
Acknowledgments

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Abbreviations

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| ADB | Asian Development Bank |
| AP | affected person |
| CPR | common property resource |
| DMC | developing member country |
| EA | executing agency |
| IRC | Inter-ministerial Resettlement Committee |
| LAA | Land Acquisition Act |
| Lao PDR | Lao People's Democratic Republic |
| NGO | nongovernment organization |
| NHAI | National Highways Authority of India |
| NPRR | National Policy on Resettlement and Rehabilitation |
| PRC | People's Republic of China |
| RETA | regional technical assistance |
| RP | resettlement plan |
| RRM | risks and reconstruction model |
| STDP | Southern Transport Development Project |

Definitions of Risks and Reconstruction Model's (RRM) Terms

Landlessness

Unless productive land is given as replacement for acquired land or viable sustainable livelihoods are provided, affected people are impoverished.

Joblessness

When development projects deprive people of employment and no reliable alternative employment and training are provided, they end up in poverty.

Homelessness

Where compensation is not paid for acquired homes, or building plots are not given, or compensation is insufficient to replace structures, affected families can suffer loss of a basic human right—shelter.

Food Insecurity

Sudden drop in food production due to land acquisition can lead to malnutrition and a propensity to disease.

Marginalization

Displaced people are often unable to use their traditional skills in their new locations causing a decline in their social status and confidence.

Increased Morbidity and Mortality

Relocation to areas that expose affected people to parasitic and water-borne diseases and where basic facilities, such as safe drinking water and sanitation are inadequate, leads to higher incidence of disease and even death, especially among infants and the elderly.

Loss of Access to Common Property

Failure to provide alternative solutions to restore benefits that poor and landless people derive from common property like forests, water bodies, and grazing land can cause poverty.

Social Disarticulation

When affected people are dispersed during resettlement, existing social structures and links are broken leading to a loss of vital informal supportive networks.

Executive Summary

Regional technical assistance (RETA) 6091: Capacity Building for Resettlement Risk Management is a continuation of the Asian Development Bank's (ADB) efforts to improve involuntary resettlement in the developing member countries (DMCs). The RETA is designed to improve understanding resettlement risks specifically related to implementation and country-specific resettlement issues, asset valuation, and capacity development. The RETA raises key issues with regard to addressing potential impoverishment risks through, asset valuation to pay replacement value, better definition of impacts especially on vulnerable groups, and more effective income restoration approaches.

Michael Cernea's risks and reconstruction model (RRM) identifies eight risks in involuntary resettlement that, when identified early in the project cycle, can help plan appropriate risk reduction strategies. These risks are: landlessness, joblessness, homelessness, marginalization, increased morbidity and mortality, food insecurity, loss of access to common property resources, and social disarticulation.

Three countries participated in the RETA: Cambodia, the People's Republic of China (PRC), and India. The outputs from the RETA include three country reports, four thematic papers on selected topics from the PRC, two handbooks on resettlement for the highway/road sector (Cambodia and India), a paper discussing asset valuation, a set of training modules on RRM, and a paper on impoverishment risk by Dr. Michael Cernea. Case studies and field research provided inputs for the country reports.

National workshops were held in each participating country to promote deeper understanding among stakeholders of issues involving involuntary resettlement, to validate the findings of the country studies, and to learn from project implementation experience.

The three RETA countries participated in a regional workshop held in Manila in December 2005, attended by 60 participants. The keynote speaker,

Dr. Walter Kalin, Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons, called for a rights-based approach to resettlement. Cambodia's presentation pointed out that involuntary resettlement experience is quite recent and the necessary legal and policy frameworks are being developed. In India, land acquisition and compensation are based on two key pieces of legislation, the Land Acquisition Act (LAA) and the National Highways Act (applicable to the national highway sector). The National Policy on Resettlement and Rehabilitation (NPRR) has, for the first time, formally recognized the need to assist people affected by involuntary resettlement. In the PRC, serious efforts have been made over the last 7 years to study land acquisition and land management, with a view to strengthening the Land Administration Law, to provide greater support to affected people. Decree 28, approved in 2004, improves procedures for transparency. Public consultation and measures for providing adequate compensation to ensure affected people are able to restore their livelihoods. Professor Cernea suggested that resettlement practice should shift from mitigation to reestablishing the economic resource base of affected persons (APs). He called for a development approach to resettlement, with adequate funding for essential investments needed to address potential risks to affected people. Presenting the asset valuation study, Dr. Ping Li pointed out that there were structural problems with the approach to compensation and valuation methods in all three countries. He presented several options for valuing assets to ensure that APs receive replacement value. The main basis of his proposal is the willingness to accept principle where APs have the option of a negotiated settlement agreeable to both parties.

Cambodia's country report has proposed that the Government adopt the draft national resettlement policy. Until that is done, the Resettlement Handbook prepared under this RETA can be used to guide resettlement in the road sector. The roles and responsibilities of

government bodies involved in projects with involuntary resettlement must be clarified. Appropriate training in resettlement should be given to the personnel in these agencies. External monitoring agencies must be free from pressures from Government. Project authorities should be more transparent in handling resettlement and should provide adequate information to APs about the project and their rights under the resettlement policy. Grievance redress mechanisms must be organized at the grassroots level, with the participation of nongovernment organizations and APs.

In **India**, compensation at replacement value is more likely to be paid in projects which are financed or co-financed by financial institutions that have policy requirements for involuntary resettlement. The difference between compensation and replacement value is possibly about 2.5 times. No laws clearly define the methodology to arrive at compensation and replacement value. “Replacement value” should be substituted for “market value” in the LAA. Rules should be prepared under the LAA to clearly set out the valuation procedure to determine replacement value. Recently land has been acquired through direct negotiation with APs in a road sector project in Uttar Pradesh. The process took only 5 months. National Highways Authority of India has started using this method for its Allahabad Bypass project. Weak planning and inadequate funding are responsible for poor outcomes in income restoration. To improve planning, socioeconomic surveys have to be more comprehensive to generate specific data on the social and economic status of project-affected people. APs should be involved in this process. Gender dimensions of displacement have to be carefully assessed to formulate appropriate responses. The positive elements of NPRR should be integrated with the LAA. Risk analysis should be included in resettlement planning since the case studies clearly show that the risk of not restoring the livelihoods of affected people is real in highway projects.

The **PRC** studies covered the following topics: (i) the implementation of land acquisition with particular reference to the application of “public interests” and proposing three reform plans for land acquisition, and providing guidelines for the compilation of land acquisition literature; (ii) valuation methods for land acquisition compensation, recommending some fundamental principles on compensation in light of the PRC’s land ownership system, socioeconomic development; and taking into consideration factors such as the land market, land supply, and demand and

location when calculating compensation, based on investigations and pilot work; and (iii) resettlement policies and risk management of poverty. Through analysis of existing policy measures, the government’s role has been clarified in the resettlement of displaced farmers, especially in the improvement of APs’ housing conditions, job training, preferential employment policies, and relevant social security coverage. The risks facing displaced farmers have been analyzed; recommendations on risk management of displaced farmers have been made.

The studies on asset valuation in resettlement have identified that:

- (i) Implementation of land acquisition and resettlement in all three countries fails to prevent impoverishment.
- (ii) Significant legislative changes as well as improvements in practice are required to prevent adverse impacts on affected people.
- (iii) This has to be achieved through frank dialogue among governments, international agencies, civil society, and affected people.

Specific recommendations have been made for each RETA country to improve its asset valuation methodology for compensation in resettlement projects.

The studies have shown that two additional categories of risks associated with involuntary resettlement need to be addressed:

- (i) Legal and Policy Risks
 - Absent or weak political commitment, absent or inadequate legislative framework (incompatible with donor policies), absent or weak official commitment to address involuntary resettlement.
- (ii) Organizational and Management Risks
 - Insufficient resources (financial and human);
 - Weak capacity of executing agencies (EAs);
 - Poor resettlement planning; and
 - Poor implementation, monitoring, and evaluation with no mechanisms for follow through.

ADB experience with RRM risks has been identified and the adequacy of ADB policy and planning guidelines has been assessed. ADB's current position in relation to the additional resettlement risks identified above has also been analyzed. Commitment at the highest level, appropriate legislation, committed EAs supported by adequate financial and human resources are considered essential requirements to ensure that involuntary resettlement is successfully planned and implemented. There are gaps between ADB's resettlement policy and the legislative provisions for land acquisition and compensation in all three countries, and this is a major challenge for project planning and implementation. The weaknesses in resource allocation, staff deployment, resettlement planning, and implementation have to be addressed by DMC governments through greater commitment and appropriate policies.

This RETA suggests that ADB should review its involuntary resettlement policy, including all related guidelines and operating procedures to ensure that: (i) compensation standards more closely reflect market realities by requiring that replacement values be paid; (ii) income restoration for APs is improved;

(iii) resettlement planning is done more comprehensively especially by improving the analysis of the socio-economic conditions of affected people; (iv) monitoring and evaluation procedures are enforced more strictly, and (v) grievance redress processes are made more effective. Another significant inference from the RETA is that ADB staff should review resettlement implementation at more frequent intervals, especially in countries that do not have the expertise to plan and implement involuntary resettlement. There are significant deficiencies in two areas in all three RETA countries: (i) inappropriate legislative and policy frameworks, and (ii) weak organizational and management capacity. Loan covenants' provisions on ADB resettlement policy are not being met. To address this fundamental challenge requires commitment at the highest levels of government, so that it can lead to action in the form of better legislation, greater involvement of senior officials, increased human and material resources for resettlement, and finally to sound resettlement planning and implementation.

The countries for their part should seriously address the issues identified in this RETA to improve involuntary resettlement.