
I. Introduction

A. Background and Objectives

Development projects often require physical and economic relocation of the local population. Affected persons (APs) who lose their land and livelihoods rarely benefit from the project. Project authorities, in order to minimize negative impacts, prepare resettlement plans (RPs), which are generally implemented by a third agency. Key resettlement tasks include planning, surveying and assessing impacts, designing grievance redress processes, establishing institutional linkages, ensuring participation of all stakeholders, assisting in relocation and rehabilitation, and income restoration. While these activities have discrete components that can be put on a time line, there is a close relationship among all the activities. During implementation, specific situations can arise leading to additional time and resource requirements, besides routine intervention of project authorities. Such situations include—but are not limited to—seasonal factors, social and economic concerns, training of support staff and financial constraints, and lack of coordination among the project authorities and various line departments. Therefore, there is a need for a document that serves as a guide to effective resettlement implementation for the implementing agency.

This handbook is intended to serve as a guide for implementing agencies/nongovernment organizations (NGOs) to plan and implement resettlement plan in order to build technically, financially, and socially successful projects.

Proper planning and implementation of resettlement is critical to the effective rehabilitation of APs. As resettlement in highway projects is of relatively recent origin, many implementing agencies, particularly NGOs,

have no prior practical experience of resettlement work. This, often, leads to confusion and gaps in execution of various activities resulting in unintended inconvenience and losses to APs.

Though the terms of reference (TOR) prepared by the National Highway Authority of India (NHAI) and the Public Works Department (PWD) contain the tasks to be undertaken, various operational processes have to be clearly spelt out to help NGOs carry out their tasks efficiently. Therefore, project authorities, NGOs, Executing Agency staff, and domestic consultants responsible for preparation and implementation of RPs are the target audience of this handbook.

B. Contents of the Handbook

The handbook has six chapters.

Chapter 1 provides the background and objectives of this handbook

Chapter 2 outlines the current legal and policy frameworks for land acquisition and resettlement in India and identifies the gaps when compared with policies of funding agencies

Chapter 3 describes the institutional structure for land acquisition and resettlement in India and provides the background to management of resettlement in the highway sector.

Chapter 4 discusses lessons that have been learned from highway projects especially in relation to potential impoverishment risks.

Chapter 5 provides guidelines on resettlement planning.

Chapter 6 presents detailed information on resettlement implementation.

II. Legal and Policy Frameworks for Land Acquisition and Resettlement in India

A. Introduction

Until 2003, the only legal framework governing resettlement applicable to all sectors at the national level was the Land Acquisition Act, 1894 (amended in 1984), which was an enabling legislation for land acquisition and not for resettlement. In 2004, the National Policy on Resettlement and Rehabilitation for Project Affected Families (2003) was published in the *Gazette of India*, Extraordinary Part I, Section I, dated 17 February 2004. The policy applies to projects where 500 or more families have been displaced en masse in plain areas and 250 families or more in hilly areas and areas mentioned in Schedule V and Schedule VI of the Constitution. The benefits under the policy are applicable to all project-affected families—those living below the poverty line and others. The policy states that rehabilitation grants and other monetary benefits are minimum and that State Governments and project proponents are free to adopt packages higher than this.

The positive feature of the policy is an acknowledgement of the fact that displacement results in “state-induced impoverishment”. It also recognizes that “no developmental project can be justified if a section of society is pauperized by it.” Thus, the policy for the first time made an attempt to correct the shortcomings of the existing legal regime by proposing that resettlement and rehabilitation are exercises in pro-poor development in line with the Constitutional aspirations of social justice, in contrast to the Land Acquisition Act which only focuses on statutory compensation.

The existing legal provisions relevant to land acquisition and resettlement include

- The Land Acquisition Act, 1894
- The National Highways (NH) Act, 1956
- National Policy on Resettlement and Rehabilitation for Project-Affected Families, 2003

- Policies of State governments and parastatal agencies

B. Land Acquisition Act, 1894

For any development project, land is acquired through the omnibus Land Acquisition Act, 1894. Development authorities are dependent on state government revenue departments for acquiring land. The District Collector (DC) appoints the competent authority (Special Land Acquisition Officer) to acquire the land for public purposes.

The Land Acquisition Act, 1894 provides three methods for arriving at the value of land, which are (a) government-approved rates; (b) capitalized value of average annual income from the land; and (c) prevalent market rate based on the average price paid in land transactions in the locality in recent times. These procedures consider land only as a commodity generating income. However, when a family is settled on a piece of land not only does it earn its livelihood from it but it also has a whole social network, and the Land Acquisition Act does not address these wider impacts of land acquisition.

C. The National Highways (NH) Act, 1956

For the purpose of development, maintenance, and management of national highways, a special law, The National Highways Act (NH Act), 1956 has been promulgated. This Act provides for acquiring land through a “competent authority”, which means any person or authority authorized by the Central Government by notification in the official Gazette to perform functions of the competent authority for such areas as may be specified in the notifications. For land acquisition (LA), the Act defines the various procedures as (i) section 3A—intention of Central Government to acquire land, (ii) 3B—power to enter for survey, (iii) 3C—hearing of objections, (iv) 3D—declaration