

Country Report: Cambodia

RETA 6091: Capacity Building for Resettlement Risk Management

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Objectives

- ◆ To identify impoverishment risks associated with displacement and dispossession
- ◆ To practically suggest about how to address those risks through development interventions and assistance



Outputs

- ◆ Country Report sets out issues and options for resettlement risk management and recommendations to tackle those issues.
- ◆ Resettlement Handbook provides guideline for resettlement planning and implementation
- ◆ Resource Databank looks how and where the resettlement data sources can be set up and maintained.
- ◆ National Workshop promotes deeper understanding among stakeholders of issues involving involuntary resettlement



Methodology

- ◆ **Review of Literature**
- ◆ **Case Study 1: Resettlement Audit of Highway 1 Project**
- ◆ **Case Study 2: Post resettlement socio-economic study**
- ◆ **Stakeholder consultation**
- ◆ **FGD with PAPs**
- ◆ **Field observation and rapid assessment**



Findings

The findings are based on the two case studies.

- ◆ Highway 1 Project
- ◆ Kap Srov Dike Project

However, it is heavily depended on Highway 1 Project because resettlement audit was conducted. The proposed community need assessment for Kap Srov Project has yet conducted.

Findings: Legal Frameworks

Available legal framework for resettlement implementation of Highway 1 (or NR1) and Kap Srov (KS).

- ◆ Constitution 1993 say “The right to confiscate (land) possession from any person shall be exercised only in the public interest as provided for under law and shall require fair and just compensation in advance”.
- ◆ Land Law 1992 says “No person shall be deprived of his ownership, unless it is in the public interest. An ownership deprivation shall be carried out in accordance with the forms and procedures provided by law and regulations and only after the payment of fair and just compensation”.
- ◆ Prakas No. 6 (1999) on “Declaration on Eliminating Anarchy of Land Occupation” sets ROW for National Road 25-30m each side of the road but no urban areas were defined.
- ◆ MEF Decree No. 961 (April 6, 2000) is an Order issued to enforce *Prakas No 6* ??
- ◆ Resettlement Implementation Plan (RIP): Revised several times.





Findings: Institutional Set Up

Three institutions were set up to handle resettlement implementation of NR1 and KS.

- ◆ Inter-ministerial Resettlement Committee (IRC) is responsible for overall management of resettlement activities.
- ◆ Executive agencies: Ministry of Public Works and Transport, MPWT for NR1 and Ministry of Water Resource for KS are responsible for preparation and implementation of resettlement plan. But, normally, RP is prepared by the consultant
- ◆ Provincial Resettlement Sub-committee for NR1 and Municipality of Phnom Penh for KS is responsible for coordination and cooperation for RP preparation and implementation.



Findings: RI was not in accordant with loan agreement

- ◆ Resettlement implementation was not in accord with the loan agreement or with the Bank's Policy on Involuntary Resettlement in relation to entitlement for compensation, compensation at replacement cost, and, income restoration strategy



Findings: Aspects that was ignored

- ◆ ADB realized that the approved RP was not in accordance with the ADB's Policy on Involuntary Resettlement. It was deficient in two main aspects, the implementing and responsible institutions were not assessed with regard to capacity and mandate, and secondly social aspects of resettlement were not well planned, especially as they related to relocation sites and income restoration



Findings: The change of COI

During the conduct of DMS, Census and Inventory COI was change several times leading to inconsistency in eligible the affected assets.



Findings: Lack of information dissemination

- ◆ APs were not well informed of their rights and compensation. The booklet did not provide information on the compensation rates and other allowances, considered by the RGC as confidential information



Findings: Improper Grievance Procedure

- ◆ A grievance committee was not established and there was no clear grievance redressal procedure
- ◆ The IRC at the central level went to solve the problems directly with the APs and the PRSC play only coordinating role.
- ◆ The legitimate grievances were not redressed, the solutions were in practice reached verbally with no written record being made



Findings: Compensation was not in full

- ◆ Most APs were reluctant to receive limited compensation referring to a "contribution" to the cost of relocation, stating that that is the Government's policy and that they had no choice.
- ◆ Most affected households thought that the offered amounts of compensation were not enough, they understood that if they refused they would have nothing.
- ◆ Some APs did not agree with the amount of compensation because it was not enough for them to relocate to a new place



Findings: Compensation was not at replacement cost

- ◆ The IRC applied depreciation and deducted the value of salvaged materials (e.g. affected buildings) from the compensation given to the APs.
- ◆ The APs who had more than 1 affected main building but were only given a disturbance allowance for 1 building
- ◆ No tenant was reflected in the records of the IRC but found during Resettlement Audit



Findings: Compensation was not for all

- ◆ The severely affected APs who have to shift elsewhere were not recorded by IRC-WG
- ◆ Not all APs who lost assets in the by-pass roads were compensated. There were some APs who lost productive assets and was not paid compensation and have been driven to poverty
- ◆ There were numbers of female-headed households have not received additional assistance



Female-headed households suffered the most

From FGDs among the PAPs found that female-headed households with young children spent more time and money to removed and rebuilt their house since they have no man labor force to help.



Findings: Consequential losses

- ◆ Some of livelihood-dependent shops would actually suffer disruption in their operation and thus lead to financial losses and a number of such businesses actually ceased operations after the APs were resettled.
- ◆ Inadequate compensation, as well as the uncoordinated and unplanned transition between resettlement and the start of civil works resulted to “consequential losses” to people. For instance, people who are not paid adequately would borrow money when they reestablish their lives




Findings: Relocation & Rehabilitation

- ◆ 75 severely affected AP households who had to relocate from their former location but they had neither a backyard behind their present location nor land elsewhere to which they could relocate
- ◆ The ad hoc Working Group is proposing that Government provide each landless AP who lost entire land in the ROW \$600 (with \$400 enough to pay for a replacement land with an area of at least 100 m², and, \$300 as income restoration assistance).




Findings: Expeditious Resolution of Complaints and Unsettled Claims

- ◆ Start of commune-level public meetings with APs
- ◆ Rehabilitation assistance to APs whose livelihood was severely affected by the project
- ◆ Processing of reimbursement of APs who lost structures
- ◆ Conduct a verification of unpaid financial assistance to 142 women-headed households and disturbance allowance to the owners of 24 affected buildings
- ◆ Flood preventative measures for the two bridges
- ◆ Awarding of Land Title to APs who Own Land Outside of ROW



Findings: Internal Monitoring & Evaluation

- ◆ The number of affected persons was not appropriately inventoried and compensated
- ◆ The internal monitoring body was set up after ten months of RP implementation. All staff are government staff and assigned to work on this issue on a part-time basis. There was a lack of indicators to monitor the project and the staff need more training. The monitoring report was late. As of July 2001, the most recent available monthly progress report was for March 2001



Findings: External Monitoring & Evaluation

- ◆ NICFEC, external monitor, could not perform the assignment as imagined. There was a lack of experience and technical training.
- ◆ Additionally, NICFEC did not have the RP at the first stage of monitoring until intervention by the ADB

Lesson Learned: Risk-Scoring Matrix

Compare to 8 risks by Micheal M. Cernea

Risk	Low	Moderate	High
Landlessness			X
Homelessness		X	
Joblessness and business opportunity		X	
Marginalization		X	
Increase morbidity and mortality	X		
Food insecurity	X		
Lost of access to common property	X		
Social disarticulation	X		





Lesson Learned: Outstanding resettlement risks

- ◆ Landlessness: During the audit 75 PAPs were found landless however during the public meeting for re-compensation more than 200 PAPs claim as landless
- ◆ Joblessness: No real figure resulted from the Audit however numbers of PAPs reported moved to capital city of PHN to fight job after the loss of their business stall. Clear evident for Kap Srov that more than half of PAPs displaced move back to the city for employment.
- ◆ Homelessness: Many PAPs are now living in a temporary settlement awaiting for the government assistance.
- ◆ Marginalization: At least 3 PAPs claimed that they lost productive land and, therefore, their livelihood is now facing difficulty. Many PAPs in Stung Slot lost permanent business stall.



Recommendation: Regulatory Framework

- ◆ The draft national resettlement policy should be improved and approved in order to be an umbrella for further development of regulatory framework.
- ◆ The RGC should strongly support the development of Resettlement Sub-decree initiated and supported by ADB.



Recommendation: Resettlement Sub-decree

- ◆ The development of Resettlement Sub-decree should be taken into account the policy of the donor agencies in Involuntary Resettlement.
- ◆ Special attention should be paid on vulnerable and ethnic minority groups.
- ◆ Resettlement process should be integrated into the development process.



Recommendation: Institutional Strengthening and Capacity Building

- ◆ There are three key legal bodies presently involving in resettlement efforts, however MEF/IRC play dominated role in all aspects of resettlement although it was agreed that resettlement planning and implementation is to be carried out by the technical ministry (an Executive Agency-EA). This act is creating an environment of conflict of interest among the RGC's legal bodies in carrying out resettlement planning and implementation
- ◆ Therefore, effective institutional arrangement for resettlement should be clearly stated in the Resettlement Sub-decree.



Recommendation: Role and Responsibilities

The below recommendation is in line with recommendation stated in the draft Resettlement Policy 2001:

- ◆ **MEF** should be solely responsible for financing compensation cost regardless of funding source
- ◆ **MLMUPC** should be responsible for regulatory development including a) coordinating the development of National Resettlement Policy, Resettlement Sub-decree and guideline/procedure for resettlement planning and implementation; b) guiding, advising and training the EAs in resettlement planning and implementation; and c) periodic monitoring the compliance and enforcement of resettlement-related regulatory framework. MLMUPC should be a permanent legal body providing guidance and training to the EAs on all aspects of resettlement planning and implementation and monitoring the compliance of regulatory framework.



Recommendation: Role and Responsibilities (Con't)

- ◆ **Technical Ministries/Agencies** i.e. MPWT, MOWRAM, MIME etc. are an executive agency that should be responsible for carrying out all aspects of resettlement planning and implementation and redressing grievance. Detailed tasks of EAs can be found in the Resettlement Handbook. However, clear assigned tasks will be defined during the course of the Sub-decree development
- ◆ **PRS** should be responsible for coordinating and cooperating with Executive Agency in resettlement planning and implementation and provide all necessary coordination works. Detailed tasks of PRS can be found in Resettlement Handbook. However, clear assigned tasks will be defined during the course of the Sub-decree development




Recommendation: Guideline for RP&I

- ◆ Guideline for resettlement planning and implementation should be developed under the Resettlement Sub-decree.
- ◆ It may be a good idea that Resettlement Handbook for planning and implementation developed under this RETA6091 should be reviewed, improved and adopted by the RGC as soon as possible and used as a temporary guideline during the absence of enacted Resettlement Sub-decree.
- ◆ If the guideline is proven to be a good practice tool it can be enacted as a legal instrument under the Resettlement Sub-decree



Recommendation: Monitoring and Evaluation

- ◆ Past resettlement monitoring practice, not only the case of Highway 1, indicated that most of EMA had difficulty collecting its fees when its monitoring reports cited weaknesses in the way resettlement implementation was being carried out.
- ◆ Therefore, some EMAs loss its neutral and independent position as they were afraid that part of its fee is difficult to collect or unpaid.
- ◆ Therefore, it is recommended that external monitoring cost should be included in the project cost and EMA should be paid directly from the project budget. If possible, the contractual arrangement should be with ADB



Recommendation: Monitoring and Evaluation (Con't)

- ◆ Failure of effective RP&I did not rest fully on IRC. Part of this failure rested on ADB as it had never provided capacity building or guidance to IRC regarding ADB's Involuntary Resettlement Policy, how to prepare and implement the resettlement plan.
- ◆ Resettlement technical backstopping from ADB is on Ad hoc basis.
- ◆ Communication between IRC and ADB's resettlement specialist was rare.

Therefore, it is a clear need that ADB should have an in-country resettlement specialist that is able to provide regular technical-back-stopping and guidance of all resettlement aspects to the RGC's agency



Recommendation: Grievance Mechanism

- ◆ Experience indicates that most of the complaints and grievances in resettlement arise mainly due to the lack of transparency and weak, or lack of information dissemination and consultation by project authorities.
- ◆ IRC at the central level settled the grievance directly with the APs.
- ◆ Project authority is responsible for carrying out census, inventory preparation and socio-economic surveys, as well to determine entitlements to compensation, allowances and other assistance, therefore they may be the only one who are able to address any complaints and grievances arising out of these issues effectively and at local level.

Therefore, Grievance Committee should be established at the lowest level of the government hierarchy by inclusion of representatives of local NGOs and EMA. The redressal should be conducted in a transparent and informative manner.



Thanks You For Your Attention