

KEY CONCEPTS OF SOCIAL IMPACT ASSESSMENT AND RESETTLEMENT ACTION PLAN FOR INFRASTRUCTURE DEVELOPMENT PROJECTS

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INTRODUCTION

Resettlement of affected persons and rehabilitation of their lost assets (land and / or structures) and livelihood are critical yet imperative social development exercises of linear road projects that require displacement of individuals and groups in order to either upgrade / widen existing road networks or else to construct new road systems for better transport facilities and streamlined movement of vehicular traffic essential for economies undergoing reforms. Involuntary resettlement caused by road projects should be informed by comprehensive mitigation measures in order to reduce adverse impacts on the existing social fabric of Project Affected Persons.

RESETTLEMENT ACTION PLAN

One of the most crucial aspects of implementing infrastructure development projects (such as roads and highways projects) is acquisition of land and/or properties and resettlement thereof of Project Affected Persons and their families/households.

LAND ACQUISITION ACT 1984

The Land Acquisition Act I of 1984 (along with its modifications) usually forms the basis of the land acquisition process in India. [The National Highways (Amendment) Act 1997 may be applied if the project road is declared as a National Highway.] The value of land depends upon its area and location along with its type that is classified as residential, agricultural, ponds, barren etc. besides Government Land being used for railways, roads, canals, public utilities etc.

NATIONAL POLICY ON RESETTLEMENT & REHABILITATION 2003

In case of projects relating to Railway Lines, Highways, Transmission Lines and laying pipelines wherein only a narrow stretch of land extending over several kilometers is being acquired, the Project Affected Families will be offered an ex-

gratia amount of Rs. 10,000/- per family, and no other Resettlement & Rehabilitation benefits shall be available to them.¹

The system of extending cash compensation does not, by itself, in most cases, enable the affected families to obtain cultivable agricultural land, homestead and other resources, which they have to surrender to the State. The difficulties are more acute for persons who are critically dependent on the acquired assets for their subsistence/livelihoods, such as landless agricultural workers, forest dwellers, tenants and artisans, as their distress and destitution is more severe, and yet they are not eligible for cash compensation.²

Project Affected Family means a family/person whose place of residence or other properties or source of livelihood are substantially affected by the process of acquisition of land for the project and who has been residing continuously for a period of not less than three years preceding the date of declaration of the affected zone or practicing any trade, occupation or vocation continuously for a period of not less than three years in the affected zone, preceding the date of declaration of the affected zone.³

Affected zone, in relation to a project, means declaration . . . by the appropriate Government area of villages or locality under a project for which the land is being acquired under Land Acquisition Act 1894 or any other Act in force . . .⁴

The National R&R Policy displays concern for the more vulnerable sections of society that may be unevenly impacted by project interventions. It is to be realized that R&R is centrally about securing justice in nearly all its forms to Project Affected Persons. The unique feature that sets R&R apart is its attempt to explore new institutional mechanisms outside the scope of the conventional legal framework.

NATIONAL POLICY GUIDELINES

The Government of India has prepared an R&R Policy that strives to standardize the good practices related to involuntary displacement of persons and their assets

¹ Source: National Policy on Resettlement and Rehabilitation for Project Affected Families 2003 (published in The Gazette of India Extraordinary Part I, Section 1, No. 46, Dated 17th February 2004), Chapter VI (R&R Benefits for Project Affected Families).

² *Ibid.* Chapter I (Policy: Preamble).

³ *Ibid.* Chapter III (Definitions).

⁴ *Ibid.*

in the national context. State Governments as well as Central Government Agencies more or less adhere to this policy in the case of development projects. This is evident from the review of different Entitlement Matrices of road projects spread across the country.

It is imperative that best practices and lessons learnt continuously evolve during the preparatory and operational phases of development projects so that change management in difficult situations may be efficaciously handled by the concerned project authorities. So information dissemination and knowledge-sharing exercises have to be constantly upgraded with regard to the problems as well as the solutions in the context of projects involving R&R.

The National Policy on Resettlement and Rehabilitation for Project Affected Families (2003) prepared by the Ministry of Rural Development (Department of Land Resources) of the Government of India states that "Compulsory acquisition of land for public purpose including infrastructure projects displaces people, forcing them to give up their home, assets and means of livelihood. Apart from depriving them of their lands, livelihoods and resource-base, displacement has other traumatic psychological and socio-cultural consequences. The Government of India recognizes the need to minimize large scale displacement to the extent possible and, where displacement is inevitable, the need to handle with utmost care and forethought issues relating to Resettlement and Rehabilitation of Project Affected Families. Such an approach is especially necessary in respect of tribals, small and marginal farmers and women."

"The system of extending cash compensation does not, by itself, in most cases enable the affected families to obtain cultivable agricultural land, homestead and other resources which they have to surrender to the State. The difficulties are more acute for persons who are critically dependent on the acquired assets for their subsistence / livelihoods such as landless agricultural workers, forest dwellers, tenants and artisans, as their distress and destitution is more severe, and yet they are not eligible for cash compensation."

This is a limitation of the National R&R Policy. The primary stakeholders who are not entitled to any cash compensation from the project can subsequently become a social problem in terms of their relative deprivation.

“. . . The Policy essentially addresses the need to provide succour to the assetless rural poor, support the rehabilitation efforts of the resource poor sections, namely, small and marginal farmers, SCs / STs and women who have been displaced. Besides, it seeks to provide a broad canvas for an effective dialogue between the Project Affected Families and the Administration for Resettlement & Rehabilitation. Such a dialogue is expected to enable timely completion of projects with a sense of definiteness as regards costs and adequate attention to the needs of the displaced persons, especially the resource poor sections. The intention is to impart greater flexibility for interaction and negotiation so that the resultant (Compensation / Support / Assistance) Package gains all-round acceptability in the shape of a workable instrument providing satisfaction to all stakeholders / Requiring Bodies.”

Dialogues in the context of involuntary resettlement of Project Affected Persons is essential in order to provide the necessary interactive space within the framework of entitlements and benefits designed for PAPs. This dialogue must continue throughout and even beyond the project cycle in order to ensure that PAPs have secured adequate representation during the policy formulation stage and comprehensive participation during the project implementation stage.

This policy further states that “In case of projects relating to Railway Lines, Highways, Transmission Lines and laying pipelines wherein only a narrow stretch of land extending over several kilometers is being acquired, the Project Affected Families will be offered an ex gratia amount of Rs 10,000/- per family, and *no other Resettlement & Rehabilitation benefits shall be available to them*” (emphases added). This contradicts the long-term income / livelihood restoration objective of development projects that induce displacement as per the World Bank’s policy guidelines.

“The National Policy on the Resettlement and Rehabilitation of Project Affected Families will be in the form of broad guidelines and executive instructions for guidance of all concerned and will be applicable to Projects *displacing 500 families or more en masse* in plain areas and *250 families en masse* in hilly areas, Desert Development Programme (DDP) blocks, areas mentioned in Schedule V and Schedule VI of the Constitution of India” (emphases added).

This is another limitation of the National R&R Policy due to its mentioning of the specific number of Project Affected Families. It implies that development projects

displacing less number of families would not be covered by this policy. This shortcoming may be corrected in the future to ensure social safeguards. It is essential to impart social and economic justice to Project Affected Persons. It is also imperative to ensure that their community fabric and kinship ties and cultural identities are not destroyed by way of project interventions.

WORLD BANK POLICY GUIDELINES

The World Bank has extended different categories of bilateral support to facilitate implementation of development projects since its inception. It also simultaneously ensures that Structural Adjustment Programs are duly implemented by the countries receiving monetary support (loans / credit / grant) as a condition attached to such financial assistance. So adherence to the World Bank's R&R Policy Guidelines on the part of national and / or state governments is imperative in order to be eligible for any project support.

"The World Bank's involuntary resettlement policy states that project planning must avoid and minimize involuntary resettlement, and that if people lose their homes or livelihoods as a result of Bank-financed projects, they should have their standard of living improved, or at least restored."⁵

Project implementing authorities who seek World Bank funding must ensure proper adherence to the Bank's policy guidelines in order to qualify for long-term financial support and assistance. Comprehensive R&R policy frameworks must be prepared in this connection as one of the preliminary tasks during the project preparatory phase.

"Involuntary resettlement may cause severe long-term hardship, impoverishment and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the (World) Bank's policy on involuntary resettlement are the following:

- ❑ Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- ❑ Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced

⁵ <http://www.ciel.org/lfi/wbinvolresettle.html>

by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”⁶

It is evident that the World Bank intends to maintain all possible social safeguards in order to mitigate / reduce negative impacts caused by development project interventions. So policy planners of the concerned implementing agencies who accept World Bank funding should prepare their R&R guidelines in accordance with the Bank’ social and environmental prescriptions. Such guidelines must also be in tune with the national context and ground realities of specific projects.

World Bank Funded Road Projects

Several State Governments in India such as Andhra Pradesh, Gujarat, Karnataka, Kerala, Uttar Pradesh, Mizoram and Tamil Nadu and Government Agencies like the National Highways Authority of India have in recent times undertaken road improvement projects funded by the World Bank.

R&R Policy Guidelines were prepared by the concerned implementing agencies in accordance with the World Bank’s Operational Directive 4.30 / Operational Policy 4.12 related to involuntary resettlement. A few road projects can be cited in this regard such as

1. Third National Highway Project (TNHP)
2. Grand Trunk Road Improvement Project (GTRIP)
3. Allahabad Bypass Project (NHAI Project)
4. Lucknow-Muzaffarpur National Highway Project (NHAI Project)
5. Andhra Pradesh State Highways Project (APSHP)
6. Karnataka State Highways Improvement Project (KSHIP)
7. Tamil Nadu Road Sector Project and
8. Uttar Pradesh State Roads Project.

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<http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/toc2/CA2D01A4D1BDF58085256B19008197F6?OpenDocument#foot>

Certain changes have taken place over time in the policy formulation stage of different road projects funded by the World Bank. Such moderate policy shifts indicate that road or any other development projects require streamlining in accordance with the local-level situation and ground realities although the general policy framework with regard to involuntary resettlement of Project Affected Persons remains almost the same.

This is a lesson learnt ie specific projects require specific planning attuned to the ground realities in order to ensure that R&R policy guidelines are properly followed as mandated by the World Bank. Lacunae identified in earlier road projects can be addressed in subsequent projects (especially with regard to the entitlements of PAPs) in this process that strategizes continuous knowledge upgradation underpinned by change management mechanisms.

CASE STUDIES

For instance: the Entitlement Matrix of the Allahabad Bypass Project mentions that "PAPs will be explained the process (of acquisition of land and assets and compensation against such acquisition at replacement cost or actual market value) and their views will be taken into consideration while determining the market value."

This concern was not reflected in similar terms in the Entitlement Matrix of the Lucknow-Muzaffarpur National Highway Project. But it was duly reflected in the case of the Kerala State Highways Project. The National Highways Authority of India's Detailed Entitlement Matrix for the National Highway Corridor (Public-Private Partnership Project) also includes this people's participation factor in its design (2002).

The provision of verification of mortgage clearance by the Project Authority is included in the Allahabad Bypass Project while it is not included in the Lucknow-Muzaffarpur Project. Categories of land loss were included in the Entitlement Matrix of the Andhra Pradesh State Highways Project (1996). This was a novel approach to identify the types of land loss in terms of magnitude (>25% and <25%).

The provision of "Unforeseen impacts shall be documented and mitigated based on the principles agreed upon in this policy framework" was absent in the Andhra

Pradesh State Highways Project. This provision is essential to address new factors that may emerge at different points of the project cycle.

The Kerala State Highways Project (2000) provided "For those who choose self-relocation, the Project Displaced Persons will be entitled to plots . . . even if they do not opt for resettlement sites." This was a unique effort to incorporate an adequate social space required for Project Affected Persons in their pursuit of alternative places of residence and / or work.

This project also mentioned that "Easily replaced resources such as cultural properties will be conserved (by means of special protection, relocation, replacement etc) in consultation with the community." This provision respects the cultural identities of Project Affected Persons and ensures that participatory development is safeguarded under the project so that the primary stakeholders are properly benefited from the positive impacts of the civil works undertaken in connection with the project. It is also reflected in the Entitlement Matrix of the Uttar Pradesh State Roads Project Phase I (2002).

The Tamil Nadu Road Sector Project (2003) remarked in its Detailed Entitlement Matrix that "The land (agricultural or otherwise) purchase grant will be available if alternative land is purchased and registered within one year of receiving the compensation amount. The grant will be released on the submission of copy of registered sale deed".

This provision (available to those Project Affected Persons who lost more than 25% of their land holding and were left with less than the minimum economic land holding) is a good practice as it considerably streamlined the land compensation mechanism and ensured social safeguard for PAPs. This project also included the option of built houses depending on the size of houses lost. This may be replicated elsewhere if practicable.

The Karnataka State Highways Improvement Project (Raichur and Bijapur Bypasses) pinpointed the budgetary provisions for implementation of the Resettlement Action Plan by mentioning that "All the costs calculated will be pegged to the inflation costs after 2 years from the Cut-Off Date". It also proposed in its Entitlement Matrix that "The maintenance of common property resources and infrastructure will be handed to the Local Authority."

This provision ensures that the benefits of the project percolate to the grassroots as a result of decentralization of power and devolution of resources. The project also included a "Scope for making amendments in the R&R Policy." This is critical in order to accommodate any factor(s) not conceived during the project preparatory stage.

The Detailed Entitlement Matrix of the Gujarat State Highways Project (Phase IIB) included the institutional arrangement of an Independent Committee entrusted to decide the replacement cost or actual market price of agricultural land and assets of private property owners. This was a good practice and can be emulated elsewhere. This provision made the assessment procedure of land and assets transparent and also made this committee accountable to the Project Affected Persons.

The organizational structure of the R&R Cell has been mentioned in the Assam State Roads Resettlement & Rehabilitation Policy (2004). This is important because such organizational structures and institutional arrangements ultimately help implement the Resettlement Action Plan and facilitate entrenchment of good practices as per World Bank guidelines.

Review of different project policies reveal that a uniform set of guidelines apply to the Detailed Entitlement Matrices with minor inclusion and exclusion of certain provisions. The key beneficiaries have already been identified and the principal entitlements have been decided upon. Such policy continuity is essential for the long-term sustainability of benefits accruing from road projects funded by the World Bank.

LEGAL FRAMEWORK

The Land Acquisition Act I of 1984 allows Government Agencies to expropriate any private land for a public purpose (by exercising Eminent Domain), provided the owners in possession of legal titles to occupy the land and structures are duly compensated. Current land acquisition compensation packages include the following:

1. Market value of the land.
2. A solatium of 30% on the market value of land.
3. An interest of 12% on the market value of land from the Date of Notification to the Date of Declaration of Award.

4. Additional compensation is also allowed for loss of trees, crops, houses and other immovable assets.
5. The compensation for loss of earning to the sharecropper would be not more than six times of net average annual income derived during the three years immediately preceding the Date of Acquisition.
6. Damage due to severing of the land holding from adjoining land.
7. Damage due to land acquisition leading to change of residence or place of business.

Whenever it appears to the appropriate Government that the land in any locality (is needed or) is likely to be needed for any public purpose (or for a company), a Notification to that effect shall be published in the Official Gazette (and in two daily newspapers circulating in that locality of which at least one shall be in the regional language), and the District Collector shall cause public notice of the substance of such Notification to be given at convenient places in the said locality.⁷

Where land acquisition is required the practice is to refer to the Date of Notification under law as the Cut-Off Date. Compensation is paid on the basis of value of the land at the time of Notification. The District Collector would issue a Notification announcing the public purpose for which the land or property is to be acquired. This would be followed by a period of one month during which objections may be filed by concerned persons with an interest in the land/property to be acquired. Hearing of objections and the award of compensation by the District Collector would follow subsequently. All legal procedures would be meticulously followed while awarding compensation packages to Project Affected Persons in possession of legal titles to the land and (residential/commercial) structures to be acquired for the project.⁸

RESETTLEMENT & REHABILITATION GUIDELINES

Every conceivable effort should be made during the project design and preparation stages to minimize acquisition of land and other assets in order to reduce adverse socio-economic impacts. The structures/assets falling outside the Right of Way/Corridor of Impact should be left undisturbed as far as practicable.

⁷ <http://www.indiahousing.com/general/acquisition.asp>

⁸ Public sector organizations have in certain cases directly purchased land/property through negotiations due to project exigencies.

Road and/or flyover projects may have to deal with Project Affected Persons who fall under the following categories:

1. Legal owners and/or tenants getting adversely affected due to the acquisition of their land and assets or due to the fact that such land or assets so acquired are their sources of livelihood and
2. Encroachers and/or squatters who are the illegal occupants/users of public property/land/structures falling within the Right of Way and accordingly live and/or earn their livelihood by operating within the Right of Way.⁹

The Project Authority would take final decision with regard to compensation and/or Resettlement & Rehabilitation assistance. No compensation for land may be provided to the encroachers and squatters keeping in mind their illegal status. R&R assistance may be provided to encroachers and squatters who belong to the disadvantaged and vulnerable groups. Compensation for structures and other lost assets (required for the project) may be paid at the replacement value¹⁰ to encroachers/squatters who belong to the vulnerable groups.¹¹ The Project Authority would take final decision in this regard.

R&R COMPENSATION

Legal owners of land and property shall be entitled to compensation. Squatters and encroachers who are not ordinarily entitled for compensation may receive certain benefits as per their respective entitlements if they belong to vulnerable groups. The compensation for land and buildings shall be provided within the ambit of the Land Acquisition Act 1894 and assistance would be provided to meet the replacement value. All losses, including loss of income, should be compensated within the overall Resettlement and Rehabilitation package as per the (proposed) Entitlement Framework. The Project Authority shall take the final decision in this regard.

⁹ Identification of encroachers and squatters may be sought from the voters' lists or from any other legal documents or information from the community (in the absence of ration cards/photo identity cards).

¹⁰ Replacement cost shall be equivalent to an amount required to acquire substitute land of equal productive value as well as to replace any structures or other assets. The difference is to be paid by the project in the form of assistance in case the replacement cost is more than the compensation at market price as determined by the Project Authority.

¹¹ Vulnerable categories include Women Headed Households, Landless Agricultural Workers, Scheduled Castes, Scheduled Tribes, Persons from households with income less than 20% above the Poverty Line, Elderly Persons (above 65 years of age) who are the single earning members of their respective households, Persons with Disability and Orphan Children.

Compensation and assistance would be extended to Project Affected Persons who were identified on or prior to the Cut-Off Date. Where land acquisition is required the practice is to refer to the Date of Notification under law as the Cut-Off Date. Compensation is paid on the basis of value of the land during Notification. The Project Authority would ensure that a Notification is issued by announcing the public purpose for which private land and/or property are to be acquired. This would be followed by a period of one month during which concerned persons may file objections with an interest in the land/property to be acquired. The Grievance Redress Committee would deal with claims regarding assistance.

Payment of compensation against land acquired by the Project Authority may be made on the basis of updated official records and ground-level information. Land records of title/classification/current land use may be updated to ensure adequate cost compensation and allotment of land to the Entitled Persons/Project Displaced Persons. Official records as they are on the Cut-Off Date may be consulted in order to determine the classification and current use of land. If 75 percent or more land holding of a Project Affected Person/Project Displaced Person is acquired or when the part of a plot of land remaining after acquisition becomes economically unviable after acquisition, the owner of such land/property shall have the right to seek acquisition of his/her entire contiguous land holding/property provided the residual land is less than the Minimum Economic Holding.¹²

The compensation amount for the land and properties to be acquired by the Project Authority shall be paid according to the provisions of the Land Acquisition Act. The Project Authority shall pay the difference as assistance if the provisions are less than the replacement value. The Project Authority may decide on the magnitude of loss to structures (in terms of percentage of the existing area or otherwise) in order to consider the owners of such affected structures to be Project Displaced Persons.

The Project Authority shall determine the possible replacement cost of land and assets to be acquired. Land rate surveys may be carried out by the Project Authority for this purpose in association with representatives of Project Affected Persons and external assessment agencies. The Project Authority may utilize the following systems of assessment while determining the replacement cost of land:

¹² The Minimum Economic Holding is equivalent to 2 Hectares of non-irrigated or 1 Hectare of irrigated land.

1. Taking into account such prescribed rates or the average of the actual transaction rates of similar lands for contemporary years for which sale deeds are registered.
2. Taking into consideration twenty times of the annual value of gross production of the concerned land averaged over the preceding five years.
3. Fixing up market value of land equal to the minimum land value if so prescribed by the State Government under the Indian Stamp Act for the purpose of registration of sale deeds under the Indian Registration Act of 1908.

The replacement cost of land to be fixed by the Project Authority would be the amount that shall be the highest among the three amounts arrived at by the aforesaid three alternative methods. The difference shall be paid in the form of assistance in case the replacement cost is higher than the market value determined by the Project Authority.

The value of the houses, buildings and other immovable properties of the Project Affected Persons (including the Project Displaced Persons) shall be determined for the purpose of payment of compensation without depreciation.

Compensation for properties belonging to the Project Affected Community or for common places of religious worship that would be acquired for the project shall be provided to enable construction of the same at the relocation site(s) (if any) through the offices of the concerned local self-governing bodies in accordance with the modalities determined by such bodies to ensure proper utilization of the compensation amount.¹³

Persons (belonging to the vulnerable groups) who derive their livelihood from the common places of religious worship may be supported by the project's special assistance scheme (if any).

Compensation for trees would be based on their market value in case of timber bearing trees and replacement cost in case of fruit bearing trees as per the rates decided by the Project Authority in consultation with the concerned Government

¹³ This provision would be applicable in those cases where relocation site(s) may be developed for Project Affected Persons / Project Displaced Persons.

Departments. Loss of income may also be considered when assessing the compensation amount.

Compensation shall be paid and efforts would be made to complete the Resettlement and Rehabilitation of Project Affected Persons/Project Displaced Persons before taking possession of their land and/or properties. The Project Affected Persons/Project Displaced Persons shall hand over their land and properties to the Project Authority free from all encumbrances such as mortgage, debt etc. for the purpose of acquisition.

In the case of any loan on such acquired land and properties extended to the Project Affected Persons by any Government Agency remaining unadjusted as per the information furnished by the Project Affected Persons or by the loaner agency such amounts shall be deducted from their total compensation.

All transaction costs (including transportation costs / wages lost due to the project) shall be assessed and compensated for. The payment of this amount shall be made in accordance with the relevant clauses of the Land Acquisition Act.

All payments shall be made into the joint bank accounts of the husband and the wife while all new titles issued shall be in the joint names of the husband and the wife. All payments shall be made in public to ensure transparency. Disposal of acquired properties shall be carried out as follows:

- The acquired land and properties shall vest in the Government Department(s) paying compensation for such land and properties.
- Project Displaced Persons shall be allowed to collect the materials salvaged from their houses and shops etc. acquired by the project even after payment of compensation. The Government would levy no charges upon them for the same. A notice to that effect would be issued to take away the materials so salvaged within 48 hours of demolition of structures. If not collected then the Project Authority without giving any further notice shall dispose the same.
- The Project Displaced Persons receiving compensation for trees shall be allowed to take away timber from their trees (acquired by the project) for

domestic use. Trees standing on Government Land shall be sold by public auction to be organized by the concerned Government Department(s).

The Project Authority can take appropriate action to demolish structures within the project's Corridor of Impact after the expiry of the notified deadline. The Project Authority can also dismantle structures and evict individuals within the Corridor of Impact of the project if it is established that such structures and individuals occupied the public Right of Way after the duly notified Cut-Off Date. Any grievances and objections in this connection would be referred to the Grievance Redress Committee.

INFORMATION DISSEMINATION CAMPAIGN

Information dissemination exercises for Project Affected Persons may be carried out prior to implementation of the Resettlement Action Plan. This campaign may be facilitated by the Project Authority and executed by the Partner Non-Government Organization(s) that would be appointed to implement the Resettlement Action Plan.

IMPACT CATEGORIES

Project-induced displacement may lead to loss of income or reduced income for Project Affected Persons. The main categories of impact expected as a result of the project include the following types of loss:

1. Loss of commercial establishments
2. Loss of commercial space
3. Loss of residential (dwelling) units
4. Loss of livelihood and
5. Loss of common property resources.¹⁴

Loss of temporary commercial structures is a complex problem since the issue of retaining the present customer base must be considered in this regard. Another problem pertains to the tenants and owners. Mitigation measures delivered under this Resettlement Action Plan may include reconstructing demolished commercial structures in an adjacent area so that the present customer base is retained. The

¹⁴ Common Property Resources may include playgrounds, community meeting platforms, bus bays, public stand posts, hand pumps, wells, vats, cattle grazing areas, solid waste disposal sites, sewerage and drainage systems, water supply and sanitation systems, electrical infrastructure, educational institutions, primary health centres, local markets etc. that are utilized by the affected community members for their everyday civic requirements.

Project Authority should duly consider the means of accomplishing this and addressing ownership of the new structures. The Project Authority would make final decision with regard to all aspects of this matter. There is also the need to respond to more generalized impacts of disturbance in the lives and livelihood of Project Affected Persons. Such adverse impacts may be mitigated by payment of Maintenance Allowance. A Rehabilitation Grant (for vulnerable groups) may be considered in the event income restoration cannot be entirely achieved by utilizing the compensation provided. Project Affected Persons may be assisted by the Project Authority to improve or regain their former status of living at no cost to themselves.

INSTITUTIONAL ARRANGEMENTS

Implementation of this Resettlement Action Plan requires staff, resources and close coordination with different agencies and organizations working in the project area. This Resettlement Action Plan seeks to provide a strategy for developing the required implementation capacity on the part of the Project Authority.

Capacity building and training may be coordinated with the project implementation schedule in order to ensure that skilled staff members are available to implement this Resettlement Action Plan without any delay in civil works.

Orientation workshops may be organised by the Project Authority (Project Implementation Unit) and Partner Non-Government Organizations. An R&R Cell may be established within the Project Implementation Unit. Partner NGOs would be engaged to support the Project Authority and counterparted with PIU personnel to foster transfer of social development expertise. An independent external agency may provide professional services for monitoring and evaluating the R&R process.

The Project Authority may initiate high priority actions to establish institutional linkages necessary for time-bound delivery of the Project Affected Persons' entitlements and assure coordination across agencies as well as between the various social and economic mitigation measures outlined in this Resettlement Action Plan.

INSTITUTIONAL CONTEXT

Effective implementation of this Resettlement Action Plan would require institutional relationships and responsibilities, rapid organizational development and collaborative efforts on the part of the Project Authority, State Government, Partner NGO(s) and Project Affected Persons.

R&R COORDINATION

The Project Implementation Unit would be responsible for coordinating with different Government Agencies. The R&R Cell would establish operational links to facilitate the critical process of project-induced resettlement. It may establish an effective process of dialogue between the Project Authority and the Project Affected Persons / Communities.

The R&R Cell would have to provide the means and mechanisms for coordinating the efficacious delivery of compensation and assistance entitlements to those adversely affected due to implementation of the project.

The R&R Cell would have to contribute social development perspectives and field-level inputs to ongoing project design and implementation by working closely with project planners, contractors and construction supervision consultants.

It would link the project with the concerned Government Agencies, provide liaison with Affected Communities, establish decentralized (grassroots) committees to coordinate social development and resettlement operations in the field, mobilize Partner NGO(s) and motivate local-level Community-Based Organizations to represent and safeguard the interests of Project Affected Persons.

It would also engage training services, oversee a grievance redress process, actively monitor Resettlement Action Plan implementation and cooperate with project evaluation exercises. The R&R Cell would be responsible for disseminating project-related information to the public and providing additional opportunities for civil societal feedback.

INTER-DEPARTMENTAL COORDINATION

Resettlement Action Plan entitlements for Income Restoration Programs and Project Affected Groups are exclusively the responsibility of the Project Authority (apart from the land acquisition and compensation components in which the Revenue Department and the Project Authority would jointly provide entitlements). Several entitlements comprise services and benefits ordinarily

provided by other government-sponsored social development programs such as the vulnerable groups' housing schemes.

The R&R Cell may establish liaison with these ongoing programs to facilitate access of the Project Affected Persons and take advantage of services and programs already in place. It may negotiate cost-sharing arrangements wherever feasible. Restoration of community assets would require coordination with the Public Health Engineering Department.

The R&R Cell's coordination with the Education Department would be required in the event schools are adversely impacted. A variety of State and Central Government programs addressing women's needs may be associated with other group entitlements, including those responding to potential transmission of sexually transmitted diseases as well as reproductive and child health.

GRIEVANCE REDRESS MECHANISM

The Resettlement Action Plan's participatory processes as well as its compensation and support mechanisms are expected to enhance acceptance of the resettlement program and reduce complaints. There may nevertheless be individuals or groups who perceive that they have not received adequate support or that their needs have not been properly addressed.

The Project Authority would, therefore, establish a Grievance Redress Committee. This Committee would have representation from Project Affected Persons, NGO(s)/CBO(s) involved in the Resettlement Action Plan implementation, local-level Government Officials and the Project Authority.

This Committee would hear complaints and facilitate solutions. This process is expected to promote settlement of disputes through mediation in order to reduce the volume of time-consuming litigation. The Project Authority would take final decision on different aspects related to grievance redress of Project Affected Persons.

MONITORING & EVALUATION

Monitoring & Evaluation are critical activities in the process of involuntary resettlement. Monitoring involves periodic checking to ascertain whether R&R

activities are going according to the Resettlement Action Plan. It provides required feedback to the Project Authority to ensure that the Resettlement Action Plan implementation program runs on schedule. Evaluation is basically the post-project assessment of whether the implementation program was finally able to achieve its stated objectives. An independent external agency may be engaged by the Project Authority to carry out the (impact) Monitoring and Evaluation of the project with regard to implementation of the Resettlement Action Plan. M&E would measure project performance against project objectives.

Long-term impact indicators may be examined during the project evaluation stage. The Project Authority may contract an external agency (such as an academic institution) that would undertake independent evaluation studies at least twice during the lifetime of the project. These evaluations would provide inputs to the mid-term review and the post-project report. Independent evaluation exercises may focus on assessing whether the overall objectives of the project are being met and would utilize the impact indicators as a basis for evaluation. The Project Authority would take final decisions on all M&E (and related) aspects of the project.

Monitoring of involuntary resettlement operations require an application of general project monitoring procedures to the processes occurring in resettlement with particular attention to the specific high risks intrinsic in such operations. This means that monitoring of R&R requires certain specialized skills. To meet this requirement a sub-unit within the R&R Cell may be established.

An external agency may be appointed to monitor and evaluate the R&R program on a periodic basis. This additional perspective in Resettlement Action Plan implementation is critical because conventional M&E exercises carried out by Government Agencies may not adequately focus on certain aspects of importance to the implementing agencies. This external agency would be required to streamline the R&R process. External M&E studies may synchronize with the implementation of the Resettlement Action Plan. The external agency may submit periodic reports on the progress of Resettlement Action Plan implementation to the Project Authority. It may also identify the issues and concerns that require attention and subsequent action on the part of the Project Authority.

CONCLUSIONS

- ❑ Implementation of the Resettlement Action Plan on the part of Non-Government Organization(s) appointed by the Project Authority would require sensitive handling of the critical issue of involuntary displacement that is a necessary result of infrastructural development projects involving roads and highways, flyovers and interchanges etc.
- ❑ Legal owners of land and structures would suffer in terms of loss of immovable assets while their tenants would suffer losses either in terms of residence or livelihood or both.
- ❑ Resettlement of affected persons and rehabilitation of their lost assets (land and/or structures) and livelihood are critical yet imperative social development exercises of infrastructure development projects that require displacement of individuals and groups.

RECOMMENDATIONS

- ❑ The Project Authority may set up a dedicated office in order to provide information with regard to the R&R guidelines and the Resettlement Action Plan.
- ❑ Fixation of compensation to the legal owners of affected land and structures should be based on the present market rate.
- ❑ The Grievance Redress Committee may expedite the process of redress of grievances. Project Affected Persons may be counseled by Partner Non-Government Organization(s) as and when required.
- ❑ Unauthorized encroachers and squatters as such do not have any legal rights to their occupied land and structures but the vulnerable groups among such illegal occupants may be considered by the Project Authority for R&R support/assistance.
- ❑ Illegal encroachers and squatters may be allowed to salvage the dismantled materials. The Project Authority may consider appointing such persons (belonging to vulnerable groups) as casual workers during the construction stage of the project in order to provide livelihood at least on a short-term basis in order to mitigate the adverse impacts of involuntary displacement.
- ❑ Representatives from the local bodies such as municipalities/panchayats, officials from the local administration and police, local Community-Based Organizations/Non-Government Organizations may be consulted on a periodic basis to ensure efficacious implementation of the Resettlement Action Plan.

- Involuntary resettlement caused by infrastructure development projects should be informed by comprehensive mitigation measures in order to reduce adverse impacts on the existing social fabric of Project Affected Persons.

APPENDIX I: Key Definitions

CORRIDOR OF IMPACT

The Corridor of Impact is defined as the construction width or the operational width plus a safety zone on either side of the road. Within the Corridor of Impact there should not be any structure or other hindrances. The Corridor of Impact would vary depending on site requirement.

COMPENSATION AND ASSISTANCE

Compensation refers to restitution made to legal property owners in possession of title deeds under the Land Acquisition Act. Compensation is payment made by the Government to legal owners when Eminent Domain is exercised to transfer ownership of private property/land to the State. Assistance refers to all other support mechanisms such as grants, assets, services etc. provided to Entitled Persons (or their groups).

PROJECT AFFECTED PERSONS

Project Affected Persons are individuals who would be adversely impacted by implementation of the civil works of the project. They would lose land/property/livelihood in this process. So a Project Affected Person is an individual who (as a direct consequence of the project) sustains damages

1. due to severance of his/her land or
2. due to negative impacts on his/her immovable properties in any manner or
3. due to adverse effects on his/her livelihood calculated on the basis of an objective assessment.

Project Affected Persons include Project Displaced Persons. These are individuals who are compelled to change their place of residence/work/business due to implementation of the project. Project Affected Persons are categorized as follows:

1. Private Property Owners
2. Tenants
3. Sharecroppers
4. Squatters and
5. Encroachers

Depending upon their category, Project Affected Persons would be entitled to either compensation or assistance or both. Each category is described as follows:

Private Property Owners have legal titles to land, structures and/or other assets. They are entitled to compensation under the Land Acquisition Act. They are also entitled to shifting (relocation) assistance. They may also be facilitated for voluntary relocation to alternative site(s) (if any).

Tenants have bona fide tenancy agreements with private property owners to occupy a structure or land for residence, business or cultivation purposes. They are eligible for certain compensation/assistance as per existing norms.

Sharecroppers are those individuals who have formally or informally entered into an agreement with private property owners to cultivate their land.

Squatters have illegally occupied Government Land for residential, commercial and/or other purposes. They are not eligible for compensation but would qualify for certain assistance and targeted support if they belong to vulnerable groups (defined subsequently). They would be entitled to shifting assistance. They would also be assisted for voluntary relocation to alternative sites.

Encroachers have extended their buildings, land holdings, business premises or work places illegally into Government Land. They are not eligible for either compensation or assistance. Vulnerable groups would be entitled for project support.

PERSONS LOSING THEIR LIVELIHOOD

Persons losing their livelihood are Project Affected Persons who are at least 18 years of age at the time of displacement and who stand to lose their primary occupation or primary source of income as a result of project interventions. Such persons are eligible for support extended by the Project Authority on the basis of their contributions to household income.

VULNERABLE GROUPS

Vulnerable groups may receive special targeted support and assistance under the project because they would be unevenly impacted by developmental interventions. It is desirable that such groups receive special support from the project in order to ensure social safeguards. The human face of the project would

be duly maintained if adequate attention is paid to these vulnerable groups. The following categories may be considered vulnerable:

- ❑ Women Headed Households
- ❑ Landless Agricultural Workers
- ❑ Scheduled Castes
- ❑ Scheduled Tribes
- ❑ Persons from households with income less than 20% above the Poverty Line
- ❑ Elderly Persons (above 65 years of age) who are the single earning members of their respective households
- ❑ Persons with Disability and
- ❑ Orphan Children.

PROJECT AFFECTED HOUSEHOLDS

Project Affected Households are those that would be adversely affected by implementation of the civil works. Project Affected Households are entitled to certain benefits as a household unit.

PROJECT AFFECTED GROUPS

Project Affected Groups are communities (with a focus on the more vulnerable and weaker sections) that may be adversely / disproportionately affected by the project.

ENTITLED PERSONS

Entitled Persons are Project Affected Persons who qualify for (or are entitled to) assistance/compensation since they would be resettled or otherwise be negatively impacted by the project. Entitled Persons include Project Affected Households and Project Affected Groups.

CUT-OFF DATE

The Cut-Off Date would be announced in consultation with the concerned District Magistrates in order to ensure that squatter settlements do not proliferate in the affected area due to lack of proper information. A Project Affected Person not identified at the Cut-Off Date may be considered for support if he/she can produce the necessary documentary evidence of his/her residential proof (of not less than three years) before declaration of the Cut-Off Date. The Cut-Off Date identifies Project Affected Persons (within the existing/proposed Right of Way)

who are entitled to compensation and/or assistance. Persons occupying the Right of Way after the Cut-Off Date would not be considered as Project Affected Persons under this project. Such persons would not be entitled to any assistance. The list of Project Affected Persons may be made public to ensure that Entitled Persons are duly covered under the project. Project Affected Persons may be allowed to lodge complaints (if any). Appropriate measures may be taken by the Project Authority to avoid any further encroachment(s) or squatter settlement(s) in the project area after announcement of the Cut-Off Date. Information dissemination exercises are critical to make the Cut-Off Date credible vis-à-vis the general public. The Project Authority may ensure that the Cut-Off Date is suitably publicized in the project area. Public Notifications in this regard should be prominently displayed in government offices, post offices, market places, telephone booths, shop windows, public notice boards in the local language. Word of mouth may also be spread by deploying public address systems.

HOUSEHOLD UNIT

The Household Unit is defined as all persons living and eating together as a single unit. The household as a collective entity shall be entitled to compensation and assistance in certain cases.

FAMILY

A family shall mean the husband, wife and their minor children. Every son or unmarried daughter who has attained 18 years of age on or before the Cut-Off Date would be treated as a separate family. Every divorced or widowed daughter living separately or with the family on or prior to the Cut-Off Date would be treated as a separate family. Orphans in one single household would be clubbed together as one single family. Mentally handicapped persons irrespective of age and sex would be treated as one single family.

LANDLESS AGRICULTURAL WORKER

A landless agricultural worker is a person who does not hold any agricultural land and who has been deriving his/her principal income by working on the lands of others as a sub-tenant or as an agricultural laborer prior to the Cut-Off Date.

SMALL FARMER

A farmer holding 2 Hectares of non-irrigated or 1 Hectare of irrigated land shall be treated as a small farmer.

MARGINAL FARMER

A farmer holding 1 Hectare of non-irrigated or ½ Hectare of irrigated land shall be treated as a marginal farmer.

MINIMUM ECONOMIC HOLDING

The Minimum Economic Holding is equivalent to 2 Hectares of non-irrigated or 1 Hectare of irrigated land.

INCOME

The Income of a Project Affected Person shall mean the amount of income as shown in his/her Income Tax Return prior to the Cut-Off Date. His/her income shall be calculated (in the absence of any Income Tax Return) by an objective assessment applying the same method as adopted by the Government Agencies to identify Below Poverty Line families.