
VI. Findings and Recommendations

A. Land Acquisition and Compensation

1. Findings

In highway projects, the land requirement normally turns out to be more than what is generally indicated in the resettlement plan. Similarly, the number of APs also exceeds the number that the resettlement plan indicates. This was noticed not only in case study projects, but also in most of the NHAI projects as well as state highway projects. Presented below are findings from the case study villages:

- (i) Although land is being acquired under the National Highways Act, 1956, land acquisition has not proceeded at a fast enough pace;
- (ii) The need to purchase additional land and the complexities of disbursement procedures are delaying payment of compensation to the titleholders;
- (iii) As compensation and replacement are disbursed by two different agencies, competent authority, and project implementation unit respectively, titleholders do not get the all their payments from the same source and at the same time;
- (iv) The delays in finalizing the micro plans have occurred because the deputy commissioners/district magistrates were often unavailable to chair the meetings of the district committee, which is the authority approving the micro plans; and
- (v) No legislation clearly defines the methodology to arrive at compensation and replacement value.

2. Recommendations

a. Operational issues

The current practice in NHAI is to hire field revenue officials (*Tehasildar*) at the implementation stage. Instead, NHAI should hire the official right from the planning stage either on deputation or on contract basis. This will help NHAI draw up accurate land acquisition plans from the beginning, thus avoiding subsequent delays.

The policy of NHAI should make it mandatory to disburse both compensation and assistance in one single payment. Since it is not possible to disburse both at one single point of time due to operational problems, NHAI should ensure that assistance is paid at least within 3 months of payment of compensation. NGOs should monitor the APs to ensure that amounts received are being used for economic activities. This should be made part of the NGO's terms of reference (TOR).

In order to have proper land acquisition plans at the project preparation stage, it is important that DPR consultants' TOR specify one experienced land acquisition specialist, with a minimum experience of three highway projects.

b. Policy issues

To arrive at compensation value, the comparable sales method is normally applied. However, this method does not provide a realistic market value. Hence it is recommended that the productivity method be used.

The 2003 NPRR provides for rehabilitation grants and other monetary benefits well beyond the compensation for the loss of land and other immovable property. The NPRR, on its face, appears to go a long way to meeting the requirements of ADB's Involuntary Resettlement Policy. However, the NPRR being a policy and not legislation, it has no legal force. Therefore, it is important to integrate the NPRR with the Land Acquisition Act.

It is important to substitute replacement value for market value in the Land Acquisition Act, as market value is synonymous with sales deeds. As a result, market value is always less than the replacement value.

The Government has not issued rules to the Land Acquisition Act, although it is considering doing so. Such rules, if they contained some specific valuation guidelines, could eliminate much of the undervaluation problems that currently occur in the Act's implementation.

In order to avoid high land-registration payments (which vary from state to state, from 8% to 10%) on purchase of property, reduced property values are shown on records. Since sales deeds are considered by the special land acquisition officer to arrive at a compensation value, it is invariably low. It is suggested that the registration value for property should be fixed, as currently done by Uttar Pradesh, based on circle rates. This will force people to record realistic prices for property.

B. Income Restoration

A study of various resettlement plans and discussions with sector professionals have thrown enough light on the general nature and direction of income restoration activities being currently planned and undertaken in various highway projects in India.

Though there is an increasing awareness and appreciation of income restoration needs of project-affected people at various levels, there has yet to be a corresponding emphasis on income restoration issues in the actual preparation and implementation of resettlement plans. This is most evident in the generally poor quality of resettlement plans in terms of their income restoration component and a total lack of effort on the part of project authorities to build the capacities of project functionaries in the field and NGOs engaged for implementing such plans. As a result, field staff, including NGOs, are unable to implement income restoration activities efficiently or effectively.

1. Findings

The findings of the study are as follows:

- (i) There is a lack of sufficient consideration, concern, and commitment, on the part of the planning and implementing agencies, to implement income restoration activities. Poor income restoration planning is due to lack of

adequate knowledge and personnel among DPR consultants.

- (ii) Both project implementation units and implementing NGOs often do not have the necessary knowledge, skills, and attitude to design and implement income restoration activities, nor are they trained to do so.
- (iii) Income restoration activities are perceived as a practical impossibility within the given time frame of implementation, and therefore, as an obstacle to be overcome for implementing the main investment project.
- (iv) So-called "income restoration activities" are frequently limited to some customary training for skills upgrading.
- (v) Income restoration activities are often initiated, if at all, toward the end of the implementation process. As a result, there is hardly any time to implement them.
- (vi) The scope of income restoration activities is not clearly defined and is left open and vague, resulting in varying emphasis on their implementation.
- (vii) Assessment of the pre-cut-off date income of APs is limited to the questionnaire-based survey method, which is inadequate and unreliable. Moreover, this survey is often carried out in great haste under the pressure of a deadline and, therefore, does not have the required information.

2. Recommendations

The recommendations of the study are as follows:

- (i) A more in-depth study based on field investigations needs to be undertaken in order to develop a more empirically sound understanding of livelihood aspects of R&R, including income restoration of APs in highway projects in India.
- (ii) Generation of reliable baseline data on the income (as on or before the cutoff date) of the project-affected persons has to be made an integral part of the preparation of the resettlement plan. It is currently missing from most resettlement plans examined during the course of this study.
- (iii) Strict quality control measures need to be devised and applied for resettlement plan

- preparation, including carrying out census survey, socioeconomic survey, and income assessment of APs. Livelihood analysis, risk and vulnerability analysis, and perception mapping studies, etc., should be an integral part of resettlement plan preparation.
- (iv) Income assessment should be carried out in a participatory manner (using Participatory Rural Appraisal and Participatory Learning and Action tools) based on the active involvement of APs, in lieu of the questionnaire-based survey method currently in use.
 - (v) Income has to be viewed and addressed in the broader context of livelihood restoration (including asset and resource base, market linkages, and client base) and not simply in terms of cash income.
 - (vi) Income restoration activities need to be conceived and designed, as far as possible, within the already proposed project activities such as corridor management, safety zone management, and creation of wayside amenities.
 - (vii) Trades that are not capital intensive should be considered by the NGO.
 - (viii) In order to ensure effective income restoration interventions, appropriate policy interventions, institutional arrangements, and capacity building (including training of project staff and implementing NGOs) are critical. Well-designed financial planning with targeted intervention need to be evolved at the resettlement plan preparation stage itself. NHA needs to assume greater responsibility in this regard. The resettlement plan has to be an integral part of the main technical report of DPR, and not subservient to it.
 - (ix) In order to have adequate and practical income restoration plan preparation, it is important that DPR consultants' TOR specify one economist with experience in income restoration plan preparation, with minimum experience of three highway projects. Similarly, the NGO team should also have an economist with similar qualifications as the DPR consultants' team.
 - (x) NHA should provide comprehensive TOR to NGOs detailing each activity. As a result of vague statements like "any other activity as decided by CRRO," NGOs are made to carry

out many activities that are not part of their TOR.

- (xi) There should be two sets of NGOs working: one with a primary responsibility of relocation of DPs and CPRs as well as calculation of replacement value; the other to be responsible for income restoration and social responsibilities, such as creating awareness for HIV/AIDS, highway/road safety, child labor, etc.
- (xii) Even though NGOs do not have adequate personnel and expertise to carry out all the activities listed in their TOR, they are not in a position to hire professionals because of poor budgetary provisions. Hence there is a need to increase funding for this component.

C. National Policy on Resettlement and Rehabilitation, 2003

The following critical issues have been identified relating to the NPRR:

- (i) *Definition of plains and hills.* The policy is applicable only if 500 people in plains areas or 250 people in hilly areas are affected. The distinction between hilly and plains must be defined clearly to avoid any confusion. However, preparation of the resettlement plan should be optional but documents should be prepared to include a minimum of a census, inventory of affected assets, entitlement matrix, and cost of resettlement.
- (ii) *Residence requirement.* The NPRR requires that APs should have been resident in the project area for at least 3 years prior to the date of notification of the project. This requires legal clarification as it may be inconsistent with the existing Land Acquisition Act's provisions.
- (iii) *Parks and protected areas.* The policy does not apply to such areas. It is recommended that the implementation guidelines and/or a footnote in the policy indicate that for any restriction of access to natural habitat, project-specific measures provide for consultation with the potentially affected communities.
- (iv) *Cash compensation versus land-based and other mechanisms for economic rehabilitation.* It is suggested that a clear method be specified to assess income effects of land loss. Footnotes

should clarify that income restoration assistance is in addition to the allotment of replacement agricultural land. Footnotes should also clarify that compensation for loss of nonagricultural land can be paid in cash or in kind—land for land, where possible.

- (v) *Inadequate livelihood restoration packages for certain categories of APs.* It is suggested that an approach that is outcome driven rather than input driven should be adopted. This could be in the form of a footnote to indicate that the livelihood package designed for different categories of APs should ensure that they are able to restore their livelihood to at least preproject levels.
- (vi) *No specific provisions for those without legal rights to affected land.* A footnote should specify that assistance for APs should meet the overall objectives of the policy, i.e., that APs should be able to improve their livelihood from preproject levels. The assistance could be based on ongoing local government development programs.
- (vii) *Inadequate provisions related to linear resettlement.* The policy should specify criteria to calculate instances where a lumpsum payment of Rs10,000 is acceptable. Criteria should include: marginal livelihood impacts only, without displacement; no major impacts on structures; and economically viability of remaining assets for continued use. It should also specify that where these conditions are not met, the provisions of the policy on compensation and other assistance should apply.
- (viii) *Linkage of resettlement implementation with construction activities.* The policy should clearly specify that the payment of compensation and other assistance in full must be completed prior to displacement. Any long-term income restoration assistance such as training should be initiated prior to displacement.
- (ix) *Clarification of institutional arrangements for resettlement implementation.* The NPRR should specify that project proponents, on behalf of and with agreement of the District Collector (DC) should be responsible for preparation of the resettlement plan as well as its implementation after the plan is approved by the DC and the donors, where applicable. Project proponents should also be required

to submit periodic progress reports to the DC during implementation.

D. General Recommendations

Given the workload of ESDU, it is necessary that staffing levels there be augmented for effective monitoring of ongoing projects. Given current load and future projects, ESDU will require at least two social scientists to review resettlement plans and micro plans. They may be hired on a contract basis, initially for 1 year, and the contract can be reviewed based on their performance and workload (as NHAI hired a professional for HIV/AIDS). Social scientists can be hired either through consultancy firms or even individual consultants. These social scientists can also visit the field to review fieldwork during preparation and then implementation of the resettlement plan. The social scientist can report to the deputy general manager.

Very few NGOs are short-listed for resettlement plan implementation and a small group of NGOs get repeated assignments. As a result, the time of these experts is divided into a number of projects and output suffers. It is recommended that every state should prepare a panel of NGOs that can be trained in R&R activities and implementation of resettlement plans.

Implementation of resettlement plans requires teamwork, and the team has to be multidisciplinary in its composition. Every member of the team has to have a specific role. Table 27 suggests a team composition for resettlement implementing agencies.

NGOs should also hire the services of a government-approved valuer on a short-term basis. The NGO should have experience of implementation of projects in the following fields:

- (i) Rural development including forestry;
- (ii) Health (specifically in HIV/AIDS);
- (iii) R&R (in any field such as highways, roads, irrigation, industry);
- (iv) Income-generation schemes (individual or group level, like formation of self-help groups)

NGOs should also possess:

- (i) Adequate experience in handling large-scale databases;
- (ii) Sufficient experience in using participatory rural appraisal/rapid rural appraisal/core rapid appraisal techniques; and

Table 27: Suggested Team Composition for Resettlement Implementing Agencies

Position	Years of Experience	Qualification	Field of Specialization
Team Leader	15 (of which minimum 5 years in highway sector and should have adequate experience of leading a multi-disciplinary team)	Master's degree in sociology; social anthropology; economics; geography; social work or business administration (rural development) from recognized universities/institutions	Resettlement and rehabilitation or rural development
Key Professional I	10 (should have adequate experience in handling large-scale database)	Master's degree in economics or statistics or a Master's in Business Administration from recognized universities/institutions	Quantitative data collection and analysis
Key Professional II	10 (should be well versed with participatory rural appraisal [PRA] and participatory learning and action [PLA] techniques)	Master's degree in sociology; social anthropology; economics; geography; social work or business administration (rural development) from recognized universities/institutions	Qualitative data collection and content analysis
Key Professional III	10 (should have adequate experience in implementation of income restoration plans)	Master's degree in sociology; social anthropology; economics; geography; social work or business administration (rural development) from recognized universities/institutions	Planning and implementation of income restoration schemes
Key Professional IV	10	Degree in civil engineering	Highways, roads, and buildings

PRA = participatory rural appraisal, RRA = rapid rural appraisal.

Source: Prepared by the author.

- (iii) Adequate financial strength (must show at least 3 years audited financial statements, with various sources of income—domestic as well as international).

DPR consultants' teams were also found to be very weak. Table 28 suggests a team composition for DPR consultants.

Risk analysis, as an exercise in working out the nature and magnitude of risks, is conspicuous by its absence in most of the resettlement action plans being currently prepared for various projects across sectors (power, coal, highways) in India. Conventional project risk analysis evaluates the sources and magnitude of risks that may adversely influence the rate of return to project investments. But risks to people affected by the development interventions do not form a part of the risk analysis. Hence, risk and vulnerability analysis must be taken up as a mandatory exercise to provide necessary inputs for the resettlement plans to be prepared, in order to minimize the adverse impact of a project on people.

E. Recommended Studies

The following issues should be further studied in detail:

- (i) Integration of NPRR policies with the Land Acquisition Act;
- (ii) Procedures and processes for land acquisition;
- (iii) Approaches to resettlement, including standardization of methodology for valuation of compensation and assistance, and processes to enable delivery of project benefits with efficiency and equity;
- (iv) Need for technical assistance for capacity building to address systemic issues; and
- (v) Retrofit study of income restoration schemes implemented in TNHP and WTC to assess their sustainability.

Table 28: Suggested Team Composition for DPR Consultants

Position	Years of Experience	Qualification	Field of Specialization
Team Leader	15 (of which minimum 5 years in highway sector and should have adequate experience of leading a multi-disciplinary team)	Master's degree in sociology, social anthropology, economics, geography, social work, or business administration (rural development) from recognized universities/institutions	Resettlement and rehabilitation or rural development
Surveyor	10 (should have adequate experience in handling large-scale database)	Master's degree in economics or statistics or business administration from recognized universities/institutions	Quantitative data collection and analysis
Income Restoration Specialist	10 (should have adequate experience in implementation of income restoration plans)	Master's degree in sociology; social anthropology; economics; geography; social work or business administration (rural development) from recognized universities/institutions	Planning and implementation of income restoration schemes
Civil Engineer	10	Degree in civil engineering	Highways, road, and buildings
Land Acquisition Specialist	10	Retired revenue officials	

DPR = detailed project report.

Source: Prepared by the author.

