

Resettlement Planning Document

Land Acquisition and Resettlement Framework

Project Number: 44372

March 2011

PAK: Flood Emergency Reconstruction Project

Prepared by
Islamic Republic of Pakistan

The Land Acquisition, Resettlement and Indigenous Peoples Framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

ABBREVIATIONS

ADB	-	Asian Development Bank
DP	-	Displaced Persons
EA	-	Executing Agency
ESU	-	Environment and Social Unit
FERP	-	Flood Emergency Reconstruction Project
GoP	-	Government of Pakistan
IP	-	Indigenous People
IA	-	Implementing Agency
IPPF	-	Indigenous Peoples Planning Framework
LAA	-	Land Acquisition Act of 1894
LARF	-	Land Acquisition and Resettlement Framework
LARP	-	Land Acquisition and Resettlement Plan
OM	-	Operations manual
PMC	-	Project Management Consultant
SIA	-	Social Impact Assessment
SPS	-	Safeguard Policy Statement
TA	-	Technical Assistant

DEFINITION OF TERMS

Terms	Definition
Displaced Household:	All members of a subproject affected household residing under one roof and operating as a single economic unit, who are adversely affected by the Project or any of its components; may consist of a single nuclear family or an extended family group.
Displaced Persons:	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Compensation:	Payment in cash or in kind of the replacement cost of the acquired assets.
Encroachers/Squatters	People who have trespassed onto private/community land to which they are not authorized. If such people arrived before the entitlements cut-off date, they are eligible for compensation for any structures, crops or land improvements that they will lose.
Entitlement:	Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to displaced persons, depending on the nature of their losses, to restore their economic and social base.
ESU:	Environment and Social Unit
Host Community:	Community residing near the area where the DPs are to be relocated.
Income Restoration:	Reestablishment of income sources and livelihoods of DPs.
Involuntary Resettlement:	Land and/or asset loss, which results in a reduction of livelihood level. These losses have to be compensated for so that no person is worse off than they were before the loss of land and/or assets.
Improvements:	Structures constructed (dwelling unit, fence, waiting sheds, animal pens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization.
Land Acquisition:	The process whereby a person is compelled by a government agency to alienate all or part of the land a person owns or possesses to the ownership and possession of the government agency for public purpose in return for a consideration.

Rehabilitation:	Compensatory measures provided under the ADB Policy Framework on Involuntary Resettlement other than payment of the replacement cost of acquired assets.
Relocation:	The physical resettlement of an AP from her/his pre-program place of residence or business..
Replacement Cost:	The value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material. In addition, the payment of all transaction costs.
Resettlement Impact:	The nature and value of livelihood loss caused by the acquisition of land and/or assets
Vulnerable Groups:	Distinct group of people who may suffer disproportionately from resettlement effects. The policy defines vulnerable groups as households below the poverty line, the elderly, those without legal title to assets, landless, women, children and indigenous people.

CONTENTS

	Page
I. INTRODUCTION.....	1
A. The Project	1
II. LEGAL AND POLICY FRAMEWORK.....	1
A. The Land Acquisition Act (LAA) of 1894.....	1
B. ADB's Policy Principles for Involuntary Resettlement and Indigenous Peoples	2
C. Comparison of Key Features of LAA 1894 and ADB Policy Principles and Practices	3
D. Remedial Measures to Reconcile Gaps between the LAA 1894 and SPS 2009	4
E. Land Acquisition and Resettlement Modalities and Procedures	4
F. LAR Processing Procedures and Safeguard Documentation	5
G. Procedure of Formulating a Land Acquisition and Resettlement Plan: Social Impact Assessment and Census	6
H. Consultation Participation and Disclosure	6
III. COMPENSATION ELIGIBILITY AND ENTITLEMENTS	7
A. Entitlements	7
B. Eligibility.....	7
C. Entitlement Matrix	8
D. Land for Land Compensation.....	10
E. Implementation Arrangements:	11
E.1 Federal and Provincial Subprojects	11
E.2 Consultant Support.....	11
F. Grievance Redress Mechanism	12
G. LARP Budgeting and Financing	12
G.1 Budget.....	12
H. Monitoring and Evaluation.....	13

ANNEXES:

Annex 1:	Involuntary Resettlement Principles And Objectives ADB's Safeguard Policy Statement (ADB SPS 2009)	14
Annex 2:	Outline Of A Resettlement Plan.....	15
Annex 3:	Involuntary Resettlement Impact Categorization Checklist.....	19

TABLES:

Table 1:	Salient Features of the Land Acquisition Act 1894 and Successive Amendments	2
Table 2:	Comparison of GoP Land Acquisition Act 1894 (LAA) and ADB Safeguard Policy Statement 2009 Gap Filling Measures	3
Table 3:	Application of the Land Acquisition Act 1894	5
Table 4:	Civil Works and LARP Preparation.....	.5
Table 5:	Entitlement Matrix	9

I. INTRODUCTION

A. The Project

1. Pakistan faced unprecedented flooding with damage across all provinces affecting an estimated 22 million people, damage to infrastructure across the nation. The Asian Development Bank (ADB) will support the efforts of the Government of Pakistan (GoP), in irrigation, flood protection, road transport in selected provinces and the highway sector, nationwide. No indigenous people are affected. A Land Acquisition and Resettlement Framework (LARF), referred to hereafter as the 'framework', is prepared. This framework is prepared in accordance with the LAA, the SPS and the Disaster and Emergency Assistance Policy (2004), and applicable operations manuals (OM). The SPS and the Disaster and Emergency Assistance Policy provide flexibility for processing emergency loans where frameworks are prepared and subproject resettlement plans may be prepared after board approval. The framework responds to the unprecedented scale of impacts and the realities on the ground where road networks severing access; and irrigation systems have collapsed. Local agencies' limited resources are already stressed, land records may be lost, and lands washed away. Except for three roads in sensitive locations of which, two require minor land acquisition and one road requires significant land acquisition for a new alignment of 41 kilometers; all other works will be undertaken on existing alignments. The framework takes into account these realities; and proposes an approach where project identification, detailed designs and preparation of land acquisition and resettlement plans (LARPs) will be undertaken during implementation. LARPs will be prepared and cleared by ADB as a condition for award of civil works contracts. LARP implementation will commence as soon as possible. All compensation and entitlements will be paid prior to economic and physical displacement in accordance with the requirements of the SPS.

2. Government may acquire land by applying (i) routine land acquisition under the Land Acquisition Act 1894 (LAA) and applicable provincial regulations, or (ii) negotiated purchase documented in a LARP in compliance with the provisions for negotiated purchase detailed in the SPS and provincial regulations. Where land is urgently required, it is recommended that the acquiring department request acquisition be conducted through negotiated purchase. If negotiations fail, Government will apply compulsory acquisition in accordance with the LAA and ADB's Safeguard Policy Statement 2009 (SPS).

3. The framework provides the guiding principles for preparing the LARPs. A separate Indigenous Peoples Planning Framework (IPPF) is not required, as the loan will not include subprojects that affect indigenous people.

4. The framework, agreed between the GoP and ADB, sets out the safeguard principles, procedures, compensation, entitlements and implementation, disclosure and monitoring arrangements to be applied when identifying, designing, preparing and implementing LARPs.

5. The framework is endorsed by the GoP and provincial governments, and will be uploaded on the ADB website.

II. LEGAL AND POLICY FRAMEWORK

A. The Land Acquisition Act (LAA) of 1894

6. The Pakistan law governing land acquisition is the LAA of 1894 and successive amendments. The LAA regulates the land acquisition process and enables the federal and

provincial governments to acquire private land for public purposes and for companies through the exercise of the right of eminent domain. Land acquisition is a provincial responsibility and each province has province specific implementation regulations and rules.

7. The law deals with matters related to the acquisition of private land and other immovable assets required for public purpose. The LAA also contains provisions for acquisition of land and assets on an emergency basis. In a situation where a project of public purpose has to be implemented urgently, the requesting department may request the revenue department to acquire land on an emergency basis. The revenue department, as per the LAA, determines the emergency nature and accordingly applies the LAA.

8. A brief explanation and salient features of different sections of LAA is given in Table 1. The right to acquire land for public purposes is established when Section 4 of the LAA is triggered. The LAA specifies a systematic approach for acquisition and compensation of land and other properties for development projects. It stipulates various sections pertaining to notifications, surveys, acquisition, compensation and apportionment awards, along with disputes resolution, penalties and exemptions. Surveys for land acquisition are to be disclosed to the displaced persons.

Table 1: Salient Features of the Land Acquisition Act 1894 and Successive Amendments

Key Sections	Salient Features of the LAA (1894)
Section 4	Publication of preliminary notification and power for conducting survey.
Section 5	Formal notification of land needed for a public purpose. Section 5a covering the need for enquiry
Section 6	The Government makes a more formal declaration of intent to acquire land.
Section 7	The Land Commissioner shall direct the Land Acquisition Collector (LAC) to take order the acquisition of the land.
Section 8	The LAC has then to direct that the land required to be physically marked out, measured and planned.
Section 9	The LAC gives notice to all displaced persons (DPs) that the Government intends to take possession of the land and if they have any claims for compensation then these claims are to be made to him at an appointed time.
Section 10	Delegates power to the LAC to record statements of DPs in the area of land to be acquired or any part thereof as co-proprietor, sub-proprietor, mortgagee, and tenant or otherwise.
Section 11	Enables the Collector to make enquiries into the measurements, value and claim and then to issue the final "award". The award includes the land's marked area and the valuation of compensation.
Section 16	When the LAC has made an award under Section 11, he will then take possession and the land shall thereupon vest absolutely in the Government, free from all encumbrances.
Section 17	Urgency acquisition
Section 18	In case of dissatisfaction with the award, DPs may request the LAC to refer the case onward to the court for a decision. This does not affect the Government taking possession of the land.
Section 23	The award of compensation for the owners for acquired land is determined at its market value plus 15% in view of the compulsory nature of the acquisition for public purposes.
Section 28	Relates to the determination of compensation values and interest premium for land acquisition
Section 31	Section 31 provides that the LAC can, instead of awarding cash compensation in respect of any land, make any arrangement with a person having an interest in such land, including the grant of other lands in exchange.

B. ADB's Policy Principles for Involuntary Resettlement and Indigenous Peoples

9. The ADB's policy principles and objectives for Involuntary Resettlement (IR) are described in Annex 1. When land other than the unencumbered government-owned land is to be acquired then a LARP (Annex 2) is required. The IR checklist for screening and categorizing subprojects is in (Annex 3).

C. Comparison of Key Features of LAA 1894 and ADB Policy Principles and Practices

10. A comparison between the LAA and ADB safeguard policy principles (SPS) with regard to key land acquisition and resettlement (LAR) aspects is shown in Table 2. The object of this exercise is to identify if and where the two sets of procedures are in conformity with each other and more importantly where there are differences and gaps. The key ADB Policy Principles are (i) the need to screen the project early on in the planning stage; (ii) carry out meaningful consultation and establish a grievance redress mechanism; (iii) at the minimum, restore livelihood levels to what they were before the project and improve the livelihoods of affected vulnerable groups; (iv) prompt compensation, at full replacement cost, is to be paid before physical and economic displacement; (v) provide displaced people with adequate assistance; (vi) ensure that displaced people who have no statutory rights to the land that they are working are eligible for resettlement assistance and compensation for the loss of non-land assets; and (vii) disclose all LARPs endorsed by government.

Table 2: Comparison of GoP Land Acquisition Act 1894 (LAA) and ADB Safeguard Policy Statement 2009 Gap Filling Measures

GoP Land Acquisition Act 1894	Gap Filling Measures (SPS 2009 requirements)
Only titled landowners or customary rights holders are recognized for compensation.	Lack of title should not be a bar to resettlement and rehabilitation support. Requires equal treatment of those without clear land titles (for example, squatters or other informal settlers) in terms of their entitlements for resettlement assistance and compensation for the loss of non-land assets.
Only registered landowners, sharecroppers and lease holders are eligible for compensation of crop losses.	Crop compensation is to be provided irrespective of the land registration status of the affected farmer/share cropper.
Tree losses are compensated based on outdated officially fixed rates by the relevant forest and agriculture departments.	Tree losses are to be compensated according to market rates based on productive age or wood volume, depending on tree type.
Negotiated Purchase, no LARP required. Procedures available through instructions and agreement signed.	Prepare LARP in accordance with the provisions detailed in the SPS (2009)
Land valuation is based on the median registered land transfer rate over the 3 years prior to Section 4 of the LAA being invoked. A 15% compulsory acquisition charges are paid over and above the assessed compensation. However, recent practice is that prices based on the average over the last one year prior to acquisition commencing is applied. Provinces have also issued instructions for assessing compensation to ensure displaced persons receive compensation at market price.	Replacement cost surveys undertaken by the EA and shared with assessors when determining compensation.
The valuation of structures is based on official rates, with depreciation deducted from gross value of the structure and also 15% of the value of salvaged materials.	The valuation of built-up structures is based on current market value but with consideration of the cost of new construction of the structure, with no deduction for depreciation.
The decisions regarding land acquisition and the amounts of compensation to be paid are published in the official Gazette and notified in accessible places so that the people affected are well informed.	Carry out consultations to inform potentially displaced persons about the likely impacts, finalization of award and payment of compensation. Disclose draft LARPs and their updates, as applicable.

GoP Land Acquisition Act 1894	Gap Filling Measures (SPS 2009 requirements)
There is no provision for income and livelihood rehabilitation measures. There are also no special allowances for vulnerable groups. There are no requirements to assess opportunities for benefit sharing. Untitled DPs are not entitled to rehabilitation support.	The ADB policy requires rehabilitation of livelihoods, and support during the relocation process. There are also provisions to be made to cover transitional period costs, and livelihood restoration. Particular attention must be paid to the poor and vulnerable groups, including women. A guiding principle is that DPs should at least be able to reach a defined minimum livelihood standard. In rural areas DPs should be provided with legal access to replacement land and resources to meet the defined minimum livelihood level. In urban areas provision should be made for appropriate income sources and the legal and affordable access to adequate housing. Untitled DPs have rights.
Prepare and disclose land acquisition and resettlement plans LARPs. There is no law or policy that requires preparation of LARPs.	Resettlement plans are prepared and disclosed.
Grievance redress is established through the formal land acquisition process at a point in time or through appeals to the court	Provide mechanisms that are accessible locally and available throughout project implementation.
Only compensation is paid but not resettlement allowances, there is no mechanism to ensure payment is made before displacement	All compensation and allowances to be paid prior to physical or economic dislocation.
No requirements to prepare and disclose monitoring reports	Prepare and disclose monitoring reports
No special provisions to deal with support to displaced, vulnerable, and tribal groups.	Combined resettlement and indigenous peoples plan prepared

D. Remedial Measures to Reconcile Gaps between the LAA 1894 and SPS 2009

11. Project specific resettlement issues have been addressed to assist non-titled persons, and bridge the gap between existing practice and the main guidelines of SPS with regard to involuntary resettlement. To reconcile the inconsistencies between the LAA and SPS, the government has drafted this LARF. Provision of subsidies or allowances will be given for affected households that maybe relocated, suffer business losses, or maybe vulnerable. Flood-affected households are recipients of Government assistance as well. As detailed in the SPS, the content and complexity of a LARP will vary depending on the scale and severity of a subproject's impacts. An outline for preparing resettlement plans is in Annex 3.

E. Land Acquisition and Resettlement Modalities and Procedures

12. Land would be urgently required to complete the reconstruction work within two years. The preparation of LARPs and compensation disbursement fully depend on (i) availability of project design, (ii) impact assessment, (iii) valuation of land and assets including community assets, and (iv) identification and verification of owners/occupants including tribal people and the updated land records. Preparation of LARP and compensation disbursement is not only a time consuming process, but fully depends on the availability of DPs and land records, which, if lost or damaged, have to be re-created.

13. With the district government departments and resources strained by relief work, updating and/or re-creation of records and identification of owners/DPs, absentee owners will take time. Technical assistance consultants (TA) and Project Management Consultants (PMC) will be recruited to support the executing and implementing agencies (EA/IAS) in preparing LARPs with the respective Board of Revenue (BOR) staff in the provinces.

14. In accordance with the LAA, a two-step procedure may be adopted for land acquisition, first negotiated purchase and if that fails expropriation. Negotiated purchase will be initiated on the written request of the acquiring department to the collector. The collector will constitute an independent committee consisting of (i) the district collector, and (ii) EDO (finance and planning), representative of the acquiring department revenue officer/tehsildar circle and a local notable. The process of negotiation with the DP will be completed within 60 days of the start of negotiations. If successful, the collector proceeds with registering the deed of sale between the parties. A LARP will be prepared describing the procedures followed including requirements detailed in the SPS for negotiated purchase.

15. To determine the price, the committee may consider the following: (i) the price paid for land recently acquired including in the vicinity; (ii) the price paid in private transactions as discoverable from the register of mutations and the record of the registration department; (iii) all other information available including instructions provided in the LAA; and (iv) the committee may consult respectable people who are disinterested with regard to the value of the land. Table 3 provides procedures involved in the application of LAA.

Table 3: Application of the Land Acquisition Act 1894

Application of LAA	Procedures and Clearance
Negotiated Purchase and routine acquisition under the LAA	A LARP will document the procedures and valuation mechanism, and append a copy of the deed of sale. If negotiation fails, the LARP will provide details and document the routine procedures applied under the LAA and the SPS.

16. The following table describes the type of civil works required and proposed measures to prepare and implement LARPs.

Table 4: Civil Works and LARP Preparation

Retroactive Financing	Complete involuntary resettlement (IR) and indigenous peoples (IP) checklists and categorization and submit with project approval documents to ADB for clearance. Only category 'C' projects will be eligible for financing.
Reconstruction on existing alignment	No land acquisition and resettlement expected. Conduct sample spot checks on site and submit checklist and categorization forms to ADB for clearance prior to award of civil works contracts.
New alignments and new locations	LARPs will be prepared as a condition for award of civil works contracts and cleared by ADB.
Monitoring	The EAs/IAs conducts routine monitoring. Since the loan implementation period is three years, instead of semi -annual monitoring, The TA/ PMC will submit monitoring reports to ADB and the EA on a case-by-case basis confirming the LARPs or negotiated purchase has been implemented in accordance with the respective subproject LARP.

F. LAR Processing Procedures and Safeguard Documentation

17. The relevant EAs, with the support of TA consultants and the PMC, will process the screening checklists, and prepare LARPs and monitoring reports.

18. The following criteria for subproject selection will be applied:

- (i) Reconstruction on existing alignment.

- (ii) Avoid or to the extent possible, minimize land acquisition and resettlement (LAR). Select subprojects that do not require land acquisition or resettlement, or subprojects on unencumbered government land.
- (iii) Select projects of priority need for connectivity and protection of lives and livelihoods.
- (iv) Avoid subprojects that affect indigenous people
- (v) Minimal land acquisition required.
- (vi) Avoid or minimize land acquisition from flood-affected households.
- (vii) Except where legal owners for compensation are identified, pay entitlements and compensation in joint names to eligible men and women.

G. Procedure of Formulating a Land Acquisition and Resettlement Plan: Social Impact Assessment and Census

19. If resettlement impacts are unavoidable in implementing a subproject, the EA with the support of the TA/PMC consultant and the revenue staff, will formulate LARPs in parallel with subproject design according to the following procedure:

- (i) Complete the screening checklist. If land acquisition or resettlement is required, prepare LARPS.
- (ii) For retroactive financing, complete screening checklists and submit with approval request.
- (iii) Conduct Focus Group Discussions (FGD) including, consultations with women and vulnerable households to (a) obtain stakeholder inputs regarding how to avoid or at least minimize involuntary resettlement, and (b) to identify their needs and preferences.
- (iv) LARPs will be based on detailed design, detailed measurement survey as well as inventory of lost assets and census based on the final revenue record and compensation prices approved by the BOR and respective agencies. ESU will assess replacement costs through independent assessments of sales (private and in sales registers), local materials for structure and other immovable assets replacement valuation, and updated crop and trees price assessments including, consultation with the relevant agencies on price assessments. Undertake (a) a socioeconomic survey including sex disaggregated data collection to identify gender impacts and establish the social and economic baseline to prepare LARPs. ESU will inform ADB if there are changes in impacts and prepare updated LARPs accordingly. Each LARP will justify why they need to be updated.
- (v) Establish a 100% census survey of DPs, measure lost lands, complete an inventory of lost land and assets of all DPs and addresses of households, complete the land demarcation and measurement surveys (LDMS).

H. Consultation Participation and Disclosure

20. The FGDs undertaken for establishing baseline surveys will also focus on consultation with the DPs to identify their concerns and take into account special needs and considerations. Consultations will be gender inclusive and ensure vulnerable households are included. The decisions of such meetings will be recorded, and these records will indicate the responsibility and timeline for implementing the decisions. Each resettlement plan will document all public consultations held and the disclosure of resettlement information. During resettlement plan preparation, resettlement information will be disclosed to all DPs in their own language, and their views and opinions will be taken into consideration in finalizing the plans. Since many DPs are likely to be non-literate, the LARPs will be explained to them in separate groups. Particular attention will be placed on including women and vulnerable groups in all consultations. Final

LARPs will be translated into local languages and disclosed through public notices posted at the EA/IA offices, published in newspapers, and posted on ADB's website. Affected people will be closely consulted in resettlement site selection and livelihood restoration as relevant.

21. Among the displaced communities, there are several dominant tribes and sub tribes that participate in mainstream economic and political activities and are represented in public institutions, civil services, and educational institutions. Social inequalities and vulnerabilities in these communities usually arise from economic differentiation, as land is owned by a few large, powerful families who rent it out to others who cultivate crops and raise livestock. Individual projects are unlikely to change this dominant mode of economic system. Through FGD, vulnerabilities of all affected groups including tribal groups and cultural minorities in the affected areas will be identified. This is to ensure effective consultations and that culturally- appropriate benefits will reach each displaced group. As part of this assessment, the EA/IA of each sector will examine the vulnerability of different groups in terms of potential exclusion from subproject benefits, negative subproject impacts, and the need for specific culturally compatible mechanisms for participation by women, the permanently disabled, and other vulnerable groups. If any of the above are found in a subproject area, the EA/IA will incorporate adequate measures to address such vulnerabilities in project design. If land acquisition or relocation becomes necessary, or indigenous people are affected, people's entitlements will be ensured through the resettlement plan that will be prepared in accordance with the framework.

22. ESU will be responsible for disclosing resettlement information and plans to all affected people in their own language. The project EA/IA will endorse the LARP before submission to ADB for review.

III. COMPENSATION ELIGIBILITY AND ENTITLEMENTS

A. Entitlements

23. The entitlements for Compensation, Resettlement and Rehabilitation Assistance may be enhanced to mitigate and improve livelihoods of the DPs but not be reduced or lowered in any of the subproject LARPs. Details are provided in the entitlement matrix.

B. Eligibility

24. The DPs eligible for compensation or rehabilitation provisions under the Program are:
- (i) All land owning DPs losing land or non-land assets, i.e., crops and trees whether covered by legal title or traditional land rights, whether for temporary or permanent acquisition.
 - (ii) Tenants and share-croppers, whether registered or not; for all non-land assets, based on prevailing tenancy arrangements.
 - (iii) DPs losing the use of structures and utilities, including titled and non-titled owners, registered, unregistered, tenants and leaseholders plus encroachers and squatters.
 - (iv) Displaced persons losing business, income and salaries of workers or a person or business suffering temporary effects, such as disturbance to land, crops and business operations both permanently and also temporarily during construction.
 - (v) Loss of communal property, lands, and public infrastructure.
 - (vi) Vulnerable displaced persons identified through the impact assessment and FGD.
 - (vii) In the event of relocation, all DPs will receive transitional and other support to reestablish shelter and livelihoods.

25. In order to avoid an influx of outsiders, compensation eligibility will be limited by a cut-off date for each subproject on the day of the beginning of the subprojects impacts and census survey. The cut-off date will be announced through village institutions.

C. Entitlement Matrix

26. Compensation and rehabilitation entitlements are summarized in the Entitlement Matrix in Table 5.

Table 5: Entitlement Matrix

Assets lost	Specification	Displaced Person	Compensation Entitlements
Residential/ commercial land		Owner (legal/legalizable)	<ul style="list-style-type: none"> ▪ Cash compensation at replacement cost plus 15% compulsory acquisition surcharge (CAS) free of taxes, registration and transfer costs; or ▪ Land for land compensation through provision of plots of comparable value and location as the lost asset, including transitional support.
		Renter/leaseholder	<ul style="list-style-type: none"> ▪ Cash compensation value proportionate to the duration of the remaining lease period.
		Encroacher/Squatter	<ul style="list-style-type: none"> ▪ Self relocation allowance covering one year of agricultural income; or ▪ Provision of a replacement plot in a public resettlement area.
Agricultural land, including cultivable land and uncultivable wasteland	All land losses irrespective of impact severity	Owner	<ul style="list-style-type: none"> ▪ Cash compensation at (market value replacement cost plus 15% CAS, free of taxes, of registration and transfer costs; or ▪ Land for land compensation through provision of plots of equal value and productivity as that lost.
		Sharecropper/Tenant (registered or not)	<ul style="list-style-type: none"> ▪ Cash compensation equal to the market value of the share of lost harvests: two shares if the land loss is permanent, one if it is temporary.
		Lease Tenant (registered or not)	<ul style="list-style-type: none"> ▪ Cash equivalent of the market value of the gross yield of lost land for the remaining lease years, and reimbursement of remaining lease cost. Or alternate lease arrangements...
		Encroacher/Squatter	<ul style="list-style-type: none"> ▪ Rehabilitation allowance equal to the market value of the harvest of lost land for one year (both rabi and kharif crops) in addition to standard crop compensation.
Residential and commercial structures		Owner of the structure, including Encroachers/Squatters	<ul style="list-style-type: none"> ▪ Cash compensation at full replacement cost for affected structures and other fixed assets, free of salvageable materials, depreciation and transaction cost and also transportation cost; or if partial loss, full cash assistance to restore the remaining structure. Fees and taxes (if applicable) will be waived. The option of relocation and relevant support will be discussed during the focus group discussions and included in the LARPs.
		Renter/Leaseholder	<ul style="list-style-type: none"> ▪ Cash compensation equivalent to three months rent or a value proportionate to the duration of the remaining lease.
Community Assets			<ul style="list-style-type: none"> ▪ Rehabilitation/substitution or cash compensation at full replacement cost of the affected structures and utilities.
Businesses		All DPs so impacted	<ul style="list-style-type: none"> ▪ Cash compensation equal to income during the interruption period, as determined through the SIA and included in the LARP
Employment		All DPs so impacted	<ul style="list-style-type: none"> ▪ Indemnity for lost wages for the period required to reestablish business as determined through the Social Impact Assessment (SIA) and included in the LARP.

Assets lost	Specification	Displaced Person	Compensation Entitlements
Crops	Affected crops	Cultivator of crop	<ul style="list-style-type: none"> ▪ Crop compensation in cash at the full market rate for one year's agricultural income (both rabi and kharif harvests). If sharecropped or a tenant then compensated according to shares.
Trees	All affected trees	Owner	<ul style="list-style-type: none"> ▪ Fruit trees: compensation to reflect income replacement as assessed by Horticulture department based on market value of annual produce, projected for number of years the tree can potentially produce fruit. ▪ Timber trees: trees grown and/or used for timber then compensation is to reflect the market value of tree's wood content, based on the wood measurement survey of forest department.
Relocation	Transport/ transition costs	All DPs to be relocated	<ul style="list-style-type: none"> ▪ Provision of allowances to cover transport costs and transitional costs on actual cost basis at current market rates. If physical relocation of the affected households is required and requested by the displaced persons, appropriate relocation sites will be developed or through support provided to flood victims. The need for support during the transitional period will be assessed through the SIA and included in the LARP.
Vulnerable DP livelihood support		Poor and female headed households and other vulnerable households, including the elderly or other groups as identified through the SIA.	<ul style="list-style-type: none"> ▪ Cash allowance equivalent to at least 6 months of minimum wages of PKRs 7000/- per month as fixed by the GOP (in accordance with figures released by the Province) using the poverty line index or as determined through the social impact assessment surveys. ▪ First priority for skills training under emergency support. Job placement program employing DPs in project reconstruction activities. ▪ All DPs and households if flood victims are also eligible for government flood assistance support.
Unidentified Losses	Unanticipated impacts	All DPs	<ul style="list-style-type: none"> ▪ Dealt with as appropriate during sub-project implementation according to the ADB policy.

D. Land for Land Compensation

27. Land for land compensation has significant advantages in that it reduces the chance of displaced people spending their compensation on items that will not provide them with an alternative economic livelihood. However, in many locations there is limited land or land will not be available for immediate dispensation. In cases where DPs desire land for land compensation, then the process by which replacement land is identified needs to be recorded. When land for land compensation is used, along with provision of replacement housing, then the replacement plots are to include facilities and services such as water supply, sanitation, roads, drainage and electricity. The LARPs will detail the costs for site preparation and for the provision of these basic facilities including, transaction costs such as site survey, land registration. The LARPs will clearly detail site preparation and resettlement schedules and tenure arrangements. In managing the land for land relocation, the socio-cultural and religious characteristics of the displaced persons, gender considerations and host communities will be taken into consideration and the distance between the old and new locations should be minimized as far as is possible. If land for land cannot be found, the LARPs will clearly demonstrate the lack of land.

E. Implementation Arrangements:

28. To address the institutional constraints created by the flood, the three year project implementation period including 30% completion within six months, the following implementation arrangements will be established.

E.1 Federal and Provincial Subprojects

29. For federal subprojects, the National Highway Authority (NHA) will be the EA and for provincial projects, relevant sector agencies will be the EA/IA. All EA/IAs will be supported by TA and the Project Management Consultants. A separate Environment and Social Unit (ESU) will be established within each EA/IA project management unit headed by a project director (PD) in each province. The ESU will appoint a director, social and environment safeguards, social and gender. A resettlement specialist from the EA will be assigned as a focal person to coordinate social safeguard activities until project completion. Each EA will assign a data operator to manage the database related to the unit, will include monitoring specialists and 1 staff dedicated to managing project related grievance. Land acquisition and resettlement tasks will be supported by consultants. Each ESU will consist of at least 1 resettlement specialist. NHA will require, social survey teams, including, retired *patwaris*, collector, clerical staff, social mobilizers, a grievance officer, management information system (MIS) specialist, and monitoring specialists. For highway projects with land acquisition, the consultants responsible for land and revenue matters will function out of the revenue offices to ensure expeditious completion of land acquisition and payment of compensation. Revenue staff will support the ESU in preparation of the LARPs. Each ESU will maintain a computerized database as verified and confirmed with revenue officials and MIS to ensure all details regarding LARP preparation and implementation are tracked and accessible. Information disclosure will be systematically implemented and ADB's requirements for disclosure will be followed.

30. The EA/IA, will be responsible for meeting the LAR and other safeguard requirements and will work closely with the respective BORs and relevant revenue staff at all levels. Consultants will build the capacity of the ESU.

E.2 Consultant Support

31. From the inception, the TA consultant and the PMC, with support from the ESU and in coordination with relevant government agencies, will be responsible for all tasks related to LAR, including the preparation of monitoring and disclosure of reports. The respective EA/IAs and BORs and related local agencies will provide the necessary support services and will be responsible for facilitating expeditious preparation implementation and monitoring of LAR., Consultants will work with the revenue department and the ESU to support the following : (i) consultation with affected communities and information disclosure (ii) support the preparation of the revenue record and paperwork required for finalizing the award (iii) support displaced persons in preparing their documents to receive compensation (iv) participate in meetings to ensure transparency and maintain records (v) support NHA in disclosure of LARP and monitoring reports (vi) support the functioning of the grievance mechanism (vii) establish and maintain an up to date management information system to include all relevant information on displaced persons.

32. The roles and responsibilities of the ESU are as follows:

- i. The consultants will support federal and provincial EAs/IAs and build the capacity of ESU;

- ii. The consultants or the EAs/IAs will also recruit survey teams as necessary to support field surveys;
- iii. Prepare screening and categorization checklists;
- iv. Conduct consultations and information disclosure
- v. Coordinate with relevant local agencies, particularly revenue departments;
- vi. Prepare LARPs
- vii. Prepare and submit monitoring reports to confirm resettlement plans have been implemented;.
- viii. All procedural requirements including translation and disclosure of LARPs will be implemented by the ESU supported by the consultant;
- ix. Support the EA/IA and ensure the delivery of compensation and other entitlements and maintain records;
- x. The consultant and the EA/IAs in coordination will be responsible for maintaining a complete database of all affected persons, inventory of assets, payments and other relevant field data;
- xi. Develop a functioning grievance function with gender sensitive protocols and outreach and links to the provincial ombudsman's office; provide training to ESU staff to handle grievance and monitor progress.
- xii. Maintain an MIS related resettlement and social development

F. Grievance Redress Mechanism

33. Field level grievances will be addressed through a local grievance redress committee (GRC) to be formally constituted by the EA/IA under each subproject. The GRC will consist of a specially recruited grievance officer, a *jirga* member or notable person, a representative from the DP, locally present NGO representative, the ESU resettlement specialist and 1 revenue staff. Women will be members of the GRC. The GRC will be formally notified and established at the project sites. The GRCs' will function as open forums for hearing complaints and exploring quick resolutions to resolving conflicts. The GRC will be required to develop an outreach program including links to the provincial ombudsman's office. Each GRC will record its deliberations and inform the concerned parties of a resolution within 2 weeks of its findings and recommendations. If the GRC cannot resolve the grievance, they will be facilitated to take their complaints to the provincial ombudsmen. DPs have the right to appeal to the courts. Communities will be informed about the GRC through the ESU outreach program. Grievance may also be addressed to ADB Office of Special Projects Facilitator.

34. To ensure women have access to the grievance mechanism, separate focus group discussions will be held with them to design protocols that are suited to their needs including procedures and mechanisms to enable their access to the mechanism, including, access to the provincial ombudsman's office. Outreach programs will be tailored to women's needs to ensure information is communicated to them.

G. LARP Budgeting and Financing

G.1 Budget

35. All LAR costs inclusive of compensation, resettlement and rehabilitation allowances livelihood and income restoration support form an integral component of project costs, and will be included in the LARP under separate budget lines indicating unit costs under separate heads. NHA and provinces will ensure adequate funds are available on time to implement the LARPs. EAs will be responsible for financing and disbursing (i) all entitlements that are not payable under the requirements of the LAA; (ii) logistics to run the ESU including, translations

and outreach and GRC functions; and (iii) any other functions related to ensuring the ESU functions effectively and delivers timely outputs.

H. Monitoring and Evaluation

36. The land acquisition and resettlement process of each subproject will be monitored both internally by the EA and by the TA/PMC consultants. Internal monitoring reports will be submitted by the EA/IAs on a quarterly basis to ADB. The TA consultant, PMC or supervision consultant will submit external monitoring reports confirming satisfactory implementation of LARPs as and when each subproject LAR activities are completed but no later than six months from implementation of LARPs. The monitoring reports will be translated and disclosed to the displaced persons and placed on the project website by the respective EAs. ADB reserves the right to monitor subprojects on a case-by-case basis.

INVOLUNTARY RESETTLEMENT PRINCIPLES AND OBJECTIVES ADB'S SAFEGUARD POLICY STATEMENT (ADB SPS 2009)

Objectives: To avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

Scope and Triggers: The involuntary resettlement safeguards covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

Policy Principles:

1. **Screen the project early on** to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
2. **Carry out meaningful consultations with displaced persons, host communities, and concerned non-government organizations.** Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line. These include the landless, the elderly, women and children. Specific safeguards cover Indigenous People, including those without statutory title to land, including those having communal rights, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the displaced persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase. **Improve, or at least restore**, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based and where it is possible to give cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) **prompt compensation at full replacement cost for assets that cannot be restored**, and (iv) **additional revenues and services through benefit sharing schemes where these are possible.**
3. **Provide physically and economically displaced persons with needed assistance**, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
4. **Improve the standards of living of the displaced poor and other vulnerable groups**, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
5. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
6. **Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.**
7. **Prepare a resettlement plan** elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
8. **Disclose a draft resettlement plan**, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to displaced persons and other stakeholders. Disclose the resettlement plan and its updates to displaced persons.
9. **Conceive and execute involuntary resettlement as part of a development project or program.** Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
10. **Pay compensation and provide other resettlement entitlements before physical or economic displacement.** Implement the resettlement plan under close supervision throughout project implementation.
11. **Monitor and assess resettlement outcomes**, their impacts on the standards of living of displaced persons and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of the resettlement monitoring. **Disclose monitoring reports.**

Source: Asian Development Bank, SPS 2009.

Annex 2**OUTLINE OF A RESETTLEMENT PLAN**

1. This outline is part of the Safeguard Requirements. A resettlement plan is required for all projects with involuntary resettlement impacts. The level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown. If indigenous people are affected, the plan will identify the risks and include special provisions to mitigate these risks.

A. Executive Summary

2. This section provides a concise statement of project scope, key survey findings, entitlements, and recommended actions.

B. Project Description

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. The section is also to include a table with quantified data and provide a rationale for the final decision.

C. Scope of Land Acquisition and Resettlement

4. This section:

- (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) summarizes the key effects in terms of assets acquired and displaced persons; and
- (iv) provides details of any common property resources that will be acquired.

D. Socioeconomic Information and Profile

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by sex, vulnerability, and other social groupings, including:

- (i) define, identify, and enumerate the people and communities to be affected; describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (ii) identify all households (including list of names) eligible for livelihood assistance to support livelihood loss due to delayed land compensation.
- (iii) discuss the project's impacts on the poor, and other vulnerable groups; and
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

6. This section:

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders including women;
- (iv) summarizes the results of consultations with displaced persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) confirms disclosure of the draft resettlement plan to displaced persons and includes arrangements to disclose any subsequent plans; and
- (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with displaced persons during project implementation.

F. Grievance Redress Mechanisms

7. This section describes mechanisms to receive and facilitate the resolution of displaced persons' concerns and grievances. It explains how the procedures are accessible to displaced persons and provides access to women. It described the terms of reference, operating procedures, protocols outreach program and linkages to the provincial ombudsman's office.

G. Legal Framework

8. This section:

- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed;
- (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;
- (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and
- (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

9. This section:

- (i) defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);

- (ii) identify and document the households who will be eligible for transitional livelihood support if compensation payments for land are delayed for six months;
- (iii) specifies all assistance to vulnerable groups, including women, and other special groups; and.
- (iv) outlines opportunities for displaced persons to derive appropriate development benefits from the project.

I. Relocation of Housing and Settlements

10. This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

11. This section:

- (i) identifies livelihood risks particularly to vulnerable and indigenous people (if affected) and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
outlines measures to provide social safety net through social insurance and/or project special funds;
- (iii) describes special measures to support vulnerable groups;
- (iv) explains gender considerations; and
- (v) describes training programs.

K. Resettlement Budget and Financing Plan

12. This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) includes a justification for all assumptions made in calculating compensation

rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.

- (iv) includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

13. This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of nongovernment organizations (NGOs), if involved, and organizations of displaced persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management,

M. Implementation Schedule

14. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

N. Monitoring and Reporting

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of displaced persons in the monitoring process. This section will also describe reporting procedures.

Annex 3

INVOLUNTARY RESETTLEMENT IMPACT CATEGORIZATION CHECKLIST

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
Involuntary Acquisition of Land				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilized within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
Involuntary restrictions on land use or on access to legally designated parks and protected areas				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
Information on Displaced Persons:				
Any estimate of the likely number of persons that will be displaced by the Project? [] No [] Yes If yes, approximately how many? _____				
Are any of them poor, female-heads of households, or vulnerable to poverty risks? [] No [] Yes				
Are any displaced persons from indigenous or ethnic minority groups? [] No [] Yes				

Note: The project team may attach additional information on the project, as necessary.