

Chapter Four

4. LESSONS FROM RECENT RESETTLEMENT EXPERIENCE

The source of information for this chapter is mainly documentation prepared by Acres International who has a technical assistance contract with the ADB to develop a national resettlement policy for Sri Lanka. The text highlighted in italics is a direct quotation from various documents prepared under that project.

Public and private sector development projects increasingly involve acquisition of private land. People whose homes and lands are taken then have to move elsewhere and resettle in locations that may be unfamiliar and even hostile in some instances. In general, resettlement has not been very successful and there are several recent examples in Asia where people have shown resistance to projects that cause displacement. Among the significant consequences of poor resettlement has been impoverishment of affected people due to landlessness, homelessness, increased mortality and morbidity, food insecurity, lack of access to common property and services, and disruption of the existing social organization. International, regional and national experience with resettlement has generated considerable knowledge on the planning and implementation of involuntary resettlement and this experience if used effectively can ensure that affected people are successfully resettled.

4.1 National/Provincial Experience

In Sri Lanka the land Acquisition Act of 1950 as amended in 1979 only provides for compensation for land, structure and crops. It does not require project executing agencies to address key resettlement issues such as (a) exploring alternative project options that avoid or minimize impacts on people; (b) compensating those who do not have title to land; (c) consulting affected people and hosts on resettlement options; (d) providing for successful social and economic integration of the affected people and their hosts; (e) paying for full replacement cost of all losses; and (f) full social and economic rehabilitation of the affected people.

"Environment" as defined in the National Environment Act No.56 of 1988 includes the physical factors of the surroundings of human beings including land, soil, water, atmosphere, climate, sound, odor, tastes and biological factors of animals and plants of every description. The mandate of the Environmental Act is to provide for the protection, management and enhancement of the environment and for the regulation, maintenances and control of its quality. The Central Environment Authority (CEA) has been empowered under the Act to recommend to the Minister a national environmental programme relating to the protection and management of the environment and to ensure that this is implemented. The Minister by order published in the Gazette has specified the projects and undertakings in respect of which approval should be obtained from the Project Approving Agency (PAA). Typically, the PAA is also the project proponent. The PAA is required to prepare an Initial Environmental Examination (IEE) or an Environment Impact Assessment (EIA) according to CEA guidelines.

The Minister has by gazette notification 772/22 published on 24 June 1993 determined the projects and undertakings for which approval is needed in terms of Part IVC of the Act. The schedule included item 12, which refers to involuntary resettlement exceeding 100 families, other than resettlement resulting from emergency situations. The Guidelines for Implementing the EIA repeats in Appendix 2 of the CEA's publication of 1998, the item in the gazette notification. However, agencies preparing EIA;s and the CEA have little experience with resettlement.

People have moved voluntarily, mainly to the dry zone, starting from colonial days. These were state sponsored settlement programe aimed at developing and exploiting land resources in that region, while relieving pressure on land in the wet zone. There are many commonalities between this type of "settlement" and "resettlement".

ADB and World Bank Policy	Provision in Land Acquisition Act or Other Legislation
Involuntary resettlement should be avoided where feasible	Followed in practice by the Minister of Lands but not prescribed by law. No legal requirement for project agencies to ensure this is done.
Where population displacement is unavoidable, it should be minimized by exploring all viable project options	No specific requirement in law or regulations.
People unavoidably resettled should be adequately compensated, so that their economic and social well being would be as favorable as it would have been in the absence of the project.	Compensation is limited to land structures and crops) under the Land Acquisition Act of 1950.
People affected should be informed fully and consulted on resettlement and compensation options.	No provision in the law.
Existing social cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities.	No provision in the law but was practiced in the Mahaweli Project where communities were moved together.
The absence of a formal legal title to land by affected group should not be a bar to compensation; particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance to provide to help them improve their status.	No provision in the law but recent projects has compensated people without little. De facto policy or selectively applied?
Involuntary resettlement should be conceived and executed as development project	No provision in the law. However, some projects have done this
The full costs of resettlement and	No provision in the law but donor –funded

compensation should be included in the projects costs.	projects have made provision for this.
Stakeholder participation in resettlement planning and implementation.	No provision. Rarely practiced.
Clear and accessible mechanism for grievance redress	LAA has provision to appeal to Courts and to Boards of Review on land matters; however, procedures are often tedious and expensive. No provisions to appeal on resettlement grievances.
Full disclosure of resettlement plans implementation strategies to affected persons.	No provision and rarely done.

- As indicated in the above comparison, the Land Acquisition Act does not provide for rehabilitation nor is it consistent with current international policies.
- A Draft National Involuntary Resettlement Policy has been adopted in the workshop at Marawila on 26-28 January 2001.
- The National Environmental Act and the Central Environmental Authority could provide the framework under which resettlement can be structured.
- Infrastructure development frequently causes involuntary resettlement. Lack of policy means approaches are not uniform and affected people not adequately compensated and resettled, and treated differently by different projects, depending on the executing agency and source of funding.
- Increased and national and international concern for project affected people; this is a matter of equity.
- TA case studies show that there are problems - see below.

4.1.1 Proposed National Policy on Involuntary Resettlement.

The Government of Sri Lanka received a grant from the Asian Development Bank in 1999 for the development of a National Policy on Involuntary Resettlement (ADB TA 3246-SRI). The Loan is to pave the way for Sri Lanka to adopt a National Policy on Involuntary Resettlement to ensure that people affected by development projects are treated in a fair and equitable manner, and that there are not inadvertently impoverished in the process. The policy, which would establish the framework for actual project planning, would apply to development induced involuntary resettlement, where the option to stay behind does not exist. Similarly, resettlement activities arising out of emergency situations would not be the subject of this policy.

The consulting companies of Acres International and InfoTech-I/D/E/A/S/ have drafted a National Involuntary Resettlement Policy that is now being subject to the public consultation process. The details of the policy as presented to the Working Group o in November 2000 are

outlined below and quoted) in italics) from the draft prepared for discussion by working groups.

a. Objectives of the Policy

- To ensure that people displaced by development projects are adequately compensated and successfully resettled, taking into account the need for reestablishing livelihoods and improving standards of living.
- to prevent state-induced impoverishment of people as a result of compulsory land acquisition.
- To minimize the trauma of displacement as a result of compulsory land acquisition.
- To ensure that project affected people have accessible processes for the redress of grievances.
- To have in place a transparent and accountable involuntary resettlement process.

b. Scope

- The policy will apply to all development induced land acquisition and resettlement (public and private sector) where more than 100 persons are affected.
- A Resettlement Action Plan will be required where 100 or more persons are affected.
- The Policy applies to all projects regardless of source of funding.

c. Policy Principles

- Involuntary resettlement should be avoided or minimized as much as possible within the project context, including review of alternatives to the project.
- Where displacement is unavoidable, displaced people should be assisted to improve their living standards.
- Affected people should be fully informed and consulted on resettlement and compensation options.
- Compensation should be based on full replacement cost and should be paid promptly.
- Resettlement land should always be the preferred option for compensation in the case of loss of land; cash compensation should only be an option in the absence of any land-based option.

- Resettlers should be economically and socially integrated into host communities if both parties agree to this.
- Gender equity issues should be accorded due consideration.
- Resettlement should be conceived as a development opportunity.
- Affected persons and hosts should receive specific project benefits.
- Affected people who do not have title to land should receive equal compensation and rehabilitation. Similarly, woman-headed households, indigenous people, other vulnerable groups (e.g., the elderly) should be identified and be given appropriate assistance to improve their status; any household below the poverty line should be brought above the line.
- Projects should bear all the costs of compensation and resettlement.

d. Institutional Structure

- This resettlement policy will be issued by the Central environment Authority (CEA).
 - The CEA will be responsible for implementing the National Involuntary Resettlement Policy (NIRP)
 - The CEA's capacity will be strengthened so that it could provide the necessary guidance to public and private sector agencies undertaking projects that have involuntary resettlement impacts.
 - The CEA will prepare regulations and guidelines on involuntary resettlement planning and implementation.
 - Agencies (like the RDA) that have significant resettlement tasks will establish Resettlement Units with adequately trained staff.
 - The CEA will conduct training courses in resettlement planning, implementation, monitoring and evaluation.
 - The CEA will review and approve the Resettlement Action Plans prepared by executing agencies, and make plans publicly available.
 - Responsibility for resettlement planning and implementation rests with project executing agencies.

e. Monitoring and Evaluation

- A system of internal monitoring should be established by project executing agencies to monitor implementation of the Resettlement Plan, including budget, time frame, and delivery of entitlements, consultation, grievances, benefits and satisfaction.
- Adequate resources must be made available by the project for monitoring.
- Monitoring reports should be regularly reviewed and action taken to make improvements where indicated.
- A further system of external monitoring and evaluation by an independent third party should be established to assess achievement of resettlement objectives.
- Affected persons and other stockholders should be involved in monitoring and evaluation
- Lessons learned from evaluation should be used to improve resettlement policy and practice.

The Working Group recommended improvements to the draft policy above which are even improvements to the ADB policy on Involuntary Resettlement. The draft policy is being revised and circulated for public comment.

4.2 Local Project Experience

Table 4.2 presents land acquisition and resettlement experience on projects in Sri Lanka.

Table 4.2 Local Project Experience – Case Studies

Evaluation Criteria	Project Experience
1. Greater Colombo Flood Control Programme (to relocate and upgrade low income communities living along canals) Sri Lanka Land Reclamation – SLLRDC)	
Implementing Agency	Sri Lanka Land Reclamation and National Housing Development Authority
Funding agency	OECD
Extent of land acquired	No information available
Number of families affected	2032 already relocated households; 6000 balance to be relocated
SIA completed	Completed and data inventoried
EIA completed	No information available

Resettlement Implementation Plan (RIP)	None
Stakeholder participation	Poor
Grievance mechanism	None
IFI policy adopted	None
Cost estimates made	No information available
Compensation Policies	Follow the NHDA policy on resettlement: <ul style="list-style-type: none"> • Compensation to owner at market value • Encroachers relocated to 2 perches of other land with title and access to loan from NHDA ranging (Rs. 20,000 – 25,000) • Shifting allowance of RS.1, 000 • 'Relocation sites fully serviced with electricity, pipe-borne water, communal toilets first then private, • Funds of construct house foundation. • Community centers provided
Income restoration strategies	Inadequate
2. Moragahakande Reservoir Project	No serious attention has been paid to the resettlement impacts of the project.
Implementing agency	Mahaweli Authority
Funding agency	No information available
Extent of land acquired	7800 ha
Number of families affected	951 to be relocated
SIA completed	No
EIA completed	Yes
Resettlement Implementation Plan (RIP)	No
Stakeholder participation	No information available
Grievance mechanism	No information available
IFI policy adopted	No
Cost estimates made	No information available
Compensation policies	No information available
Income restoration strategies	No information available
3. Kandy Industrial Park	
Implementing agency	Sri Lanka Board of Investment (BOI)
Funding agency	
Extent of land acquired	200 acres
Number of families affected	165 (lessees of state land)
SIA completed	yes
EIA completed	
Resettlement Implementation Plan (RIP)	No
Stakeholder participation	Consultation process limited to giving APs three compensation options.
Grievance mechanism	BOI reported a consultative approach with regular meetings and other APs. However, no special grievance redresses experience, and no

	knowledge/ experience of local conditions. APs had to accept or be ejected.
IFI policy adopted	No
Cost estimates made	Yes
Compensation policies	Option of cash only, or land and cash, or land and new model house. Basis of compensation was Chief Valuer's report; through a process of negotiation by which APs accepted Chief Valuer's rates.
Income restoration strategies	None specific, although APs' families were to be given first priority for jobs in the industrial park.
4. Kukula Ganga	
Implementing agency	Ceylon Electricity Board
Funding agency	JBIC and GOSL
Extent of land acquired	No information available
Number of families affected	91
SIA completed	Yes - 1992 but resettlement impacts were not clearly identified; baseline survey/census of all affected HH since then
EIA completed	Yes – 1997
Resettlement Implementation Plan (RIP)	None prepared; "plan as you go"
Stakeholder participation	None organized; people were misinformed.
Grievance mechanism	None except as provided under LAA. Special officer appointed to assist in resettlement. There are objections due to lack of adequate information, and perception of risk.
IFI policy adopted	No
Cost estimates made	No information available
Compensation policies	According to the LAA; no compensation paid to date but each HH will be paid a flat Rs.31,500 regardless of impact.
Income restoration strategies	Land (most under tea) will be inundated but income restoration not addressed.
5. Mahaweli System C	
Implementing Agency	Mahaweli Authority
Funding agency	No information available
Extent of land acquired	No information available
Number of families affected	6400 households
SIA completed	Socioeconomic survey and census
EIA completed	No information available
Resettlement Implementation Plan (RIP)	No information available
Stakeholder participation	Public meetings were held to explain the aims of the project; opinion leaders were identified and enlightened on the benefits; community leaders were brought to the settlement areas in

	<p>advance.</p> <p>The impact of the dam on people living in the area was not conveyed properly – poor public relations skills. There were protests against the construction of the dam.</p>
Grievance mechanism	No information available
IFI policy adopted	No
Cost estimates made	No information available
Compensation Policies	<ul style="list-style-type: none"> • No clear stated policy on resettlement; Mahaweli has settlement guidelines. • The main objective was to keep the social structure of the village group intact. • The majority of affected people was landless or had very small plots and they were offered land in the Mahaweli scheme. • Calculation of compensation and the true nature of the compensation package were not sufficiently transparent. • People have never seen the compensation package in printed form. • No compensation paid for garden crops. • Provisions made for business were inadequate and poorly planned. • APs could not transport all their assets. • Poorer households lost patron-client relationship in moving to an entirely new environment.
Income restoration strategies	<p>Access to farming inputs (agro-chemicals, farm machinery, draught animals, paddy seed, seasonal labour), credit (finance companies lending for purchasing machinery, markets, advisory services for 2-crop paddy. Attempts to diversify cropping patterns require competent technical staff backed by solid adaptive trials – not done successfully.</p>
6. Baseline Road Project	
Implementing Agency	RDA
Funding agency	JBIC/USAID
Extent of land acquired	No information available
Number of families affected	716 HH;200 squatters;5000 APs
SIA completed	No; partially covered within EIA
EIA completed	Yes
Resettlement Implementation Plan (RIP)	No proper plan prepared
Stakeholder participation	No specifically with APs
Grievance mechanism	No information available

IFI policy adopted	No
Cost estimates made	<ul style="list-style-type: none"> • Rs.68, 000 per plot for resettlement • Rs.15, 000 for house construction • Rs.10, 000 cash payment • Rs.5000 for supply of electricity and water • Value of land: Rs.200, 000 per perch
Compensation Policies	<ul style="list-style-type: none"> • Compensation at market value. • Temporary shops constructed on RDA land beyond the highway. • Housing units constructed by NHDA. • Shanty dwellers resettled on 400 sq.ft plot. • Legal residents compensated at slightly less than the market value and resettled on 500-1000 sq.ft plots. • Business – replacement premises + compensation of 3 years loss of income.
Income restoration strategies	No information available.
7. Road Network Improvement Project	
Implementing Agency	RDA
Funding agency	ADB
Extent of land acquired	77.57 hectares
Number of families affected	4,109 (11,588 persons)
SIA completed	Yes
EIA completed	No information available
Resettlement Implementation Plan (RIP)	Yes
Stakeholder participation	No information available
Grievance mechanism	Grievance Redress Committees formed for issues not related to LAA
IFI policy adopted	ADB
Cost estimates made	Yes
Compensation Policies	<ul style="list-style-type: none"> • For informal dwellers – similar to Baseline Road Project • Compensation at replacement cost
Income restoration strategies	<ul style="list-style-type: none"> • Resettlement and income restoration allowances for 12 months. • No other income restoration strategies.

4.3 Pilot Project Experience (from km 9+100, and from km 50 to km 61+060)

4.3.1 STDP km 9+200 to km 14+100

Because it is the first section of STDP for which the Inventory of Losses has been completed, the 5-km section from km 9+200 to km 14+100 service as a pilot for lessons learn from this Project. The following lessons can be learned from experience on this section to date:

- The Inventory of losses is a new planning activity for Sri Lanka land acquisition projects. There are no tried and true procedures and no specific expertise for conducting IOL.
- IOL investigators should go through prior training including testing questionnaires before beginning the IOL. Training should consist of full information about the project policies, procedures and entitlements; the rational behind each IOL question; how to ask the questions and record the answers; how to measures structures; how to interpret RoW monuments and AT drawings.
- The property boundaries should be and marked on advance tracing (AT) drawings before the IOL starts. The IOL investigators should use the AT drawings as the basis for the IOL, to ensure no properties are missed.
- Data on the IOL questionnaires should be carefully checked against the AT drawings and list of property owners to ensure accuracy and consistency.
- A database programme and format must be in place before the IOL begins.

4.3.2 STDP km 56+000 – km 61+000

This section was acquired in the mid 1990s when the GOSL first decided to build the road with government financing. The land was acquired and cleared at that time under the Land Acquisition Act. Compensation has been paid to some APs within the past year only. The Detailed Design by the consultant identified the need for a wider ROW along some parts of this section. The additional land will be acquired under the STDP. There has been resistance from landowners of that additional ROW to permit acquisition of their land because they are dissatisfied with RDA's track record to date. With payment of compensation to some households acceptance is increasing. There are some grievances against compensation amounts, which are being settled in the courts.

4.4 Lessons Learned in Sri Lanka

The following observations are based on a review by the NIRP study of a number of case studies of projects in Sri Lanka and are direct quotations from the draft for discussion by working groups.

- Land acquisition process is laborious and the cause of much dissatisfaction.
- Minimum time required is 70 weeks.
- Takes longer if title not clear, survey and valuation are delayed, funds not available.
- Onus is on affected person to prove ownership, gather all required information.

- Surveying and valuation are major cause of delay.
- Mahaweli Project used private surveyors to carryout the surveys required for land acquisition in the project areas.
- Responsibility for various resettlement activities are often dispersed in projects.
- The LAA appeal procedures are complex: courts and board of review
- Procedures for land registration need improvement; a World Bank funded Land Titling Project currently being implemented on a pilot scale by the Land Settlement Department aims to do this.
- Often people are forced to move out BEFORE any compensation is paid.
- Ex-gratia payments being made in some projects, while commendable have no basis in law – not everyone receives such payments.
- Land acquisition alone does not address most of the recognized resettlement concerns.
- International experience shows cash compensation alone usually leads to impoverishment.
- Project implementation targets rarely take into account time required for proper resettlement.
- Precision generally lacking in assessing resettlement impacts.
- Compensation methods lack transparency.
- Monitoring and evaluation often inadequate.
- Human resources for resettlement planning, implementation and monitoring are inadequate and need strengthening.
- Lack of uniformity in dealing with resettlement.
- Baseline surveys need improvement.
- Participation by affected persons is very limited.
- Compensation needs to be based on clear entitlement criteria.
- Cut-off dates needed for resettlement eligibility.
- Severity of impact more important than arbitrary criteria.
- Baseline Road < 10km hence no EIA was required; hundreds affected.
- Kukule Ganga less than 100 HH but impacts are significant.

In addition to the above, the following observations are also valid:

- Compensation for structures is calculated at market value of the present condition of structures, and not at full replacement cost of new structures. This means APs must undergo considerable expense to build a new structure to the same size and standards.
- Compensation for land is also calculated at market value according to the presumed demand for the particular piece of land. This means that for fragmented parcels, the compensation amount may be too low for the AP to be able to purchase another piece of land of the same area and productivity.
- Information dissemination and consultations are inadequate. Consultation, which should be a dialogue during which APs are permitted to comment freely on the proposed entitlements, compensation unit rates, resettlement sites, and income restoration and other rehabilitation measures, is not encouraged.