that at the beginning could be seen such as a risk for the transparency and open process. However, what happened in reality was that thanks to the participation of the different actors in the national and local level, the process counted as the two officials of Megabus said with the monitoring process from the National Government, the World Bank and the affected community.

4.2.2. Background: Institutional arrangement and rights-based approach

The institutional arrangement on the case of resettlement processes in Colombia is based on the same concept of decentralization that the country has applied. In this context, each organization in each level has different responsibilities in the design, and implementation of the resettlement projects. In Colombia, there is not a specific norm that defines the institutional arrangement regarding the resettlement process. This is established in reality by the competences that each entity has in every level. In this sense, there is not an unique entity that has in charge exclusively the resettlement processes in Colombia.

According with the national expert from the World Bank (interviewed 29.07.2013), in this kind of massive transportation system project, financed by a loan from the World Bank, the national government is the responsible for the negotiation. From this point, the National Government signed an agreement with the local authorities that are interested in the project, in this case with the government of Pereira (World Bank Expert interviewed 29.07.2013). In this agreement, the National Government take the responsibility of the 70% of the credit, and the local entity take the responsibility of the remaining 30% (World Bank Expert interviewed 29.07.2013). In addition to the financial responsibility, according with the coordinator of Megabus Resettlement Office, the local authorities or the agency responsible for the process also has to take care about social and environmental safeguards that the World Bank asked for (interviewed 28.06.2013). In the case of Pereira, this agency is called Megabus, which was created in order to implement all the massive transportation system for the city. Then, this agency is the one in charge of developing not only the infrastructure projects but also the resettlement and environmental plans.

The local government of Pereira with its office of planning, played also a role before the infrastructure project started, by including it in the Plan Use Plan (Local expert Infrastructure Department Town Hall, interviewed 27.06.2013). However, during the resettlement plan this entity did not have any role, not even with the informal dwellers, which also negotiated only with Megabus; this information was confirmed by the local official of Physical Control (interviewed 24.07.2013) and also by the affected community.

In addition to these organizations, there are other national entities that play a role on this process such as the case of the Ministry of Finances and the National Planning Department - DNP. Those two entities, according with the three national officials from the DNP interviewed (24.06.2013), are in charge of monitoring the general infrastructure project in terms of how the resources have been used, but those do not enter as active actors in the monitoring of the resettlement processes. It is important to point out, that those two entities participate in this process, because this specific project and those that are part of the National Project on Urban Mobility receive resources from the national government (Coordinator of Infrastructure Department DNP 24.06.2013).

Finally, according with the information presented by Megabus Resettlement office coordinator (interviewed 28.06.2013) and the national officials (24.06.2013 and 16.07.2013) during the field work, the Ministry of Transport, is the organization that is in charge of giving support and guidelines in terms of the resettlement process for the local authorities and the organizations that have to design and implement this kind of processes.

In terms of the general institutional arrangement applied in this case study, it is understandable that the divisions of tasks is really well organized, according with the decentralization process that Colombia has. However, when you go deeply in the understanding of this arrangement and include it in a general framework of the resettlement in Colombia, there are two relevant facts that are important to have into account for a complete analysis: i) internal capacity of the organizations and ii) external relations with other organizations.

The internal capacity of the organizations includes for this case not only the number of persons that each entity has in charge of the processes, but also about how efficient those manage the processes. As it was mentioned before, in Colombia there is not a specific entity that manages all the process of resettlement. Instead of it, each sector and the entities on it have to deal with the resettlement process case by case, with the financial, human and administrative resources with which each entity already have. This situation does not represent a risk for the fulfilment of the rights of the affected people, if each entity uses the sufficient resources in order to give fair compensations and the permanent support to the people. However, the fact that Colombia does not count with a general policy that guides the process, make that the decision of how to carry a good resettlement is determined by the will of the higher officials of each entity. In this situation, there is a big change of violation, when the rights of affected people are only based on the will of political actors.

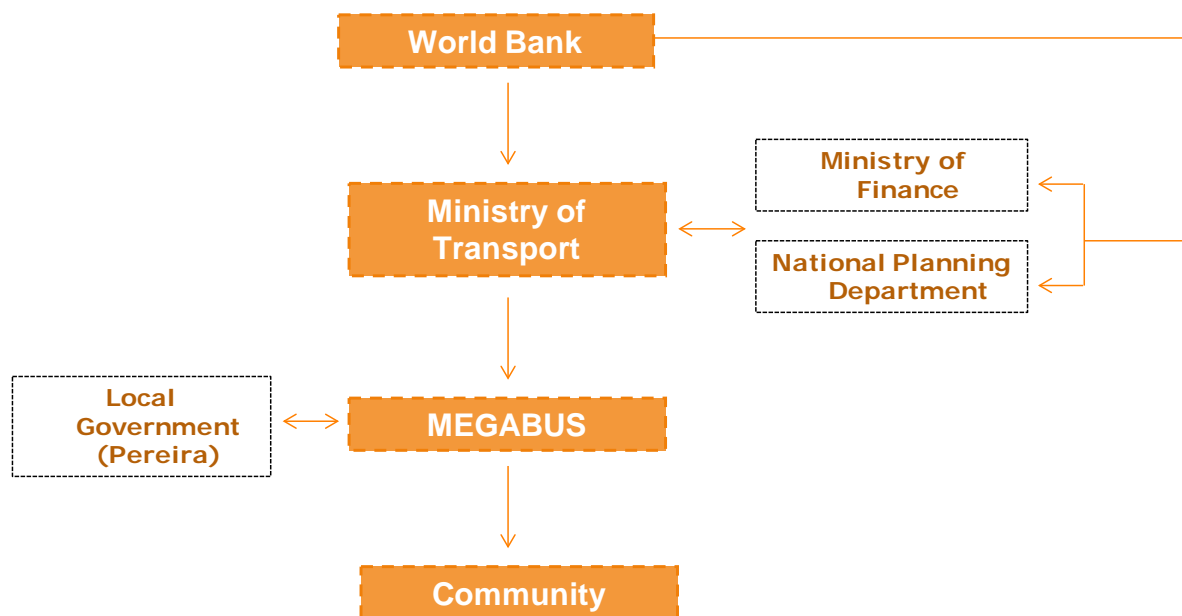
This situation is clearly shown by the national expert of the Institute of Urban Development in Bogota (interviewed 25.06.2013) which explained the case of resettlement in Bogota, and argued that due to a political decision of a the new mayor, the team of people whom carry out the process of resettlement, was reduced from one hundred seventy 170 persons to ten 10 persons. This kind of situations, present an affectation on the way how well a resettlement process can be handled, when with only ten people, an approximately 2200 social units have to be supported (interviewed 25.06.2013). However, there are cases such as the specific case of El Plumon, which there were a team composed by five persons (engineering, lawyer, two social advisers and an environmental adviser), in order to make 43 negotiations with the affected people (Coordinator of Megabus Resettlement Office, Interviewed 28.06.2013). From these two situations, what it is really important to highlight, is the fact that the rights of the people should not depend just on the will of an official. At least, there should be minimums guides on the institutional capacity that each organization should count with.

Regarding the external relations, there are two factors that need to be analyzed: i) the vertical relation between the different levels, and ii) horizontal relations with the others entities. Firstly, during the field work, and having into account the different perspectives from the national and local officials, the institutional arrangement looks very clear, where each of the

organization has its own responsibilities in terms of the process and the very aware officials about their role on it. Nevertheless, according with the Megabus Resettlement Office (28.06.2013) and also with the national expert from the Institute of Urban Development in Bogota (25.06.2013), there was a fact that constrained in some periods the process, which was related with the bureaucracy procedures. For instance, as the Megabus Resettlement Office (28.06.2013) argued: “due to the fact that this process was new for the entity, in many cases we were not sure about how to manage specific situations, so we asked the technical staff for their advises, but in some cases the answer took so long because they had to consulted it also with their bosses..., this situation was a constraint for the process, because in a resettlement process people cannot wait long for an answer”. It is important trying to reduce the bureaucracy procedures in order to facilitate the protection and respect of the affected people’s rights.

Secondly, it is capital to understand the resettlement process such as a complex situation, where different sectors (housing, education, health, public services, etc.) should be included (Local Expert from the Universidad Tecnológica 20.06.2013). An important element that can facilitate the protection of affected people’s rights is the inclusion in an organized way of different entities of the state in order to give the affected people all the necessary help in order to restore its socio-economic conditions or to improve those. In this case, the coordination with other entities within the project, but also with other sectors, is a very important element on the development of a resettlement process. This situation is confirmed by the National Expert from the Institute of Urban Development in Bogota (25.06.2013), who argued that “in most of the cases the lack of resources can be solve through the coordination with other organizations in order to have a good resettlement process”.

Figure 6: Institutional arrangement applied in this case study



4.2.2.1. Institutional arrangement and Universalism and inalienability

In order to define the relation between the institutional arrangement and the principle of universalism and inalienability of the rights-based approach, this study used one indicator: i) level of knowledge about the duties of the public organizations in terms of human rights respect and protection in resettlement processes.

According with the principles established in the resettlement plan developed by Megabus (2009) and also regarding the ones included on the Policy Framework for resettlement processes developed by the Ministry of Transport (2004), the duties from the government are not only related with the compensation, but also related with an equality treatment, to give clear and timely information, to facilitate a participatory process, and to give options to the affected people.

During the field work, in this specific case the two local officials from Megabus (interviewed 28.06.2013 and 12.07.2013) and also the national officials (interviewed 24.06.2013 and 16.07.2013) recognized that in this kind of involuntary displacement, the goal is that the conditions of the people affected by it be restored or get improved. However, the understanding of how to reach this point differed from one perspective to the other. From the national perspective, only the adviser of sustainable environmental development (24.06.2013) recognized not only the compensation of economic losses, but also the others elements proposed by the general guidelines such as duties of the state. The other three national officials, two from the DNP (24.06.2013) and the person from the Ministry of Transport (16.07.2013) only mentioned the compensation that the government should give to affected people, in relation of what the Law 388 of 1997 determined.

Based on the answers of these two groups of officials, it is seen the necessity to improve or to clarify the information and the policies about the duties of the government in resettlement process, not only at the local level, but also at the national level. The duties of the government in terms of resettlement processes should be institutionalized, known and understood by all the officials. If this situation does not occur, then, the actions in terms of protection of the rights will depend on the will of the officials on turn or just on political will (National expert of the Institute of Urban Development in Bogota, interviewed 25.06.2013). In this context, when there is a low understanding of what a real resettlement process means, the actions and policies develop by the organizations can be harmful for the affected people, or at least cover partially their rights, which is not a desirable scenario in the application of the rights-based approach.

4.2.2.2. Institutional arrangement and equality and non-discrimination

In order to define the relation between the institutional arrangement and the principle of equality and non-discrimination of the rights-based approach, this study used one indicator: i) number of organizations involve in the preparation of the baseline.

In terms of the type of organizations involved in the preparation of the baseline, and according with the guidelines of the Ministry of Transport (2004), the baseline can be developed either by the agency in charge of the resettlement process or by another private company hired in order to do it. In the case of the Plumon, the base line was done by the social workers that were part of the resettlement team, based on a survey house by house (Megabus officials 28.06.2013 and 12.07.2013). According to Megabus resettlement office's coordinator (interviewed 28.06.2013), the decision to do this process by themselves was based on a previous experience which thought them, that in order to create trust with the people from the beginning is important not only to have the same persons working from the beginning to the end of the project, but also those people have to have the knowledge in order to generate resettlement process that really protect the rights of affected people. For instance, according with the coordinator of the Megabus Resettlement Office (interviewed 17.06.2013) in the first resettlement that they started in Cuba's Park, they hired a private company in order to do the baseline, but unfortunately this process was a complete failure, because the company saw the process only such as a housing problem.

From the understanding of the importance of developing a good baseline and the relevance on who develop it, there are two elements of analysis that are important to have into account in this study. Firstly, it is important to notice that for this case study, the fact that Megabus officials were the ones that made the survey for the baseline, and then continued the resettlement process, allowed them to generate spaces of trust between the affected people and their team, which according to the social worker of Megabus (interviewed 12.07.2013) facilitated the negotiation process.

Secondly, it is also relevant to point out regarding the experience of El Plumon that, in order to implement a resettlement process, it is important not only the number of persons that support it, but also the knowledge that this team should have about the process. At this respect, the national expert of the Institute of Urban Development in Bogota (interviewed 25.06.2013) stated that "for the success of any resettlement process it is crucial to have the necessary team with very qualified persons in order to develop more efficient processes".

4.2.2.3. Institutional arrangement and indivisibility and interdependence of human rights

In order to define the relation between the institutional arrangement and the principle of indivisibility and interdependence of the rights-based approach, this study used one indicator: i) number of organizations related with the process of compensation.

As it was mentioned at the beginning of this session, and according with the field work interviews the entity responsible to finance the resettlement project is the local agency. In this specific case was Megabus whom took full responsibility of the compensation process.

In this specific case, based on the findings from the communities' interviews, this structured apparently worked, in the sense that all the people received their compensation and the support on the process. However, after all the analysis of variables, there is still a doubt about

if in order to resolve a complex situation such as a resettlement, the process should or should not include actors from other sectors from the estate that help in the restoring of the conditions. At this respect, in the opinion of the national expert of the Institute of Urban Development (25.06.2013), the resettlement processes should count with the institutional support from different sectors in order to give to the affected people all the options that they can receive from the government.

4.2.2.4. Institutional arrangement and participation

In order to define the relation between the institutional arrangement and the principle of participation of the rights-based approach, this study used one indicator: i) type of organizations that participate on the negotiation process.

In order to address this indicator, this study took into account the answers of the community interviews, and also those answers given by the Megabus officials. In this sense, what the answers about the participation process showed was that in this process, the negotiation took place only between each owner and Megabus. In this case, there were no more organizations, either public or private organizations that were part of the participation process. In fact, during the field work, this study interviewed a participant of the local action committee, i.e., *junta de acción comunal* in Spanish, and according to her, “there was not a monitoring process to the resettlement process specifically..., what we did was to monitor the construction of the road” (Luz Dary Parra, interviewed 15.07.2013).

Regarding to the situation of the organizations that participate on the negotiation process, it is clear, that the process of participation was concentrated on a negotiation one to one. This situation also shows that no community organization was created on the process, in order to have a more participatory approach. At this respect, there is a lack on the participation process, because in reality it did not include the necessary mechanisms to include other organizations such as universities, or social organizations that could help on the negotiation or at least could assure the fulfilment of the commitments from the two sides.

4.2.2.5. Institutional arrangement and accountability

In order to define the relation between the institutional arrangement and the principle of accountability of the rights-based approach, this study used one indicator: i) existence of monitoring processes from other public and private organizations to the resettlement process.

According to the assistant director of housing and urban development - DNP “the monitoring processes that the National Government does to this kind of projects contemplate not only the resources but also the impact that this kind of projects have” (interviewed 24.06.2013). However, each entity has its own role. In this case, the National Planning Department and the Ministry of finances verified that the norms and guidelines from the national government had been applied well, in terms of the general project (Coordinator of the Infrastructure Department DNP, interviewed 26.06.2013). The Ministry of Transport, according to the

adviser of the sustainable urban mobility unit (interviewed 16.07.2013), supported and monitored the implementation of the entire project in the local level, especially the part related with the resettlement plan. In this terms, In addition, and according with the Megabus Resettlement Office coordinator (interviewed 28.06.2013), Megabus had to send monthly reports of the activities of the resettlement plan to the Ministry of Transport, and this entity also sent those reports to the World Bank.

In addition, the World Bank also had an active role in terms of monitoring processes. This situation was confirmed by both of the Megabus officials (interviewed 28.06.2013 and 12.07.2013) when they stated that this organization not only asked for monthly reports but also, a group of experts from it visited the project periodically.

As the reality shows, in this specific case, the relation between the organizational arrangement and the accountability is very strong due to the very well structured monitoring process from the National Government and the World Bank. This situation happened specifically by two factors: i) it is a project that is partially financed by the national government, and ii) the participation of an external actor such as the case of the World Bank increase the consistency of the monitoring process. In the specific case of the resettlement process, the active role that the Ministry of Transport, and the World Bank play, guarantee the fulfilment of the commitments made by the local agency, in terms of the protection of the affected people's rights.

4.2.3. Background: Implementation Processes and rights-based approach

It is important before to get into the analysis of the situation of each variable in the implementation process, to address two general issues in order to understand better the case study: i) the type of resettlement, ii) the components included in the resettlement plan.

Firstly, according to the Policy Framework for resettlement processes developed by the Ministry of Transport (2004), before making the resettlement process, the agency in charge of this process should make a decision about what is the best option to resettle the affected people, based on the resources, the time, necessities of the population, the public housing plans, and the real estate market of the city. In this sense, the Ministry of Transport (2004) pointed out two options for it: i) collective resettlement, and ii) individual resettlement.

The first type of resettlement is related with the process of moving the affected people as a group, to a new place where they have all the facilities in terms of infrastructure and services (Ministry of Transport, 2004). This type of resettlement is proposed when the following situation happen: “ i) there is a high vulnerability of the people, due to group cohesion and rootedness in place, ii) there is available land to construct the new houses, iii) there is no constrain of time in the construction of the infrastructure” (Ministry of Transport, 2004: 31).

The second type of resettlement involves the purchase of a new or used property, by the owner or the occupant, with the money received for the payment of the property, and the

compensation for economic losses (Ministry of Transport, 2004). This type of resettlement also includes a real estate, social and legal support in order to re-establish the socio-economic conditions of the affected people (Ministry of Transport, 2004).

In this case of study, Megabus decided to start in El Plumón an individual resettlement process, based on the views of the community. According to Megabus resettlement plan (2009), the affected people manifested during the first meeting their intention to improve their actual conditions by buying a property in other locations in the city that can offer them the following conditions: “i) Safer physical and psychological conditions, ii) housing in areas close to their family groups, iii) housing in other municipalities from they come from, and iv) housing with good location, preferably close by their work places” (Megabus,2009).

In terms of the type of resettlement that was used by Megabus in El Plumon, is important to notice, that this decision determined the type of process that they followed. In this sense, and as this study will show, the conditions in terms of the different variables analyzed by this case study, will be different than the ones that usually happen when it is a collective resettlement.

Secondly, it is interesting for the analysis to have into account the following table where there is a comparison about the components that the World Bank and the Ministry of Transport proposed, and those that the Resettlement Plan developed in reality.

Table 6: Comparison of the resettlement plan components, general guidelines vs. The real plan

Content of the resettlement plan proposed by each entity vs. The real plan			
	World Bank	Ministry of Transport	Resettlement Plan in "El Plumon"
Description of the project	x	x	x
Location of land required by the project		x	x
Potential impacts	x	x	
Alternative solutions based on the type of impacts caused and population characteristics		x	
Objectives	x		x
Principles			x
Socioeconomic studies	x	x	x
Legal framework	x		
Institucional framework	x		
Eligibility	x	x	
Valuation of and compensation for losses	x	xProgram of acquisition of affected property /property replacement program/ Program for restoring economic conditions /Program for reestablishing social conditions	x Project of acquisition and negotiation of properties / Project of support and reestablish of the social conditions
Resettlement measure	x		

Site selection, site preparation, and relocation	x		
Housing, infrastructure, and social services	x		
Environmental protection and management	x		
Participation	x	x Consultation and information program	Project of information
Integration with host populations	x		
Grievance procedures	x	x Program of grievances and claims.	xProgram of grievances and claims
Organizational responsibilities	x	X	x Interinstitutional cooperation
Human and physical resources required to the implementation of the plan		X	
Implementation schedule	x	X	x
Costs and budget	x	X	x
Monitoring and evaluation	x	X	x Monitoring and control processes of the affected people

Source: Developed by the author based on the O.P. 4.12. World Bank (2001), the Policy Framework for resettlement processes developed by the Ministry of Transport (2004) and the Resettlement Project of Avenida San Mateo.

From this table, there are two important elements to highlight: i) the way organizations adapt the international guidelines to local environment and ii) the differences between guidelines and the real plan. In this case study, the Ministry of Transport adapted the general guidelines proposed by the World Bank to the national context and the necessities of the infrastructure's project; then, these guidelines were applied by the local agency based on the type of resettlement they carried out in El Plumón. In this sense, it is important to notice that guidelines are only functional if they can include elements that respond to the national and local necessities; also these should have into account the conditions of the resettlement (individual or collective) applied by the agency in charge. For example, themes such as site selection, site preparation, and relocation, housing, infrastructure and social services, were not use either in the guidelines proposed by the Ministry of Transport and the real resettlement plan, because in the application of individual resettlement those are part of the socio-economic restoration. In this sense, when an individual resettlement process takes place, it is not relevant for the resettlement plan to include an specific site selection and other activities that came with it, because in these kind of processes each affected family get their own house and in the location that the they choose, having into account that the property has the adequate conditions in order to offer the family affected a better quality of life.

The second element is related to the differences between guidelines and the real plan, which has to do more with different constraints that the agency who applies the guidelines has such

as financial and human resources limitations, lack of capacities of the team, lack of understanding about the process or simply lack of political will. In this case the big differences between the guidelines presented by the World Bank, the Ministry of Transport and the Resettlement Plan developed by Megabus, are related with four components which are the potential impacts, human and physical resources required to the implementation of the plan, participation, integration with host populations and accountability. The first two elements have to do with the stage before the resettlement process start, in this sense, if those are not present can constrain the development of an efficient and real resettlement plan. The no inclusion of the last three elements, i.e., participation, integration with host populations and accountability, really poses a risk or limitation in the application of the rights based approach. In this sense, it is not only necessary the fair payment of compensation package, but also it is capital for the rights-based approach, that the agency in charge can guarantee a transparent, participatory and open process for the involuntary displace people.

4.2.3.1. Implementation Process and Universalism and inalienability

In order to define the relation between the implementation process and the universalism and inalienability such as a principle of the rights-based approach, this study used one indicator: i) level of knowledge of right holders about their rights in the resettlement process.

According with the different interviews made to the community members, since the beginning of the process, Megabus got in touch with them, and explained the process, and the compensation. For instance, according with Nelson Velez Duran (interviewed 05.07.2013) one of the affected persons “Megabus made different meeting in the communal room and showed the project, and they told us about our rights and what we were going to receive”. However, none of the six affected people, and either the representative from the community action board (15.07.2013) commented during the interviews about other kind of rights apart from the payment for the property. They did not recognized directly the rights such having access to information, the right to participate, the equality treatment and the right to have different options for the resettlement. It looked like that for the affected people those were part of the compensation package.

In contrast, when the affected people were asked about the support that Megabus gave to them, if they had different options, and if they received information, all of them confirmed the existence of those processes. In this sense, what can be extracted from this situation is the relevance of how the different actors understand the resettlement project. In this case, it is not enough that the institutional actors know well what are their duties, but also it is important that the affected people can understand that the compensation package should not only include financial resources that compensate them for their economic losses, but also it should include the restoration of their social conditions. As long as the affected people know all their rights, it can guarantee that they can claim them.

4.2.3.2. Implementation Process and equality and non-discrimination

In order to define the relation between the implementation process and the equality and non-discrimination such as a principle of the rights-based approach, this study used one indicator: i) existence of a baseline of the affected people.

Following the guidelines of the O.P. 4.12. of World Bank and also the guidelines of the Ministry of Transport, the resettlement developed by Megabus, included a socio – economic analysis of the affected people, in order to know the conditions of the affected people, before to start the resettlement process. According with the Megabus resettlement office coordinator (interviewed 28.06.2013) “once given to us from the technical team, what were the properties that were going to be affected by the infrastructure project, and also where they were located, we initiated the social census, where we made a socio-economic diagnosis of the affected people, information that we used in order to have a clear identification of the social units and give them the support that they needed”. In the process of collecting information, according with the Megabus social worker (interviewed 12.07.2013), the team used a specific format, which includes social, economic and demographic information (Annex 3). This information was confirmed by all the affected people, whom mentioned the different visits house to house at the beginning of the process in order to make the census.

According to the national expert from the Institute of Urban Development (interviewed 25.06.2013), the local officials from Megabus and also with the four local experts, this process is crucial in order to have an efficient response to the necessities of the affected population. According to the director of the graduate school of environmental sciences of the Universidad Tecnologica (interviewed 27.06.2013) “you have to understand the situation before to solve something. When you try to solve something before understanding it, the answers are not appropriate”.

From the experience of the resettlement project in El Plumon, and the different perspectives from the officials and experts interviewed, it is comprehensible the necessity to count with a good baseline, because it allows to give a precise answer to the different cases that each affected family has. In this sense, it is important to count with a sufficient and efficient team in order to develop baselines that respond to the reality and that can help in the identification of the conditions of the people. In addition, a good baseline also can help in the monitoring process, because thanks to it then it is easier to compare if the resettlement process really restore the previous conditions of the people or even improve those.

4.2.3.3. Implementation Process and indivisibility and interdependence of human rights

In order to define the relation between the implementation process and the indivisibility and interdependence such as a principle of the rights-based approach, this study used one indicator: i) type of aid included in the compensation package.

In this resettlement process, according to the Megabus resettlement plan (2009) the compensation package included “the payment for the property valued by a technique called comparison or market prices - IGAC Resolution 762 of 1998 -, financial compensation to mitigate the impact of involuntary resettlement and the legal, social and real estate necessary support to re-establish the socio-economic conditions”. This information was confirmed by the Megabus officials (28.06.2013 and 12.07.2013), when they argued that the support that they gave to the people was not only about the money but also about social, real estate and legal themes in order to give an effective answer to the necessities of each family.

In this specific case, the resettlement project developed by Megabus (2009) also included the compensation package for the improvements by saying that in those cases, the improvement also will be valued by the market price, and Megabus paid this value to the informal dweller, and the land should be paid to the owner. In this group, the resettlement project also made a division on two groups: i) improvements that have a value above 50 Colombian current monthly minimum wages (approximately 11.500 Euros) and ii) improvements that have a value under 50 Colombian current monthly minimum wages (Megabus, 2009).

For the first group, the total amount was paid to the household, and with this money they looked for another house according to the offers that were available on the market (Megabus, 2009). The second group received in any case the total amount of the 50 Colombian current monthly minimum wages, in order to help them to get a new house either in the normal market or in any of the social housing projects that the local authorities have available (Megabus, 2009). Both groups also receive the social, real estate and legal support.

In order to do the processes of value the properties and the improvements, Megabus hired a local private organization of experts called Lonja de Propiedad Raiz in Spanish (Local expert interviewed from the Infrastructure Department of the Town Hall, 27.06.2013). In addition, and according with the same local expert (27.06.2013), the calculation of the compensation for the commercial units, Megabus also hired an organization of accountants in order to define the price of the small shops.

In addition to the payment that Megabus did to the owners of the property or the improvements, there was also an economic compensation to support the moving of the leaseholders, and also an economic recognition for the people that have their shops or small business on the houses that were part of the resettlement process (Megabus Resettlement Office officials 28.06.2013 and 12.07.2013). This situation was confirmed by the different affected people interviewed, one of the examples was Celia Rosa Mejia (interviewed 15.07.2013) who argued “we did not have a land title, but Megabus paid us a total of \$33million pesos (approximately 13500 Euros), and also they helped my son with a compensation for the moving”. Another case can confirm the situation, was the case of Yolanda Aguirre (interviewed 10.07.2013) who said “I received \$ 49.7 million (approximately 20.300 Euros) pesos for the house, and \$ 12.4 million pesos (approximately 5100 euros) for the little business and a bonus of about \$ 2,000,000 (approximately 817 euros), then with that money and a loan I could buy this new house, and build two more stories for rent”.

In the case of the compensation that the people received, from the field work findings it can be extracted that the procedures were well established and those worked in reality. This was confirmed by all the affected people that see this process such as a good process for them. Some of them such as the case of Lida Soraya Currea (interview made to Jose Parmenides Calderon interviewed 04.07.2013), and Jhon Fredy Moreno (interviewed 02.07.2013) also received more than what they expected to receive.

It is also important to notice in this process, that in the resettlement plan, there was not only included the economic support but also the social, real estate and legal support, such as an important part of the resettlement. In this sense, this shows that this process was not only about the property but about the people, and about the importance of restoring their socio-economic conditions. At this respect, Maria Ludibia Herrera (interviewed 09.07.2013) mentioned “Megabus gave me support during the process to get a good house, in good conditions”.

4.2.3.4. Implementation Process and participation

To define the relation between the implementation process and participation such as a principle of the rights-based approach, this study used two indicators: i) type of meetings used as a part of the participation process, and ii) existence of a negotiation process.

Regarding the first indicator, on the resettlement plan developed by Megabus (2009), a program called “information project” was included, with four different strategies: “community leader’s identification, house to house visits, informative and educational workshops, and project presentation through other ways such as brochures, media, etc” (Megabus, 2009). From those strategies, the ones that the affected people mentioned in their interviews were the house to house visits, and the informative workshops or group meetings.

In relation to the indicator of the existence of a negotiation process, all of the affected people interviewed agreed to the fact that there was a negotiation process with Megabus. In this process, Megabus gave them some options in terms of the resettlement process, situation that was confirmed by all the interviewees. In this sense, according with Yolanda Aguirre (interviewed 10.07.2013) “they gave me the option to choose between the money or the house, but then if you chose the money, they analysed the conditions of the new house and if everything was alright with the new house, they gave you the money”. In addition and according to the Megabus Resettlement Office coordinator (28.06.2013) during the process, the people not only had the opportunity to choose the location, the house itself, but also the way of the payments.

In terms of the participation process, the situation found during the field work responded to the activities planned in the resettlement project. However, what it appears in this situation is that this area had a non active participation process, which started also after the resettlement plan was already done by the entity. In this aspect, although people had options to decide during the negotiation process, and was also informed about the process, there is no clear prove of an active role from them.

Apart from the analysis of the two indicators mentioned before, it is important to point out, the differences on the perspectives of the participation process applied on the guidelines, and the one used in the real process. For instance, in the O.P. 4.12. of the World Bank (2001), the participation process is understood such as a more active process that started from the design of the project and stay until the end of it. In contrast, there is the Policy Framework for resettlement processes developed by the Ministry of Transport (2004), and the resettlement plan that took the participation more such as a matter of information and communication.

In this sense, the role of the affected people on the resettlement process is limited to receive information, and to negotiate one to one. This situation can be confirmed by the local expert from the Universidad Tecnologica (27.06.2013) when he argued that “participatory processes are still more legal than real..., the participation seems more a right to acquire”.

4.2.3.5. Implementation Process and accountability

To define the relation between the implementation process and accountability such as a principle of the rights-based approach, this study used two indicators: i) existence of a program of grievances and claims, and ii) existence of monitoring processes from the community.

According to the resettlement plan developed by Megabus (2009), which followed the recommendations made by the Ministry of Transport (2004) and the O.P. 4.12. of the World Bank, there was a special program of grievances and claims attention included such as an important part of this process. In this program there were five different mechanisms to receipt the grievances and claims: “i) personal attention in the office located in the affected area, ii) a suggestion box, iii) tables of reconciliation and conflict resolution, iv) filling out a matrix, and v) through the principal office” (Megabus, 2009). From these mechanisms, the one that the community most remember according with the field work interviews was the personal attention in the office located in the affected area, and also the one to one personal attention. For instance, according to Celia Rosa Mejia (interviewed 15.07.2013) “Megabus team always helped us; they were always in the neighborhood to hear our claims and grievances”.

In terms of monitoring processes, these were not included in the resettlement plan document. The only reference about a monitoring process in the resettlement plan was the following process that Megabus should carry in terms of how the conditions of the affected people change after the resettlement (Megabus, 2009). However what it was seen during the field work through the affected people interviews and the information from the Megabus officials, was that the affected people carried out a monitoring process to the deadline, and the payment of compensation. Regarding the monitoring process that Megabus (2009) mentioned in the resettlement plan, it could not be contrasted by this research, because during the time the field work took place, non ex-post evaluation had been carried out yet.

In relation with the variables included in this session, the one that looks more clear and structured was the program of grievances and claims. It presents not only in the document but also in reality, a working process, and open spaces for people to claim easily for their rights. This process also shows a simple and understandable process for the people, which did not include bureaucratic procedures and in this order it facilitated the use of this program. Moreover, the idea of having a satellite office in the same area could reduce the cost in time and money of the people in order to claim for their rights.

4.3. Integrated Analysis

In this session this study aims to present a summary of the principal findings of how the norms, institutional arrangements and the processes, applied the rights-based approach in reality. After presenting the summaries of the last session, this study will develop an integrated analysis that not only addresses each factor analysis but also the relation between them.

4.3.1. Norms and policies in relation to the rights-based approach

Table 7: Summary of findings about the relation between Norms and Policies and the rights-based approach

Norms and policies
<ul style="list-style-type: none"> • The recognition of international norms about the respect and the protection of human rights as a guideline for the national norms. • Existence of general scattered norms that recognize the protection of the different variables of the rights based approach. • The no existence of a national resettlement policy generates a risk on the application of the rights-based approach principles in reality. • In the general norm that guides the urban planning (Law 388 of 1997), the only principle that includes the procedures of how to protect a variable of the rights/based approach is the one related with the compensation package (indivisibility and interdependence of human rights), which facilitate the awareness and application of this in the local reality. • The gaps from the general laws procedure of compensation of improvements (informal dwellers), are cope by local specific administrative resolutions developed by the local agency. Those are specifically for the case. • The lack of a national resettlement policy is offset by the development of resettlement framework from each sector. For instance, the Policy Framework for Resettlement Processes developed by the Ministry of Transport played that role. • The adaptation of the guidelines from the O.P. 4.12. in resettlement processes at the local level, generates at least minimal distinctions to respect the rights-based approach. In addition, the fact that these guidelines were compulsory for the national and local level insured the fulfillment of the variables included on it. • It is critical that the norms respond to the national reality in order to be consistent with the real necessities of the people.

The recognition of international laws and the ratification of different treaties and conventions that protects the human rights is the base for different norms and policies in the case of Colombia. The recognition also enforces the commitment that the government should have in order to protect the rights of the people. The responsibilities of the state will no longer be surveilled only by the citizens of Colombia, but also those it will be monitored by the international community. This situation imply three consequences: i) there is going to be different guidelines available for the use of the country in order to generate better processes by learning from other experiences, ii) it will be an external entity that can enforce the respect, the protection and the fulfillment of the human rights, and iii) if there is any violation of the rights there are other instances to claim for affected people's rights. Those factors give a strong foundation for the application of the rights-based approach.

Although, the recognition of international treaties is an important first step for the protection of the rights-based approach, it has to be complemented by a clear and complete national legal framework that has into account the context of the country. In this sense, the rights-based approach can be applied by norms in two different levels: i) general concepts, and ii) general concepts and minimum standards for the procedures. The first level is related with the fact that the norms contemplate and protect the different variables that the rights-based approach include, without developing any procedure or specific minimums to fulfill. This condition implies the legal recognition of the right, which guarantees the option for the people affected to claim in the case of any violation of those. However, the fact that the procedure is not included on the law, allows the government and the different actors to implement the procedures as those decide to do it based on the resources that they have. This situation, clearly poses a risk on the effective fulfillment of the rights-based approach, by generating no equality treatment and no minimums procedures to respect.

In order to cope with the lack of norms that specifies the procedures to protect the rights for the involuntary displaced people by development projects, the national government has the option to include the rights-based approach procedures in national policies. Nevertheless, when there is not a national policy on resettlement that contemplates the different concepts and procedures, the role of local organizations, national organizations and the commitment of external actors like the World Bank became a priority by supplementing this lack of standardized procedures. These guidelines provided in this case of study, better tools to the specific Ministry involved in the process, better local resolutions and the actions that were undertaken under the international experiences ended in better the results. If it is true that this scenario can work on reality and facilitate the implementation of the rights-based approach principles at the local level, it is also a fact that it will be easier for the local authorities to follow standardized procedures included in a national norm or policy. In addition, it will help the public actors at national and local level to achieve the enough knowledge and understanding of their duties in terms of the respect, protection and fulfillment of the affected people's rights and also to comprehend the consequences of not ensuring those procedures, which will enforce the application of the rights-based approach.

The second level is related with the inclusion in the norms of general concepts as well as specific procedures or methodology which frames the desirable scenario to set the groundwork for the implementation of the rights-based approach in resettlement processes at the local context. A clear conceptual, practical and legal framework that can guide the actions

towards a desirable resettlement process that can be compulsory implemented by all the organizations of the state at national and local levels is critical, and will improve the solidity of the application of the rights-based approach. In addition, it could facilitate the local actions, and give a legal protection of the rights as well as a methodology that prevents exclusions or violations, and adds tools for the affected people to demand their rights.

Finally, the legal framework will be the first step on the process to reduce the level of uncertainty that involuntary displaced people can have. This also specifies the formal responsibilities of each duty bearers.

4.3.2. Institutional arrangement in relation to the rights-based approach

Table 8: Summary of findings about the relation between the Institutional arrangement and the rights based approach

Institutional arrangement
<ul style="list-style-type: none"> • Due to the fact that this project was financed in part by the national government, the national entities played a very active role on the development of the guidelines and the surveillance of the processes. • The role of an active and qualified local agency such as Megabus is imperative in the development of a resettlement project that warrants the protection of the rights-based approach. This actor is the one in charge of all the process and the responsible to fulfil the social and environmental requirements from the national and international entities. • The misunderstanding of the concepts from the different actors can create harmful public actions. In this case, at the national level the conception of a resettlement as a case of compensation for economic loses is based on the Law 388 of 1997. In contrast, the local agency understands of the process which include social and economic loses and also the support process, was founded on the training that this entity received from the World Bank, and the Ministry of Transport. • In this process, the role played by the World Bank was not only to give the guidelines but also monitoring the process, which was crucial in the implementation of the resettlement. . • The lack of human and financial resources, as well as the insufficient capacity or small knowledge of the team to manage the resettlement process, can constrain the efficiency of a resettlement process. • The lack of participation from other local organizations such as the universities, NGO's, etc. • Each actor should have a more specific role on the design and implementation of the resettlement process, according with their own competences, and when it is necessary its participation. • The coordination between different service providers like water, sewerage, education, housing, etc., is important in order to protect and fulfil all the affected people's rights.

The institutional arrangement plays a crucial role on the application of the rights-based approach. In reality the organizations are the ones who carry the real concepts by applying them through the legal use of norms and other processes. In this sense, it is important to count with active and specialized organizations that based on the competences that they have given by the law, could accomplish all the duties in each level. In addition to this, each actor should have a specific role in order to avoid duplicating efforts trying to make it successful.

At the national level, the public entities should have a very clear role on the development of guidelines, the provision of training processes for local organizations, and finally the establishment of monitoring actions in order to assure the respect, the protection and the fulfilment of the rights of citizens. In cases such as Colombia where there is not a certain entity in charge of developing specific guidelines or other activities for monitoring the resettlement processes, the role of each Ministry is bigger. Their responsibilities should include the definition of general guidelines that could fill the lack of norms ensuring the protection of the processes and the permanent support to the local organizations.

The role that the national level plays generates a direct and important impact on the actions that the local level should develop to apply the rights-based approach in a resettlement process. If those national organizations understand clearly the resettlement process conception, which includes the compensation for the economic losses as well as the social losses and the process of restoring them, then the local government could easily implement the rights-based approach in a coming situation. Moreover, bureaucratic processes should be reduced or expedite to increase efficiency and compliance.

Likewise, the local level agency or organization is the one that plays the most important role in these kinds of processes; it is the one in charge of the design, development and financing of each step of the resettlement plan. In this context, the local agency is the one who following the different norms, policies and guidelines from the national level, undertakes and warrants all the procedures framed to include the rights-based approach. However, its role could be constrained by two issues: i) institutional capacity, and ii) instability of officials in charge of this kind of processes

For the first issue, the support needed will be not possible if the local agency does not count with enough personal following the resettlement for each affected family with the attention that they deserve. In this sense, it does not matter that the norms stipulated the different procedures in order to protect people's rights, or either the fact that the local agency has the will to carry a good resettlement process, what really matters in terms of making real the rights-based approach is to count with a sufficient team and financial resources in order to develop all the activities implicit on a successful resettlement. Moreover, the people that work on these kinds of processes should have a specialized knowledge of what are the rights of the people, in order to implement actions that protect them.

The second constraint to the role that the local agency should play is the instability of officials in charge of this kind of processes. A resettlement process is founded on the trust between the local agency and the affected people, and this trust is built by a team that since the beginning of the procedures established a good and supportive relation with the families

affected. When somebody from this team is changed, the family affected can be insecure and should start again the development of the process. Furthermore, the instability of officials in charge can cause negative impacts on how agile and precisely the organization can be in order to answer to affected people's demands, which will mean an inefficient fulfillment of the rights.

Finally, for the institutional arrangement the inclusion of different actors can generate a more active and transparent process if it is well managed by the local organization. For instance, the role that the World Bank played in this case study, helped to enforce the accountability process and to warrant that the resettlement process was understood not only as a matter of houses but also as a process based on people's lives. The coordination with other agencies from the local and national government could give the affected people different options to decide and use the services from the state to protect their rights. The inclusion of other organizations like universities, NGO's, etc, could also help the activation of the participation process, as well as the information process in order to make the people to know and understand their rights.

4.3.3. Implementation processes in relation to the rights-based approach

Table 9: Summary of findings about the relation between the Implementation processes and the rights-based approach

Implementation processes
<ul style="list-style-type: none"> • The affected people should also know and understand their rights in order to claim for them. • The baseline is an imperative element to have into account for the success of a resettlement process. The way how this is done, can generate from the beginning a path of trust between the people and the agency. In addition, the results are necessary to fulfil the real demands of the people. • To give clear, accurate and timely information to the affected people is a requirement to develop a successful resettlement process. • The use of a satellite office in the affected area allowed Megabus team to have a permanent contact with the people, situation that at the end enabled them to have a better relation with the families and eased the implementation of the resettlement process. • The mandatory procedures included by the World Bank, were followed and respected by the national and local level in order to get the loan approval. • Those concepts or procedures of the rights-based approach which were not clear enough in the norms and policies, showed some difficulties for their application at the local level, e.g., the participation process. • The implementation process has to have into account an important element apart from the institutional ones, which is the political will to do resettlement process instead of the use of the normal legal mechanisms such as the case of voluntary disposal (enajenación voluntaria in spanish), judicial expropriation, or administratively expropriation.

The implementation processes are the reflection of the norms, policies and guidelines as well as the potentials and weaknesses of the organizations that are part of the processes. In this sense, the stage of application of the variables included in the rights-based approach by the processes depends on three elements: i) the mandatory level of norms, policies and guidelines and how clear those aspects are, ii) the available resources in order to implement the different activities, and iii) the level of commitment and will of the officials in order to develop better processes.

Firstly, it was clear on the case study that those variables such as the construction of the baseline (equality), the compensation process (indivisibility and interdependence), that were clear explained and totally included on the different norms and guidelines from the international and national level, became a priority for the local organization. In this situation, not only the clear application of the international guidelines to the local context but also the compulsory nature that those specifications had, were the winning formula of a high level of application on those two variables of the rights-based approach in reality.

In terms of other variables such as the participation, which were based on national norms and guidelines, that did not explain clearly the procedures to follow, this was implemented with limitations. In this sense, what the people received was information and individual negotiation processes, but not a real participatory process. This has shown that the three institutional factors represent an indissoluble society that complemented each other for the good or the bad of the affected people. In this respect, it is clear the importance of having clear procedures that can be known not only by the national and local public actors but also by the affected people in order to claim for their rights.

Secondly, the successful application of the rights-based approach in resettlement processes depends largely on the availability of human resources. To count with sufficient number of specialized professionals can help to assemble all the different components required in order to develop the rights-based approach in resettlement processes. For instance, in the construction of the baseline that is the first approach that the local agency has with the affected people, it is important to count with a team that really knows well the process, and can establish a relation of trust based on clear and timely information. In addition, the support process should count with officials that can give the people the necessary and permanent attention to their needs in order to help them to cope with this process.

The final element that was extracted from this case is the importance of the level of commitment and will of the officials in order to develop better processes. Although this element is not part of the formal institutional factors, this study has found it such as an important component that influences the implementation of the rights-based approach on resettlement processes. The commitment of officials to learn and generate different actions in order to protect the rights of the people can improve the standardized procedures, and generates processes where the center is the people. However, it also implies a risk, in order that if there is no will from the official in charge to apply those concepts, it can generate policies and activities that violate or at least does not take care of the rights of the people.

Chapter 5: Conclusions

Based on the policy analysis and the semi-structured interviews made by this study, this chapter aims to address the role of the norms, institutional arrangement and processes regarding the application of the rights-based approach on resettlement processes and how these factors can facilitate or constrain it. This study was concentrated on a holistic single case study done in El Plumon, in the city of Pereira, Colombia. In this sense, the conclusions that this chapter will present should be taken such as lessons applicable only for this case, and cannot be generalized without further studies to other cases.

In addition, this chapter will present those aspects that this specific case study can add to the existing body of knowledge. Finally, it will present some final recommendations in terms of further studies that can be interesting not only for academic purposes but also such as guidelines for policy decisions.

5.1. General conclusions in terms of the role of the institutional factors in the implementation of the rights-based approach

This study is concentrated on the analysis of the role that the different institutional factors play in order to facilitate or constrain the implementation of the rights-based approach in a resettlement process caused by a development project. In order to find out this role, this research choose the resettlement process in El Plumon, Pereira, caused by the construction of a new road for the massive transportation system that connected the San Mateo Avenue with the Cuba's neighborhood and Las Americas Avenue in the South-West part of the city. This process developed by Megabus was carried out such an individual resettlement plan.

Due to the fact that the general infrastructure project was financed with a loan made by the National Government with the World Bank, not only the executor of the plan in this case Megabus, but also the Ministry of Transport from the National Government and the World Bank, did take an active role in this process. In this sense, although the implementation process was only carried out by the local agency Megabus, this specific case study, took into account the important role from the national and international actors.

5.1.1. Sub-question 1: How the rights-based approach has been included in norms and policies related with resettlement processes caused by development projects?

Based on the findings that the field work brought with it, in terms of the application of the rights-based approach by the norms and policies there are three elements to highlight: i) the importance of the recognition of international laws, ii) the necessity of including general concepts as well as clear procedures on norms and policies, and iii) the role of the norms on the implementation of the rights-based approach.

Firstly, the recognition of international laws in terms of human rights, will facilitate the application of the rights-based approach, because this implies an obligation from the duty bearers, and also can be a guideline for the application of different methodologies at this respect. Secondly, according to the case study's findings and also as it was established in the conceptual framework by Bartolome, et al. (2000) the norms should include basic rights and processes, in order to set the standards for policy to follow. As clear and precise the norms and the policies are in terms of the rights and the procedures to protect them, as clear the duties from the different actors in reality will be. This situation will help the national and local officials to understand the complexity of the process, and to deal with it.

Thirdly, following the statement of Filmer-Wilson (2005) about the fact that the rights based approach works towards strengthening the capacity of rights-holders to claim their rights and enforcing duty bearers to fulfill their obligation, norms and policies play a critical role on the application of the rights-based approach. Without those there is not a base available to guide the actions of the organizations and the implementation of the different processes. However, this is not a sufficient element, it needs specialized organizations that can implement them and make these real.

5.1.2. Sub-question 2: What is the role that national and local organizations play in the application of the rights-based approach in resettlement processes caused by development projects?

As Bartolome, et al. (2000:35) stated “the best of resettlement and development plans will collapse if they are not backed up by strong and appropriate institutional arrangements”. In resettlement processes caused by development projects, the national and the local governments are the ones called to restore the socio-economic conditions of the affected people, in order to compensate the damages caused by a public interest purpose.

The role of the national level is to guarantee that the norms and the guidelines for the human rights protection are followed by the local organizations that are in charge of the resettlement process. The local agency should apply the norms, policies and guidelines given by the national level in order to develop a resettlement process that respects, protects and fulfills the affected people's rights. In this process also, the role of other private organization in monitoring and enforcement of the obligations of the duty bearers, can help in the application of variables such as participation and accountability, in order to ensure as Ljungman stated (2004:12) “an open, transparent, effective, efficient and responsive system”.

In order to apply the rights-based approach, the organizations need to have into account three elements. The first element is regarding to the necessity of having a clear division of the tasks between different levels, what is called by Bartolome, et al., (2000) such as institutional continuity. The second component is the importance of having coordination processes between the different actors. This situation will help to offer the affected people all the services that the government has in order to protect their rights, in an organized way. The last element is what Bartolome, et al., (2000) called the institutional capacity. It is important that the different organizations count with a sufficient and specialized team in order to support the affected people in all the stages of the resettlement process. In this sense, each entity has to

count with the sufficient human and financial resources in order to assure the fulfillment of their duties.

5.1.3. Sub-question 3: To what extent do the processes applied by local governments in resettlement processes, follow the rights-based approach?

Regarding the implementation processes, the application of the rights-based approach depends largely on how the norms, the policies and the institutional arrangement work. In this sense, it was shown by the case study that Megabus in general and following the guides from the Ministry of Transport and the World Bank, covered all the variables included in the rights-based approach. However, when the analysis goes deeply into each variable, there were differences in the compliance level of the rights-based approach, influenced mostly by three factors: the compulsory nature that the norms, policies and guidelines have, availability or lack of the human resources, will of the official.

In this respect, there were some variables such as the indivisibility and interdependence (concerning with the compensation package) and the equality treatment (regarding with the baseline) that were really well developed and helped in the fulfillment of the affected people rights. For instance, the findings of this study confirmed the statement of Bartolome, et al., (2000: 30) “compensation has to go beyond market value of land and assets”, and add to this, the idea that the compensation should include economic as well as social losses, and this must include a negotiation and support process for the affected people. In addition, in terms of the baseline, the findings of this study confirmed the importance that Bartolome, et al., (2000) give to the baseline, in order to understand the situation and generate more adequate answers. According with the analysis of this case study, a strong base line, make strong the process, and is the first start of a path of trust between the people and the agency.

However, there were others such as participation, where the application of the process turned out into an individual negotiation and a project of information instead of free, active and meaningful participation at different stages of the process which give people the control decision and the influence over the resettlement plan as Filmer-Wilson (2005) and Ljungman (2004) stated.

5.2. Overall conclusion: How do the institutional factors facilitate or constrain the application of the rights-based approach in resettlement projects?

Comparing the conceptual framework and summarizing all the findings, it can be extracted from this case study, that the institutional factors play a crucial role in the application of the rights-based approach in resettlement processes. The institutional factors can facilitate the application of the rights-based approach if the country counts with three factors: i) norms and policies that based on the local realities give guidelines about general rights but also about specific processes; ii) actors that understanding the resettlement process, count with a strong institutional capacity in order to implement the different processes required and iii) processes

that following the norms established, can assure the fulfilment of the economic rights, but at the same time the social and procedural rights (participation, accountability, information). The success on the rights-based approach implementation is a consequence of the integration between norms, institutional arrangement and processes, and how well those act together.

5.3. An addition to the existing body of knowledge

Based on the analysis from the interviews and the policy documents and contrasting those findings with the theoretical framework that was used in this research, there are some additional details that this research brings with it for the understanding of the role of institutional factors in the implementation of the rights-based approach in resettlement processes. In this session, the additional analysis facts are going to be presented regarding the institutional factors analyzed by this research: norms, institutional arrangement and processes.

Firstly, in terms of the norms, this study confirmed the necessity to set the standards and to have a strong legal basis in order as Bartolome, et al (2000:41) stated “to guarantee the basic inviolability of rights and processes” and to provide solutions in case of any violation to those rights (Ljungman, 2004). However, what the reality also showed was that in order for those laws to be effective, those should be based on the local realities. If it is true that there is a necessity to have a legal framework, this should be careful about how general it is. If the general legal framework at least does not include minimums measures that take into account the reality of the territories, the application of the rights-based approach will always remain like a discourse, but not such as a reality.

Secondly, in relation with the institutional arrangement, this experience can add to the academic discussion in terms of two specific factors that can facilitate the application of the rights-based approach, from the perspective of the role that the actors play. First of all, apart from the institutional capacity and the institutional continuity, factors that Bartolome, et al (2000) mentioned such as crucial elements in order to have a good resettlement; this case study, highlighted the importance of the permanence of work teams throughout the process. In this sense, apart from the importance of having enough human, physical and financial resources, and to have a good division of tasks (Barlotolome, et al, 2000), the stability that those human resources have is a critical fact for the sustainability of the process.

The second component that this study brought to the existing body of knowledge is more an accuracy in terms of the factor mentioned by Bartolome, et al (2000) about the involvement of all relevant organizations in all the stages of the resettlement project, such as a fact to facilitate the resettlement process. At this respect, and according with the findings of this research, the incorporation of the relevant organizations should be based on their competences in each stage and should respond to a specific logic of interinstitutional coordination, more than to a perspective of different relevant actors implicit in the same process. It is important that only one actor is in charge of developing the resettlement process, and that from this point it can generate coordination policies in order to protect, respect and fulfill the rights of affected people.

Thirdly, in terms of the processes, this case study confirmed the importance of the different factors stated by Bartolome, et al (2000) in terms of the baseline, right to information, defining eligibility for benefits of resettlement, compensation, planning resources, negotiation and monitoring processes. In addition, the findings also brought a new factor to have into account when you are developing those processes, and is the importance of generate trust between the affected people and the organization in charge of the resettlement process, which is a process cross-factor. In addition, this study also found an important factor that affects the implementation processes, which is related with the level of will of the officials. In this respect, if it can be use in favour of the implementation process, to leave the rights of affected people depending on an official's will can generate risks and uncertainty in the way how those processes have been applied and if they are respecting the rights-based approach.

5.4. Recommendations for further studies

During the fieldwork, one of the findings in terms of the resettlement process in Colombia, or at least in this kind of cases, is the option to choose from two different types of resettlement process: a collective resettlement, and an individual resettlement. The first type of resettlement is a more well known type, not only in terms of the academic world but also in terms of the policy documents. In contrast, the second one is not that very well known, and in some cases can be confused with the voluntary disposal. However, based on the field work in this case the individual option fulfilled with the three factors that De Wet (n.d.) mentioned in order to have a good resettlement, which include: i) a voluntary decision from the affected people to move, ii) enabling conditions in the procedure elements and iii) sustainable outcomes.

In this sense, the question that arose from the fieldwork findings was not in terms of the validity of this type of resettlement, but about the effectiveness in the fulfillment of human rights that this kind of resettlement can have in comparison with the collective type. At this respect, further studies can be made about the impact on the fulfillment of human rights regarding the type of resettlement that is chosen by the agency in charge: individual or collective.

The second recommendation of this study is to carry on a proposal in order to design a complete resettlement policy for the Colombian which includes the rights-based approach. This policy should grouped all the scattered laws and procedures regarding this topic, and generate based on international experiences but most importantly on the local context, specific procedures and minimums to respect when a resettlement process take place. Furthermore, this policy document should include the different options of methodologies that can be applied on resettlement processes depending on the different causes of it (development projects, natural risks or disasters, other causes of displacement).

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Annexes

Annex 1 – Comparison between the semi-structured interviews planned vs. implemented

Type of respondent	Organization	Total Before	Total Now
National			
Expert	National group of experts on resettlement - Los Andes University	3	4
Expert	National and International Consultant on Urban Planning issued		
Expert	Institute of Urban development in Bogotá		
Expert	World Bank		
Official	Ministry of Transport	2	4
Official	National Planning Department		
Official	National Planning Department		
Official	National Planning Department		
Local			
Official	Megabús Resettlement Office	4	3
Official	Megabús Resettlement Office		
Official	Pereira Town Hall - Government Secretary - Physical Control	2	4
Expert	Universidad Tecnológica		
Expert	Universidad Tecnológica		
Expert	Expert - Social Worker		
Expert	Infrastructure Department - Pereira Town Hall	5	7
Community	Jhon Fredy Moreno Hernández		
Community	Maria Ludibia Herrera		
Community	José Parmenides Calderón		
Community	Celia Rosa Mejía		
Community	Nelson Vélez Durán		
Community	Yolanda Aguirre		
Community	Luz Dary Parra		
Total		16	22

Annex 2 - Field Work Schedule

The activities and the time (seven weeks) when these activities took place are contemplated in the following table:

Table 1: Field Work Schedule

Activities	W1	W2	W3	W4	W5	W6	W7
Policy analysis							
First approach to the Megabus Resettlement Office Coordinator	■						
Interviewed to an affected person from Cuba's Park (not included in this new case study analysis)	■						
Local Expert interview - Tecnologica University	■						
National Expert interview - Los Andes University	■						
National Expert interview - Independent Consultant on Urban Planning	■						
National officials interviews - DNP		■					
National expert interview - Institute of Urban development in Bogotá		■					
Local Expert interview - Tecnologica University		■					
Local Expert interview - Infrastructure Department		■					
Local Official interview - Megabus Resettlement Office Coordinator		■					
Data review		■					
Community interviews			■	■	■		
Local Expert interview - Social Worker				■			
Local Official interview - Office of Megabus Resettlement Office				■			
National Official interview - Ministry of Transport				■			
Data review				■	■		
Local Official interview - City Hall						■	
National Expert - World Bank							■
Data review							■

These seven weeks started on the 17th of June and finished on the 29th of July. The first five weeks, were held in Pereira and in Bogota (regarding the interviews with national officials and experts). The activities mentioned in the last two weeks were held from Rotterdam, and the interviews were carried out through skype.

Annex 3 – Questionnaires

Annex 3.1. Semi-structured interview – Local and national experts

General information:

1. **Name of the organization** _____
2. **Position on the organization** _____

Institutional arrangement information:

3. Do you know cases of involuntary resettlement caused by development projects? Which ones?
4. In the projects that you know, what is the role that the National Government plays?
5. Did other organizations take part of the resettlement processes? Which ones and which role do those organizations play?
6. What are the measures taken by the National Government in order to incorporate in the resettlement projects the protection, respect and fulfillment of the human rights?
7. What kind of programs do the National Government has available to support local entities in the design and implementation of a resettlement process?
8. What other mechanisms or tools can be developed by the National Government in order to help the local government on the design and implementation of a resettlement process?
9. What are the most important factors that make a successful resettlement? (institutional, social, political, financial, etc.,)

Process implementation information

10. Do you know if the project that you know, takes care about the necessity of affected people to know their rights? How did they do that?
11. How did the project select the beneficiaries of the resettlement project?
12. How was the compensation package composed by? (Cash, in kind, technical support, psychological support, legal support)
13. Which extra payments, in kind or cash, apart from compensation, have to be done to the affected population in order to protect their rights?
14. How did the project measure the value of the compensation package for each person?
15. How was the participation process in the projects that you know?
16. How these kinds of projects are monitoring?
17. According with your experience, what were the elements that facilitate the respect, protection and fulfill of the affected people's rights?
18. According with your experience, what were the elements that constrain the respect, protection and fulfill of the affected people's rights?
19. What do you think is missing in the implementation in order to protect, respect and fulfill the rights of the affected people?

Annex 3.2. Semi-structured interview – National Public organization

General information:

1. Name of the organization _____
 2. Position on the organization _____

 3. In which norms and guidelines were the resettlement process based on? Does the National Government have a general guideline?
 4. Which is the role of the National Government in resettlement process caused by development projects? What is the contribution? (financial, human, technical resources)
 5. Which entities participate on it?
 6. Do other organizations take part of the resettlement processes? Which ones? Which role those organizations play?
 7. What kind of programs do the National Government has available to support local entities in the design and implementation of a resettlement process?
 8. What are the rights that affected people have in a resettlement process?
 9. How is the relation between National and Local governments in terms of the resettlement process?
 10. Is there any instruction for the local government, about how to fulfill the rights of the affected people?
 11. Is there any instruction about how to have a participative process?
 12. What is the role of the National government in terms of the monitoring process in these cases?
 13. According with your experience, what were the elements that facilitate the respect, protection and fulfill of the affected people's rights in a resettlement process?
 14. According with your experience, what were the elements that constrain the respect, protection and fulfill of the affected people's rights?
 15. What are the most important factors that make a successful resettlement? (institutional, social, political, financial, etc.,)
-

Annex 3.3. Semi-structured interview – Local Public organization

General information:

1. Name of the organization _____
2. Position on the organization _____

Institutional arrangement information:

3. In which norms and guidelines were the resettlement process based on?
4. How long did it take the design and implementation of the resettlement process?
5. Which organizations from the National Government took part on the resettlement project? Which role did those organizations from National Government play?
6. Did other organizations take part of the resettlement processes? Which ones? Which role did those other organizations either public or private play?
7. What kind of programs do the National Government has available to support local entities in the design and implementation of a resettlement process?

Process implementation information

8. What are the rights that affected people have in a resettlement process?
9. What were the measures taken by the project to protect, respect and fulfill the human rights of affected people?
10. What were the measures taken by the project to create awareness on the affected people about their rights?
11. Can you describe the process of the design and implementation of the resettlement plan.
12. How did the project select the beneficiaries of the resettlement project?
13. What did you give to the affected people such as part of the compensation package? (Cash, in kind, technical support, psychological support, legal support)
14. Did the affected people have the option to choose what kind of compensation package they wanted?
15. How did the project measure the value of the compensation package for each person?
16. What kind of meeting did you develop in order to include the affected people into the design and implementation of the process?
17. Apart from the meetings, did the project use other ways to inform the people about the process?
18. Did the project have a claim system? How did it work?
19. How the monitoring process worked?
20. Did any organization monitor the resettlement process?
21. According with your experience, what were the elements that facilitate the respect, protection and fulfill of the affected people's rights?
22. According with your experience, what were the elements that constrain the respect, protection and fulfill of the affected people's rights?

Annex 3.4. Semi-structured interview Community

1. Gender:
2. Are you the head of the household?
Yes No
3. What was your condition in terms of ownership?
I was an owner (with title) I was a informal dweller
Other, which one? _____
4. What kind of property did you have?
Commercial Social Socio-economic
5. Can you explain please, how was the resettlement process that you experienced?
6. Did other organizations support you in this process?
7. What did you receive such as part of your compensation package from Megabus?
8. Apart from the money, did Megabus support you in other aspects during the resettlement?
9. Did you receive from Megabus different options to decide your compensation package?
10. Was the compensation package more or less than you expected to receive from Megabus?
11. Did this process bring a good change for you?
12. What type of meetings did the staff of Megabus have with you?
13. How did you know about the meetings?
14. During the resettlement process, were the authorities available to hear your complaints and grievances? Please explain the steps that you had to fulfill in order to talk with the authorities about your complaints.
15. Did any community organization make a monitoring process of this project?
If no, who did the monitoring process?
If yes, did you take part of the community organization?
16. Is there something that you would change in the way Megabus handled this process?

Annex 4 – Example of Atlas ti. analysis

8 quotation(s) for code:

Institutional arrangement - accountability

Report mode: quotation list names and references

Quotation-Filter: All

HU: Analysis Case Study El Plumon
File: [C:\Users\SANDRA\Desktop\Documentos para salvar\Master do...\Analysis Case Study El Plumon.hpr6]
Edited by: Super
Date/Time: 06/08/13 10:48:34 p.m.

P 8: E_L_Infrastructure Department.doc - 8:6 [El Banco Mundial hizo un segui..] (16:16) (Super)

Codes: [Institutional arrangement - accountability]

No memos

El Banco Mundial hizo un seguimiento a las acciones realizadas por Megabús. Ellos venían periódicamente para ver cómo estaban las cosas, y daban recomendaciones.

P11: E_N_Institute of Urban Development in Bogota.doc - 11:13 [¿Desde el Gobierno Nacional ha..] (30:31) (Super)

Codes: [Institutional arrangement - accountability] [Institutional arrangement – equality and non-discrimination]

No memos

¿Desde el Gobierno Nacional hay otros apoyos al Gobierno Local en el tema de reasentamiento?

Entrevistado: Al menos para Bogotá, no. Nisiquiera opinan.

P16: G_N_Infrastructure DNP .doc - 16:2 [Desde el DNP el seguimiento qu..] (9:9) (Super)

Codes: [Institutional arrangement - accountability]

No memos

Desde el DNP el seguimiento que se hace es verificar que la reglamentación que plantea el Ministerio se esté llevando a cabo. Desde el Ministerio ya tienen un equipo específico que hace seguimiento a que los procesos en territorio se estén llevando a cabo a los lineamientos que se tienen en este tema.

P16: G_N_Infrastructure DNP .doc - 16:3 [El Ministerio de Transporte ti..] (11:11) (Super)

Codes: [Institutional arrangement - accountability]

No memos

El Ministerio de Transporte tiene una unidad que hace el seguimiento, verificación y acompañamiento de estos procesos. Allí cuentan con un equipo multidisciplinario, entre técnicos jurídicos, financieros, de obra, y sociales.

P16: G_N_Infrastructure DNP .doc - 16:5 [Desde DNP se monitorea todo el..] (14:14) (Super)

Codes: [Institutional arrangement - accountability]

No memos

Desde DNP se monitorea todo el proyecto, y el reasentamiento es una parte. Sin embargo, el DNP no hace un seguimiento específico al proyecto de reasentamiento y a la comunidad.

P18: G_N_Assistand director of housing and urban development DNP.doc - 18:5 [El seguimiento de Nación en es..] (19:19) (Super)

Codes: [Institutional arrangement - accountability]

No memos

El seguimiento de Nación en estos proyectos que son cofinanciados es integral, tanto a los recursos como al impacto que tiene. Hay un tema que interesa monitorear y es la efectiva inversión de unos recursos, pero más allá de los recursos, se espera que el proyecto se culmine y comience a operar y que realmente opere.

P21: G_L_Coordinator Resettlement office Megabus.doc - 21:24 [Cómo funcionó el tema del moni..] (96:98) (Super)

Codes: [Institutional arrangement - accountability]

No memos

Cómo funcionó el tema del monitoreo al proyecto?

Entrevistado: Mes a mes teníamos que mandar informes de seguimiento al Ministerio de Transporte, a la unidad coordinadora y ellos a su vez subían esa información a Banco Mundial. Igualmente, el Banco como te conté hacía misiones de seguimiento periódicas. Desde la comunidad existe la junta de acción comunal, que también hacía veeduría. Pero el seguimiento de los líderes del sector y de las mismas personas a sus procesos fue todo el tiempo. Estuvo también Contraloría.

P22: G_L_Social Worker of Megabus .doc - 22:2 [El Banco Mundial fue el único,..] (15:15) (Super)

Codes: [Institutional arrangement - accountability] [Institutional arrangement – equality and non-discrimination] [Institutional arrangement – indivisibility and interdependence]

No memos

El Banco Mundial fue el único, ellos hacían visitas cada seis meses, y hacían era un seguimiento a cómo iba el proceso.

Annex 5 – Census sheet

V. CARACTERISTICAS SOCIOECONOMICAS (Por Unidad Social)			
V.I CALIDAD DE VIDA		V.II COHESION SOCIAL	
31. Composición de la Unidad Social:		35. Cuáles Instituciones que brinden servicios sociales reconoce?	
31.1 Total integrantes:			
31.2 Pareja Conviviendo:	Si <input type="checkbox"/> (Pase a 31.4) No <input type="checkbox"/>		
31.3 Cabeza de Flia ó jefa/e Hogar	Hombre <input type="checkbox"/> Mujer <input type="checkbox"/>		
31.4 Hijas _____ Hijos _____	31.5 Discapacitados/as _____	36. Cómo es su relación con los vecinos? Por qué?	
31.6 Adultos/as mayores _____	31.7 Otros/as _____	1. Buena <input type="checkbox"/>	
		2. Regular <input type="checkbox"/>	
32. ¿El hogar tiene ahorros?	1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	3. Mala <input type="checkbox"/>	
		4. Indiferente <input type="checkbox"/>	
33. Tiene deudas?	1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	37. ¿Tiene familiares en este barrio? 1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
34. Algún integrante de la US participa de organización comunitaria?		38. ¿Le gusta vivir en este barrio? 1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
	1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	1. Ubicación <input type="checkbox"/>	
1. Junta de Acción Comunal <input type="checkbox"/>		1. Zonas verdes <input type="checkbox"/>	
1. Grupos religiosos <input type="checkbox"/>		1. Acceso <input type="checkbox"/>	
1. Grupos deportivos <input type="checkbox"/>		1. Servicio de transporte <input type="checkbox"/>	
1. Cooperativa/agremiaciones <input type="checkbox"/>		1. Vecinos <input type="checkbox"/>	
1. Grupos ecológicos <input type="checkbox"/>		1. Seguridad <input type="checkbox"/>	
1. Otra / Cual? <input type="checkbox"/>		1. Otro / Cual? <input type="checkbox"/>	
VI. TRAMITES LEGALES QUE SE ADELANTAN SOBRE EL PREDIO			
40. Tiene deudas por impuestos? 1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>		41. Tiene deudas por servicios públicos? 1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
Si la U.S. encuestada es propietario pase a la pregunta 42, si es poseedor pase a la pregunta 48 y si es arrendatario pase a la pregunta 50.			
PROPIETARIO		POSEEDOR	
42. ¿Qué documentos del predio posee?		45. Tiene algún documento que acredite posesión del predio?	
1. Certificado de libertad <input type="checkbox"/>		1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	Cuál? _____
2. Escritura <input type="checkbox"/>		46. Indique la fecha exacta en la que inició la posesión	
3. Promesa de compraventa <input type="checkbox"/>		_____	
4. Otro / Cual? <input type="checkbox"/>		47. ¿Le ha entregado poder a un Abogado?	
43. El predio tiene algún tipo de afectación jurídica como:		1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
1. Gravámen <input type="checkbox"/>		Nombre del Abogado	
2. Patrimonio familiar <input type="checkbox"/>		Teléfono	
3. Sucesión Ilíquida <input type="checkbox"/>		48. ¿Ha radicado algún proceso de pertenencia?	
4. Embargo <input type="checkbox"/>		1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
5. Ninguna <input type="checkbox"/>		49. ¿En qué etapa se encuentra el proceso de pertenencia?	
6. Hipoteca <input type="checkbox"/> 1° grado <input type="checkbox"/> 2° grado <input type="checkbox"/>		1. Demanda presentada <input type="checkbox"/>	
7. Otro / Cual? <input type="checkbox"/>		2. Demanda admitida <input type="checkbox"/>	
44. ¿ Adelanta algún trámite legal?		3. Demanda registrada <input type="checkbox"/>	
1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>		4. Inspección judicial realizada <input type="checkbox"/>	
Cuál?		5. Sentencia <input type="checkbox"/>	
1. Sucesión <input type="checkbox"/>		6. Rechazo <input type="checkbox"/>	
2. Separación de bienes <input type="checkbox"/>		7. No sabe <input type="checkbox"/>	
3. Protocolización de escritura <input type="checkbox"/>		NOTAS: _____	
4. Registro de escritura <input type="checkbox"/>		_____	
5. Cancelación de hipoteca <input type="checkbox"/>		_____	
6. Desenglobe <input type="checkbox"/>		_____	
7. Levantamiento patrimonio familiar <input type="checkbox"/>		_____	
8. Embargo <input type="checkbox"/>		_____	
9. Otro / Cual? <input type="checkbox"/>		_____	
VII. RELACIÓN DE ARRENDATARIOS Y SUBARRENDATARIOS			
50. ¿Tiene arrendatarios? 1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>		Cuántos? _____	
51. Relacion de arrendatarios:			
a) Nombres y apellidos: _____		b) Nombres y apellidos: _____	
Tipo de contrato: _____	1. Escrito <input type="checkbox"/> 2.. Verbal <input type="checkbox"/>	Tipo de contrato: _____	1. Escrito <input type="checkbox"/> 2. Verbal <input type="checkbox"/>
Fecha Inicio: _____	Vencimiento: _____	Fecha Inicio: _____	Vencimiento: _____
Canon mes _____		Canon mes _____	
c) Nombres y apellidos: _____		d) Nombres y apellidos: _____	
Tipo de contrato: _____	1. Escrito <input type="checkbox"/> 2.. Verbal <input type="checkbox"/>	Tipo de contrato: _____	1. Escrito <input type="checkbox"/> 2. Verbal <input type="checkbox"/>
Fecha Inicio: _____	Vencimiento: _____	Fecha Inicio: _____	Vencimiento: _____
Canon mes _____		Canon mes _____	

IX. ANTECEDENTES Y EXPECTATIVAS FRENTE AL TRASLADO (Por Unidad Social)			
52. Lugar de origen de:		59. Si la opción es de compra les gustaría cambiarse a:	
1. Jefe de Hogar		1. Vivienda Nueva <input type="checkbox"/>	
2. Cónyuge		2. Vivienda Usada <input type="checkbox"/>	
53. ¿Cuántos años lleva viviendo en Pereira?		3. Lote para construir <input type="checkbox"/>	
54. ¿Cuántos años lleva en este barrio?		4. Le es indiferente <input type="checkbox"/>	
55. ¿Cuántos años lleva en el predio?		5. Otro /Cuál? <input type="checkbox"/>	
56. ¿Ha sido trasladado anteriormente?		60. ¿Tiene otra propiedad?	
1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>		1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>	
Cuantas veces?		(pase a 87)	
57. Conoce el proyecto XXXXXXXXXX		Tipo de propiedad	
1. Si <input type="checkbox"/> 2. No <input type="checkbox"/>		1. Lote <input type="checkbox"/> 2. Casa <input type="checkbox"/> 3. Apartamento <input type="checkbox"/> 5. Otro /Cuál? <input type="checkbox"/>	
58. ¿Frente a un eventual traslado qué acción ha pensado realizar?		Dónde está ubicada la propiedad?	
1. Comprar en otro lugar: independiente <input type="checkbox"/>		1. En el barrio <input type="checkbox"/>	
con otros vecinos <input type="checkbox"/>		2. En la localidad <input type="checkbox"/>	
1. Buscar un lugar en arrendamiento:		3. En otra localidad <input type="checkbox"/>	
En el mismo sector <input type="checkbox"/>		4. Fuera de la ciudad <input type="checkbox"/>	
En sitio cercano <input type="checkbox"/>		61. Posibles problemas frente al traslado	
Cualquier lugar ciudad <input type="checkbox"/>			
1. Vivir fuera de la ciudad			
1. Volver al lugar de origen <input type="checkbox"/>			
1. Indiferente <input type="checkbox"/>			
1. No Sabe <input type="checkbox"/>			
1. Otro / Cual? <input type="checkbox"/>			
62. Se anexa Ficha de Actividad Económica?		SI <input type="checkbox"/> No <input type="checkbox"/>	
63. OBSERVACIONES:			
64. INFORMACION ESPECIFICA DE CADA PROYECTO. (PUEDEN INCLUIRSE LAS PREGUNTAS COMPLEMENTARIAS QUE EL GRUPO DE REASENTAMIENTOS CONSIDERE IMPORTANTES PARA MEJORAR EL DIAGNOSTICO SOCIOECONOMICO Y EL CONOCIMIENTO DE LAS REALIDADES COMUNITARIAS) Esta informacion puede ir en hoja anexa.			
NOTA: Declaro que la información consignada en este documento es veraz			
Firma del Encuestado _____		Firma encuestador _____	
c.c.		c.c.	

Source: it was provide by the resettlement office of Megabus Resettlement Office's Coordinator, 2013.