

IMPORTANCE OF MANAGEMENT OF LAND ACQUISITION AND RESETTLEMENT & REHABILITATION

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In the last decade it has been seen that a large number of hydro projects have undergone severe delays arising out of Land Acquisition (LA) and Resettlement & Rehabilitation (R&R). The result of this has been that even the sites which were earmarked for reservoir projects four decades ago are slowly changing by transferring them into run-of-the-river projects. A recent instance of this is Kotli Behl Hydro Power Project of 900 MW on river Ganga in Uttara Khand, which was conceived to be a reservoir project with a concrete dam of 215 m height. Due to anticipated problems of LA and R&R, this project was broken up into three parts by making three run-of-the-river schemes instead of a storage project thereby resulting in allowing about 2.6 billion cumecs water going into Bay of Bengal. Such situations, if not dealt with in time, will create non-availability of water for drinking, irrigation and industrial purposes. It is therefore necessary that the problem of Land Acquisition and Resettlement & Rehabilitation be dealt with utmost priority so that we can have adequate reservoirs in the country for purposes of drinking water and supply of water for irrigation and industrial use in addition to generation of power.

Reservoir projects, apart from making available supply of water and generation of power, could also ease transfer of Ganga and Brahmaputra waters to drought-prone areas of southern states by inter-linking the rivers. In the process of building reservoir projects, there is possibility of submergence of archeological and religious monuments. There are many instances in the world where temples, mosques and churches were shifted to higher areas like in Aswan dam in Egypt, projects in China, Nagarjuna Sagar dam and Srisaillam project in Andhra Pradesh etc. We must adopt this concept so that shifting of monuments should not come in the way of execution of reservoir projects, which is the prime necessity of the country.

If the project-affected persons are made to participate in the project by offering them some stake in the project as done in many countries, construction of storage schemes will not be resisted by displaced persons, since they would be beneficiaries of the project. In case of inter-state projects, if the use of reservoir made in the State is shared by other state/ states, then a predetermined benefit of the water storage will have to go to the State where the land is submerged, in addition to benefits given to the displaced persons. A typical example of such a project is Itaipu project shared by Brazil and Paraguay.

The issues of Land Acquisition (LA) and Resettlement & Rehabilitation (R&R) have assumed great importance in the context of India's ongoing efforts to boost its infrastructure for rapid economic growth and expansion aimed to reduce poverty, boost human development, and enhance global competitiveness. The economy's forward movement is however feared to slow down on account of inadequate institutional mechanisms to effectively and equitably manage LA and R&R issues, which pose significant roadblocks. Many development projects have suffered due to inadequate handling of LA and R&R issues, which in some cases have led to tension and conflict. The policy and practice of LA and R&R vary across agencies, sectors, and states in the country with the general trends reflecting overall capacity deficit, save a few cases of innovation and efficiency.

The administration for LA and R&R in the country is affected by systemic constraints and procedural bottlenecks owing to archaic and cumbersome LA procedures, ineffective land record and administration systems, exclusion of impacted but unclear titleholders from R&R benefits, lack of definite timeframes, confusion among policies and procedures followed across states and sectors; inadequate public information on entitlements, and limited capacity of implementing agencies. The outcomes are increased litigation, time and cost overruns, inequity, and lack of transparency, which adversely affected project implementation.

Realising that strengthening systems and streamlining procedures for LA and R&R holds the key to sustainable development and requires a sector-wide and programmatic approach, the Ministry of Rural Development (MoRD) has started a 2-year programme to strengthen institutions for effective management of LA and R&R with 'non-lending technical assistance' (NLTA) from the World Bank. NLTA is aimed to help improve systems and capacities of central and state government agencies to effectively manage LA and R&R in an equitable and transparent manner by identifying and removing procedural bottlenecks and systemic short falls. The programme has already been initiated in Himachal Pradesh and Gujarat; the NLTA process involves policy workshops, thematic studies, documentation of good practices, and sector specific training programmes.

There is imperative need to recognize rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of the affected persons, rather than as externally-imposed requirements. Additional benefits beyond monetary compensation have to be provided to the families affected adversely by involuntary displacement. The plight of those who do not have legal or recognized rights over the land on which they are critically dependent for their substance is even worse. This calls for a broader concerted effort on the part of the planners to include in the displacement, rehabilitation and resettlement process framework not only those who directly lose land and other assets but also those who are affected by such acquisition of assets. The displacement process often poses problems that make it difficult for the affected persons to continue their earlier livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and social impact of displacement. There must also be a holistic effort aimed at improving the all round living standards of the affected people.

It is acknowledged that many State governments, public sector undertakings or agencies, and other requiring bodies either have their own Rehabilitation and Resettlement (R&R) policies or are in the process of formulating them. The provisions of the National Rehabilitation and Resettlement Policy (NRRP), 2007, provide for the basic minimum requirements, and all projects leading to involuntary displacement of people must address the rehabilitation and resettlement issues comprehensively. The State governments, public sector undertakings or agencies, and other requiring bodies shall be at liberty to put in place greater benefit levels than those prescribed in the NRRP-2007. The principles of this policy may also apply to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any other reason.

BROAD ISSUES AND RECOMMENDATIONS

Details of main issues raised and agreements reached in respect of LA and R&R are given below:

a) Land Administration and Records:

Outdated and inaccessible revenue records and unclear titles to land, result in preparation of poor land acquisition plans, excludes legitimate rights of the affected people for compensation and increases litigation. It was noted that the current problems will not be resolved unless all land records are computerized and digitized. The settlement of claims during land acquisition and duplication of procedures and processes to acquire the revised land plans, delays LA and R&R.

Recommendations:

State level assessment of land records pertaining to road network is needed prior to project inception. This should be supported with procedures to update land record, survey and standardization of land and property valuation, enhancing land acquisition staff capacity, and institutional mechanisms needed for coordination between agencies. At project stage – updating revenue maps and clarifying tenure records by Revenue officials to commence earlier in the project preparation; outsourcing of non-statutory survey and valuation tasks could be combined with project preparation to increase the accuracy of plans; quality audits of plans to be conducted, preventing costly re-design and inappropriate land acquisition.

b) Sectoral R&R Policy:

R&R packages being delivered in donor supported projects are commensurate with severity of impact that with provision for replacement cost for assets and changed land use and assistance to unclear titleholders. In addition, support for resettlement and livelihood restoration is also extended to adversely affected people. The extension of R&R support to selected population has led to inequities. The National R&R Policy 2004, provides principles and framework for a minimum R&R support for the affected. The National policy recognizes that states can adopt higher benefit packages than proposed by the policy.

Recommendations:

Each State and national partner to prepare a land acquisition and resettlement implementation policy for transport sector that is commensurate with severity of impact and ensures coverage of effective rehabilitation mechanisms.

c) Institutional Capacity:

Existing capacity, awareness and knowledge levels amongst the planners and implementing partners is considerably weak. There are restrictions on recruitment, limited career growth opportunities and government officials on short deputation from other departments. The implementing agency is dependent on District Administration to acquire land, an external agency over which they have no control. District Administration have other pressing duties and is often unable to implement land acquisition as a priority for the project, which affects the capacity of the implementing agency to deliver results on time and efficiently.

Recommendations:

Enhanced land acquisition and resettlement institutional capacity is needed well before start of civil works; during the design stage, the capacity of Revenue offices to be assessed and, where considerable increased volume of work is expected, commensurate staff and budget resources assigned; nodal officers are needed to coordinate tasks among agencies, with decentralized decision making to speed timely work progress.

d) Changes in Task Scheduling for Project Process:

In several processes and stages of project cycle the land acquisition start only after project negotiations. The challenge remains of completing land acquisition and providing encumbrance stretches to the contractors.

Recommendations:

Creating effective systems for better project delivery; marking corridor of impact, centre line and right of way to be completed by design consultants, before detailed designs; this will allow land acquisition processes to commence within project preparation rather than after. Specific requirements before award of civil works contracts: encumbrance free certificates will be based on completion of disbursement of compensation and R&R assistance and relocation for 100% of the 1st milestone, completion of declaration of award of compensation for 75% of the 2nd milestone, and completion of notices for award of compensation for 50% of the 3rd milestone.

Details of main issues raised and agreements reached are given below in Table-1:

Table-1
SUMMARY OF RECOMMENDATIONS AND AGREED ACTIONS

| Sl. No. | Issues Raised | | Recommendations/ Action Points Received |
|---------|--|--|---|
| 1. | Outdated land records leading to delay in Land Acquisition (LA) | <ul style="list-style-type: none"> - - - - - - | <p>During Detailed Project Report (DPR), update revenue maps.</p> <p>Updating land records through settlement of claims of ownership should be one of the pre-project activities.</p> <p>Competent authority to mobilize and update records at least in villages coming under the project roads as soon as they are identified prior to the initiation of land acquisition process or at project formulation stage.</p> <p>Computerise records of rights and put in public domain.</p> <p>Improve incentive/ disincentive system for better mutation enforcement.</p> <p>Road Stretch Register to be maintained by PWD and updated regularly in revenue records (better road information system).</p> |
| 2. | Lack of access to revenue records resulting in inadequate LA plans | <ul style="list-style-type: none"> - - | <p>Land survey should be part of DPR.</p> <p>Deployment of Revenue staff from the project area with requisition agency.</p> |

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| 3. | Inadequate coordination between LA plans and Project implementation plans and contractors' mobilization before completing LA | <ul style="list-style-type: none"> - - - | <ul style="list-style-type: none"> - RoW to be marked on ground at early stages to aid preparation of correct LA plans (say during feasibility) - Mobilisation of identified NGOs at DPR stage and given required orientation to facilitate LA and resettlement process. - Prior to award of civil works contract, acquire 100% LA completed in First, 75% for Second, and 50% for Third milestone. |
| 4. | Demarcation in the field of Corridor of Impact and Right of Way by the consultants preparing the project is not carried out | <ul style="list-style-type: none"> - - - - | <ul style="list-style-type: none"> - Demarcation of Corridor of Impact (Col) and Right of Way (RoW) and marking in the field, in consultation with the revenue authorities by design consultants with permanent markers to IRC specifications based on the FS level design parameters, before detailed design are completed. - Develop a time frame for completing LA by Revenue Dept after defining Col and RoW. - RoWs will be marked and cut-off dates publicized to prevent encroachment. - Dated video-recording of all structures along the road network during the feasibility study to protect the RoW and reduce the problems associated with encroachment/ squatting. |
| 5. | Frequent changes in designs leading to duplication of resources for land acquisition | <ul style="list-style-type: none"> - - - - | <ul style="list-style-type: none"> - Maintain consultants performance roster to identify and avoid sub-standard consultants preparing poor designs. - Ground truthing of DPR by consultants. - DPR stage joint verification on ground by project and revenue authorities. - At DPR stage finalize horizontal and vertical design at the earliest (say 4 months) and do CL and Col pegging (say another 1 month). Complete Sec.6 notice under LA Act within 3 months of pegging to freeze LA requirements. |

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| 6. | Absence of guidelines to provide compensation to land owners with unclear title | <ul style="list-style-type: none"> - - | <ul style="list-style-type: none"> - Assessment of typology of land ownership pattern and provisions made accordingly in the entitlement package to provide assistance for R&R. - Develop guidelines for establishing title for those with valid claims. |
| 7. | Lack of uniformity in providing replacement cost that leads to inconsistency in current method for calculation of replacement cost | <ul style="list-style-type: none"> - - - - - - - - - - - | <ul style="list-style-type: none"> - Provide replacement costs for immovable assets and land. - Replacement cost should include seasonal crop loss during transition period that covers the period for developing the alternate asset for restoration of livelihood. - Scheduled rates for new construction should be the basis for evaluating loss of buildings and other immovable structures without depreciation or deduction for salvaged material. - Develop standard formula using circle rate guideline value plus: standardized factor values to account for location, use, amenities and type of land. - Allow option for salvage of timber or compensation. - Provide current PWD schedule rates but without deducting depreciation cost. - Compare rates fixed by approved Evaluators. - Private negotiations should be preferred mode to ensure replacement value. - Standard multipliers for years of value to consider for wet, dry and garden lands (e.g. tree life, productivity). - Replacement costs will be the basis for assets compensation, supplemented by standard multipliers as mentioned above. |

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| 8. | Lack of uniformity in the R&R policy provisions for providing assistance to affected/ displaced non-title holders and title holders | <ul style="list-style-type: none"> - - | <p>For those with no valid claim (squatters, encroachers and renters) give shifting, subsistence and rental allowance, plus assistance at replacement cost for structures and free plots for the displaced belonging to vulnerable category.</p> <p>For title holders, in addition to compensation for land and assets, give assistance over and above the replacement cost plus standard rental, subsistence and shifting allowances.</p> <p>In addition, provide adequate economic rehabilitation grant for restoration of livelihood to the vulnerable people.</p> |
| 9. | Slow process of clearances by client agency of micro plans to disburse assistance money | <ul style="list-style-type: none"> - - - | <p>Micro plan approvals are not required from DCs, but where their concurrence is requested, they must be better briefed on the rationale and methods of RAP planning.</p> <p>Minimize time lag between payment of compensation and assistance for rehabilitation with a time limit of three months.</p> <p>Decentralize more decision-making and increase capacity of lower levels, increasing the financial limits of field offices so that decisions are more timely.</p> |

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| 10. | Slow progress in relocation of common property resources and resettlement sites by contractors | <ul style="list-style-type: none"> - - | <p>Shifting common property resources requires more structured and better documented consultation and participation of village committees to increase their awareness and responsibility for cooperation.</p> <p>Common property should either be responsibility of project authorities, not contractors, or if responsibility of contractors make it pre-requisite for starting civil works.</p> |
| 11. | Inadequate capacity with the revenue department to carry out surveys for LA as expected to meet the project targets | <ul style="list-style-type: none"> - - | <p>Surveys of assets proposed to be acquired need to be done before LA schedules are prepared and included in the DPRs. Increased outsourcing of survey work and valuation of assets and buildings is required (except statutory functions, which must remain with government), and build the credibility and capacity of private sector.</p> <p>Where private sector is not available, survey departments must be strengthened before LA commences (added revenue staff with special allowance and logistic support) with staff, skills training, survey instruments, computerization.</p> |
| 12. | Inadequate funds to finance land acquisition | <ul style="list-style-type: none"> - - | <p>For States/ central agencies with severe financial constraints, consider requiring special accounts to guarantee adequate funds.</p> <p>Release of funds on alternate months with disbursement needs.</p> |

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| 13. | Inadequate allocation of resources (time, staff, budge) by DPR consultants to prepare implement able Resettlement Action Plans | - | Better quality control of LA plans and RAP baseline data: 15-25% audit of each plan to ensure the consultant plans and LA schedules are accurate and implementable. |
| 14. | Lack of resources (staffing, capacity and funds) with the client agency and frequent transfer of government officials | - - | Assess staff requirement and deploy additional staff and resources during the project formulation stage. Give minimum 3 year tenure for all staff, with incentives to perform LA and R&R tasks. |
| 15. | Dependence on district administration by client agency to assist in implementation of R&R | - - - | Hold stakeholder consultations with District Collectors who are the key official and involve with engineers from project inception. Include dedicated R&R consultants in State and NHAI PIUs, in addition to the NGOs already working, to improve supervision of district and local coordination mechanisms. Use Panchayati Raj institutions and structures for improved public sonultations. |
| 16. | Restriction on recruitment by client agency of professionals for management of R&R | - | Outsource (except statutory functions). |

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| 17. | Frequent change of personnel in DPR consultants/ NGOs contracts for preparation and implementation of RAPs | - | Contract NGOs during preparation of DPR, with contracts that provide penalties for changing staff, and rewards for quality performance and results (better drafting of contracts) |
| 18. | Existing grievance redress system is ineffective | <ul style="list-style-type: none"> - - | <p>Provide legal assistance to improve PAP interaction with Revenue Dept.</p> <p>Monitor functioning to ensure grievance redress mechanisms are working speedily and equitably (indicators for each period should include: No. of grievances lodged, number reviewed by the committee, and number accepted for redress or rejected during each period).</p> |
| 19. | Lack of training for all implementing partners | <ul style="list-style-type: none"> - - - | <p>Improve staff capacity of engineers, Revenue officials and NGOs: Revenue officials require better treatment and recognition by PIU engineers, including adequate budgets, resources (communication, vehicles, equipment) to do LA on time.</p> <p>Sensitize public and Revenue officers including the lower staff on their role and responsibilities: why and when land required, update records urgency and need to avoid delay.</p> <p>Intensive training programme with exposure visits at inception stage of the project and follow-up training at regular intervals.</p> |

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| 20. | Need to improve schedules and time frames provided for completing LA | - | <ul style="list-style-type: none"> - Issue S.4(1) earlier in the project cycle at the end of feasibility stage. - Issue LA notification to individuals and publish in two local newspapers. - Restrict notifications to District Gazette instead of State-wide Gazette. - Provide encumbrance-free certificate before handing over each milestone to contractor. - Provide incentives to PAPs for clearance of COI ahead of schedule (advance possession). |
| 21. | Lack of enabling environment for program lending | - | <ul style="list-style-type: none"> - For programmatic lending, Bank could consider financing LA and activities associated with acquisition. - Each State should develop a concept note for assessment on land administration and records; land acquisition guidelines and standards; Resettlement and Rehabilitation mechanisms; Institutional policy. - Discuss these initial CNs and policy with the relevant stakeholders and then by Secretaries and by Cabinet for approval, then taken up for Govt order or resolution. - Non title holders will be eligible for structure asset compensation and assistance for livelihood rehabilitation, but assistance methods will need to be developed in each State. - Institutional arrangements defined for each State policy include a State level empowered committee for coordinating the work, with representatives from all participating agencies, a defined Social Development cell in the implementing agency to give priority to R&R; have the District Collector as nodal officer chairing a local committee, with separate grievance redress process, and using NGOs as needed in complex projects. |

BENEFIT SHARING

Report (2000) of the World Commission of Dams (WCD) focuses on mechanisms that ensure a direct monetary re-distribution of project related revenues or profits to project-affected populations, associated with the existence of an economic rent. Such mechanisms go beyond resettlement and rehabilitation programmes and environmental and social mitigation or compensation measures. The main types of mechanisms considered in the study are the following:

Re-distribution of part of the dams revenue to local or regional authorities in the form of royalties tied to power generation or water charges;

Establishment of development funds financed from power sales;

Part or full ownership of the project by project-affected populations (equity sharing);

Levying property taxes by local authorities; and

Granting preferential electricity rates and fees for other water related services to local companies and project-affected populations.

Non-monetary benefits are thus excluded from the study. Examples of non-monetary benefits are allocation of fishing rights to resettlers in a newly-created reservoir, access to improved infrastructure or priority hiring of project-affected people on construction works or in operations activities. As the analysis of each of these forms of non-monetary benefit could justify a report on its own, they could not be included in this study. However, non-monetary benefits will be considered whenever they are part of the steps leading to an agreement on monetary benefit sharing or to its implementation.

The design and outcome of the main types of mechanisms considered in the study vary in many ways, particularly in terms of degree of involvement of project-affected populations and efficiency in the use of the benefits. The challenge is to conceive mechanisms that are both efficient in their application and viewed as equitable by the key parties involved.

The objectives of this study are the following:

- Describe the principles involved with benefit sharing in the form of direct monetary redistribution of project-related revenues or profits to project-affected populations;
- Evaluate the processes and practicalities involved with implementation of the benefit sharing mechanisms; and
- Evaluate the outcomes from various types of benefit sharing mechanisms.

The lessons from this study will be used to integrate best practices for benefit sharing into World Bank operations and to assist client countries in developing policies to promote benefit sharing for dam projects.

This report presents the results of Phase-I of the project. Phase-I corresponds to a desk review with resulting recommendations on “essential elements” that are to be taken into consideration for achieving equitable benefit sharing. The desk review follows a case study approach to organize the research and resulting recommendations. Cases include those that were analyzed in the Summary Review on Dams and Benefit Sharing prepared for the WCD (Milewski et Al., 1999). Other cases have been selected to cover more thoroughly the main types of benefit sharing mechanisms and dams that are not solely intended for power generation (irrigation, water supply, etc.). These cases are presented in and summarized in Table-2 given below:

In Phase-II, it is expected that more in-depth case studies will be carried out on ‘desirable elements’ and on emerging trends’ with respect to benefit sharing, focusing on practicalities involved with the design, negotiation and implementation of benefit sharing mechanisms (what really works and why?). The lessons learned from these in-depth case studies will be used to prepare tool kits to improve current practices.

In Phase-III, an international benefit sharing best practice conference would be organized to further disseminate the results of the study.

Table-2
CASES SELECTED FOR DESK REVIEW OF BENEFIT SHARING MECHANISMS

| Sl. No. | Name of Project & Country | Country | Purpose of Project | Project Size |
|---------|---|---------------------------------|---------------------------------|--|
| 1. | Urra-1 (commissioned in 2000) | Colombia | Power generation, flood control | 340 MW |
| 2. | Itaipu | Brazil and Paraguay | Power generation | 14,000 MW |
| 3. | Eastmain-1 Dam, Eastmain-1A and Rupert Diversion Project | Canada (Quebec) | Power generation | 770 MW 12,6 TWh |
| 4. | Columbia River Basin (Columbia Basin Trust created in 1995) | Canada (British Columbia) & USA | Power generation, flood control | Flood control & downstream electricity benefits C. \$295 million |

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| 5. | Lesotho Highland Water Project (Ph.1A) commissioned in 1998 | Lesotho and S.Africa | Water supply, Power generation | Transfer of 70 m ³ /s from Lesotho to S.Africa, 72 MW power plant |
| 6. | Minashtuk (commissioned in 2000) | Canada (Quebec) | Power generation | 9,9 MW |
| 7. | Touloustouc (project start-up) | Canada (Quebec) | Power generation | 440 MW 2,6 TWh |
| 8. | Hydropower development in poor areas of Hubei (project start-up) | China | Power generation | 4 projects: 30MW to 110MW |
| 9. | Glomma and Laagen River Basin Development | Norway | Power generation | 862 MW 3,8 TWh |
| 10. | Tokke Project | Norway | Power generation | 960 MW |
| 11. | Shuikou (commissioned in 1993-1996) | China | Power generation, navigation | 1,400 MW 4,85 TWh |

In the above cases, the revenue of the project is shared by (1) Central government, (2) Local government, (3) Managing agency, (4) Investment/ stabilisation fund, (5) Welfare activities like universities grant for education, health care and other social supports – Out of the share of local government, a substantial percentage is used for distribution to affected areas in various forms.

In order to see that we are able to implement water storage projects to supply water for drinking, industry and agriculture, and also interlinking of rivers from Brahmaputra to Cauvery, it is necessary that we provide a mechanism in which displaced persons are given a stake in the benefit-sharing of the project, thereby making LA and RR reasonably simple. All the issues dealt with are a necessity. In addition to facilities, LA, RR policy, stake in the project's benefit to the displaced persons need to be looked into.