

# Accessing Land for Development International Best Practices and Country Systems workshop

---

**EDGEWATER RESORT AND SPA, RAROTONGA, COOK ISLANDS  
25 - 26 AUGUST 2015**

**PRESENTED BY: JAYANTHA PERERA**

**Accessing Land for Development  
International Best Practices and Country Systems**

**Table of Contents**

<b><i>Involuntary Resettlement Safeguards and Development Projects</i></b> .....	2
<b><i>Resettlement Concepts and Resettlement Planning Documents</i></b> .....	3
<i>Key Concepts</i> .....	3
<i>Laws, policies, regulations and social safeguards pertaining to land acquisition and resettlement</i> .....	3
<i>Project-affected household:</i> .....	3
<i>Physical displacement:</i> .....	3
<i>Economic displacement:</i> .....	3
<i>Land expropriation (acquisition):</i> .....	3
<i>Compensation:</i> .....	3
<i>Resettlement assistance:</i> .....	3
<i>Resettlement Plan:</i> .....	3
<i>Cut-off Date:</i> .....	3
<i>Vulnerable groups:</i> .....	3
<i>Involuntary resettlement:</i> .....	4
<i>Host population:</i> .....	4
<i>Replacement Cost:</i> .....	4
<i>Agricultural land</i> .....	4
<i>Land in urban areas</i> .....	4
<i>Household and public structures</i> .....	4
<i>Determining the replacement cost</i> .....	4
<b>Introduction to ADB's Involuntary Resettlement Safeguards/Best Practices</b> .....	7
<b>Screening and Categorization of Project Impacts</b> .....	9
<b>Social Impact Assessment</b> .....	11
<i>Consultation and Participation</i> .....	13
<b>Disclosure Requirements</b> .....	15
<b>Key Issues in Land Acquisition and Resettlement</b> .....	18
<i>Key Issues to be Addressed during LARP Formulation</i> .....	23
<b>Grievance Redress Mechanism</b> .....	24

## **Accessing Land for Development International Best Practices and Country Systems**

### **Involuntary Resettlement Safeguards and Development Projects**

Large-scale infrastructure development projects create LAR. Unless carefully designed mitigation strategies are in place, persons and communities displaced by land acquisition suffer severe economic, social, and environmental losses including loss of housing, productive lands, income sources, and livelihoods, generating hardship and impoverishment among APs and communities. Common resources, social networks and service supplies can also get disrupted. When people lose their means of subsistence and income are likely to exploit fragile ecosystems to survive generating environmental risks. At the same time, in rural areas, social tensions between different groups could arise diminishing their cultural identity and community willingness to provide mutual help. In urban areas, displaced persons' attempts to rebuild their lives on public land could create large squatter populations disrupting infrastructure facilities, distorting employment opportunities, and weakening social safety networks.

By applying social safeguards found in country safeguard systems and international best practices, project planners and implementing agencies could avoid or at least mitigate social risks associated with development interventions, and provide adequate strategies to implement and indicators to monitor resettlement performance. They could also introduce corrective measure when resettlement operations deviate from social safeguards or best practices.

The application of consistent and pragmatic best safeguard practices to land acquisition and resettlement help project agencies in maintaining the quality of projects and ensure that they do not generate significant adverse impacts for people who are affected by development interventions. If such adverse impacts are found during project implementation, safeguard best practices provide guidance to mitigate them.

Better understanding of land acquisition and resettlement best practices and their application as part of local regulatory framework will help development agencies in the Pacific Region to tackle difficult development challenges discussed earlier. Careful and committed application of safeguards with adequate understanding and knowledge contribute to sustainable development.

Close adherence to social safeguards built into project planning certainly help avoid delays, corruption, and resource wastage. It will also ensure that all deserving persons and communities receive fair compensation, resettlement assistance, and project benefits thereby avoiding impoverishment and social tensions.

A good understanding of land acquisition and resettlement safeguards would help APs to claim their entitlements and resettlement assistance from project authorities. The presence of a social safeguard plan or an LARP with carefully spelt out entitlements enable them to discuss with project authorities the adequacy, timeliness, and scope of compensation packages and resettlement assistance at a forum such as a grievance redress committee, district and national level arbitration agency, and finally in courts. The application of a LARP which is also approved by donors would help them to take their grievances to international level through accountability mechanisms of such donor agencies.

## Accessing Land for Development International Best Practices and Country Systems

### Resettlement Concepts and Resettlement Planning Documents

#### Key Concepts

Laws, policies and regulations and social safeguards pertaining to land acquisition and resettlement use several common concepts with special meanings. They help project planners and project implementing agencies to be precise and concise in using such terms so that all stakeholders understand them easily without any confusion.

**Project-affected person:** Any person who, as a result of the implementation of a development project, loses the right to own, or otherwise benefit from a built structure, land (residential, agricultural and pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily. Affected persons may be classified as persons: (a) Who have formal legal rights to land or assets; (b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under local and national laws; or (c) Who have no recognizable legal right or claim to the land or assets they occupy or use. The census will establish the status of the affected persons.

**Project-affected household:** All members of an project-affected household, whether related or not, operating as a single economic unit.

**Physical displacement:** Loss of shelter and assets resulting from the acquisition of land associated with a project that requires APs to move to another location,

**Economic displacement:** Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water, or forest).

**Land expropriation (acquisition):** Process whereby a public authority, usually in return of compensation, requires a person, household or a community to relinquish rights to land that it occupies or otherwise uses.

**Compensation:** Payment in cash or in kind for an asset such as land or a resource (income source) that is acquired or affected by a project at the time the asset or resource needs to be replaced.

**Resettlement assistance:** Support provided to APs who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to APs during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray expenses of a transition to a new locale, such as moving expenses and lost work days.

**Resettlement Plan:** The planning document in which a project agency specifies the procedures that it will follow, and the actions that it will undertake to mitigate adverse effects, compensate losses, and provide development benefits to APs and communities, affected by a project

**Cut-off Date:** Date of completion of the census and assets inventory of APs by the project. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets such as built structures, crops, fruit trees, and wood lots established after the date of completion of the assets inventory, or an alternative mutually agreed date, will not be compensated.

**Vulnerable groups:** People who because of their gender, ethnicity, age, physical or mental disability, economic disadvantage, or low social status are more adversely affected by LAR than others and who have limited ability or connections to claim or benefit from resettlement assistance and the project.

## **Accessing Land for Development International Best Practices and Country Systems**

**Stakeholders:** Project-affected individuals, communities, organizations, and institutions interested in and potentially having the ability to influence a project.

**Involuntary resettlement:** Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

**Host population:** People living in or around areas to which people physically displaced by a project will be relocated who, in turn, may be affected by the relocation.

**Replacement Cost:** A range of methods of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means such as calculation of output value for land or productive assets, or the non-depreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. With regard to land and structures, replacement cost is defined as follows:

**Agricultural land** - The market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;

**Land in urban areas** -- The market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;

**Household and public structures** - The cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor and contractors' fees and any registration and transfer taxes.

In determining the replacement cost, depreciation of the asset, and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

**Restrictions on land use:** Some prohibitions impose on agricultural, residential, commercial or other land uses by a project to facilitate its own operations. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, and restrictions on land use within utility easements.

**Income restoration:** Re-establishing the productive livelihood of a displaced person to generate income equal to or, if possible, better than that earned by the displaced person before land acquisition and/or relocation.

**Security of tenure:** An entitlement of both titled and non-titled displaced persons. It refers to protection of resettled persons from forced evictions from resettlement sites. It also indicates that they should receive title deeds or similar security of ownership to their allocated land at a resettlement site.

**Social risks:** They are manifold. They include (i) threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence; (ii) risks that project impacts fall disproportionately on disadvantaged or vulnerable groups; (iii) any prejudice or discrimination toward individuals or groups in providing access to development resources and project benefits, particularly in the case of disadvantaged or vulnerable groups; (iv) negative economic and social impacts relating to land acquisition or restriction on access to natural resources and common property; (v) risks or impacts associated with

## **Accessing Land for Development International Best Practices and Country Systems**

land and natural resource tenure and use, including (as relevant) potential project impacts on local land use patterns and tenure arrangements, land access and availability, food security and land values, and any corresponding risks related to conflict or contestation over land and natural resources; (vi) impacts on the health, safety and well-being of workers and project-affected communities; and (vii) risks to cultural heritage.

**Cut-off date:** Date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and wood-lots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.

**Land acquisition:** Legal avenues for getting private or communal land for a public purpose. Among them are outright purchases, expropriation of property, establishing access rights such as easements or rights of way, takeover of unoccupied or unutilized land regardless of their tenure, and repossession of public land that is used or occupied by individuals or households. "Land" includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements.

**Livelihood:** Full range of means that individuals, families and communities utilize to make a living such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade and bartering.

**Disadvantaged or vulnerable:** Those who, by virtue of, for example, their age, gender, ethnicity, religion, physical or mental disability, social and civic status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources may be more likely to be adversely affected by the project impacts and/or more limited than others in their ability to take advantage of a project benefits. Such a person/group is also more likely to be excluded from participation fully in mainstream consultations and as such may require special assistance. Considerations relating to age include the elderly and minors, including in circumstances where they may be separated from their family, the community or other individuals upon which they depend.

### **Planning Documents**

#### **[Resettlement Plan or Land Acquisition and Resettlement Plan](#)**

Each project needs planning. In development planning, a key planning document is LARP. They are also known as resettlement plans or resettlement action plans. The project authority is responsible for preparing LARP specifying the procedures it will follow and the actions it will take to properly resettle and compensate APs and communities. This means that the project authorities will identify a full range of potential APs and justify their physical or economic displacement after considering alternatives to minimize or avoid displacement. It outlines eligibility criteria to identify affected parties, establishes rates of compensation for lost assets, and describes levels of assistance for relocation and reconstruction of affected households. A well prepared LARP protects the project authority against unanticipated or exaggerated claims from individuals who have spurious eligibility for resettlement benefits. Because of its centrality to resettlement planning and implementation, a separate module is devoted in the sources book to outline the key components of a LARP and how to formulate one.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Resettlement Framework**

Resettlement framework (RF) is prepared when the scope resettlement impacts of subprojects of a project are not fully known. RF is a set of guidelines that instruct resettlement planners of subprojects. If resettlement impacts of some subprojects are known and their relevant information is available, RPs will be prepared for them. The RF will guide those subprojects whose impacts are not known or relevant information is not fully available. RF is not an implementable planning instrument.

### **Environmental and Social Management Framework (ESMF)**

An environmental and social management framework (ESMF) is a planning document required for projects such as an investment of financial intermediaries (FI), general corporate finance and results-based loans. An environmental and social management system framework provides policies, procedures, reporting mechanisms, and recommendations on organizational capacity development to manage environmental and social issues arising out of operations and activities.

### **Resettlement Due Diligence**

There are different types of due diligence at project planning phase. The first is when a proposed project is categorized at its inception as one without resettlement impacts or with minimal resettlement impacts, a resettlement specialist will review available information and data of the project to ascertain the scope and significance of its resettlement impacts. The purpose of this [social due diligence](#) is to assist the lender in deciding whether to provide support for the proposed project and, if so, the way in which social risks and impacts will be addressed in the assessment, development and implementation of the project. The environmental and social due diligence will be integrated into the overall project appraisal.

The second type is to specify concrete action program prior to or during project implementation to correct non-compliance of pre-project action. For example, sometimes a borrower or a client acquires land in anticipation of a development project or removes squatters without compensation and resettlement assistance. A due diligence of this issue combined with field visits could lead to a retroactive LARP or a special compensation package to help those who were affected.

The third type of due diligence takes the form of a resettlement audit. In financial intermediary loans, the FI conducts annual due diligence to ascertain the progress of resettlement implementation. In each case, a resettlement specialist prepares a report known as 'resettlement due diligence report' and submits to the project executive agency and the lender for review, if applicable.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Introduction to ADB's Involuntary Resettlement Safeguards/Best Practices**

When a project is proposed for ADB's support, the borrower will provide information on borrower's country safeguard system (CSS) applicable to land acquisition and resettlement for review. This information will assist ADB in determining to what extent the CSS can be used to achieve objectives of resettlement safeguards. The borrower will also provide to ADB recent studies and assessments including other projects implemented in the DMC if they are relevant to the proposed project.

### **Country Safeguard Systems**

The CSS will include the national development policy, LAR policy, if available, legal and institutional framework. It also includes national, sub-national and sectoral level applicable laws, regulations, rules and procedures. The other component of the CSS is its implementation capacity to address social risks and impacts of the project. Where there are inconsistencies or lack of clarity in CSS regarding relevant authorities or jurisdiction, ADB will discuss them with the borrower. The adequacy of the CSS that to address LAR issues varies from project to project, depending on the type, scale, location and potential social risks and impacts of the project and the institutional capacity to address them.

The borrower in consultation with ADB identifies measures to address weaknesses and gaps in the CSS. Such measures may be implemented during project preparation phase or project implementation phase. In addition, both the borrower and ADB agree on, where necessary, measures and actions to address any capacity development issues. The agreed measures and actions together with the timeframes form part of the LARP. The borrower agrees with the Bank a LARP to address LAR issues. The borrower will notify ADB of any material changes in the LARP that may affect the project.

### **Special Arrangements**

- ✓ Resettlement safeguards apply to all projects supported by. If a project includes existing facilities or existing activities that do not meet safeguard requirements of ADB, the borrower will implement satisfactory measures to ensure that those facilities or activities comply with safeguard best practices.
- ✓ Where ADB is jointly financing a project with other multilateral or bilateral funding agencies, the borrower will cooperate with each of them on a common approach for the assessment and management of LAR risks and potential impacts of the project. ADB endorses a common approach if it will not materially deviate from LAR safeguards.
- ✓ The involuntary resettlement policy applies to all associated facilities. Associated Facilities will meet involuntary resettlement safeguard requirements of ADB to the extent that the borrower has control and influence over such associated facilities.

### **Responsibilities of a Borrower**

The Borrower will assess, manage and monitor the social risks and impacts of the project throughout the project life-cycle. The borrower will:

- Conduct social impact assessment of the proposed project, including its stakeholder engagement;
- Disclose appropriate information and undertake stakeholder engagement;
- Develop and implement an LARP; and
- Conduct monitoring and reporting on the social performance of the project.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Application of Involuntary Resettlement Safeguard Principles**

The applicability of its involuntary resettlement safeguard principles to LAR of a proposed project is established by ADB during the initial assessment of CSS. The following land related actions and transactions come within the purview of involuntary safeguard policy of ADB. Such actions and transactions could lead to permanent or temporary loss of land or assets, or restrictions on land use. Among them are:

- ✓ Land rights or land-use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law;
- ✓ Land rights or land-use rights acquired or restricted through negotiated settlements with property owners or those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures;
- ✓ Restrictions on land use and access to natural resources that cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project;
- ✓ Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project-specific cut-off date;
- ✓ Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
- ✓ Land rights or claims to land or resources relinquished by individuals or communities without full payment of compensation; and
- ✓ Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

### **Exclusions**

The following actions and transactions do not fall under the domain of involuntary resettlement safeguards:

- ❖ Voluntary, legally recorded market transactions in which the seller is given a genuine opportunity to refuse to sell the land and to retain it, and is accurately informed about available choices and their implications;
- ❖ Impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project on the land of the affected persons or communities;
- ❖ Land titling/regularization activities; or
- ❖ Regulation or planning of natural resources or land use on a regional or national level to promote sustainability

## **Accessing Land for Development International Best Practices and Country Systems**

### **Screening and Categorization of Project Impacts**

Each proposed project requires an early and accurate screening of its potential involuntary resettlement impacts. Such screening is done the borrower, and if a donor is involved, screening will be done by both. Once initial screening is completed, based on the significance and scale of potential project impacts, LAR impacts can be categorized. The categorization can range from highly complex and sensitive to no LAR impacts. A project could be considered as highly complex and sensitive if it is likely to involve serious, multi-dimensional and generally interrelated potential impacts.

Project impact classification is an on-going process, and can be revised at any time during the project life, and if ADB is involved in the project, with its concurrence. Tentative categorization proposed at the initial screening of anticipated impacts and risks and the classification can be revisited at the end of project processing and revised, if necessary.

#### **Screening and Categorization of Resettlement Impacts**

Help to:

- ✓ Identify early the scale and scope of potential project impacts
- ✓ Determine the significance of potential impacts or risks
- ✓ Decide appropriate project modality and safeguard process
- ✓ Estimate borrower's capacity to apply safeguards requirements
- ✓ Assess institutional resources needed to address safeguard issues
- ✓ Determine information disclosure and consultation requirements.
- ✓ Identify special requirements of affected persons – FPIC, negotiated settlement, community agreement

After the initial screening, each project is assigned a category of significance from four involuntary resettlement impact categories. A project's involuntary resettlement category is determined by the category of its most sensitive component in terms of involuntary resettlement impacts. (A checklist for initial screening and categorization is in annex--). The level of detail and comprehensiveness of the LARP reflects the significance of the potential resettlement impacts and risks identified in the screening stage.

If the proposed project is likely to have involuntary resettlement impacts on indigenous peoples, the project will be categorized according to indigenous peoples initial screening and categorization checklist. If any potential positive or adverse impacts are identified, additional planning instruments will be prepared to address their specific customary and legal rights affected by the proposed project. Projects that require physical relocation of indigenous peoples; or restrict their access to traditional land and resources; or seek to impose changes to their traditional institutions are classified as category A.

## Accessing Land for Development International Best Practices and Country Systems

Check whether the project would trigger involuntary resettlement safeguard policy by asking the following questions

- 1) Have all physical works under the project been specified?
- 2) Does the project involve physical works that require any change in land use?
- 3) If any physical works are sited on public land, do any persons use or occupy this land?
- 4) Will any physical works be sited on communal or collective lands? If yes,
  - a) Do any individuals use the land for their livelihood or residence?
  - b) Does the project plan to acquire the land through means other than market-based lease or purchase, or through voluntary donation?
- 5) Are any physical works sited on private land? If so, does the project plan to acquire the land through means other than market-based lease or purchase, or through voluntary donation?
- 6) Will the project physically displace persons? How many?
- 7) Will any physical works otherwise restrict access to, or use of, land or natural resources?
- 8) Will any physical works require acquisition of more than 10 percent of a private land plot?
- 9) Will any physical works require demolition of any residential or commercial structure?

Answers to the above questions will facilitate the screening and categorization of the proposed project's impacts and identifying of required safeguard documents.

### Involuntary Resettlement Impact Categories (ADB)

Category	Potential Impacts	Required Safeguard Documents
<b>A</b> (Significant impacts)	<ul style="list-style-type: none"> <li>■ 200 or more persons experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive (income generating) assets.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Social impact assessment (SIA) and a resettlement plan</li> <li>✓ May also require a resettlement framework to guide the formulation of resettlement plans of subprojects</li> </ul>
<b>B</b> (Not Significant impacts)	<ul style="list-style-type: none"> <li>■ Involuntary resettlement impacts are deemed not significant – above impacts in a lesser scale</li> </ul>	<ul style="list-style-type: none"> <li>✓ SIA and resettlement plan</li> <li>✓ May also require a resettlement framework to guide the formulation of resettlement plans of subprojects</li> </ul>
<b>C</b> (No Involuntary Resettlement)	<ul style="list-style-type: none"> <li>■ No potential involuntary resettlement impacts are identified</li> </ul>	<ul style="list-style-type: none"> <li>✓ No further action is needed.</li> <li>✓ If the project has some history of involuntary resettlement or minimal resettlement impacts, a due diligence report may be required</li> </ul>
<b>FI</b> (Financial Intermediary)	<ul style="list-style-type: none"> <li>■ Project involves the investment funds to, or through, a financial intermediary.</li> <li>May have potential resettlement impacts which are to be determined</li> </ul>	<ul style="list-style-type: none"> <li>✓ Environmental and social management system/Framework</li> </ul>

## **Accessing Land for Development International Best Practices and Country Systems**

### **Social Impact Assessment**

The objective of resettlement planning was to avoid or at least, minimize harmful socioeconomic impacts of development interventions. For this, it is necessary to identify future consequences of a current or proposed action on affected individuals, their economic organization and social system. SIA focuses on a broad range of potential social and economic consequences of a proposed project. Through a SIA, the project planners could identify individuals and groups who may be affected by the project. Based on the findings of SIA, the project authorities could plan mitigation measures to address such impacts. It also helps identify differentially or disproportionately affected persons because of their disadvantaged or vulnerable status. If such individuals or groups are found in the project area, the project owner could implement special measures so that they are not disadvantaged in sharing development project benefits and opportunities. During project implementation, SIA helps the project owner to benchmark and assess how well PAPs are coping with project risks including impoverishment risks that have been triggered by the loss of income sources and livelihoods.

The primary task in planning LAR is to identify the project-affected population and the project's adverse impacts on them. This task is to be done by specialists with local knowledge, appropriate training and experience in social impact assessment (SIA) and resettlement planning. A SIA is to be planned carefully to cover all relevant social aspects of land acquisition and resettlement and it exceed the remit of a simple cadastral survey or preparing an inventory of project-affected assets.

The SIA identifies all people affected by the proposed project including host communities, and all adverse impacts on their livelihoods associated with the project's land acquisition and resettlement. Typical effects include breakup of communities and social support networks, loss of dwellings, farm buildings, trees and standing crops; lost of access to community resources such as water resources, pasture, loss of access to public infrastructure and services, and reduced income resulting from these losses.

Consultations with officials of local government, community leaders, and other representatives of the affected population and the host communities are essential to gaining a comprehensive understanding of the types and degrees of adverse project impacts. Project sponsors must discuss plans for a census and registration program with local leaders and community representatives of community-based organizations. The census and asset inventory enumerators may be the first project-related personnel that affected people will encounter. They therefore must be thoroughly briefed on the objectives and timetable of the project and what is being planned in terms of physical relocation, compensation for lost assets, and restoration of livelihood.

### **Identification of Project Impacts and Affected Population**

- ✓ Thematic maps that identify population settlement, infrastructure, land use patterns, and natural resources
- ✓ A census of the affected persons and registers them according to their residence and work location
- ✓ An inventory of lost and affected assets of persons, households and communities
- ✓ Socioeconomic surveys and studies
- ✓ Analysis of surveys and studies to establish compensation parameters, design income restoration programs, identify baseline monitoring indicators
- ✓ Sharing information and consultations with affected populations

### **Mapping**

Project maps are powerful tools to be used in SIAs. They indicate the areas that will be affected by land acquisition, disturbances to livelihood, relocation sites, if any, and physical locations of project infrastructure. Aerial photography, land use maps, location of common property resources are also useful in resettlement planning. Such maps provide a baseline of all assets in the project area before the project and to check to know who has moved into project area after the cut-off date.

### **Census of Affected Persons and households**

For LARP implementation, a census of all APs is required. As part of the census, an inventory of land and assets to be affected by the project can be conducted. A census provides a comprehensive coverage of project impacts.

#### **A Census of All Affected Persons**

- ✓ Identify the persons who will be affected
- ✓ Prepare an inventory of land and assets to be affected
- ✓ Determine who is eligible for compensation and assistance
- ✓ Discourage illegible persons entering into project areas
- ✓ Check the impact of land acquisition on livelihoods
- ✓ Determine compensation types and rates, assistance
- ✓ Record claims of persons and communities not present
- ✓ Record seasonal land users and their interests.

The SIA will also address the claims of communities who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. In conjunction with the census, the project authorities establish a cut-off date for eligibility for compensation and resettlement assistance. Information regarding the cut-off date will be well documented and disseminated throughout the project area during the census.

If an urgent LARP is required, a sample of 20-30 percent of potential APs can be chosen for SIA. If a sample is studied, a census will be done once the detailed design of the project are completed.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Consultation and Participation**

A key aspect of LAR planning and implementation is the engagement of project owners with affected communities, groups, or individuals in consultations, information disclosure, and participating in LAR programs. Such engagement facilitates understanding of the concerns of affected people, and how such concerns can be addressed in project design and mitigation measures.

#### **Why Consultation and Participation Important?**

- ✓ Help borrower maintain a constructive relationship with affected communities.
- ✓ Promote resettlement performance of project
- ✓ Provide means for adequate engagement with affected communities
- ✓ Ensure resettlement information is disclosed
- ✓ Ensure stakeholders have access to project information
- ✓ Ensure affected communities could raise issues and grievances
- ✓ Provide an arena for borrower to manage such issues and grievances.

This chapter recognizes the importance of open and transparent engagement between the project owner, communities affected by the project, project workers, and, where appropriate, other stakeholders as an essential element of good international practice. Effective stakeholder engagement can improve the social sustainability of projects, and enhance project acceptance. In particular, effective community engagement appropriate to the nature and scale of the project promotes sound and sustainable environmental and social performance, and can lead to improved financial, social and environmental outcomes, and enhanced community benefits. It is central to building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social risks and impacts. Stakeholder engagement is most effective when initiated at an early stage, and continues throughout the life-cycle of the project. It is an integral part of the assessment, management and monitoring of the project's environmental and social risks and impacts.

### **Free, Prior, and Informed Consent**

Where indigenous peoples are present in, or have a collective attachment to, the proposed project area, the project owner undertake a process of meaningful consultation with the affected indigenous peoples in a culturally appropriate and inclusive manner. Indigenous peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, it is helpful to obtain free, prior and informed consent (FPIC) for a project in order to ascertain the degree of impact of a project on them, their ancestral domain, and compensatory actions that they expect from the project.

There is no universally accepted definition of FPIC. It does not require unanimity and may be achieved even when individuals or groups within or among affected indigenous peoples explicitly disagree. What is in fact needed is broad community support for the project and careful engagement of indigenous peoples in project process and benefit sharing. When the project owners are unable to ascertain that such consent is obtained from the affected indigenous peoples, international development agencies such as ADB do not proceed further with the aspects of the project that are relevant to those indigenous peoples. In such cases, the project owner has to ensure that the project will not cause adverse impacts on

## **Accessing Land for Development International Best Practices and Country Systems**

such indigenous peoples through further meaningful consultations and negotiations with affected indigenous peoples.

### **Meaningful Consultation**

Consultation with APs and communities is not limited to distribution of project and resettlement information. Meaningful consultation is a two-way process. When they are likely to be affected by potentially significant adverse project impacts, the project owner will undertake a process of meaningful consultation in a manner that provides stakeholders with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the project owner to consider and respond to them. Meaningful consultation will be carried out on an ongoing basis as the nature of issues, impacts and opportunities evolve. The project owner will maintain adequately documented evidence of stakeholder engagement in such consultations.

#### **Consultations with Affected Women**

- The consultation process will obtain affected women's perspectives and factor in their interests into all aspects of LAR planning and implementation.
- Addressing livelihood impacts may require intra-household analysis in cases where women's and men's livelihoods are affected differently.
- Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.

The consultation with project-affected communities will be undertaken in a manner that is inclusive and culturally appropriate. Where appropriate, the consultation will also include, beyond the project-affected communities, any groups or individuals who have been identified as other stakeholders.

#### **Steps of Meaningful Consultations**

- Identify social risks and impacts on-going basis during the project cycle
- Consult after the disclosure of relevant and easily accessible information
- Pay attention to socio-cultural background of affected communities
- Avoid manipulation, interference, coercion, or intimidation
- Enable meaningful participation of the community; use local languages
- Focus inclusive engagement on project-affected communities;
- Document the process and decisions and follow-ups
- Incorporate feedback for future consultations

## **Accessing Land for Development International Best Practices and Country Systems**

### **Borrower's Responsibility in Stakeholder Engagement**

The nature, scope, and frequency of stakeholder engagement will be commensurate with and proportionate to the nature and scale of the project and its potential impacts on affected communities. In order to tailor the engagement to the specifics of the Borrower and the project, the Borrower or client:

- (i) Identify stakeholders and group them. Determine how each group of stakeholders may be affected and the likely extent of potential impacts. An adequate level of details will be included in the stakeholder identification and analysis so as to determine the level of communication that is appropriate for the project.
  
- (ii) Engage stakeholders by providing them with access to timely, relevant, understandable and accessible information, and by consulting in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation.
  
- (iii) Engage stakeholders in project planning, disclosure of information, consultation and participation, grievance acceptance and response, and ongoing reporting to project-affected communities.

#### **Why Stakeholder Engagement is Necessary?**

Help/facilitate:

- ✓ Identify stakeholders and their concerns
- ✓ social assessment, project design and implementation
- ✓ Disclose appropriate project information
- ✓ Meaningful consultation with stakeholders
- ✓ Stakeholders to comment/raise grievances

### **Information Disclosure**

#### **Disclosure Requirements**

- The borrower or client disseminate information to project-affected persons and consult with them in a manner that commensurate with the anticipated project impacts on the affected communities.
  
- Borrowers inform and consult with the project-affected persons on land acquisition and resettlement processes and compensation options during resettlement planning and implementation.
  
- Disclosure of project and LAR information must precede consultations. Stakeholders are to be informed of project activities and expected outcomes and benefits, before they are consulted on such issues.

## Accessing Land for Development International Best Practices and Country Systems

### Benefits of Resettlement Information Disclosure

- Increase affected persons understanding about the project and its benefits.
- Helps promote local decision making and participatory development strategies.
- Creates a two-way flow of information between the project and affected people
- Enhances the sense of project ownership among project-affected persons.
- Promotes transparency, good governance, and accountability in project operations.

A good practice is to disclose safeguard documents among all stakeholders. An example in this regard is ADB's disclosure schedule of resettlement planning documents.

### Disclosure Schedule of Documents on the ADB Website

Document	Timing of Disclosure	Responsibility
Draft resettlement plan/resettlement framework, endorsed	Before project appraisal	ADB
Final resettlement plan, endorsed	After completion of the census of the affected persons	ADB
New or updated resettlement plan	After resettlement plan has been revised or a new resettlement plan has been prepared due to a change in technical design or change in scope	ADB
Corrective action plan	During project implementation (upon receipt)	ADB
Resettlement monitoring reports	Upon receipt from borrower (semiannually)	ADB

### Disclosure Phases

#### ***Project Planning Phase***

Disclosure of relevant project information helps stakeholders understand the risks, impacts and opportunities of the project. If communities are likely to be affected by LAR impacts, the project owner will provide them with access to the following information:

- The purpose, nature and scale of the project;
- The duration of proposed project activities;
- Any risks to and potential impacts on communities and proposed mitigation plans;
- The envisaged stakeholder engagement process, if any, and opportunities and ways in which stakeholders can participate;
- The time and venue of any envisaged public consultation meetings, and the process by which meetings are notified, summarized, and reported; and
- The process and means by which grievances are raised and managed.

## **Accessing Land for Development International Best Practices and Country Systems**

The information will be disclosed in local language(s) and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project because of their status or groups of the population with specific information needs.

### ***Project Implementation Phase***

The project owner will continue to provide project information to the project-affected communities during the implementation phase of the project. Additional information is disclosed at key stages in the project cycle. For example, it is good practice to disclose progress of the project and LAR status prior to start-up of project operations, and information on any specific issues stakeholders would like to know. This ongoing engagement will build upon the channels of communication and engagement established during the stakeholder engagement. Project owners use appropriate stakeholder engagement practices to disclose information and receive feedback on the effectiveness of the project and the implementation of the mitigation measures included in LARP. The project owner also checks project-affected communities' ongoing interests and concerns about the project. Where appropriate, other stakeholders will also be included in the ongoing engagement. If there are material changes to the project that result in additional risks and impacts of concern to the project-affected communities, the project owner inform them how these risks and impacts are being addressed.

The project owner will respond to concerns of project-affected communities related to the project in a timely manner. For this purpose, the project owner will provide a grievance redress mechanism – a procedure to receive stakeholders' concerns and grievances regarding LAR performance. The grievance redress mechanism will be scaled to the risks and potential adverse impacts of the project. Where possible, such grievance redress mechanism will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Key Issues in Land Acquisition and Resettlement**

#### **Physical Displacement**

In the case of physically displaced persons, the project offers the choice of replacement property of equal or higher value with security of tenure, or cash compensation at replacement cost. Where livelihoods of displaced persons are derived primarily from land, compensation in kind that is land-for-land will be considered. Payment of cash compensation for acquired land and other assets may be appropriate where: (a) livelihoods are not land-based; (b) livelihoods are land-based but the land taken for the project is a small piece of the affected land and the residual land is still economically viable; or (c) active markets for land, housing, and labor exist, and displaced persons can have access to such markets.

In the case of physically displaced squatters or informal dwellers, the project will help them to obtain adequate housing with the security of tenure. Where these displaced persons own and occupy structures, the project compensates them for the loss of assets other than land, such as dwellings and other improvements to the land, at replacement cost. Based on consultation with such displaced persons, the project provides relocation assistance in lieu of compensation for land sufficient for them to restore their standards of living at an adequate alternative site.

The project is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.

The project owner will not resort to forced evictions of affected persons. Consultations should continue as a social preparation phase to agree on an amicable solution. As an alternative to displacement in situations where APs resist LAR, the project owner may consider negotiating in situ land development arrangements by which APs may elect to accept a partial loss of land or localized relocation in return for improvements that will increase the value of their property after development. Any person not wishing to participate in such an arrangement will be allowed to opt instead for full compensation and other assistance.

#### **Economic Displacement**

If persons and households will lose their sources of income or livelihood, the project establishes measures to allow them to improve, or at least restore, their incomes or livelihoods. The LARP establishes the entitlements of APs and/or communities and will ensure that these entitlements are provided in a transparent, consistent, and equitable manner. The LARP provides arrangements to monitor the effectiveness of livelihood improvement measures during and project implementation. The mitigation of economic displacement will be considered complete when APs and affected communities have received all assistance for which they are eligible, and have been provided with adequate opportunity to reestablish their livelihoods.

## **Accessing Land for Development International Best Practices and Country Systems**

Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at replacement cost:

- Affected commercial enterprises will be compensated for: (i) the cost of identifying a viable alternative location; (ii) lost net income during the period of transition; (iii) the cost of the transfer and reinstallation of the plant, machinery, or other equipment; and (iv) re-establishing commercial activities. Affected employees of such enterprises will receive assistance for temporary loss of wages and, if necessary, assistance in identifying alternative employment opportunities;
- Those who have legal rights or claims to land that are recognized or recognizable under national laws, replacement property of equal or greater value will be provided, or, where appropriate, cash compensation at replacement cost;
- Economically displaced persons who are without legally recognizable claims to land will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at replacement cost. Additionally, the project will provide assistance in lieu of land compensation sufficient to provide such persons with an opportunity to reestablish livelihoods elsewhere. The project is not required to compensate or assist persons who encroach on the project area after the cut-off date for eligibility.

Economically displaced persons will be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living.

- a) For APs whose livelihoods are land-based, replacement land that has a combination of productive potential, location advantages, and other factors at least equivalent to that being lost will be offered, where feasible. Where provision of suitable replacement land is not possible, they will be compensated at replacement cost for land (and other lost assets);
- b) For APs whose livelihoods are natural resource-based and where project-related restrictions on access apply, measures will be implemented to either allow continued access to affected resources or to provide access to alternative resources with equivalent livelihood-earning potential and accessibility. Where common property resources are affected, benefits and compensation associated with natural resource usage may be collective in nature; and
- c) If replacement land or resources to continue livelihoods are unavailable, the project will offer them options for alternative income earning opportunities, such as credit facilities, skills training, business start-up assistance, employment opportunities, or cash assistance in addition to compensation for acquired assets including land. Cash assistance alone, however, frequently fails to provide affected persons with the productive means or skills to restore livelihoods. Transitional support will be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

## **Accessing Land for Development International Best Practices and Country Systems**

### **Types of Displaced Persons Eligible for Compensation**

There are three types of displaced persons who are eligible for compensation and resettlement assistance.

- ✓ Persons with formal legal rights to land and/or structures lost entirely or in part;
- ✓ Persons who have no formal legal rights to land lost wholly or in part, but who have claims to such lands that are recognized or recognizable under national laws and customary practices; and
- ✓ Persons those who lost their land and other property and do not have formal legal rights or recognized or recognizable claims to such property.

### ***Vulnerable Groups***

One of the best practices in LAR is to improve the standards of living of the displaced poor and other vulnerable groups - who may experience adverse impacts from a proposed project more severely than others because of their race and/or ethnicity, gender, language, health, marital status, poverty, and landlessness. Typically, the poor, the landless or those without a title to land, the elderly, households headed by women, and ethnic minorities comprise the vulnerable groups within a project's displaced population. In some countries, indigenous peoples and those dependent on natural resources may not be protected by national land tenure legislation and are therefore extremely vulnerable. Safeguard best practices focus specifically on vulnerable displaced persons in order to ensure that a project's adverse impacts do not fall on them disproportionately, and that they share the benefits and opportunities of the development equally with others. The LARP of the project identifies vulnerable APs and groups, their specific challenges and needs. It will provide adequate safeguards and budget to ensure that they receive special assistance.

### ***Project-affected Women***

The needs of affected women by LAR are likely to be different from those of affected men, particularly in terms of social support, services, employment, and livelihoods. For example, relocated women may face more difficulties than relocated men in reestablishing markets for home industry produce or small trade items, if they are constrained by lack of mobility or illiteracy. Too often, in addition, women are abandoned by men during relocation because new assets (cash) are handed over to the male household heads. Female heads of household are eligible for the same benefits as their male counterparts. However, they need special attention if they lack resources, educational qualifications, skills, or work experience.

The relocation process should provide opportunities for women to take part in the design and layout of housing. Infrastructure development can ensure that women have easy access to basic social amenities such as water and electricity. Women in subsistence communities often depend on forest resources for basic needs such as food, fuel, or animal forage. Measures to safeguard the interests of women in the resettlement process are given below.

#### **Safeguarding Women's Interests in Resettlement**

- Collection and recording of socioeconomic conditions, needs, and priorities of women as part of SIA.
- Surveys and entitlements criteria recognize female-headed households.
- Ensure land acquisition and resettlement process does not disadvantage women.
- Land and/or house titles and grants should be in the name of both spouses.
- Female resettlement staff to assist women in resettlement and income restoration activities
- Project impacts on women to be monitored and evaluated

## **Accessing Land for Development International Best Practices and Country Systems**

It is a good practice to register the new assets of the relocated households as joint property of husband and wife. This joint control of household assets may change a woman's position and decision making power. It may not be possible in some DMCs whose national laws do not permit the registration of all new assets of a household as joint property of husband and wife.

### ***Customary Land Users***

Some communities, including indigenous peoples and ethnic minorities, may not have formal titles to land they own or use but have ancestral customary rights to regulate collective common property. They depend on open access to common grazing lands, fishing areas, or forest resources for subsistence and cash incomes. SIA surveys and the census will take full account of these patterns of resource use, including the systems of land use and land transfer that operate under customary law and usufruct systems. LAR planners will take note of these tenural arrangements and work in consultation with all APs to ensure that such arrangements will not get disturbed because of the project.

### ***Informal Dwellers and Squatters***

Informal dwellers or squatters occupy unused or under-used public or private land. If they arrived before the entitlements cut-off date of the project, the project provide them with replacement structures or cash compensation at full replacement cost for any structures, crops, or land improvements that they will lose, as well as relocation assistance. The project could pay this as rehabilitation assistance if the laws of a given DMC do not allow compensation for those without a legal title. For those who do not depend on agriculture, LAR planners identify alternative income restoration options in consultation with them.

### **Compensation and Benefits**

When permanent or temporary acquisition of land cannot be avoided, the project offers APs compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods.

Compensation standards for categories of land and fixed assets will be disclosed and applied consistently. In all cases, a clear basis for calculation of compensation will be documented and disclosed and the compensation will be distributed following transparent procedures.

The valuation methods of replacement cost are included in LARP. Transaction costs include administrative charges, registration or title fees, moving expenses, and any similar costs imposed on APs by the project. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period of time between calculation of compensation rates and delivery of compensation is extensive.

Where livelihoods of displaced persons are land-based or where land is collectively owned, the project offers them the option of land-for-land. If suitable and adequate land is not available, cash-for-land mode is applied. In such cases the project's responsibility to provide resettlement assistance and income restoration and improvement programs is highlighted in LARP.

## **Accessing Land for Development International Best Practices and Country Systems**

The project authorities take possession of acquired land and related assets only after compensation in accordance with the LARP has been made available and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.

When significant difficulties related to compensation payment arise because of land ownership disputes or because of the rejection of compensation rates or the difficulty in finding absentee landowners, the project may deposit compensation funds listed in LARP in an escrow account or in a court account, and proceeds with project activities. Compensation placed in escrow or in court will be made available to eligible persons when issues are resolved.

### **Community Engagement**

The project personnel engage with affected communities including host communities through the process of stakeholder engagement. Decision-making processes related to land acquisition; resettlement and livelihood restoration include options and alternatives from which affected persons may choose, where applicable. Disclosure of relevant information to all stakeholders and engagement of affected communities in LARP planning and its implementation will promote community participation in LAR programs.

### **Significance of LAR**

To address the issues identified in the social impact assessment, the project owner prepares a LARP which deals with the risks and impacts associated with the project. Four types of LARPs indicate the degree of LAR's significance and LAR planning instruments needed:

- ✓ For projects with minor land acquisition or restrictions on land use. These projects are unlikely to have a measurable impact on incomes or livelihoods of APs. The LARP establishes eligibility criteria for APs, set out procedures and standards for compensation, and incorporate arrangements for consultations, monitoring and addressing grievances;
- ✓ For projects causing physical displacement, the LARP sets out additional measures to assist the relocation of APs;
- ✓ For projects involving economic displacement with impacts on livelihoods or income generation, the LARP sets out additional measures relating to livelihood improvement or restoration;
- ✓ For projects that may impose changes in land use that restrict access to resources in legally designated parks or protected areas or other common property resources on which local people may depend for livelihood purposes, the LARP will establish a participatory process for determining appropriate restrictions on use and set out the mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.

### **Collaboration with Responsible Agencies**

The project owner establishes means of collaboration with governmental agencies that are responsible for land acquisition, resettlement planning and provision of resettlement assistance. The LARP outline such institutional arrangements and specify financial responsibilities for each of the agencies involved, appropriate timing and sequencing for implementation steps and coordination arrangements for addressing financial contingencies or responding to unforeseen circumstances. Where the capacity of other responsible agencies is limited, the project owner will obtain assistance from hired specialists and NGOs in resettlement planning, implementation, and monitoring.

## Key Issues to be Addressed during LARP Formulation

	Key Issue	Requirements
1	Cut-off date	✓ Establish a cut-off date based on SIA. Official statement
2	Determination of the number of displaced persons, including those requiring relocation	✓ Establish the number of displaced persons. ✓ Include both directly and indirectly affected persons.
3	Consultation with stakeholders	✓ Inform, consult, and involve the stakeholders in the resettlement planning process.
4	Gender planning	✓ Recognition of women's needs in new resettlements. ✓ Consider gender-based differential impacts of resettlement. ✓ Develop additional eligibility for social support, services, employment, and means of subsistence for income restoration.
5	Special attention to vulnerable groups	✓ Address the needs of vulnerable groups such as the poor, households headed by women, landless persons, indigenous peoples, ethnic minorities, and the elderly and the disabled. ✓ Provide for social preparation for indigenous peoples and vulnerable groups
6	Gap analysis	✓ Identify gaps, if any, between international best practices in LAR and policies, laws, and regulations of DMC, and fill the gaps with appropriate measures.
7	Establishment of replacement cost for lost assets	✓ Displaced persons should be eligible to receive the replacement cost of all lost assets.
8	Decision on eligibility and entitlement matrix to cover all affected persons	✓ Define entitlements and eligibility and how compensation and rehabilitation measures will be structured. ✓ Include those without titles and ownership rights.
9	Resettlement site identification for site and services development	✓ Identify resettlement sites in consultation with the affected people. ✓ Provide the sites with civic amenities and services.
10	Income restoration plan	✓ Include a plan for income restoration, particularly for the poor and vulnerable groups.
11	Plan for capacity building for resettlement management	✓ Assess the organization ability of the executing agency and plan for capacity building for implementation of the resettlement plan. ✓ Include provision for staff training for resettlement management.
12	Recognition of host populations population's needs	✓ Address the needs of the host population carefully. ✓ Include provision for civic infrastructure facilities to enhance the carrying capacity of the host populations.
13	Valuation of assets and cost estimate and budget	✓ Include costs for land acquisition, resettlement, income restoration, implementation and administration, and monitoring. ✓ Consider replacement costs and include unit costs of all items. ✓ Explain how resettlement costs will be financed.
14	Monitoring and reporting arrangements	✓ Explain monitoring and reporting arrangements. ✓ Include provision for qualified and experienced external experts for <b>Category A</b> involuntary resettlement impact projects to verify the monitoring information.

## Accessing Land for Development

### International Best Practices and Country Systems

#### Grievance Redress Mechanism

It is a good practice and a safeguard requirement to establish a grievance redress mechanism with well established process or procedure to receive and facilitate resolution of stakeholders' concerns and grievances arising from project planning and implementation. The grievance redress mechanism (GRM) will be scaled to the risks and impacts of the project. The scope, scale and type of grievance redress mechanism, process or procedure required will be proportional to the nature and scale of the project's risks and potential adverse impacts.

In projects with relatively minor and uncomplicated land acquisition, complaints may arise. In some cases, complaints may relate to implementation of planning provisions such as late or insufficient compensation. In other cases, complaint may arise from unanticipated issues such as property damage during project construction. A GRM provides a venue for raising complaints and procedures for dealing with them. If effective, the GRM serves to mitigate harm to affected persons while increasing the likelihood that complaints can be addressed relatively quickly and quietly without resort to other remedies such as legal procedures or media attention external to the project.

In the Pacific region, the first and best recourse available to persons with complaints may be the informal or traditional means by which intra-community conflicts are managed. As may be necessary these informal processes may be supplemented with formal, project-specific procedures.

Resettlement plans include measures to assure that affected persons are aware of GRM arrangements available to them, that the GRM arrangements are affordable and accessible, and that records are kept regarding complaints received through formal GRM channels, and the disposition of complaints. The Borrower will inform the project-affected communities about the grievance process in the course of its community engagement activities, and will make publicly available a record documenting the responses to all grievances received

#### **Characteristics of a Grievance Redress Mechanism**

- Accessible to all community members
- Local customary arrangements for conflict resolution
- Multi-stage review procedures for complaints
- Defined and disclosed performance standards
- Recourse to legal system, if GRM fails to resolve
- Impartiality and promptness in resolving disputes

## Accessing Land for Development

### International Best Practices and Country Systems

The grievance mechanism may utilize existing formal or informal grievance mechanisms, provided they are properly designed and implemented, and deemed suitable for project purposes; these may be supplemented as needed with project-specific arrangements.

Project-affected communities and individuals may submit complaints regarding ADB-financed project to the project grievance redress mechanism. The GRS ensures that complaints received are promptly reviewed in order to address project-related concerns.

The Borrower will ensure that a grievance mechanism for the project is in place as early as possible in project development to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion. Where possible, such grievance mechanisms will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements designed to resolve disputes in an impartial manner.

The grievance redress mechanism is expected to address concerns promptly and effectively, in a transparent manner that is culturally appropriate and readily accessible to all segments of the project-affected communities, at no cost and without retribution.

#### GRM Procedure

- ✓ Clear statement on how APs can submit their complaints;
- ✓ A log where complaints are registered in writing, maintained as a database;
- ✓ Publicly advertised service standards outlining the length of time users can expect to wait for acknowledgement, response and resolution of their complaints;
- ✓ Transparency about the grievance procedure, governing structure and decision makers;
- ✓ An option for moving to mediation in cases where complainants are not satisfied with the proposed resolution and as appropriate; and
- ✓ An appeals process (including the national judiciary) to which unsatisfied complainants may be referred when an agreed resolution by other means has not been reached.