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OPERATIONAL POLICY 4.12 INVOLUNTARY RESETTLEMENT  
ESSD CORRESPONDENCE: OCTOBER 1998

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Shared Unit Files - Policy Development Records - Operational Policy 4.12 Involuntary  
Resettlement - ESSD Correspondence File - October 1998





Vorapaktra Yongpradit on 10/23/98 02:35:52 PM

Extn: 37109

MDOMD

Subject: OP4.12 Meeting

Ian:

Mr. Koch-Weser asked me to consult with you about who to invite to the above meeting which is tentatively set up for **Oct. 27 at 3:00pm**. Could you kindly advise, please. He mentioned a few names:-- Pellegrini, Gloria, Joanne (of course) and your working group (?).

Many thanks.

Lek

Vorapaktra Yongpradit  
Executive Assistant to the Managing Director,  
Operations, the World Bank  
Tel: 202-473-7109  
Fax: 202-522-1853

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To: Ian Johnson  
cc: M. Caryl Jones-Swahn  
Joanne Salop



**Kennan W. Rapp**

10/28/98 02:18 PM

Extn: 39811

Subject: Comments on draft OP 4.12 received as of 10/26

SDV

Here is a compilation of comments on draft OP 4.12 that have been received from the various sectors since the last comments round-up was sent on 10/25. My apologies to anyone who has already received a few of these. -KWR

## RURAL & ENVIRONMENT SECTORS

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:02 PM -----

Agnes I. Kiss on 10/27/98 11:51:44 AM



Extn: 87180

AFTE1

To: Maria Teresa Serra cc: ENVFAM-1ST, ESSD-SOCIAL, Maninder S. Gill, Dan Aronson, Kennan W. Rapp

Subject: Re: 2nd consultation on draft OP 4.12 with ENV

I'm a bit surprised that, based on this summary, some of the important issues raised by George Ledec and echoed by others don't really seem to have been addressed. E.g. the "moral hazard" issue of stimulating people to move into areas targetted for "takings" specifically in expectation of getting compensation.

Also, saying that entitlement for compensation for loss of access to land/resources should be determined on a "case by case basis" seems to dodge the issue. Shouldn't the Bank bite the bullet at this point and come up with some clear policy guidance, i.e. provide a policy framework against which the individual cases may be evaluated?

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:02 PM -----



Christine E. Kimes  
10/27/98 11:52 AM

Extn: 33689

ENV

To: Maria Teresa Serra cc: ENVFAM-1ST, ESSD-SOCIAL, Maninder S. Gill, Dan Aronson, Kennan W. Rapp

Subject: Re: 2nd consultation on draft OP 4.12 with ENV

Teresa -

Many people have already provided detailed and eloquent comments regarding their concerns about how the draft OP would affect Bank operations in their respective sectors. As we discussed last week, the Global Coordination Biodiversity Team has also reviewed the draft OP to assess the implications of the policy directive for biodiversity conservation as well as sustainable use of biodiversity resources projects proposed for Bank support. Please find below the GC team's comments, which we hope can be fed into the process (please refer also to Lou Scura's email which deals extensively with sustainable resource management projects and captures our observations/concerns very well):



First, we would like to state from the outset that we are supportive of seeing biodiversity conservation/natural resource management projects provide support to families affected by changes in access to natural resources so that they may engage in sustainable alternative livelihoods. This is current "biodi best practice" and should be continued.

However, we believe that the scope of this draft OP is so broad that it will reward unintended beneficiaries, ranging from corporate entities engaged in unsustainable exploitation of natural resources to squatters/poachers who are engaged in illegal activities (invasion of protected areas demarcated after full local consultation, capture of endangered species, etc). Moreover, for the rural poor who would be the intended beneficiaries of a well designed resettlement policy, we are concerned that restrictions on eligible expenditures for Bank financing will mean that the necessary financial resources will not be provided to enable policy implementation under the OP. This will result in undesirable conflict with clients and local stakeholders and gradual withdrawal of the Bank from environmentally desirable projects.

Our specific concerns could be summarized as follows:

1. the redefinition of involuntary resettlement is so broad ("any change in land or water use ... or loss of access to natural resources ..") that we believe that all biodiversity conservation and sustainable use projects will be affected (whether IBRD, IDA, or GEF financed), since conservation and sustainable use projects by definition seek changes in land use and resource extraction patterns (see para 2).
2. the definition of who would be eligible for compensation is so broad and the burden of proof/restrictions placed on the Borrower so onerous (see para 8) that we believe that this draft OP would end up requiring compensation even for illegal use of resources/occupation, and consequently, could create an incentive framework encouraging illegal occupation/extractive use for the purpose of seeking compensation.
3. the income level targeted for compensation ("... living standards they are likely to have had without the project ..") is likely to open up unreasonable demands for compensation: is the Malaysian logging company subject to new sustainable forestry guidelines or the Korean shipping fleet subject to new sustainable fishing quotas as a result of a sustainable resource management project eligible to be compensated for lost income? a reading of this draft OP suggests that this would be the case (see paras 2 and 4) and would therefore appear to be rewarding predatory destructive environmental practices.
4. given the broadening of definitions/eligibility requirements, the cost of resettlement plans is likely to be substantial, yet Bank financing is restricted (see para 19): Bank funds may not finance identified best-practice resettlement choices (ie, purchase of comparable land elsewhere for "displaced" communities) nor second-best choices (ie, cash compensation where land replacement is not an option). Consequently, the financial burden will fall largely on the Borrower. It is an open question whether Borrowers will incur these costs for biodiversity conservation projects which do not have perceived immediate direct economic benefits. This could have a serious impact on global environment mainstreaming within the Bank.
5. the financial burden of resettlement compensation is likely to be completely out of reach for NGOs, who are increasingly the recipient of GEF grants for biodiversity conservation projects, thereby closing off this avenue of cooperation/partnership with civil society; it is not clear that governments will be willing to finance expensive compensation packages for projects implemented by NGOs.

More broadly, we are concerned that this policy directive could, over time, lead to an increase in involuntary resettlement situations (advocacy NGOs encouraging claims under the policy) rather than consensual voluntary arrangements which are currently the norm in many biodiversity projects; we are concerned that this would be moving in the wrong direction.

Lastly, we believe that the timeframes indicated for taking action on illegal occupations or for determining occupancy for eligibility prior to the census are unrealistically short (see para 8 etc.) and are likely to contravene most national laws (including of many OECD countries); this would be setting the Bank up for predictable policy conflicts with our clients, and where agreement could not be reached, would force us to



withdraw from supporting these types of operations.

Hope that these comments are helpful in identifying areas for attention in the redrafting/consultation process.

Tina

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:02 PM -----



Maria Teresa Serra  
10/27/98 12:18 PM

Extn: 35754 LCSES

To: Agnes I. Kiss cc: ENVFAM-1ST, ESSD-SOCIAL, Maninder S. Gill, Dan Aronson, Kennan W. Rapp

Subject: Re: 2nd consultation on draft OP 4.12 with ENV

Agi,

The ENV meeting minutes reflect points mostly **in addition to** what had been brought up by George and others in the RURAL meeting, which was attended by quite a large number of ENV family members who were not aware at the time that there would be a series of separate meetings.

Your second point is the object of much discussion -- the extent to which it will be addressed in this (RESET) policy, in other Bank policy, or on a case-by-case basis is still pretty much open. As I see the direction of discussions currently, it seems that the RESET policy will likely provide some basic guidance (principles more than prescriptions) for compensation of lost assets/access to resources and will recognize the fact that "one size doesn't always fit all" thus making room for dealing with a diverse range of situations. The GP section and the Sourcebook would need to provide case-specific examples on alternative ways to proceed with compensation.

Thanks for the note,

Teresa

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:02 PM -----



Christine E. Kimes  
10/27/98 12:57 PM

Extn: 33689 ENV

To: Maria Teresa Serra cc: Agnes I. Kiss, ENVFAM-1ST, ESSD-SOCIAL, Maninder S. Gill, Dan Aronson, Kennan W. Rapp

Subject: Re: 2nd consultation on draft OP 4.12 with ENV

I still fail to see why some of these issues (eg, loss of access to resources) are being handled under the resettlement umbrella. Shouldn't this be handled in other more appropriate OPs (eg, natural habitat)?

----- Forwarded by Maninder S. Gill/Person/World Bank on 10/26/98 07:33 PM -----

Agnes I. Kiss on 10/26/98 03:18:39 PM






Extn: 87180

AFTE1

To: Maria Teresa Serra cc: ENVFAM-1ST, Maninder S. Gill, Dan Aronson, Gloria Davis-SDV

Subject: Re: Application of OP 4.12 - Update 

I'm not sure why I was put on this more limited distribution list, which does not include the large number of people who've been privy to/contributing to the debate initiated by George Ledec....Nevertheless, I'm glad to have the chance to comment...

Unfortunately, I was unable to access the proposed revised alternative paras. -- the text mostly came out as gibberish letters and symbols. Could you please try re-sending them?

The parts that did come through still seemed to contain the following language, which to me is quite problematic (as George pointed out initially):

**"Also, people may lose their means of livelihood, if it is based on the use or ownership of the land taken for t (or, in some cases, on resources based on the land) and the project no longer permits such use, ownership, o People losing their means of livelihood in this way may not be compelled by the project to move out of the la they have been living but suffer direct economic impacts as a result of land taking or restriction of access to it**

This definitely leaves open the possibility of people claiming compensation for no longer being able to carry o unsustainable or even illegal resource exploitation activities, thus undermining the concept of a project whose aim ma precisely to contain or eliminate such exploitation. Aside from this, this exploitation is all too often being undertaken b on behalf of relatively wealthy people at the expense of the broader community).

I also find myself a bit confused because the text goes on to say:

**" This policy is not intended to cover loss of means of livelihood arising just from other causes such as mere changes of policies, laws and regulations (such as land titling, re-zoning, etc) [unless people are involuntarily displaced.]"**

What if the "mere change of policy, law or regulations (such as land titling, re-zoning, etc) " amounts to an are being newly gazetted as a protected area (or the level of protection is increased over what it was before)? Does the apply or does it not?

----- Forwarded by Cora Melania Shaw/Person/World Bank on 10/26/98 11:13 AM -----

To: Cora Melania Shaw

Subject: OP on resettlement

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On behalf of the MENA rural, environment and water group, the comments which Louise Scura made on thursday 22nd October were absolutely right. They very much represent the MENA opinions.

----- Forwarded by Klaus W. Deininger/Person/World Bank on 10/26/98 10:32 AM -----




Mohamed N. Ben Ali  
10/26/98 08:39 AM



Extn: 37357

MNSRE

To: Klaus W. Deininger

Subject: Re: OP 4.12 - Minutes of working group meeting; revised draft definition of "resettlement" 

1. Paragraph one of the new draft, the sentence starting in line three "People losing..." and ending in line 5 is missing something. It does not make sense as written.
2. I believe that the conditionalities of OP 4.12 should not all have to be met before a project goes to the Board for approval. This is particularly the case when the Bank is considering an APL project. In such case, satisfaction of the conditionalities may not have to be required before Board presentation, but before disbursing for the particular component/activity to which OP 4.12 applies.
3. I am glad that OP 4.12 is being improved; its implementation would have been a nightmare for our clients and us without this improvement.

----- Forwarded by Klaus W. Deininger/Person/World Bank on 10/26/98 10:32 AM -----




Robert D. Crooks  
10/26/98 08:38 AM

Extn: 80129

EASEN

To: Klaus W. Deininger cc: Maninder S. Gill, Dan Aronson

Subject: Re: OP 4.12 - Minutes of working group meeting; revised draft definition of "resettlement" 

I haven't waded into this discussion so far and don't intend to if I can possibly avoid it, but looking at this latest piece of wording inclines me to ask why you are focusing on what the OP doesn't cover ..... strikes me it would be easier to say what it does cover and leave it at that.

Robert Crooks, ENV

## URBAN SECTOR

----- Forwarded by Mats Andersson/Person/World Bank on 10/26/98 10:03 AM -----



Songsu Choi  
10/22/98 04:00 PM

Extn: 82945

EASUR

To: Mats Andersson, Omar M. Razzaz, Gloria Davis-SDV, Keshav Varma cc: Anthony J. Pellegrini, Hyun-Kyu Han, EASUR,

Subject: Draft OP/BP/GP 4.12 - Resettlement

The draft OP/BP/GP 4.12 as a package adds considerably more details compared with the existing OD 4.30. Reading these, I could not help thinking that some of the new details look much like the resettlement procedures in China, and was told that is probably true. This is amusing, as China has been moving beyond that, with the help of the Bank, toward what they consider more market-oriented system. Whether or not Chinese regulations are incorporated in the draft, I thought that it would be of interest to the Bank why and how they are moving on this matter.



The existing Chinese resettlement laws, regulations, and procedures are quite good -- methodical and striving greatly for fairness - as good socialist laws are supposed to be. The Bank resettlement specialists have helped improve some aspects further. These include tight requirements for pre-resettlement census, consultation and planning, adequate apartments built and people moved before project starts, employment guarantee and job training, etc. As markets developed and people's voice grew, however, resettlement programs in the cities were found to be producing more dissatisfaction of the resettled, while costing more, and causing longer delays. I think one simple thing can explain a lot of this -- resettled people look at the new housing, and a lot of housing built around the city and figure that they could have done better than the bureaucrats.

On the basis of this, we have designed what was then (1992) a radically new procedure for Tianjin Urban Development Project to introduce a quasi-market transaction. Under this procedure, people are given vouchers with which they can shop among a large number of apartments available in the city. The value of the voucher is determined mainly on the basis of the old compensation formula and the average market price of comparable apartments.

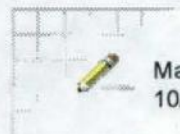
I admit that we had to push this new procedure on to the protesting bureaucracy, with the help of an open-minded senior municipal official (and, shall I add, also through the bureaucracies here only with sympathetic help in strategic positions. Nevertheless, two resettlement subprojects were all that were needed to convince the city that this was easier and yields better results. Post-resettlement surveys found unanimous satisfaction. Within two years, the city government began adopting the procedure for the city as a whole. Two years after that, other cities started to use it, and June this year, the central government endorsed it and recommended cities to adopt it as an element of the structural reform - from plan to market. This is expected to lead soon to a new national law.

In short, the Chinese government seems to say: why plan all that when the people and market can do it better. Should we not consider that, at least for cities?

In case any of you are interested, I will send a copy of the SAR Annex describing the procedure (which later has been modified to simplify and be more market-consistent) to Mr Han, TWURD.

regards

----- Forwarded by Mats Andersson/Person/World Bank on 10/26/98 10:06 AM -----



Mats Andersson  
10/26/98 08:51 AM

Extn: 85578 ECSIN

To: gdavis, Maninder S. Gill, Dan Aronson, Ralph Hanan, Patricia N. Rogers, Mohan Gopalan Gopal, Carlos Ricardo Escuder  
Subject: OP4.12

Input re. Para 2.  
mats

----- Forwarded by Mats Andersson/Person/World Bank on 10/26/98 08:52 AM -----



Adrienne K. Nassau

10/23/98 09:31 PM



Extn: 37625

ECSIN

To: Mats Andersson cc: Arnaud Marie Guinard, Julie G. Vioria, Maria Teresa Serra, Toru Hashimoto, Maryse D. Gautier  
Subject: Resettlement OP

We agreed at our meeting today that it is essential to clarify Paragraph 2 of the draft OP in order to determine upfront where Bank resettlement policy applies (and where it doesn't apply). I also volunteered to take a stab at drafting some language to reflect what I believe has emerged as a common understanding.

My recommendation follows. It is very close to language in the original OD, with some subtle differences that are highlighted in italics.

2. This policy applies to Bank-financed investment projects where there is: a) *physical investment*; b) *a taking of land*. and d) *where owners, residents, or commercial activities are displaced because of this taking*. It is Bank policy to ensure that the population *involuntarily* displaced by a project receives benefits from it. Involuntary resettlement is an integral part of project design and should be dealt with *as early as possible in project preparation*, taking into account the following considerations:

- a) Involuntary resettlement should be avoided or minimized where feasible...
- b) Where displacement is unavoidable, resettlement plans *and policies* should be developed. Displaced persons should be (i) compensated for their losses at full replacement cost; (ii) *provided a choice of alternative sites for resettlement, where feasible*; (iii) *for vulnerable populations*, assisted with the move and supported during the transition period in the resettlement site; and (iv) *for rural populations or urban populations that are relocated far from employment opportunities*, assisted in their efforts to improve their former living standards, income earning capacity, and production levels. Particular attention should be paid to the needs of the poorest groups to be resettled.
- c) Community participation in planning and implementing resettlement should be encouraged.
- d) Resettlers should be integrated socially and economically into host communities.
- e) *Resettlement assistance* should be provided to adversely affected population who may have usufruct or customary rights to the land, structures and others resources taken for the project. The absence of legal title by such groups should not be a bar to compensation.

Where large scale population displacement is unavoidable (more than 200 persons), a detailed resettlement plan...

It should be clarified in a footnote that this policy does not apply in all instances in which individuals or populations may be adversely affected by investments projects. In those instances other Bank guidelines require social assessment and mitigation.

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:06 PM -----

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Dan Aronson @ IFC

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10/28/98 11:24 AM

To: Mats Andersson cc: Maninder S. Gill, Ralph Hanan, Mohan Gopalan Gopal, Carlos Ricardo Escudero, Kennan W. Rapp  
Subject: Re: OP - CHINA HOUSING PERSPECTIVE

I don't think we have any problem at all with the system described by Songsu Choi: it is consistent with what has been done in India with "blocked accounts," another form of vouchering, and with what the OP says about choice and participation. In the Panama project I have worked on recently here at IFC, resettling families were given a sort of limited voucher, in the form of visits to any of 5 or 6 low-cost



housing developments being put up in the private sector, with the chance to influence final construction details, within the price range determined for the type of housing to be lost. It has worked out extremely well.

I doubt if any changes are needed in the OP draft to accommodate these ideas, but Mats, you may find places we are overlooking that would somehow compromise these very good practices.

Dan

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:06 PM -----



Mats Andersson  
10/27/98 01:18 PM

Extn: 85578

ECSIN

To: gdavis, Ralph Hanan, Patricia N. Rogers, Dan Aronson, Maninder S. Gill, Daniel R. Gibson, Kennan W. Rapp, Mohan Gop  
Subject: OP NOTES, MONDAY MEET 10.30 am - URBAN and OP DRAFTERS

**Meeting on Urban: Maninder Gill, Dan Gibson, Kennan Rapp, Maryse Gautier and Mats Andersson**

My summary note on the conclusions of the meeting:

The OP draft to be refined as follows:

1. For situations like Slum upgrading, land consolidation, etc. allow project-specific framework (rather than plan), and a simplified approach when "involuntary" is minor part of the project in total.
2. Separate: (a) application of the OP; and (b) environmental categorization (A,B,C)
3. If possible, strengthen the Footnote in OP Annex 1 regarding 100--200 cases to prevent different interpretations by country lawyers.
4. Rather than specify the "1 year criteria for eligibility", try to draft something along the lines that "an appropriate process (e.g. sometimes community-based, sometimes other)" is needed to determine eligibility
5. State that a RAP is a Borrower document, but not specify if Bank can contract consultant or not.
6. Make clear that cash (voucher, etc.) compensation is OK depending on circumstances (e.g. in particular where there is a reasonably functioning market); i.e. not only in exceptional cases..

General OP application to "scavengers" or not need to be discussed in Technical Team.

Urban - rural differences are often fundamental, and may require different "regulations or policy guides".

Kennan ..... you may want to expand; and I may have missed something.

Mats

\*\*\*\*\*

From: Kennan W. Rapp on 10/28/98 10:39 AM

To: Mats Andersson/Person/World Bank@WorldBank, Maryse D. Gautier/Person/World Bank@WorldBank



cc: Maninder S. Gill/Person/World Bank, mmejia@worldbank.org, Dan Aronson/Hq/lfc@lfc, Daniel R. Gibson/Person/World Bank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Gloria Davis-SDV/Person/World Bank@WorldBank, Patricia N. Rogers/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank, Barry Trembath/Person/World Bank@WorldBank, Peter A. Van Der Veen/Person/World Bank@WorldBank, Kenneth M. Gwilliam/Person/World Bank@WorldBank, Sumter Lee Travers/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, G. George Tharakan/Person/World Bank@WorldBank, Maria Teresa Serra/Person/World Bank@WorldBank

Subject: 2nd consultation on draft OP 4.12 with Urban

**Here are the minutes that I've prepared, with the aim of complementing what Mats Andersson circulated yesterday:**

Representatives from the Resettlement Thematic Group and the Urban Sector met again yesterday to review areas of agreement and disagreement identified in the first consultation, and to discuss new ones. The following were among the more salient points made:

- It was very important to clarify the conditions, if any, under which the OP would apply to projects with land titling, rezoning, and privatization that **physically** displaced people against their will.
- Often in these types of interventions, but especially in slum upgrading projects, affected people are benefiting directly from their displacement and rehousing; consequently, they often come to take an active role in the project's implementation. The distinction between "voluntary" and "involuntary" has to be treated realistically in these cases, as there is almost always going to be a minority who don't want to move. The OP is not concerned with those who move willingly, but as long as there are some who are being forcibly displaced, they should be compensated, either in the form of cash (or vouchers), replacement housing, or access to improved services.
- Planning requirements for slum upgrading and land consolidation projects could be reduced to a simple policy framework outlining compensation for involuntary resettlers and specifying how and when the benefits will be delivered. It was important to allow for flexibility in the formulation of compensation options; over-reliance on cash could drive up costs by leading to speculation with compensation rates.
- The existence of involuntary resettlement in a project should not result in an automatic "A" EA rating for that project. The assigning of projects to EA categories has to be separate from their screening for resettlement issues, but in addition to revising footnote 18 in draft OP 4.12, a minor clarification would have to be made in OP 4.01.
- Paragraph 8 does not adequately account for cases in which people invade urban properties in the hopes of getting compensation or relocation assistance. This could be addressed either by lengthening the minimum time of residence, or leaving decisions about "who can stay and who can go" to the beneficiary community itself, but it was pointed out that, in the absence of set standards to guide them, community leaders or dominant ethnic groups might discriminate against other members in this process.
- The cut-off number of people for small-scale resettlement ("up to 200", footnote 1 in the OP Annex) is not explicit enough; it should be moved out of the footnote and into the text or otherwise strengthened.

**PREM**





William V. Mayville  
10/26/98 11:36 AM

To: Cora Melania Shaw cc: Geoffrey Shepherd, Helen Panaritis  
Subject: Operational Policy 4.12--Involuntary Resettlement

Dear Cora:

I am writing on behalf of LAC PREM to share some observations on the content of OP 4.12.

The OP generally assumes that it will be possible to develop the appropriate institutional framework within which to manage involuntary resettlement at local and central levels. Clearly, building the institutional capacity to handle involuntary resettlement will not be easy. There would be more than one government agency involved this activity, raising the thorny issue of inter-agency cooperation. Moreover, an adequate legal framework to deal with areas like formal legal rights to land or water resources is essential but seldom encountered. Given the poor state of data-gathering and recordkeeping, especially census-taking, plus the inherent problems associated with land reform and regularization, the OP presumes a level of competence on the part of the borrower and beneficiaries that may be difficult to find--and certainly will take time to develop.

PREM might have a role to play on the institutional and capacity-building side central and local levels through legal reform efforts, among other modernization thrusts, that could support some of these efforts with direct and indirect spillover effects. (Currently the LAC PREM is working on land tenure issues in Peru.)

It may be the OP could reflect more on the intersectoral nature of involuntary resettlement and provide some guidance about *priorities*---such as a legally viable process of land regularization and institutional infrastructure--that must be in place before involuntary resettlement can be carried out in a predictable and timely way. Otherwise I am afraid involuntary resettlement efforts may be paralyzed because of the elaborate, often unrealistic set of *a priori* stipulations before OP guidelines can be satisfied.

I have reviewed the OP in detail and this is basically a summary. I hope there is something here that may be useful.

(I delayed sending this to get the comments of Helen Panaritis, which I have yet to receive. I suppose she can send them independent of my observations, so here are my views. I would be happy to discuss any of them with you if you think there is any utility in doing so. Regards, Bill Mayville.)

## ENERGY & MINING

**Dan Aronson @ IFC**

10/26/98 11:39 PM

To: Barry Trembath cc: Maninder S. Gill, Ian Johnson, Joanne Salop, Anthony J. Pellegrini, Achim V. Heynitz, Thomas B. W  
Subject: Re: Application of OP 4.12

Barry,



Thanks for sending along the excerpted AM section from Youshuan -- his usual careful work.

I wonder if there is some trick hidden in your question, because to me his report is fully consistent with the OD and the OP conversion, and demonstrates not only the care that China usually takes on these matters but also the added value of inputs from the Bank even in China. After I tell you what I see in the report, I give you some information on an IFC project currently being planned in Szechuan, where more care is needed than in this project. Rapidly stated, here's what I see in Youshuan's report:

#### Zhejiang

- there was a draft plan, reviewed by the Bank, which sent questions on some important issues back to the borrower: in fact the Bank's policy enabled a discussion of "replacement value" compensation that both added to intra-group fairness (higher rates for more valuable constructions) and to group bargaining power with the proponent, which led to more money to improve livelihoods
- getting clear and very specific data was necessary so that the "plan" could be comprehended: the baseline household survey provided some figures at odds with other village data, and the final RAP will reconcile differences and add to the area's consciousness of its progress
- on the basis of very careful baseline data, it could readily be shown that most people to be resettled were deriving most of their income off-farm: thus putting sums from the collectively negotiated compensation toward the improvement of off-farm possibilities was appropriate (analyst's judgment) and desired strongly (participatory planning) by the people themselves

#### Tongbai Pump Storage

- an excellent survey has been carried out of forecast impacts, apparently done early enough to avoid "moral hazard"
- non-farm income is 80 percent of all income: thus important attention is being given to reconstruction of the off-farm income streams (though it is not stated what enterprises are being affected and how long they may be "off-line"). Please note that nothing in the new OP constrains these situations toward offering land alone for people who do not rely, these days, on the land
- developing the plan up front has allowed review and adjustment of the budget, which has been fully internalized to the project
- an expert's attention to problems in the timetable has pinpointed some difficulties that will take resolute action to resolve, since people must move before construction begins (more value added), and an important monitoring program, as called for in the OD/OP and often the weak link in Chinese projects, needs to be set up: the expert declares, in effect, that the Bank wants to see this done soon
- for the transmission stations more work is needed to bring the data and planning up to the level of the main project, get the budget right, etc.

It is easy to overread a short report like this, and you must have many more details: nonetheless, I would submit that despite the fact that we know that Chinese planning is usually excellent, we might not have a full budget, a schedule that minimizes unnecessary loss of production time and project progress, or as much assistance to villagers as there is without the intervention of the Bank consultant operating under our Resettlement policy. How much worse it would be if these projects were not in China and had no Bank attention is easily imaginable, given that even relatively simple projects like these have many sub-components that need to be brought together in a comprehensive plan.

(The one thing I wonder about is offloading the principal "damage" in Zhejiang onto the big landowners, but if the land lost constitutes a small part of their overall income, then the action is worth considering. Of course if there were no avenue recourse against that proposal, and instead of being the large landlord it was the farms of women whose husbands had left years ago for town, or it was the one Chinese landowner in an Indonesian village -- or some such thing -- I'm sure that, again under the policy, Youshuan would have called attention to the equity issues involved.)



All in all, I venture to score this one a huge success for the Bank's resettlement policy, fully consistent with the OP.

Don't you agree?

And now let me give you one back, also in China, from a mid-mission IFC report a week ago. The project is a factory in Szechuan province, in a county where few projects have been done (IFC's mandate is being followed here: go where private capital is not yet ready to go). Here there is no county resettlement office, and though the local authorities are "looking to" WB and Chinese policies on resettlement, the consultant reports that "in the less developed areas of China, policies are regarded as rather vague and difficult to implement on the ground." Left to their own devices, local authorities will "exclude some people from the resettlement population" who should by our policy be included, and may get "compensation rates which may not allow for replacement of housing or other structures." In this poor area affected people are "subsistence farmers with few other sources of income," and may not have the skills to take advantage of the company's normally generous offer to employ local people.

Nonetheless, the resettlement effort is being led by a man from the Shanghai Academy of Sciences, who has participated in EDI training and additional resettlement workshops put on by the World Bank. He will work closely with the authorities and the company to ensure that WB and Chinese requirements are met. A census is under way based on very early project design, so that it should be possible to avoid the moral hazard -- some Bank colleagues seem to argue that this early censusing is completely impossible, but it is as normal a design step as physical surveying.

A final RAP will be done well within the time period during which other aspects of the project are being brought to readiness. More consultation has been called for by the IFC staff member, and the company will make sure that it takes place.

The Bank's policy, and the Bank's efforts in working at the national level to train resettlement workers and give them the tools for project design, are both paying off handsomely. The result of the OP and the history of increasing resettlement technicity in the Bank will be that the company, which otherwise might be at a loss as to how to get local government moving, or what standards to use (there are provincial as well as national standards at issue), will have this part of its preparation done in a timely, thorough, and professional manner. Most importantly, people who are losing assets through no fault of their own will be safeguarded through the application of the Bank's experience.

Cheers,

Dan

----- Forwarded by Kennan W. Rapp/Person/World Bank on 10/28/98 02:14 PM -----



Barry Trembath  
10/27/98 02:42 PM

Extn: 82891

EASEG

To: Dan Aronson cc: Maninder S. Gill, Ian Johnson, Joanne Salop, Anthony J. Pellegrini, Achim V. Heynitz, Thomas B. Wien

Subject: Re: Application of OP 4.12

Dan,

As you may have inferred from the meetings to date my main problem is that the OD was written for very large scale rural resettlement and as its application has spread to cover urban situations and smaller rural resettlement. Moreover, as countries develop, rural resettlement begins to resemble urban



resettlement (e.g. Pak Mun). The OD has not been modified to more appropriately cover these other situations. Instead they are usually covered by footnotes and usually these footnotes are too confining. I am concerned that what could be interpreted as guidelines in the OD allowing some exercise of judgement, will harden into policy in the new OP, which may be read very literally by Bank lawyers and Part I NGO's.

Taking the first cases in Youxuan's aide memoire (I only have time for one).

#### Zhejiang

I wonder if the OP is applicable under current definitions. Affected farmland is 136.8 mu (9.12 ha). The number of people is not mentioned. However, from per capita land area figures calculations, it could be as little as two, or as many as 300. However, the first very simple policy made by the village is that through reallocation of village land [an annual process in rural China] all village residents will be able to retain their existing allocation. Therefore, the residual effect is on:

- The village, an administrative unit of the GOC, a not insubstantial entity that owns: in addition to farmland worked by village residents, an additional 2300 mu (153 ha), the farming of which is contracted out to non-residents as a commercial operation; and 16 factories. The land acquired (136.8 mu) represents about 6 percent of commercially contracted farmland, and the income from it, apparently less than one percent of village income.
- The outside contractors, numbering between two and 75, depending on how the adjustment of contracts is done. If the cut is distributed equally, it will reduce the contracted land by six percent each.

What is the logical compensation mechanism? In my view: cash to the village equal to the present value of their current contract income, to use as they wish (spend or reduce taxes depending on their political persuasion). To the contractors nothing, but cuts should be distributed equitably.

A borrower could argue that the OP doesn't apply, since no individuals are directly affected, or certainly less than 75. I think it should apply but that a comprehensive RAP as outlined in the OP is not required. I would argue for the two step process discussed yesterday:

Initially, for any project component which involves land resumption or relocation for a physical investment, an initial report, detailing the magnitude of impacts and the general strategy for dealing with them, should be prepared by the Borrower. On the basis of this report and his review of it, the task manager would discuss with his social colleagues and recommend whether the category A or B (sound familiar) should be assigned to the project. Clearly the above component is Category B. A full RAP would not be required. Instead something closely resembling Youxuan's writeup should be.

How does my proposed strategy fare under the draft OP. I am not sure. There is no mention of compensating governments or companies using agricultural land on a commercial basis, or of compensating farming contractors who lose business. The option of cash compensation is discussed in Footnote 11. I like the first sentence, dislike the second, and the last seems to rule out any sensible solution.

Even if it is concluded that the above strategy is allowed by the policy (if one consults enough footnotes), it has still cost the Borrower a substantial sum in preparing resettlement reports, multiple revisions thereof, appointing independent monitors etc. Our power company clients do not object too much, the cost is small compared to the overall investor. The poorer counties building a hospital or a school are hit harder.

See you at the meeting.



Barry

---

To: Ian Johnson  
Andres Rigo Sureda  
Joanne Salop  
Anthony J. Pellegrini  
Achim V. Heynitz  
Thomas B. Wiens  
Peter Watson  
Alastair J. Mckechnie  
Sherif Omar Hassan  
Gloria Davis-Sdv  
Maria Teresa Serra  
Barry Trembath  
Charles P. Mcpherson  
Peter A. Van Der Veen  
Cora Melania Shaw  
G. George Tharakan  
Kenneth M. Gwilliam  
Gerhard Menckhoff  
Mats Andersson  
Arnaud Marie Guinard  
Adrienne K. Nassau  
Toru Hashimoto  
Sumter Lee Travers  
Mohan Gopalan Gopal  
Carlos Ricardo Escudero  
Ralph Hanan  
Dan Aronson/Hq/lfc@lfc  
Daniel R. Gibson  
Maninder S. Gill  
Patricia N. Rogers  
Reidar Kvam

cc: Mmejia@Worldbank.Org  
Cyprian F. Fisiy  
Norval Stanley Peabody  
Anis A. Dani  
Myrtle Laura Diachok  
M. Caryl Jones-Swahn  
Louise F. Scura  
Agnes I. Kiss  
Christine E. Kimes



## CONVERSION OF RESETTLEMENT OP 4.12

### STEERING COMMITTEE

Ian Johnson, ESDVP (Chair)  
 Joanne Salop, MDOPS  
 Tony Pellegrini, TWUDR  
 Andres Rigo, LEGVP  
 Achim von Heynitz, PBDDR  
 Tom Wiens, LCSES  
 Peter Watson, AFTIE  
 Alastair McKechnie, SASEG  
 Gloria Davis, SDV

Sherif Omar Hasan, LEGVP

### SECTOR

### TECHNICAL TEAM

### EXTENDED TEAM

Social

Gloria Davis (Chair)

Environment

✓ Teresa Serra, LCSES

Energy and  
Mining

✓ Barry Trembath, EASEG  
 Peter Van der Veen, EMTIM

Charles McPherson, EMTOG

Rural

Cora Shaw, LCSES

Transport

George Tharakan, MNSID

✓ Ken Gwilliam, TWUTD  
 Gerhard Mecnkoff, LCSFP

Urban

✓ Mats Andersson, ECSIN

Arnaud Guinard, AFTU1  
 Adrienne Nassau, ECSIN  
 Toru Hashimoto, EASUR

Water & Sanitation ✓ Lee Travers, TWUWS

Legal

Mohan Gopal, LEGOP

Carlos Escudero, LEGEA

Operational Policy

Ralph Hanan, MDOPS

Pat Rogers, MDOPS

Social

✓ Dan Aronson, IFC  
 Dan Gibson, EASSD  
 Maninder Gill, SDV

Kenn Rapp, SDV  
 Reidar Kvam, SASSD



Exercises

Caio

4 pm

## CONVERSION OF RESETTLEMENT OP 4.12

### STEERING COMMITTEE

Ian Johnson, ESDVP (Chair)  
Joanne Salop, MDOPS  
Tony Pellegrini, TWUDR  
Andres Rigo, LEGVP  
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Tom Wiens, LCSES  
Peter Watson, AFTIE  
Alastair McKechnie, SASEG  
Gloria Davis, SDV

Sherif Omar Hasan, LEGVP

*judge*

### SECTOR

Social

Environment

Energy and  
Mining

Rural

Transport

Urban

Water & Sanitation

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Dan Gibson, EASSD  
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Toru Hashimoto, EASUR

Carlos Escudero, LEGEA

Pat Rogers, MDOPS

Kenn Rapp, SDV  
Reidar Kvam, SASSD

*introduce exercise*

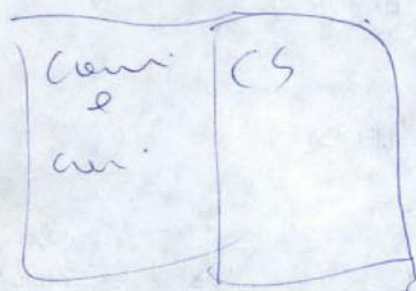
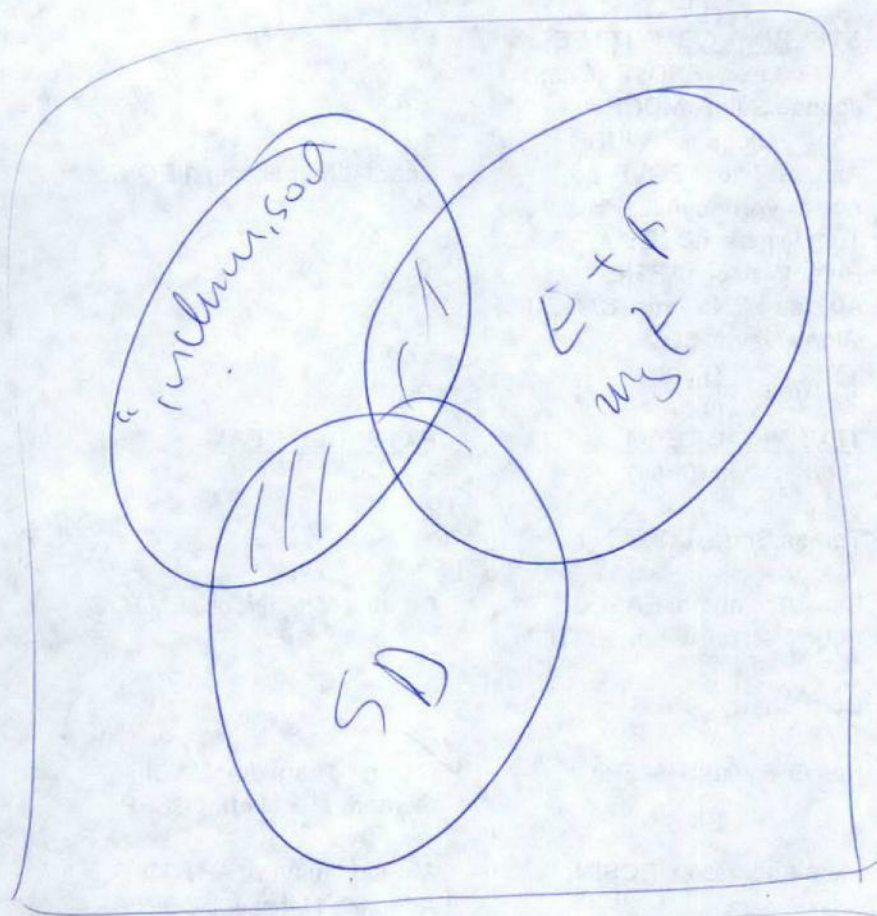
- (i) Introduction → kick off with "rules of the game"  
(ii) Overview - Gloria + Joanne  
(iii) TOR - "rules of the game"  
(iv) approval → have review - agreement - consensus - refer back to SC.

*Don't include SDV + MDOPS + CEG*  
*not extreme consideration inside "OD" - vulnerable*  
*→ Caio (and)*

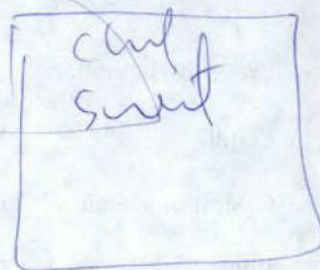
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*long*

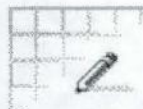




lat -





 Milagros Benedicto  
10/23/98 12:35 PM

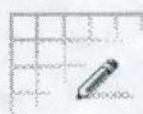
Extn: 82750 SDV  
Subject: Re: OP 4.12: Today's Meeting and Non-Physical Displacement

Vinod and Eveling,

For background information, I've attached Gloria's EM on how the Steering and Technical Committee transpired, the regions' and Legal's comments. I

Hope these helps.

Mitos

 Gloria Davis-SDV  
10/20/98 07:04 PM

Extn: 82750 SDV  
To: Caio K. Koch-Weser cc: Ian Johnson, Anthony J. Pellegrini, Joanne Salop, Andres Rigo Sureda  
Subject: OP 4.12 - Proposed Process

In light of the discussion which we had today, I suggest the following process.

1. Within a day, paragraph 2 will be revised. It makes little sense to hold discussions without greater clarity in the coverage of the OP.
2. For the remainder of this week, the resettlement team (consisting of the drafting group from SDV, MDOPS, and LEG) will hold discussions with technical staff on a family/subsector basis. These discussions are intended to flag outstanding issues and concerns. They are being scheduled at this time by Dan Aronson and Maninder Gill.
3. In parallel, we are asking each family/subsector to nominate a focal point who will be a member of the technical team discussing the draft document. It will be important to ensure both that they represent the views of their colleagues and that they have adequate time for this work. Although you asked me to get back to you with these names today it makes more sense that a considered decision be made and we put together the technical team by end week. (This would not hold up necessary sectoral discussions).
4. Early next week, the technical team will be convened. If you wish, I will chair this group. This team should consist of representatives from the sectors/families and the resettlement team. This technical team will report to a steering committee chaired by Ian Johnson, and including Tony Pellegrini, Joanne Salop, someone from LEG (perhaps Andres Rigo), someone from PBD, and two regional managers (we are identifying candidates). They in turn will report to you. We expect to meet with you on a weekly basis.
5. The following principles should be discussed at the outset. They would govern the work of the technical team.

\* We are not starting over. We should aim to get agreement on a conversion of the old O.D, if possible.

\* This conversion should remain faithful to the coverage and intent of the original OD, but contain clarification as necessary.



\* Where there are issues that cannot be resolved at the technical level, the team should seek guidance from the steering committee on how these issues should be handled.

\*Core policy issues, if any, would be referred to the wider management group.

#### 6. Timetable.

October 21-23 - The resettlement team will meet with sectoral teams from urban, transport, rural, energy and environment (among others)

October 26 (Monday) - The technical team (resettlement team plus technical specialists) will meet with you and with the steering committee to discuss the TOR. → *steering committee*

October 27-29 - The technical team will meet daily for two hours to scope the issues and make necessary changes.

October 29 - We will prepare a note summarizing progress, in anticipation of the OPC meeting on October 30.


November 2 - Second steering committee meeting to take stock of where we stand.

November - We will meet daily until the work is completed.

While I would hope we can finish by October 30, I'm not sure that this is feasible or that longer meetings are sustainable given the priorities of other team members.

7. In bringing the process to closure, we will need to decide whether further internal or external consultations are required, particularly with our borrowers.

Please let me know if this is acceptable to you, and whether we should edit for wider distribution.

 Maninder S. Gill  
10/23/98 09:30 AM

Extn: 81296 SDV

To: Mohan Gopalan Gopal, Carlos Ricardo Escudero, Ralph Hanan, Patricia N. Rogers, Daniel R. Gibson, Dan Aronson cc:  
Subject: Revised Para 2

Friends,

Please review the revised para 2, agreed with Gloria, and give your comments.

cheers

Maninder



Para2.cd.doc.do



This policy applies to any project which involves the involuntary relocation of people. It also applies to projects involving land acquisition which leads to a loss of assets or the disruption of productive activities.

This policy does not apply to voluntary land transactions or to voluntary relocation or land settlement. If there is no involuntary relocation of people, it would not apply to land administration projects or programs such as land reform, titling, consolidation, privatization, or rezoning.<sup>4</sup> Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy.<sup>5</sup>

This policy does not cover indirect economic impacts (such as the loss of business when roads are rerouted) and intangible impacts (such as loss of view or other aesthetic values). However, it is good practice to avoid or mitigate indirect economic impacts, especially those affecting poor people, where feasible.

This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement. It also covers resettlement resulting from activities that are not part of the Bank-financed project, but are necessary to achieve its objectives (for example construction of a reservoir for a Bank assisted urban water supply project.)

*Footnotes:*

3. Such projects may involve, for example, construction, upgrading or extension of dams, mines, new towns or ports, housing and urban infrastructure, large industrial plants, railways or highways, irrigation canals, slum upgrading, or the establishment or reestablishment of national parks, forests or protected areas.

4. See OP/BP 8.50, Emergency Recovery Assistance.




Reidar Kvam	10/16/98 12:39 PM
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Extn: 35783

SASSD

To: Ralph Hanan cc: Joanne Salop, Mohan Gopalan Gopal, Gloria Davis-SDV, Ibennett

Subject: Re: OP 4.12: Today's Meeting and Non-Physical Displacement 

Ralph,

I have looked further at the OP after on our discussion yesterday, and discussed some more with colleagues here in SASSD about this. While I think my views here represent a consensus among the social scientists in the Bank working on resettlement issues, I do agree that more consultation and clearer guidance on practices and application of the new OP will be very useful. Others are likely to have diverging views or different interpretations, and we need to come to an agreement on what is involved. It may be useful to consider specifying this more clearly in the BP part of the document.

I feel that **the phrasing in paragraph two is good, and reflects current case practice**. I think there is no disagreement with our colleagues in the other sector units about the principle of restoring lost livelihoods where needed; the difficulty is in delineating this in terms of time, and in terms of who should be included. (The argument about having limited resources to undertake this type of work is in my view a different issue, which we should deal with separately. If it is determined that we need to do this, and we are unable to do so with the resources given, then we need to take that up with senior management.) Our current practice should not open up for frivolous claims from anybody who might argue that they have suffered loss of earnings as a result of a Bank project. We have focused support mechanisms for lost assets or reduced livelihood within clearly **identifiable spatial limits**, where **losses are directly caused by a change in the land or water use**.

A good example of this is the series of State Highways projects in India, where the concept of a **Corridor of Impact** has been established. This is a narrow corridor, which people have to move away from or where they lose assets such as houses, trees, lands, wells, etc. in order to make room for the infrastructure works and the necessary clear zone for safety reasons. Only the people inside this corridor at the time of the agreed upon cut-off date are considered Project Affected People. They are covered in a 100% census survey; their lost assets are compensated or they are given assistance in other ways (squatters and encroachers); and assistance is given to that limited population to restore livelihoods.

The difficulty arises where impacts are less clearly delineated or identifiable, as was argued was frequently the case in urban projects. Such impacts can in my view be considered as more indirect, affecting a larger but more diffuse population. Two examples:

- **Dhaka Urban Transport Project:** Closing of some roads to rickshaw operators causes difficulties and a potential loss of earnings. The problem is that (a) we can not quantify the loss for each individual; and (b) we can not identify who the individuals are, since they are by definition mobile, and can go elsewhere for earnings. Solution: Bypass roads for non-motorized transport, to allow the rickshaw operators to move between strategically important areas after their banning from the main roads.
- **State Highways in India:** Upgrading a rural road with low volume, low speed traffic to a two or four lane highway with high volumes of high speed traffic. This causes problems for rural women, who traditionally use the roadside to dry cowdung; collect firewood from the tree corridor along the road; and use the road to carry water. Again, the loss can not be quantified in terms of its impact on the individual, nor can the affected population be clearly identified and delineated. Solution: provide safety measures for pedestrian traffic; access to drinking water through wells and pumps; and other support mechanisms targeted at the group rather than the individual.



In both these cases, the **focus is on vulnerable groups**. Their needs and development opportunities are assessed through the **Social Assessment**, focusing on community consultations, PRA techniques, etc. People inside the Corridor of Impact in the case of the Highways projects, on the other hand, are also mapped and documented through a rigorous census and baseline survey covering 100% of the affected population.

I would argue that this approach both addresses the **needs of the poor and vulnerable** impacted by our projects, and **sets clear limits** for where our responsibilities lie. It does require a social assessment process, to identify community oriented impacts, needs, and solutions. In this process, the focus should not just be on mitigating negative impacts (which is the mandatory part) but on seeking out positive development opportunities that can be covered as part of the project, if the Bank team and the clients agree that this is a good thing to do. Interestingly, in the Dhaka Urban Transport project, the team agreed with the Government that mitigation of negative impacts related to groups (addressing needs of rickshaw pullers and sidewalk vendors) would be paid for as part of the Resettlement Action Plan, but that other social enhancement opportunities (improved mobility for women, and other measures) would be seen as part of the main project budget. All of this was addressed within one comprehensive process of Social Assessment, which had a much broader approach than simply focusing on identifying and mitigating negative impacts.

Taking this approach, we can summarize the three types of losses and corresponding support mechanisms in the following way:



## **IMPACTS ON GROUPS AND COMMUNITIES**

Not measurable in terms of individual losses, or  
where the affected population can not be clearly delineated  
Community-oriented support mechanisms,  
focusing on vulnerable groups

### **LOSS OF LIVELIHOOD: Rehabilitation**

Unit of support: Adult individual

Restoration of livelihood where  
losses are caused by direct  
project impacts on an  
identifiable population

#### **VULNERABLE GROUPS:**

Requires risk analysis,  
options, and targeted support

### **LOSS OF ASSETS: Compensation or assistance**

#### **RECOGNIZED OWNERS:**

**Compensation under  
law, at replacement cost**

- Land, house, trees, etc.
- Generally covered in national  
Land Acquisition Acts

#### **LAND OCCUPANTS**

#### **WITHOUT OWNERSHIP:**

**Assistance to replace lost assets**

- Traditional or usufruct rights:  
recognition of land rights
- Squatters, encroachers :  
Targeted assistance

I hope this is of some help.

With best regards,

Reidar

.....  
Reidar Kvam, Senior Anthropologist  
Social Development Unit, South Asia Region (SASSD)  
Phone: 202-473-5783, Fax: 202-522-1662  
Internet: rkvam@worldbank.org or: rkvam@psionworld.net

----- Forwarded by Milagros Benedicto/Person/World Bank on 10/23/98 12:30 PM -----

**Mgopal@worldbank.org on 10/16/98 06:19:26 PM**



To: Gloria Davis-SDV cc: Andres Rigo Sureda, Joanne Salop, Ralph Hanan, Patricia N. Rogers, Mats Andersson, Reidar Kv



Subject: Para 2, Draft OP 4.12

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This responds to the request at yesterday's meeting that the background to para 2 of the draft OP be clarified.

Para 2 of the draft OP reflects a clarification of OD 4.30 (Involuntary Resettlement) provided by the Operations Policy Committee (OPC) on June 28, 1996. OPC guidance was requested at that time because of lack of clarity whether OD 4.30 applies to displacement arising from causes such as loss of employment caused by closure of enterprises under privatization and public sector or economic restructuring programs. After careful consideration and discussion of the issue, the OPC decided as follows:

"[OPC] members expressed concern that this issue remained open and subject to differing interpretations. There was general support for the approach that this OP should be relatively restrictive and apply to projects where direct impacts that result from physical measures deny individuals access to land or land based assets and thereby adversely affect their livelihood. Other indirect displacements resulting from projects should be mitigated, but not under the ambit of this OP, except in special cases associated with land displacement..." (quotation from the OPC minutes, emphasis added).

Thus the intent of para 2 of the draft OP is to not to expand the coverage of existing policy. Rather, the intention is to clarify that the resettlement policy applies only to displacement arising from the physical measures described above.

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----- Forwarded by Milagros Benedicto/Person/World Bank on 10/23/98 12:30 PM -----

Mandersson@worldbank.org on 10/16/98 07:58:04 PM



To: Gloria Davis-SDV, Ralph Hanan, Mohan Gopalan Gopal, Reidar Kvam, Toru Hashimoto, Patrick P. Canel, Adrienne K. Na  
Subject: Compilation of Comments on OP4.12 from Urban Clusters

---

To Participants of Thursday Meeting on the subject

As promised, I am sending you a "compilation" of comments from mostly Urban network staff. I was starting to do a summary, but felt that I would probably misrepresent the writers; instead, below is a list of copied EM contents. While the list may be somewhat overwhelming, I hope it fulfills the purpose of conveying the concerns and suggestions of Urban staff. I have taken the frank language as a sign of true engagement and positive spirit; an ambition to be as useful as possible in the Bank's continuous improvement on this important topic.

I will try to arrange a short Executive type "summary of key concerns" on Monday, which hopefully can form a basis for further discussions. I



will first check with the Urban Anchor; Angela Griffin may have received other comments as well.

Mats

(See helpful clarification from LEGOP at end of this long EM.)

From Thursday clarification meeting (Mats Andersson):  
Comments/Questions raised by the Urban sector participants:  
(many comments related to Para. 2 of the OP)

1. Para. 2 of the OP appears to go significantly beyond the existing OD4.30

e.g. unclear how it would apply to changes in zoning regimes, land privatization, urban renewal, etc.; and, application whether or not the people must move to another location (both physical and economical impact).

OD4.30 has over time been applied more and more extensively (its spirit). However, making the OP reflect good practices from certain cases in the past makes these practices "regulatory regime" for ALL projects, and leaves little discretion to case-by-case judgement. I.e. up to now, we have been applying the spirit of the OD; after OP approval this becomes "law". Example of solid waste projects (scavengers) was mentioned. This may have significant implications, including for project preparation costs. The application of the OP needs to be confined in some way.

2. Differences between rural and urban settings were discussed. E.g. in rural areas, land normally constitutes "livelihood", while in urban areas it is more "a place to live". I.e. room for significant flexibility is required for urban relocation and resettlement issues (possibly a separate OP).

It appears that the OD4.30 has never been truly accepted by professionals working in urban settings; it doesn't meet the need of urban situations. For improvement of urban productivity, economic growth, etc. changes in zoning, relocation of industries, etc. is common. It is unclear how the OP should be applied here. Significant risk exist that the OP will become a deterrent for some very important and effective projects from a sustainable development perspective.

3. Para. 8: " .... possession of the land for at least one year ..." short period in light of project preparation often having a longer duration. Risk for "invaders", land speculators, etc. to take advantage of a situation/project.

4. Review of "Legal framework" a strict requirement in the OP; not so under the OD. The suggestion was made that such reviews are more appropriate to be done on a country basis than on a project-by-project basis.

5. Frequently no market prices for land/real estate in urban areas (eg. Africa)

6. How consider multi-family situations in a dwelling (eg. three generations) and various communal ownership structures?

Key responses:

1. The OP is intended to capture and clarify the policy content of the OD4.30 plus current praxis of the Bank since the OD4.30 was introduced.

It was recognized that some new elements were introduced in the OP, e.g. land use and water use; however, not intended to be new requirements,



but reflect current praxis. E.g. "People shouldn't be worse off". Sometimes compensations are made on a community basis.

Para. 2 was intended to "fence" (narrow) the OP. On the one hand, application to both (a) physical impact, and (b) economical impact has become praxis in the Bank, even if not said in the OD4.30; on the other hand, when it comes to "in what situations" the OP would apply, the impacts must "arise from a physical cause" related to the project. The OD was not clear about this. In principle, the OP would not apply to policy changes (e.g. zoning changes) based on this criteria.

2. The OP being transparent and understandable for all sectors was recognized as very important. However, a separate OP for rural and urban does not seem realistic.

3. Up-front census, to the extent possible.

Geoffrey Read, Acting Sector Leader, SEA:

I summarize the East Asia Urban operational views and recommendation as follows:

This is an important topic, which has major operational, timing and cost implications for our clients and for the Bank;  
In the operational part of the East Asia Region, we strongly support rigorous attention to resettlement matters; and  
While reflecting many realistic concerns, the current OP Draft clearly needs to be fully discussed within the Bank, and especially within the operational complex, before it goes to the Board. This will ensure that it closely reflects the reality of our core business.

#### Recommended Action

We recommend that, to enable an adequate and comprehensive review, the Board distribution and discussion now be postponed. This action will enhance quality and enable a consensus to be built.

We recognize that this is at a late stage; however, the draft could be easily withdrawn this Friday 16th. Delaying a decision until next week will result in a postponement becoming increasingly difficult and embarrassing to the management.

Margret Thalwitz:  
Angela:

my main coment on OP.4.12 is that it is inappropriate to address resettlement and related issues in urban areas. Its main thrust is that it looks at land and water rights as the principal household assets to sustain employment and household income. This is not the case in urban areas.

We have had, in the past, major difficulties to fit the Bank's gobal resettlement policy to urban conditions. The proposed changes in OP 4.12 will make this worse if we take a very legalistic view on the many aspects covered by it: measurement of "means of livelihood"; "loss of access to productive assets", "loss of income sources". We could - theoretically - find ourselves in endless definitional debates because these concepts don't fit the market conditions of an urban environment.

Requirement 5 (b) is outright dangerous in the urban setting. If we are obliged to provide "land, housing infrastructure, other forms of assistance



under this policy, and compensation ... to displaced people who may have usufruct or customary rights to land or other resources taken for the project." Monetary compensation is the one form I would find appropriate in the urban environment, as markets exist that are well known by the rich and the poor for housing, access to infrastructure etc. All other interventions in compliance with this policy run the risk of simply adding to the massive distortions in urban land and housing markets that we so desperately try to redress through our projects.

Para. 8 highlights this risk. Rapid urbanization coupled with inefficient markets almost inevitably leads to informal settlements on land not owned by the users. One of our objectives is to increase density in these areas through investments in infrastructure, supply of essential services and charges for the use of these assets, including land. People are expected to give up "claims" by reducing the size of the areas they afford to use. Para.8 is an invitation to claim unaffordable large amounts of land and request compensation later when pricing policies force users to reduce their claims.

I think it is time we prepare a separate proposal how to effectively address resettlement and land use issues in urban areas in the context of our overall policy to make cities "sustainable". I suggest we create a small group that spends some time to think through these issues and write up a policy guide for wider discussion. In the meantime, as we can not think of a withdrawal of the current proposal from the Board at such a late stage, we should discuss with the MDs whether we can agree on some "regulations" as to the interpretation of this OD for rural and urban circumstances once the Board has approved the current version.

Toru Hashimoto, SEA:

I attended the meeting today on the above subject. I quickly summarize the outcome.

1. What Lee called the "Trojan Horse issue" was the major concern by all the Regional Representatives. Should those with lesser value of plots due to zoning changes be compensated? How about Urban Transport Project that will affect "rickshaws" on the streets. These points will be clarified in writing by the Lawyer who was involved in the OP 4.12 formulation. Answer given in the meeting was satisfactory to me that interpretation will be much narrower than the current para 2 of OP4.12 implies.
2. Treatment of squatter settlements also will be narrowed under the new OP as they are not eligible for compensation. However, ambiguity remains as they are entitled for "resettlement assistance" under the new OP. This issue will also be clarified in writing.
3. Urban specific concern was raised in the meeting. Slum upgrading and urban redevelopment projects are more difficult to implement under the current OD (as well as under the new OP) as there are huge "voluntary" resettlements with minor "involuntary" resettlements. Compensation will be extremely complicated with treatment of these involuntary resettlements even though benefits to the city economy as a whole will be substantial. There will be a continuation of discussion on this issue next Monday and Tuesday. Your written comments or thinking on this issue are highly appreciated. Those will be reflected in the next week discussion.
4. In the meeting, I made the comments that the this new OP practically makes best practices into minimum acceptable standard for resettlements.



Can we comply with this new requirements under the current limited resources and time for project preparation? This is also the case for the borrower as their project preparation costs for the RAP and others will be much greater. At least this issue was registered in the meeting. This should be the major issue for tomorrow's meeting as an operational issue (not urban specific). Your communications with sector leaders of other Region are needed before tomorrow's meeting.

Patrick Canel, AFR:  
Angela,

What follows reflects more the general impression of several AFTU2 task team leaders involved in urban operations whom I could consult with this morning, than a thorough review of the proposed OP.

I will provide you, if necessary, with more specific comments on Monday evening after more in depth consultation of AFTU2 TTLs.

The TTLs whom I consulted with feel that this OP will not make their operational work easier and may further complicate urban operations in African cities.

To date, the application of the OD itself has had perverse effects in the areas subject to development projects. These results are attributed to the fact that it is common knowledge that people who have settled in an area subject to a IDA or World Bank financed development project will either receive substantial monetary compensations, or will be resettled in well serviced areas with private property (property title).

One must remember that most of the people living in African cities (between 60 to 95%) do not have such serviced plots with property titles. In the best cases they simply have occupancy rights on State-owned and unserviced (or merely serviced) plots. When governments deal with these situations for a project financed under their own funds they simply kick-out the occupants with sometimes a small monetary compensation for the cost involved in the construction of their houses. Governments argue that legal basis for such practices are that households do not have property rights, they simply have occupancy rights. Thus, the State is entitled to kick them-out ("déguerpir") any time with little or no consideration of their land rights. Additionally, in theory, there is no market for plots without property titles; therefore proper land valuation and compensation is practically impossible. Meanwhile, Governments usually complain that the Bank policy on resettlement creates costly precedents in contradiction with local land laws preventing them from carrying similar development schemes because they simply cannot afford them.

Furthermore, those who benefit from the comparative advantages involved in Bank's resettlement policy are often times the well informed civil servants and not the poor initially occupying the site. The typical situation is as follows: as soon as (generally at the pre-appraisal stage) a project is known, civil servants in the administrations involved, knowing that occupants would be compensated or given a serviced land try to kick-out the occupants and claim (through members of their family) property or customary rights on land subject to a development project.

Article 8 of the proposed OP might well increase the risk of perverse effect by ensuring compensation to any person having an "interrupted possession of th land for at least one year perior to the commencement of the census".



Catherine Farvacque, AFR:

Here are some quick remarks:

1. The OD is silent on the threshold. Is the resettlement going to apply to any small projects or larger scale projects ?
2. Eligibility criteria are, once again, totally unclear. Everybody seems to be eligible. This confusion will be very favorable to already fuzzy tenure systems on the ground, opening the door to a great deal of abuse. A census is supposed to identify the beneficiaries who have been on the site at least one year: Who is carrying out the census? who is controlling it? We also know that it often takes more than one year between project identification and actual implementation. Anybody can come to the site and claim compensation. The census will mean nothing.
3. The bank will not disburse against cash compensation and other resettlement assistance paid in cash or against the cost of land; in other words, the government will have to pay for it: In Africa, the most common generic problem is the timely mobilization of local counterpart funding and here we are going to ask the government to come up with an additional financial burden in order to compensate and relocate people who had no business being there in the first place.
4. The bank will finance the costs of land improvement associated with resettlement activities: it will provide "housing, infrastructure (water supply, feeder roads) and social services (schools and health services)". This is asking the Bank staff and the government to prepare a full-fledged project within a project. It also assumes that the initial project does not address the public good and denies the fact that most projects in our sector are designed to help the local population.
5. Today, at least in some African countries, we are not doing any land development projects, and, needless to say, any slum upgrading, for the fear of our resettlement gurus. This new OP is an additional and unnecessary burden which prevents us from addressing the core of urban poverty problems in our projects. What we need is not dogma but concrete operational tools to do our work.

Dean Cira, LAC:

Mats:

I understand you are collecting comments on the OP 4.12 on Involuntary Resettlement for those concerned with its potential impact on urban projects. I have the following comments:

1. Page 1, par. 2 indicates "...change in land use...results in loss of productive assets or access to productive assets..." How broadly or loosely defined is a change in land use? Does the Bank really want to get caught up in the issue of "takings?" This could have impacts on slum-upgrading projects (the area I am most concerned with) in that slum-upgrading may result in the zonification of upgraded areas which may not be zoned now, or may be zoned "public use." A rezoning could imply a restriction of commercial or other economic activities (i.e. informal economic activity) which now takes place in these areas. How does one value a loss of productive assets in this case? Could this potentially



limit slum-upgrading activities?

2. How is the internal review process for projects involving resettlement established. It is not established in the OP. There should be clear guidelines on this, as now (in LAC at least) the process is unclear and as a result several projects have nearly not gone forward due to a lack of both clarity and transparency in the review process.

3. Where do slum-upgrading projects fall in the OP? Slum-upgrading projects potentially involve the resettlement of thousands of people (in the case of Caracas we expect to resettle about 12,000). However, until one does neighborhood level plans, a detailed resettlement plan cannot be done, and this is part of the project implementation period, not preparation. The best that can be developed is a detailed policy framework for managing the resettlement process. The guidelines should be very clear on this point, especially if this is to be a growth area for the Bank.

Teresa Serra, LCSSES:

In a rapid reading of the OP/BP/GP, I think the guidelines make significant progress in moving beyond provisions for the traditional investment operation (e.g., discrete infrastructure projects) of past decades and in the direction of incorporating resettlement concerns into the Bank's currently more diverse typology of projects. It has clearly advanced in setting forth guidance for sectoral and financial intermediary operations and for investment operations in which siting alignments and impacts are not clearly specified at the time of appraisal. Nonetheless I would call attention to the following:

- para 2: "Displacement (that) results from a change in land or water use"

is a concept that lends itself to considerable confusion. E.g., the OP should clarify whether the demolition of housing units in urban slums (residential use) to build either better, structurally sound housing or to promote regularization of land tenure on same site (still residential use) would be considered involuntary resettlement or not. This has given rise to considerable debate in LAC recently and is likely to be of continued relevance as the slum upgrading portfolio expands.

- footnote 11: As written, suggests that cash compensation should be used

only in the specific cases listed (viable residual landholdings, strips on edges, etc). Cash compensation may be an adequate option in other circumstances, especially in urban cases, where households are more mobile and more familiar with market transactions to begin with.

- footnote 17 and para. 19: Why can't consultants be engaged under a trust

fund to prepare a resettlement plan? Trust funds are used to prepare EAs, engineering studies, C/B analysis and other parts of a project. Are resettlement plans any different? In fact, TFs are amply used for the purposes of project preparation. Last sentence of para. 19 seems inconsistent with point (c) of same para.

- footnote 18: Needs to provide more explicit guidance for cases such as

slum upgrading, where often the environmental impact is very small and incides on a limited set of aspects, that do not recommend the preparation of a full-blown EA, as would be required by an A category project. If A



means full EA, such cases should not be As, even though they will very likely require a full-blown resettlement policy framework or plan. Again a topic that has been much debated of late in LAC.

- paras 7 and 8: Explicit mention should be made of Bank's position re.

renters and "doubling up". Another thorny issue is the displacement of commercial uses, especially when the affected are informal establishments (e.g., street vendors). The OP continues to sound predominantly concerned with rural projects. For these traditionally thorny issues is the OP/BP/GP going to establish firm guidelines or flag that these issues should be explicitly agreed with the borrower on a case by case basis, perhaps offering a couple of GP examples as to how some projects have dealt with the issues? I tend to prefer the latter but definitely think that the OP should explicitly mention these thorny issues.

- para 11: There are many situations in which early disclosure (i.e., before appraisal) is not appropriate. Disclosure and discussion with affected peoples needs to be carefully timed in accordance with the project cycle. E.g., in urban contexts it may trigger invasion and increase the number of people to be displaced once resettlement under the project is publicly seen as a vehicle for the improvement of living conditions; in rural contexts it may create early suspension of production and needless uncertainty especially in projects with long construction periods such as dams/reservoirs. The timing of disclosure should be agreed with the Bank (and cleared with QATs) at early stages of project preparation.

Finally in the BP paras 4 and 5: It would be good to explicitly refer to "resettlement plan or resettlement policy framework as appropriate to the specific project" when discussing requirements for appraisal.

Alexandra Ortiz, LAC:

Here are my comments on the OP 4.12:

1. I do not find anything on what happens if the OP goes against or conflicts with national laws. How can the issue be solved keeping the spirit of the OP and without threatening sovereignty? The OP, as well as the OD, are quite inflexible and even worse are applied sometimes by the Bank with even more inflexibility.

2. In paragraph 4 it says: "to achieve the production levels, income-earning capacities and living standards they are likely to have had without the project". How can these levels be assessed objectively? In a slum upgrading project, the likely situation of families without the project will most probably be worse than with the project, even with resettlement. The "do-nothing" option in some cases like this one is not status-quo but a real worsening. Do we compensate at this envisaged worse status scenario?

3. Paragraph 8 states that people occupying land in violation of the laws of the country are entitled to resettlement assistance if they have occupied the land for one year before the census starts. This is a clear point where the OP goes against national laws. It means that Bank projects have to compensate everybody. Imagine a situation where property rights are not clear, a powerful drug dealer comes and takes possession of a piece of land for his business. Then, a year later, a land administration project comes and finds out that this person is illegally occupying the land and that according to the documentation existing this land belongs to Mr. X. Are we going to compensate the invader? Moreover we might have to



compensate him twice because it is possible that there will be a change in land use...

4. In the context of property rights clarification, which is something that the Bank has been recently referring to as an important condition for development, I think the OP is counterproductive.

Maryse Gautier, MENA:

Some comments on the new OD 4.12

1. I notice that, although the Bank strongly requires participation to be part of any borrower action, the same requirements are not part of its own procedures. We all had the new OP at the last minute with a very short notice to answer. Inasmuch, as far as I know, there has not been any participation of, and discussion with, the networks on the paper concept. Too bad that the networks, with operational TTL (or ex task managers to be more clear) were not involved with the sociologists in the writing. The text would be more adapted to reality.

2. The issue of household s displaced from their slums to better housing units is still not touched. The type of urban projects dealing with slum upgrading involves families who are voluntarily resettled, as shown in social surveys, with improved housing condition. When the households are rehoused on the same site, the negative impacts hardly exist. If it's still appropriate to look at the general rehousing policy, the proposed OP really should not apply. There should be a simplified proposal for such cases.

3. Based on the project I presented to the Board in June (Algeria - Low income Housing ), the links between resettlement and category A environmental assessment are not systematic (see para 9 of the OP). We were required to give a A category for this project because of resettlement issues in September 1997, although there were not any major environmental issues. So we prepared a heavy, costly and lengthy EIA, independant from resettlement documentation. Later, a legal adviser, staff from environmental sector, then, the American ED, commented on the fact that the A category was not adapted in the project. Footnote 18 (page 4) should then be modified.

4. There should be more distinct definition of what loss of asset and nonphysical involuntary displacement mean. With such a paper, we may have resettlement when we need to buy a piece of land (para 2), not being able to prove what the loss of asset would be. Knowing some of our friends sociologists, I expect 90 percent of the projects to be submitted to resettlement in the future. And borrowers withdrawing their projects because of unacceptable Bank procedure, as it has been the case several times in the past.

Julie Viloria, SA (Slum upgrading projects):

1. From my peoples' based perspective, the spirit of the policy is commendable in that it seeks to protect the interests of parties who are likely to be displaced or relocated with the implementation of development projects. However, the complexity and the lack of clarity of a number of stated provisions of the policy beg the question of whether or not they are in fact enforceable in the context of urban projects particularly products



that we are trying to promote for nationwide upscaling (upgrading and basic services, municipal services, water supply and sanitation, etc). More significantly, however, it will have to grapple with many complex issues as to produce a major disincentive effect on the Bank's clients (the project proponents), project financiers (apart from the Bank), and the task teams with whom responsibility for the supervision of infrastructure projects rests. For example:

. On the change in land use or water use (the famous para 2). Much has been said on the topic already. However, another issue to face is not necessarily on the change in land use as in the case of slum upgrading projects of "in-situ" development but would have to deal with changes in settlement pattern (to ease congestion, provision of services to acceptable standards). The policy provisions as stated should be clarified in slum upgrading projects where the role of community in the selection of the approach (whether minimum dislocation, or total reblocking) and how to deal with the affected residents is crucial.

. On the identification of beneficiaries: The OP either misses other parties which are likely to be affected by the policy or has not taken into account the difficulty of identifying recipients of assistance in urban projects. One major question is: How does it propose to deal with: (i) tenants and subtenants (In many developing countries, apart from formal property owners, there are tenants who own the house or the structure but do not own the land; tenants who do not own both the house and the land but only pay rent, and tenants who accommodate sub-tenants with whom they share rent payments. Moreover, there are cases of joint or communal property ownership (tenement housing where all occupants jointly own the land, much like condominiums here, or multiple structure owners occupying one plot) as also multiple households sharing one house or building (which can be either several families not related with one another, or an extended households comprising two or more families who are relatives). The question therefore is: how does the policy propose to deal with these cases? Whom will it assist, how do one prioritize the eligible beneficiaries? Whom will it compensate? This is not clearly and adequately addressed in the proposed OP.

. On the identification of beneficiaries on the basis of census timing: The provision states that "If such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census, they are entitled to resettlement assistance in lieu of compensation for land" (para 8 on Criteria for Eligibility). What is the basis for the at least one-year occupancy eligibility? How will the policy determine the length of time those likely to be affected have been occupying the concerned land or structure? Another related issue which complicates this provision is the possibility of ?instant? or ?overnight? land occupation by ?land Mafia? for speculative purposes. This has happened and is still happening in countries like the Pakistan, India Philippines and Thailand where occupation of lands earmarked for upgrading and/or resettlement projects are organized by these ?Mafia groups? in order to be eligible for benefits (lot allotment) once the project is implemented. Again, how does the policy intend to deal with such cases? What safeguards can it adopt to make sure that its benefits reach the rightful recipient(s)?

. On the type of projects to which the policy apply: More flexibility should be introduced in applying such provisions as 5 (f), especially when dealing with community based projects like as slum upgrading. Such projects are usually implemented incrementally or in phases, such that there may be communities who would opt to first install or upgrade their facilities (pathways, water taps, etc.) before they go to the next phase of relocating themselves in-situ in accordance with a new physical layout of their community to which they collectively agree.



Christine Kessides, Urban Anchor:

Another worrisome wording in 4.12 is in para. 8, "if such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census." One year is a mere blink in the period of project preparation, so this would enable all kinds of interlopers to claim rights once they get wind of a project.

Another apparent change in 4.12 (I think, although I haven't actually compared the text to 4.30 - I could be wrong), is its application not only to Bank projects but to all subprojects (para. 15) - presumably this therefore applies to all intermediation operations, including everything that MDFs do with Bank money. Is it really necessary to have all this requirement for activities several steps removed from the Bank? It would seem reasonable to ask that borrowers have an acceptable policy framework for resettlement for all their activities, but if the Bank remains responsible for everything our subborrowers do, this really is onerous - at least so it seems to me.

Cora Shaw, LAC Rural:

Here are my comments on OP 4.12, as member of the Rural Land Policy and Administration thematic group. I wrote them late at night so I may have missed something. The last 5 months have been a real "total-immersion" experience for me on the OD. The OP in question is mostly a rewrite, but not an improvement, and fraught with ambiguities and missapplications that shows the problems of a "one-size fits all" policy. It was also written without proper task managers' review. I am aware of NGOs claim that the Bank does not comply with its own policies: this is not surprising since we have policies that are not clear and therefore give risk-aversion and moral hazard a lot of ground.

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Below are the main issues I can identify now from my ongoing experience. It reflects interpretation by lawyers and resettlement specialist who have clearance power.

1. OP has no balance and is unclear ...

Decisions are not always win-win, development has winners and losers, and the aim is that, ON BALANCE, most poor people win in the long run even if rent-seekers may lose (whether they are rich or poor). And some change land use as a result. How direct and how many ricochets does the OP cover? Does it cover causality project-effect? Para. 2 states "This policy applies to Bank-financed investment projects in which a change in land use results in involuntary...". What does it mean here? Is the investment project a place, a time, a cause, a big/small factor? In project area, even if not related to project activities? When project is taking place, albeit unrelated? But because "the Bank should not impoverish people", compensation in all cases where vulnerable people are affected should be agreed with Govt. (before negotiations, I understand), even if not covered by the OP, so what is the point of clarification?

2. Facts vs. hypotheticals. The OD requires a resettlement framework in projects where it can be hypothesized that resettlement can occur, even if prior experience has had no displacements. In land titling, where all



cases cannot be known in advance and the project is the survey, we are in a vicious circle: exploring for potential for resettlement requires a survey but the project is the survey, and the resettlement framework is required for appraisal. In these cases, however, the precedent of no resettlement has not been accepted (in Guatemala, the precedent is land previously titled by other donors, for an equivalent to 25% of project area or 300 000 ha), instead preferring to explore hypotheticals. The hypotheticals related to involuntary resettlement can kill a land adjudication project, this is a paradoxical and perverse conclusion of the OD/OP.

[ Note: As we enter in LILs and APLs, we have acknowledged that projects are part of a learning process, where we do not have all the information from the start, and therefore cannot respond to all hypotheticals (before appraisal) that the LEGAL department wants to put forth. This also conflicts with the reality of (i) reduced preparation budgets, (ii) more procedures (LACI, Procurement Assessments are just two of the new ones this FY); and (iii) pressure to prepare projects in shorter time.]

3. What do we mean by CHANGE of use? Para 2. "clarifies" that the policy only applies to projects in which displacement (both physical and non-physical) results form a change in land or water use. Please see below the actual applications (by LEGAL and/or resettlement specialists) that have been given to this "clarified" rule; these cases all require providing a resettlement framework spelling out, inter alia, compensation and resettlement assistance BY APPRAISAL.

On private land:

- land that is agricultural is donated by the owner (rich or poor) to build a school;

On national land:

- a vulnerable landholder who loses the land he occupies as a consequence of a court case moves from the rural to the urban area, so his land use changes;
- same vulnerable landholder as above should get compensation upon losing the land in court case because he is involuntarily resettled;
- national land under corn near archeological site is demarcated within the protected archeological site, so if the land use is changed in those sq. meters, and compensation of required for those improvements made within the archeological site if he cannot longer have them;
- same national land without the corn, if archeological site is claimed (even without improvements) the titling would be "taking" the site from the aspirations of land claimant who is thereby "frustrated" and therefore needs to be compensated for not getting all the land he claims. Since "Lack of documented occupancy is not in itself evidence of nonoccupancy" (footnote 16), it is difficult to establish extent of area of possession and therefore validity of claim;
- as a result of declaring protected areas and providing assistance for sustainable use to landholders living in these areas they change their land use from slash and burn to permanent, or even access roads?
- there is pastoral use of national lands around Roman ruins, so if Roman ruins area is developed then the shepherds should be compensated because the land use changes from pasture to archeological

Does change from idle land to roads, or agriculture, or urban, count as change in land use? Is change in land use always bad? This opens a whole can of worms.

Is change in land use due to an investment loan (in a rural finance project) covered under the OP? What happens if the loan is not paid and



the land as collateral is repossessed? Should the borrower in default get compensation? Para. 15 of OD implies so.

4. What do we mean by displacement? and Whose? Para. 2 explains that displacement can be physical and non-physical, i.e involuntary loss of shelter, loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. Physical displacement seems clear (although, what about nomadic populations), but "involuntary" is problematic (see below). The non-physical displacement is more difficult to grasp. Since the OP is not targeted ONLY to poor people, and a rich person loses a sliver of land (or productive resource, including natural resources --para. 2), due to land use change (loosely defined as in 1 above), then compensation kicks in. This creates moral hazard for the powerful.

5. What do we mean by "involuntary".

The OPN makes no distinction on whether the vulnerable person involved wants or not the service (or land use change) that the project would provide. It directly assumes that because the project results in a change in land use, then the Government needs to give compensation. The OP dismisses the "potentially adversely affected" people's analysis of own interest demonstrated by their willingness to engage in a process. In titling, the potential beneficiary of land possessed without formal rights, may willingly engage in the adjudication process by requesting title, engaging the land debt, and presenting documentation of eligibility. S/he does this only after concluding that it is better to get title over a parcel smaller than desired, than no title at all. OP says s/he should get compensation for getting smaller-than-wanted parcel.

In slum upgrading projects, the Bank's requirement for compensation for displacing people settled in critical areas like a canyon, drains, or road sides, creates an incentive for such settling in. Are these people seeking compensation being "involuntarily" resettled? There is a clear moral hazard issue, which the OD is promoting by demanding compensation.

6. What do we mean by compensation?

Compensation for loss of income is for how long? Income is a flow, so for how many years is the commitment to replace income? Local laws generally address compensation in cases of expropriation cases for public good reasons (construction of a bridge, or so), particularly to formal owners. Here the OP is more generous to possessors (large and small, good or bad faith) in terms of compensation than local laws. For instance, in agricultural land, replacement value includes "registration and transfer taxes" (footnote 9) even for those who are possessors and never invested in these services.

What if the project brings benefits to the person who is "affected", which outweighs the "losses". In community-based decisions, if the Govt. promises compensation to individuals, then consensus-seekers lose bargaining power and increases that of the rewards to the "naysayer". Traditional authority is eroded by this.

Duration of commitments. No resettlement commitment for how long? The legal department is requiring a commitment for the life of the LOAN or CREDIT. Which (democratic) Government can commit for this long?

Property rights. The OP grants more rights to non-formal owners than owners of land. Owners (rich and poor) have same or lesser rights than possessors (see para. 7 (a and b)). Owners have paid for formalization of rights, and are here recognized same compensation than possessors. So what



is the incentive to formalize? This goes against the Bank's promotion of property rights.

Para 7 (b) only sees rights formalization through resettlement (and therefore compensation). So possessors get compensation AND title if they encroach. This may seem more attractive than getting land lawfully. This is perverse.

#### 7. Environmental Vs. Social.

Because declaration of national parks restrains the land use in protected area, particularly of high biodiversity, the OP kicks in (footnote 2). This creates the paradoxical case that, to establish populations within the areas with more sustainable uses of the forest or natural resource and away from ones harmful to the environment, projects aim to support them through management plans with the previously surveyed population, changing their land use. So resettlement and compensation kicks in, creating incentives for more people moving into the park. Governments cannot displace these people either, because as citizens they have the same entitlements as the ones with management plans. This may happen anyway, but compensation worsens it. Here, the social wins over the environment.

The other point of risk aversion is what we do not do anymore or much less: slum upgrading, dams, irrigation systems and soon land titling. Entire sections of our portfolio are at risk. We can only speculate on how much of the flood damage in Asia could have been prevented if the Bank had not had OD4.30. Here the environment wins over the social through catastrophe.

How would an OP like this play in one of the countries of our PART I NGOs?

#### 8. Risk Aversion.

There is no doubt that OD4.30 has created risk aversion in Governments (and task managers). The current Bank environment after "50 years is enough" has been of defensiveness, with lawyers imposing the rule of "avoid the Inspection Panel" on project design. I am cognizant of disharmony within this Panel too. But if the Bank is to remain relevant, it needs to take risks. Development is not command-and-control centralized planning, and we know what happened to that. I am not surprised that the best examples, according to OED's Review of Experience with Involuntary Resettlement where it reviewed 6 dams, were in China. But in democratic countries things are not so neat and predictable.

#### 9. Assistance on Resettlement Issues.

Para. 19 is very confusing. The Bank may provide... " financing of technical assistance for developing resettlement policies, strategies...for a proposed project for Bank financing..." (para. 19, (c)), then "Bank staff do not prepare resettlement plans..." (footnote 17) , and "The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks ( last phrase of para. 19). So, we finance assistance once loan is in disbursement status (I suppose this is the meaning of (c)), but none during preparation. However, draft resettlement plans, frameworks, etc must be ready FOR APPRAISAL. So we provide financing and technical assistance after they need it.

Why not provide assistance during preparation? The argument that this ensures Government ownership makes no sense considering that other aspects (i.e. technical) which affect resettlement and other safeguard policies and require ownership too do not have this restriction. It certainly makes the policy even less palatable to Governments.

The third issue with para. 19 is that the Bank does not provide cash



compensation, only financing for land improvements. If the issue is income replacement, this begs the question of how do we know that land is the best alternative for resettled people? This is also reflected in footnote 7, but is not true in high-density countries like El Salvador (see red cover Rural Development Study). Wouldn't s/he rather drive a taxi?

10. Timing of Resettlement Plan/Framework Conditionality.

This has been applied like a guillotine by LEGAL. As in para. 26 of OD4.30 (I am not sure where it is in the OP), when resettlement is not known for sure for appraisal, then a framework spelling out compensation and other things has to be available for appraisal. If not so, LEGAL will just not clear it, prepare a loan agreement, therefore impeding QAT to clear. When these needs are certainly not known, and even questioned, the GoG will not commit to compensation (for squatters, for land and cash and resettlement assistance) because of the moral hazard. So we are stuck. Why appraisal in all cases? Why can't the policy be more flexible when needs are not known?

11. Disclosure of information by the Operations Policy Committee and the Legal Department

It has come to my attention that there was a Operations Policy Committee interpretation of OD4.30 in June 1996, that the application would be to cases of displacement due to land use (not on land rights. This would be a welcome change to reduce some of the moral hazard, but not all, but the change is not being applied anyway because "the project should not cause impoverishment". This was not known even by resettlement specialists. Therefore, in spite of the fact that the OPC decision was effective, the professional corp that is supposed to help task managers with the application of the OD did not have or provide the information necessary to do so. This lack of transparency unleashes: (i) a great deal of discretionality on both the application and the interpretation of the OD by the Legal and SDV people, or whoever has the information, to the puzzlement of task managers, who can encounter a different rule (or interpretation of it) every day; and (ii) the stretching the interpretation of the OD to several phases of "causality".

This difficulty has been compounded by the lack of transparency in the information, dissemination and interpretation. Whatever the case, it is unclear under what circumstances an OD written for constructions are applicable to the whole range of projects (and widening at that) that the Bank offers. Moreover, as we move away from large engineering projects to more demand-driven projects, the kind of advance planning of the whole project cycle that the OD assumes is the case for all is less and less relevant.

12. OD/OP issuance process

None of the three Land-related Thematic Group leaders were consulted for the drafting of this OP. I was the only one, for my special circumstance, that knew by 10/7 that the OP had been submitted to the Board for the 8-days no objection period on 9/29, the week before the Annual Meetings.

CLARIFICATION:

Mohan Gopalan Gopal

10/16/98 06:19 PM

Extn: 80820

LEGOP





# Record Removal Notice

<b>File Title</b> Shared Unit Files - Policy Development Records - Operational Policy 4.12 Involuntary Resettlement - ESSD Correspondence File - October 1998		<b>Barcode No.</b>  1831715		
<b>Document Date</b> October 18, 1998	<b>Document Type</b> Email			
<b>Correspondents / Participants</b> To: Gloria Davis From: Mohan Gopalan Gopal, LEGOP				
<b>Subject / Title</b> Para 2, Draft OP 4.12				
<b>Exception(s)</b> Attorney-Client Privilege				
<b>Additional Comments</b>		<p>The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.</p> <table border="1"><tr><td><b>Withdrawn by</b> Shiri Alon</td><td><b>Date</b> May 23, 2019</td></tr></table>	<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019
<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019			



## COMMENTS ON OP /BP /GP 4.12 ON BEHALF OF THE TRANSPORT SECTOR BOARD

1. The Transport Sector Board has instigated a brief staff review of the draft package OP / BP / GP 4.12. As the outcome of that review it would like to raise a number of matters relating to the process for adoption of the new package, the nature of the package, and some contentious issues which pre-existed and are left unresolved, or are likely to be accentuated by the new package.

### PROCESS

2. While it is acknowledged that the intention of the package is to clarify existing policy and not to create new policy, the draft documents are complex and require careful consideration even to identify where they might imply changes in policy or practice. It will be clear from the comments below, that transport staff do consider that there are some respects in which the position is materially changed. It is therefore particularly unfortunate that the Transport Sector Board has not been formally consulted, and that so little time has been left for the matter to be explored.

### THE NATURE OF THE PACKAGE

3. Several concerns have been expressed about the nature of the package.

- (a) **The role of the GP.** If the GP belongs to the set of documents that make up the Bank Operational Manual it is likely to be used in a prescriptive fashion by internal and external reviewers, Egos and Bank watchers groups. It risks being used as a precedent, or a minimum standard, or to challenge any other way to approach the issue. The Guidelines should therefore define the principles to be applied and should not be prescriptive because each situation warrants an open minded evaluation and a tailored solution. They should therefore avoid giving prescriptive numbers of limits, of revenues, of % of losses of asset, of time frame etc.. For example, the proposed Good Practice (GP) on Involuntary Resettlement speaks of specific criteria used for Compensation:

"If a project affected family losses less than 20% of its productive asset and the remainder is economically viable... If a project affected family loses more than 20% of its productive asset...":

If it is a good practice, it should be placed in the web alongside the Good Practice pages. If it belongs to the Bank Operational manual, it should only lay out the principles to be used without setting up any specific eligibility limit or function to be used in projects.

- (b) **Replicability** The Bank policy approach for severance pay is to follow the national practice for civil servant severance, within reasonable limits, in particular not to set precedents for a practice that would not be replicable. The practice on resettlement, however, frequently ignores replicability. In the urban and transport sectors although attempts are sometimes made (for example, in India) to develop and enforce a change for resettlement policies and practices outside Bank projects, it is rarely possible to insist on it. This may be regarded as a tacit acknowledgment that Bank practices are outside the



normal financial and managerial capacity of local governments and sector administrations.

- (c) **Applicability** The revised documentation discloses an emphasis on the problem of involuntary resettlement within a rural context and with indigenous populations in mind. It is not responsive to the needs of task teams working on urban and transport projects, where typically the resettled families are not communities but a number of urban families scattered along a transport route or around a market or transport node.

## CONTENTIOUS ISSUES

4. The reissue of the position in this new form would ideally have been an opportunity to identify, and try to deal with, a number of practical difficulties identified by transport task managers. These include the following.

- (a) OP, Art. 5 a: "Customary and formal land are recognized equally..." is the provision Bank has been trying in the past but faced some resistance from borrowers. This provision however, would be relevant in countries with customary land issues, such as in Indonesia.
- (b) OP, Art. 8: This states that people would be eligible for compensation under a Bank loan, *if they had uninterrupted possession of the land for at least one year prior to the commencement of the census*. Is one year enough? And how would one establish how long they had been there without interruption, especially if the OP says further in footnote 16 that *lack of documented occupancy is not in itself evidence of non-occupancy*. In some countries, such as Vietnam, entitlement to resettlement assistance to those PAPs in uninterrupted possession of land at least one year prior to the commencement of census would appear to be contrary to national land laws. There is considerable concern amongst transport staff that road projects are particularly vulnerable to abuse under this provision.
- (c) Op, Art. 11: The provisions of this article will be difficult to implement. Borrowers are barely able to finish draft RAPs prior to appraisals. As a matter of fact, appraisals are delayed until the draft RAPs are prepared and submitted to the Bank for review. And only the review by the Bank, at appraisal, determines whether the draft RAP meets the requirements of the policy. Most borrowers would not be willing to make the draft RAPs public, as required under this article, until the RAPs are found acceptable by the Bank and at least a tacit approval by borrower government is received. There are genuine concerns that if draft RAPs, without first getting acceptance by Bank and government, are made public and then there are changes in compensation policy and entitlements after it is reviewed by the Bank, there may be some public outcry and criticism by PAPs, *the necessary measures for resettlement are in place....* (para 5f). This requires a lot of time, especially if even the last resettlement case has to be resolved before construction NGOs, and others. At the same time, task managers are now requested to appraise a project in a minimum of time, and loans must not run longer than 4 years; in many cases this is just not compatible with the rigid legal requirements for resettlement. Where resettlement remains a major issue, should we not explicitly permit additional time for project processing and implementation (i.e. more than 4 years)?



- (d) The land acquisition policy does not distinguish between projects which significantly increase property values, such as a road, and ones that simply consume land, e.g. a dam. OP 4.12 appears to specifically prohibit deducting project benefits from the valuation of compensation. For example, land acquisition has been a primary concern in design of the Jordan - Amman Ring Road Project which involves construction of the first phase of the ring road on a completely new alignment. As Jordan's land acquisition policy permits the Government to acquire land without compensation if the amount expropriated is less than 25% of the parcel of an individual owner, (on the grounds that the increased value of the remaining land due to improved access adequately compensates the owner for the land taken) GoJ sought an alignment which would minimize land costs by routing the road through larger parcels. In the May, 1998, seminar on the Bank's "Safe Guard Policies", which all Task Managers with Environmental Category - A projects were required to attend, it was stated that the type of policy practiced by Jordan was not acceptable under Bank Guidelines, and that all land taken would need to be compensated. GoJ subsequently agreed to comply for this project. This raised land acquisition costs from about \$5 million to \$21 million. The intent of the OP should clearly be to ensure fair compensation. While it is agreed that the Jordanian policy is somewhat arbitrary in assigning the burden of land acquisition, it may be acceptable under such an interpretation. The danger is that rigid interpretation of the Bank policy could in fact militate against social justice by forcing Governments to overcompensate PAP's who already stand to benefit from the construction of a road, while proving to be a severe constraint on the development of socially beneficial new roads by vastly increasing land acquisition costs.
- (e) OP Annex A. The difference between footnote 8 to the old OD 4.30 says that "where only a few people (e.g., less than 100-200 individuals) are to be relocated appropriate compensation for assets, logistical support for moving and a relocation grant may be the only requirements". Footnote 1 of Annex A to the new OP 4.12 which sets out a considerably more detailed list of requirements of a limited resettlement plan. Para 5 describes in minute detail all the elements that are required (i.e. not only recommended) to be considered for any resettlement -- whether this refers to a hydro-electric dam replacing 10,000 people or a traffic engineering scheme requiring the acquisition of a house at the street corner. Such traffic engineering schemes are often part of *Multiple Subprojects* covered in paras 14-16. For example, the Loan Agreement of the Buenos Aires Urban Transport Project has two pages describing the resettlement policy framework, which is so complex that they slowed the implementation of that component to a snail's pace (40% of the loan negotiation time was spent on resettlement to define the rights of about ten middle-class property owners, thereby neglecting some important policy aspects of that \$200 million loan). Would it be possible to define different procedures according to the magnitude of the resettlement implications of the project (similar to the Environmental Categories A, B and C)? Except for large-size resettlement, could less rigid procedures be established, leaving more room to the judgment of the professionals defining the project?



- (f) The addition of legal skills to the list of those which were generally supposed to be present in supervision missions might increase costs, putting further pressure on inadequate supervision budgets and further slowing down the processes.



efforts to change land or water use and to restrict access to natural resources to promote sustainable use. (That is, after all, the main idea behind these types of projects.) Therefore, while most natural resource management projects and components are not subject to OD 4.30, they would be subject to OP 4.12. This would thus be a huge expansion of the scope of a policy called "Involuntary Resettlement" to cover many activities which are not resettlement at all. Any such major new policy needs to be considered carefully and transparently as a new Bank policy. The process of converting ODs to the new OP/BP/GP format is not an acceptable vehicle for establishing major Bank policy changes.

3. **It Would be the Wrong Way to Establish a New "Safety Net" Policy.** As I understand it, the intent behind Para. 2 of OP 4.12 is largely to provide a safety net for very poor and vulnerable people, so that they are not further impoverished by certain types of projects. While this is a very important and laudable goal, it is my impression that most modern Bank-supported natural resource management projects already have adequate provisions to treat affected persons fairly and avoid causing serious hardships for the poor. If social impact mitigation practices in Bank-supported natural resource management projects are already more or less adequate, a new safety net policy may not be needed. Even if such a new policy is warranted, it would be wrong to single out projects involving land, water, and natural resource use without also addressing the many other types of Bank-supported interventions which can adversely affect the poor in much greater numbers (such as privatization and adjustment operations which increase short-term unemployment).

4. **It Would Create Unjustified New Entitlements for Some Natural Resource Users.** Although the authors of OP 4.12 may have intended to protect the poorest and most vulnerable members of society, the current draft language would entitle certain natural resource users to claim some type of compensation for 100 percent or more of the income which a project might deny them, regardless of (i) whether they are really poor or vulnerable or (ii) whether their activities are even legal. In reading every word of OP 4.12, it is my impression that, for example, a man who illegally captures endangered parrots for the international black market could complain to the Inspection Panel that he has suffered an "involuntary ... loss of access to natural resources [and] income sources [and] means of livelihood" (Para. 2) and insist upon compensation for "at least" 100 percent (Para. 4) of his lost income, because a Bank-supported protected areas project effectively denied him his (illegal) access to the rare birds. While this would arguably not be a "reasonable" interpretation of OP 4.12, I am aware of several recent instances where Bank staff (especially our lawyers), determined to ensure strict compliance to the letter, have interpreted OD 4.30 and other Bank safeguard policies in ways that are more rigid than reasonable (details available upon request). If we want strict compliance with the Bank's safeguard policies, we need to ensure that the policies are written to ensure adequate flexibility. As currently written, the draft OP 4.12 does not meet the test of flexibility or common sense.

5. **It Would Greatly Increase Speculative Squatting (Moral Hazard).** OP 4.12 (Paras. 14, 15, and 17) requires resettlement policies to be made explicit by the Borrower prior to appraisal, even years before the resettlement might occur in a given (sub)project. At the same time, Para. 8 entitles any illegal squatters to a generous benefits package, so long as they have had "uninterrupted possession of the land for at least one year prior to the commencement of the census". In the real world, the time between appraisal and the start of any census often greatly exceeds one year (especially for subprojects initiated in the later years of a sector investment or APL operation). However, if likely subproject sites are known more than one year in advance of a census, the result can be large-scale induced squatting in the hope of obtaining OP 4.12-mandated benefits. Speculative squatting in anticipation of resettlement benefits is a serious problem in many of our client countries; it has virtually paralyzed some projects (examples available on request). The Bank's Involuntary Resettlement Policy should strike a careful balance between minimizing perverse incentives and providing an adequate safety net for those who are resettled. Such a balance is lacking in the draft OP 4.12, which does not even mention the need for resettlement policy frameworks and resettlement plans to be designed in ways that would minimize incentives for squatting.

6. **It Could Eliminate Bank Support for Many Environmental Projects.** Because the draft OP





# Record Removal Notice

<b>File Title</b> Shared Unit Files - Policy Development Records - Operational Policy 4.12 Involuntary Resettlement - ESSD Correspondence File - October 1998		<b>Barcode No.</b>  1831715		
<b>Document Date</b> October 23, 1998	<b>Document Type</b> Email			
<b>Correspondents / Participants</b> To: Dan Aronson From: Mohan Gopalan Gopal, LEGOP				
<b>Subject / Title</b> Re: Mid-evening re-draft: para 2				
<b>Exception(s)</b> Attorney-Client Privilege				
<b>Additional Comments</b>		<p>The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.</p> <table border="1"><tr><td><b>Withdrawn by</b> Shiri Alon</td><td><b>Date</b> May 23, 2019</td></tr></table>	<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019
<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019			



Extn: 30055

LCSES

Subject: Re: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement

Dan,

As a contribution to the debate, here are some concrete examples.

On the example you gave of the IFC backing away from a project in the Amazon (you didn't specify the country), you may be interested to know the following: In the Brazilian Amazon, the forestry code (recently augmented by a Presidential Decree) requires landowners to maintain eighty (80) percent of each parcel in undeveloped forest. If the parcel you referred to is in Brazil, and if 80% of it has already been cleared, the landowner may be in violation of the forestry code and subject to a fine and/or imprisonment. The IFC may have done well to back away from this investment.

I support Ledec's call for balance in the Bank's resettlement policy. There is no doubt that its application in Brazil has encouraged speculative squatting in both urban and rural areas because of the opportunity it affords to acquire land and housing.

Here are three concrete examples of speculative squatting from Brazil:

(1) In the CVRD Iron Ore project, a group of squatters took up residence along the railroad right-of-way along a segment running through Mae Maria Indigenous Reserve in Para State. CVRD purchased and developed a parcel of land nearby and resettled the squatters to this parcel. Several of the resettled families subsequently reinvaded the same area in Mae Maria and sought resettlement or compensation. They were invited to leave without any compensation.

(2) In 1992, the Agip Oil Company decided to divest itself of 160,000 Ha of ranchland in Mato Grosso State in Brazil known as Fazenda Suia-Missu and, in the spirit of UNCED, offered to donate it to the Brazilian Government to convert into an indigenous reserve. The Ranch was located on ancestral lands of the Xavante people and is known to them as Marawatsede. Before the Government could act, local ranchers and politicians encouraged some 400 squatters to occupy the land, with the clear intention of claiming the land for the use of extensive ranching (the ranchers have apparently already decided on the share each one will keep). This area could be demarcated with financial support from the PRODEAGRO project (which has already supported demarcation of several other indigenous lands in Mato Grosso), but the State is hamstrung by the requirement to fulfill the Bank's resettlement policy, even though the squatters are henchmen in the service of large (hardly vulnerable) landowners.

(3) In Recife, the capital of Pernambuco State, the Bank is supporting the expansion of a light rail system which includes the resettlement of several hundred families living near the right-of-way by offering the option of moving to a new housing development nearby or cash compensation. However, in one unoccupied area where a station will be located, about 50 families (apparently tipped off by someone with access to the plans) have squatted in tiny sheds built along a sidewalk. Unlike typical squatments, this one begins and ends precisely within the boundaries of the future commuter rail station.

There are other examples, but these are clear illustrations where the Bank's resettlement policy may have encouraged speculative squatting of the sort Ledec describes. This is not an argument against having a good, equitable resettlement policy, but care must be taken not to create perverse incentives to squatters or surrogates for more powerful parties that may deny the benefits of development projects such as electrical energy, public transportation, sanitation, etc. to much larger groups of people.

Our policies need to take account of situations such as these and not make it impossible to implement good, socially significant projects, and to follow other important Bank policies such as the OD on



indigenous people.

Regards,

Dan Gross



---

To: Dan Aronson/Hq/lfc@lfc  
cc: George Ledec  
Maria Teresa Serra  
Envfam-1St  
Maninder S. Gill  
Cora Melania Shaw  
Louise F. Scura  
Kennan W. Rapp  
Paola Agostini  
Marjory-Anne Bromhead  
Mark E. Cackler  
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Carlos Ricardo Escudero  
Douglas A. Forno  
Nalini B. Kumar  
Kirsten L. Oleson  
Steven William Oliver  
Jelena Pantelic  
Warren A. Van Wicklin  
Daniel R. Gibson  
Anis A. Dani  
Cyprian F. Fisiy  
Norval Stanley Peabody  
Gloria Davis-Sdv  
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Anthony J. Pellegrini  
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Eileen Margaret Fredriksen  
Alexandra Ortiz  
Andres Rigo Sureda  
Joanne Salop  
Reidar Kvam  
John Redwood  
Essd-Green  
Robert R. Schneider  
Christine A. Stover  
M. Caryl Jones-Swahn  
Eveling Bermudez  
Maria-Isabel Alegre  
Milagros Benedicto  
M. Ismail Serageldin





Gloria Davis-SDV  
10/23/98 12:42 PM

Extn: 82750 SDV  
Subject: Re: OPs 4.01/4.12

We've always been in this position.

Normally the rating is agreed collaboratively. If a disagreement exists, management views are sought. I had assumed this would continue, even with the compliance unit. Furthermore, it could be much easier to reach agreement in the future if safeguard policies are all on an equal footing (i.e. there are pesticides or there are not), and the follow-up required is tailored to the policy which applies.

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To: Joanne Salop  
cc: Ian Johnson  
Caio K. Koch-Weser  
Ralph Hanan  
Colin P. Rees  
Alexander F. Mccalla



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**Joanne Salop**

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10/23/98 12:20 PM

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Extn: 37499 MDOPS

Subject: Re: OPs 4.01/4.12 

Gloria,

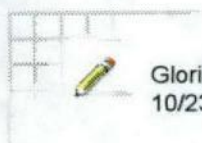
Hi. Thanks. But also: What does ESSD if there is a disagreement -- Region vs. center -- on EA (or other safeguard) rating? Will the Safeguard Unit monitor? Advise? Over-rule? ...

Joanne


---

To: Gloria Davis-Sdv  
cc: Ian Johnson  
Caio K. Koch-Weser  
Ralph Hanan  
Colin P. Rees  
Alexander F. Mccalla





Gloria Davis-SDV  
10/23/98 12:16 PM

Extn: 82750 SDV  
Subject: Re: OPs 4.01/4.12 

Joanne

Colin is not here and Ian asked me to respond.

OD 4.01 indicates that any project involving major resettlement (or adverse impacts on cultural property) should be rated A. So Colin is technically correct. The difficulty is that an "A" rating leads to a formal EA and a series of additional steps which would have been inappropriate in this case. Hence, the B rating on strictly environmental grounds (no significant environmental impacts) to avoid costly overload. The RAP as you note was completed satisfactorily so the region has acted in good faith.

We had planned to tackle this issue in the compliance context. With the clear specification of "safeguard" policies, it is no longer necessary for EA to be the umbrella for all other safeguard policies. In my view, we should classify a project as A if any safeguard policy applies, but that only the requirements of that policy should be applicable. This would require a minor modification to EA 4.01.

Although this sounds easy it is probably not, since there are a number of stakeholders involved who would view this as a significant change in the EA policy. Let me talk to Colin and Ian and get back to you with a proposal.

---

To: Joanne Salop  
cc: Ian Johnson  
Caio K. Koch-Weser  
Ralph Hanan  
Colin P. Rees  
Alexander F. McCalla



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Caio K. Koch-Weser

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10/23/98 07:22 AM

Extn: 84001

MDOMD

Subject: Re: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement

Ian, Joanne,

What a debate, what a distribution list. Please manage the process tightly, and arrange for my next meeting with the (small) group next week.

Caio

----- Forwarded by Caio K. Koch-Weser/Person/World Bank on 10/24/98 07:27 AM -----

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Dan Aronson @ IFC

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10/22/98 10:16 PM

To: George Ledec cc: Maria Teresa Serra, ENVFAM-1ST, Maninder S. Gill, Cora Melania Shaw, Louise F. Scura, Kennan W

Subject: Re: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement 📎

George,

Interesting note. I hope that the promised rewrite of para 2, which should be presented tomorrow, will go some way toward reducing your fears. One key issue that you have near the center of your concern will probably have to be decided at high levels. The facts on the ground are that since the very beginning of work on resettlement, the trigger to screening and possible application of the policy has been the loss of assets/land takings/disruption of livelihood by the direct taking of land. Of course there are conflicts between different policies, because policies embody differing values. The very useful debate about mammals in the NT2 area in Laos vs. the 5000 residents, and more broadly the "people vs. parks" issue, arise because of those different values: articulation of the differences, and the attempts to reconcile them, have given rise to much very useful natural resource management approaches, as I am sure you agree. The results of such conflicting choices have not been to make one side or the other lose, but to mitigate for any losses to either side. Much less is it worth throwing out, or extensively discounting, one policy or another because they conflict in real life cases.

I'd like to have the examples you refer to in your message, in part because two of the "shocking" examples used by others at Caio's meeting the other day have turned out to have utterly different stories behind them than the ones suggested. You refer to (a) examples where the lawyers were "more rigid than reasonable," (b) examples where "speculative squatting" has paralyzed some projects, and (c) examples of natural resource management activities which the Bank declined because of OP 4.12.

I know you are going off on mission, but having these examples sooner rather than later might help us get through the work ahead, whether because the examples you have in mind turn out to have important lessons for the rewriting, or because they are stories that circulate and have other less alarmed and alarming versions.

Incidentally, there are also many stories about backing away from projects because of various of the environmental policies: IFC just let one go instead of developing it, because it would cut a couple of thousand hectares of Amazonian forest that was only protected from the fate of the well-used areas all around it because it was the last 2000 undeveloped hectares of a 10,000 hectare private plantation. I can believe this was a misreading of the environmental policies, if you can believe that there are also misreadings of the resettlement policy. We should have lunch and talk about this some time, or perhaps



have you over to talk to our Environment and Social Review Unit about compliance issues in LAC, where a huge part of IFC's portfolio and opportunities lie.

Examples soon? Lunch later?

Dan

From: George Ledec on 10/22/98 08:55 PM  
To: Maria Teresa Serra/Person/World Bank@WorldBank



CC: ENVFAM-1ST, Maninder S. Gill/Person/World Bank@WorldBank, Dan Aronson/HQ/IFC@IFC, Cora Melania Shaw/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Kennan W. Rapp/Person/World Bank@WorldBank, Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank@WorldBank, Daniel R. Gibson/Person/World Bank@WorldBank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Gloria Davis-SDV/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank, Maria Isabel Junqueira Braga/Person/World Bank@WorldBank, Maria-Valeria Pena/Person/World Bank@WorldBank, Juan D. Quintero/Person/World Bank@WorldBank, Walter Vergara/Person/World Bank@WorldBank, Colin P. Rees/Person/World Bank@WorldBank, Robert Goodland/Person/World Bank@WorldBank, Robert Kirmse/Person/World Bank@WorldBank, Luis F. Constantino/Person/World Bank@WorldBank, Cesar Alejandro Plaza/Person/World Bank@WorldBank, Esteban Brenes/Person/World Bank@WorldBank, Daniel R. Gross/Person/World Bank@WorldBank, Douglas J. Graham/Person/World Bank@WorldBank, Thomas E. Lovejoy/Person/World Bank@WorldBank, Maritta R. V. B. Koch-Weser/Person/World Bank@WorldBank, Philip Hazelton/Person/World Bank@WorldBank, Maria C. Mejia/Person/World Bank@WorldBank, Ian Johnson/Person/World Bank@WorldBank, Robert T. Watson-ENV/Person/World Bank@WorldBank, Thomas B. Wiens/Person/World Bank@WorldBank, Jessica Mott/Person/World Bank@WorldBank, Gershon Feder/Person/World Bank@WorldBank, Mats Andersson/Person/World Bank@WorldBank, Margret C. Thalwitz/Person/World Bank@WorldBank, Anthony J. Pellegrini/Person/World Bank@WorldBank, Wosilat Olaitan Alli/Person/World Bank@WorldBank, Eileen Margaret Fredriksen/Person/World Bank@WorldBank, Alexandra Ortiz/Person/World Bank@WorldBank, Andres Rigo Sureda/Person/World Bank@WorldBank, Joanne Salop/Person/World Bank@WorldBank, Reidar Kvam/Person/World Bank@WorldBank, John Redwood/Person/World Bank@WorldBank, ESSD-GREEN, Robert R. Schneider/Person/World Bank@WorldBank, Christine A. Stover/Person/World Bank@WorldBank, M. Caryl Jones-Swahn/Person/World Bank@WorldBank, Eveling Bermudez/Person/World Bank@WorldBank, Maria-Isabel Alegre/Person/World Bank@WorldBank, Milagros Benedicto/Person/World Bank@WorldBank, M. Ismail Serageldin/Person/World Bank@WorldBank, Masood Ahmed PRMVP/Person/World Bank@WorldBank, Sven Sandstrom/Person/World Bank@WorldBank, Caio K. Koch-Weser/Person/World Bank@WorldBank, John Briscoe/Person/World Bank@WorldBank, Katherine Sierra/Person/World Bank@WorldBank, Vincent J. Gouarne/Person/World Bank@WorldBank, Edward B. Rice/Person/World Bank@WorldBank, Robert Picciotto/Person/World Bank@WorldBank, Callisto E. Madavo/Person/World Bank@WorldBank, Pamela Cox/Person/World Bank@WorldBank, Alexander F. McCalla/Person/World Bank@WorldBank, James P. Bond/Person/World Bank@WorldBank, Sushma Ganguly/Person/World Bank@WorldBank, Shelton H. Davis/Person/World Bank@WorldBank, Caroline O. Moser/Person/World Bank@WorldBank, Frederic de Dinechin/Person/World Bank@WorldBank, Jeffrey Balkind/Person/World Bank@WorldBank, Laszlo Lovei/Person/World Bank@WorldBank, Abdelmoula M. Ghzala/Person/World Bank@WorldBank, Abel Mejia/Person/World Bank@WorldBank, Abha Joshi-Ghani/Person/World Bank@WorldBank, Adrian Demayo/Person/World Bank@WorldBank, Adriana Jordanova Damianova/Person/World Bank@WorldBank, Wosilat Olaitan Alli/Person/World Bank@WorldBank, Jason Jacques Paiement/Person/World Bank@WorldBank, Lynn C. Holstein/Person/World Bank@WorldBank, Augusta Molnar/Person/World Bank@WorldBank, Gisu Mohadjer/Person/World Bank@WorldBank, John Henry Stein/Person/World Bank@WorldBank, Omar M. Razzaz/Person/World Bank@WorldBank, David Freestone/Person/World Bank@WorldBank

Subject: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement

1. Before leaving on mission, I wanted the working group which is revising the draft OP 4.12 on Involuntary Resettlement to be aware of my specific concerns. **I am deeply concerned that OP 4.12 (i) would establish a sweeping new policy on land and water use "takings" which is not part of the current OD 4.30 on Involuntary Resettlement and (ii) would make it much more difficult for the Bank to support many types of environmental projects and components.**

**Specific Problems with the Draft OP 4.12:**



2. **It Would Create Major New Bank Policy through Improper Channels.** While OD 4.30 sticks to involuntary resettlement (when people are required to relocate to a new primary residence to accommodate a Bank-supported project), OP 4.12 (Para. 2) drastically expands the scope of the policy to cover any loss of income sources attributable to a change in land or water use or restricted access to natural resources. The great majority of Bank-supported natural resource management projects (including protected areas, forestry, fisheries, soil conservation, etc.) do **not** involve any physical resettlement, but they **do** imply efforts to change land or water use and to restrict access to natural resources to promote sustainable use. (That is, after all, the main idea behind these types of projects.) Therefore, while most natural resource management projects and components are not subject to OD 4.30, they would be subject to OP 4.12. This would thus be a huge expansion of the scope of a policy called "Involuntary Resettlement" to cover many activities which are not resettlement at all. Any such major new policy needs to be considered carefully and transparently as a new Bank policy. The process of converting ODs to the new OP/BP/GP format is not an acceptable vehicle for establishing major Bank policy changes.

3. **It Would be the Wrong Way to Establish a New "Safety Net" Policy.** As I understand it, the intent behind Para. 2 of OP 4.12 is largely to provide a safety net for very poor and vulnerable people, so that they are not further impoverished by certain types of projects. While this is a very important and laudable goal, it is my impression that most modern Bank-supported natural resource management projects already have adequate provisions to treat affected persons fairly and avoid causing serious hardships for the poor. If social impact mitigation practices in Bank-supported natural resource management projects are already more or less adequate, a new safety net policy may not be needed. Even if such a new policy is warranted, it would be wrong to single out projects involving land, water, and natural resource use without also addressing the many other types of Bank-supported interventions which can adversely affect the poor in much greater numbers (such as privatization and adjustment operations which increase short-term unemployment).

4. **It Would Create Unjustified New Entitlements for Some Natural Resource Users.** Although the authors of OP 4.12 may have intended to protect the poorest and most vulnerable members of society, the current draft language would entitle certain natural resource users to claim some type of compensation for 100 percent or more of the income which a project might deny them, regardless of (i) whether they are really poor or vulnerable or (ii) whether their activities are even legal. In reading every word of OP 4.12, it is my impression that, for example, a man who illegally captures endangered parrots for the international black market could complain to the Inspection Panel that he has suffered an "involuntary ... loss of access to natural resources [and] income sources [and] means of livelihood" (Para. 2) and insist upon compensation for "at least" 100 percent (Para. 4) of his lost income, because a Bank-supported protected areas project effectively denied him his (illegal) access to the rare birds. While this would arguably not be a "reasonable" interpretation of OP 4.12, I am aware of several recent instances where Bank staff (especially our lawyers), determined to ensure strict compliance to the letter, have interpreted OD 4.30 and other Bank safeguard policies in ways that are more rigid than reasonable (details available upon request). If we want strict compliance with the Bank's safeguard policies, we need to ensure that the policies are written to ensure adequate flexibility. As currently written, the draft OP 4.12 does not meet the test of flexibility or common sense.

5. **It Would Greatly Increase Speculative Squatting (Moral Hazard).** OP 4.12 (Paras. 14, 15, and 17) requires resettlement policies to be made explicit by the Borrower prior to appraisal, even years before the resettlement might occur in a given (sub)project. At the same time, Para. 8 entitles any illegal squatters to a generous benefits package, so long as they have had "uninterrupted possession of the land for at least one year prior to the commencement of the census". In the real world, the time between appraisal and the start of any census often greatly exceeds one year (especially for subprojects initiated in the later years of a sector investment or APL operation). However, if likely subproject sites are known more than one year in advance of a census, the result can be large-scale induced squatting in the hope of obtaining OP 4.12-mandated benefits. Speculative squatting in anticipation of resettlement benefits is a serious problem in many of our client countries; it has virtually paralyzed some projects (examples



available on request). The Bank's Involuntary Resettlement Policy should strike a careful balance between minimizing perverse incentives and providing an adequate safety net for those who are resettled. Such a balance is lacking in the draft OP 4.12, which does not even mention the need for resettlement policy frameworks and resettlement plans to be designed in ways that would minimize incentives for squatting.

6. **It Could Eliminate Bank Support for Many Environmental Projects.** Because the draft OP 4.12 covers virtually all types of natural resource management activities, even where there is zero resettlement (Para. 2) and mandates a generous benefits package for all affected persons (Paras. 5-8), it could greatly increase the costs of many of the Bank's environmental projects, thus making them unviable. This would result in many bad outcomes on the ground (increased environmental degradation, often irreversible, which could have been prevented), along with an abdication of the Bank's global leadership role in environmental protection. This is not just speculation; I can provide examples of important natural resource management activities which the Bank recently declined to support because of OP 4.12 (even in its draft form). OP 4.12, if approved as drafted, would keep the Bank from supporting some of the most progressive and innovative projects in our pipeline. This is not my idea of "improving service to our clients".

7. **It Would Make Compliance with Other Bank Safeguard Policies Much More Difficult,** both directly and indirectly. Directly, the onerous requirements of OP 4.12 would greatly complicate compliance with other Bank safeguard policies. For example, OP 4.04 on Natural Habitats sometimes requires support for the establishment or strengthening of compensatory protected areas, which (due especially to Para. 2 of OP 4.12) would often become prohibitively costly and difficult. Similarly, OD 4.20 on Indigenous Peoples sometimes mandates Indigenous Peoples Development Plans, the centerpiece of which is often indigenous land titling (which implies restricting access to natural resources by outsiders). Indirectly, because it is so onerous, OP 4.12 will undermine the credibility of those Bank staff (including myself) who are trying to promote compliance with all the safeguard policies (most of which are written much more flexibly than OP 4.12).

**Recommendation:**

8. Before it is resubmitted to the Board, **OP 4.12 should be extensively rewritten**, so that it would be a "common sense" conversion of OD 4.30, without any controversial new policy content. In particular, the highly problematic paragraphs cited above (most of all, Para. 2) need to be completely rewritten.

9. Please let me know if you would like any clarifications (such as specific examples) or if I could otherwise be of further assistance. I expect to be back in the office on November 3, 1998.

---

To: Ian Johnson  
Joanne Salop



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**Caio K. Koch-Weser**

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10/23/98 07:14 AM

Extn: 84001

MDOMD

Subject: OPs 4.01/4.12

Ian,

Please let me have the answer too.

Caio

----- Forwarded by Caio K. Koch-Weser/Person/World Bank on 10/24/98 07:19 AM -----

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**Joanne Salop**

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10/22/98 09:54 PM

Extn: 37499

MDOPS

To: Ian Johnson cc: Caio K. Koch-Weser, Ralph Hanan, Gloria Davis-SDV, Colin P. Rees

Subject: OPs 4.01/4.12

Ian,

A Venezuela project at the Board today raised the issue of differences in views on Environmental categories. This was rated a B by the Region, but Colin thinks it's an A.

My question: How does the Network sort these differences out? What role does the Safeguard Unit play?

Also, don't we need to make clear in the OP/BP 4.01 that if there is major resettlement, the project's an A -- although if there are no environmental issues, the RAP can sub for the EA?

Joanne



---

To: Ian Johnson

cc: Gdavis@Worldbank.Org

Robert T. Watson-Env





  Gloria Davis-SDV  
10/22/98 12:33 PM

Extn: 82750 SDV  
Subject: Re: Steering Committee - OP 4.12 on Resettlement


You should encourage Andres to be on the Steering Committee, rather than Hassan.

----- Forwarded by Gloria Davis-SDV/Person/World Bank on 10/22/98 12:33 PM -----

  Andres Rigo Sureda  
10/22/98 11:18 AM

Extn: 81782 LEGVP

Sent by: Souhaila Sahyoun

To: Gloria Davis-SDV cc: Sherif Omar Hassan, Mohan Gopalan Gopal  
Subject: Re: Steering Committee - OP 4.12 on Resettlement 

Although I accepted gladly yesterday to serve on this committee, I have just such a heavy schedule of meetings right now that I hope you don't mind if I delegate participation to Mr. Hassan. I will be available for consultation if necessary.

---

To: Ian Johnson



.....  
**Joanne Salop**  
.....

10/22/98 09:54 PM  
.....

Extn: 37499 MDOPS  
Subject: OPs 4.01/4.12

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My question: How does the Network sort these differences out? What role does the Safeguard Unit play?

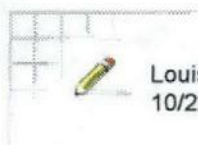
Also, don't we need to make clear in the OP/BP 4.01 that if there is major resettlement, the project's an A -- although if there are no environmental issues, the RAP can sub for the EA?

Joanne

---

To: Ian Johnson  
cc: Caio K. Koch-Weser  
Ralph Hanan  
Gloria Davis-Sdv  
Colin P. Rees





Louise F. Scura  
10/22/98 01:52 PM

Extn: 81921

EASRD

Subject: Re: 1st consultation on OP 4.12 with RDV and ENV technical specialists 

Kennan,

Thank you for your note on yesterday's meeting.

In my view, your note does not adequately report on some of the issues that were discussed, particularly those raised by George Ledec and myself about the reference in the draft regarding access to natural resources, which is a major broadening of scope from the old OD.

The current draft of the OP poses major problems for the Bank to continue to do much needed work on natural resources management in our client countries. In essence, the draft OP suggests that if a country has not had adequate natural resource management regulations and/or the capability to consistently enforce its natural resource management regulations to date, the Bank will not be able to assist the country to enhance these regulations and enforcement capabilities without raising major (nonphysical) "resettlement" issues. Furthermore, in some places (particularly paras 7b and 8 which introduce significant moral hazard) the draft seems to be in direct conflict with the Bank's Natural Habitats Policy (OP 4.04).

In addition to the suggestion in your note to explicitly exclude land titling and land administration projects, paragraph 2 of the draft OP should be revised to clarify that natural resource management projects that result in restricted access to natural resources but do not physically relocate people should also be excluded. For example, if through a natural resource management project overfishing of coastal waters is better regulated and access to the fishery thus reduced, the Involuntary Resettlement Policy should not apply to the affected fishers. This is distinct from a situation where, for example, construction of a dam eliminates a downstream fishing ground, and the Involuntary Resettlement Policy should apply to the affected fishers. In my view, the phrase in paragraph 2 ("... investment projects in which a change in land or water use results in...") and footnote 8 do not adequately distinguish these two very different cases. This argument applies equally to every other natural resource --grazing land, water, trees, etc.-- that requires management.

Similarly, with regard to National Parks and Protected Areas, if people are not physically relocated, the Involuntary Resettlement Policy should not apply. Obviously, best practice for projects that help to strengthen management of parks and protected areas, as well as projects focused on management of natural resources more generally, involve the participation of local communities in management planning and implementation. However, the outcomes of community consultations should not be constrained by the overly determined solutions listed in the policy, and resettlement plans should not be required by Bank policy in these cases.

Reference to the Natural Habitats Policy (OP 4.04) should be made in footnote 7. The resettlement of affected people under a project cannot, under any circumstances, result in the significant conversion or degradation of critical natural habitats. Furthermore, it cannot involve significant conversion or degradation of (non-critical) natural habitats, unless there are no feasible alternatives, and the resettlement plan includes appropriate mitigation measures.

Also missed in your note was the point made by George Ledec about the absence of a defined threshold or a materiality test. Footnote 1 in Annex A of the OP relates to numbers of people affected, but not the degree to which they are affected. The issue of degree needs to be defined precisely regarding access



to resources. Is the policy invoked when there is a complete loss of access, a incomplete but still "significant" loss of access ("significant" must be defined), or any loss of access?

Finally, I would like to reiterate the multiple comments at the start of yesterday's meeting that the internal consultation process for this draft continues to need improvement. The inadequate notice for the meeting significantly undermined the quality of the consultation.

Regards,

Lou Scura

From: Kennan W. Rapp on 10/21/98 06:40 PM



From: Kennan W. Rapp on 10/21/98 06:40 PM

To: Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, George Ledec/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Maria Teresa Serra/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank

cc: Maninder S. Gill/Person/World Bank, mmejia@worldbank.org, Dan Aronson/Hq/lfc@lfc, Daniel R. Gibson/Person/World Bank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Gloria Davis-SDV/Person/World Bank@WorldBank, Patricia N. Rogers/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank

Subject: 1st consultation on OP 4.12 with RDV and ENV technical specialists

This first encounter between the team of resettlement specialists and, principally, RDV/ENV technical specialists in the regions was chaired by Teresa Serra, and lasted from 2:00 pm to approximately 4:15 pm. In the course of the discussion, a number of issues, concerns, and case examples were raised, and the following points were agreed:

- In light of the view by many that paragraph 2 of OP 4.12 represents a considerable broadening of the scope of the policy, the resettlement team will rewrite this section to make it clearer and more specific, possibly adding language to state that land titling and land administration projects are not covered by the policy.
- The resettlement team will review the language in paragraphs 7(b) and 8, with regard to the undesirability of creating perverse incentives to encroach upon public lands or open-access areas.
- Paragraphs 14 together with paragraph 17, which discuss the need to prepare a resettlement policy framework for projects with multiple subprojects whose impacts cannot be known at the time of appraisal, were seen by RDV/ENV specialists as impractical and costly. The resettlement team



stressed the importance of preventive planning for even the possibility of involuntary resettlement but agreed to review the grouping of operational dictates, Bank procedures, and good practice points in the policy.

- Responding to concerns about the cost burdens that the financing arrangements mandated in paragraph 19 impose on borrowers (particularly if, as in the case of some GEF grants, they are NGOs), the resettlement team and the legal representative confirmed that the Bank cannot retain consultants to prepare resettlement plans, but agreed to examine the possibility of adding language on how to secure other sources of funding.
- It was generally acknowledged that the resettlement OP cannot be expected to guide the mitigation of all social impacts of a project, and that more comprehensive social analysis up front can remove the need to plan for every possible eventuality.
- The question of whether the OP would apply to projects that establish or enforce the boundaries of national parks or conservation areas was not resolved. But it was agreed that any consideration of limiting people's access to resources should refer both to the policy on environmental assessment and to the policy on natural habitats.

Resettlement Thematic Group  
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The World Bank  
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202-473-9811 (phone)  
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To: Kennan W. Rapp  
cc: Paola Agostini  
Marjory-Anne Bromhead  
Mark E. Cackler  
Gonzalo Castro  
Carlos Ricardo Escudero  
Douglas A. Forno  
Nalini B. Kumar  
George Ledec  
Kirsten L. Oleson  
Steven William Oliver  
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Norval Stanley Peabody  
Gloria Davis-Sdv  
Patricia N. Rogers  
Ralph Hanan  
Mohan Gopalan Gopal  
Ian Johnson  
Caio K. Koch-Weser  
Joanne Salop  
Geoffrey B. Fox  
Mark D. Wilson



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Caio K. Koch-Weser

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10/21/98 12:41 PM

Extn: 84001

MDOMD

Subject: Re: OP 4.12 - Proposed Process 

Gloria,

Proposed process is fine with me. Let's make it as simple and unbureaucratic as possible, and move as fast as possible. I will schedule now my next meeting with the group for next week.

Caio

---

To: Gdavis@Worldbank.Org

cc: Ian Johnson

Anthony J. Pellegrini

Joanne Salop

Andres Rigo Sureda





Gloria Davis-SDV  
10/20/98 07:04 PM

Extn: 82750 SDV  
Subject: OP 4.12 - Proposed Process

In light of the discussion which we had today, I suggest the following process.

1. Within a day, paragraph 2 will be revised. It makes little sense to hold discussions without greater clarity in the coverage of the OP.

2. For the remainder of this week, the resettlement team (consisting of the drafting group from SDV, MDOPS, and LEG) will hold discussions with technical staff on a family/subsector basis. These discussions are intended to flag outstanding issues and concerns. They are being scheduled at this time by Dan Aronson and Maninder Gill.

3. In parallel, we are asking each family/subsector to nominate a focal point who will be a member of the technical team discussing the draft document. It will be important to ensure both that they represent the views of their colleagues and that they have adequate time for this work. Although you asked me to get back to you with these names today it makes more sense that a considered decision be made and we put together the technical team by end week. (This would not hold up necessary sectoral discussions).

4. Early next week, the technical team will be convened. If you wish, I will chair this group. This team should consist of representatives from the sectors/families and the resettlement team. This technical team will report to a steering committee chaired by Ian Johnson, and including Tony Pellegrini, Joanne Salop, someone from LEG (perhaps Andres Rigo), someone from PBD, and two regional managers (we are identifying candidates). They in turn will report to you. We expect to meet with you on a weekly basis.

5. The following principles should be discussed at the outset. They would govern the work of the technical team.

- \* We are not starting over. We should aim to get agreement on a conversion of the old O.D, if possible.

- \* This conversion should remain faithful to the coverage and intent of the original OD, but contain clarification as necessary.

- \* Where there are issues that cannot be resolved at the technical level, the team should seek guidance from the steering committee on how these issues should be handled.

- \*Core policy issues, if any, would be referred to the wider management group.

6. Timetable.

October 21-23 - The resettlement team will meet with sectoral teams from urban, transport, rural, energy and environment (among others)

October 26 (Monday) - The technical team (resettlement team plus technical specialists) will meet with you and with the steering committee to discuss the TOR.

October 27-29 - The technical team will meet daily for two hours to scope the issues and make necessary changes.



October 29 - We will prepare a note summarizing progress, in anticipation of the OPC meeting on October 30.

November 2 - Second steering committee meeting to take stock of where we stand.

November - We will meet daily until the work is completed.

While I would hope we can finish by October 30, I'm not sure that this is feasible or that longer meetings are sustainable given the priorities of other team members.

7. In bringing the process to closure, we will need to decide whether further internal or external consultations are required, particularly with our borrowers.

Please let me know if this is acceptable to you, and whether we should edit for wider distribution.

---

To: Caio K. Koch-Weser  
cc: Ian Johnson  
Anthony J. Pellegrini  
Joanne Salop  
Andres Rigo Sureda





Christine A. Stover  
10/19/98 08:40 AM

Extn: 34685 ESDVP  
Subject: OP 4.12 - Comments and Suggestions

#### More from the rural board

----- Forwarded by Christine A. Stover/Person/World Bank on 10/19/98 08:39 AM -----



Isabel G. Lavadenz Paccieri

10/17/98 12:16:14 AM

Extn: 36003 LCSES

To: D-M Dowsett-Coirolo, Maritta R. V. B. Koch-Weser, Mark E. Cackler, RSBG7, Cora Melania Shaw cc: Douglas A. Forno,  
Subject: OP 4.12 - Comments and Suggestions

Klaus Deininger and I reviewed the draft OP 4.12 and found that the proposed document raises serious problems for future land projects in rural areas that merit attention by the Rural Sector Board. From our perspective the most important ones are:

- the broad and ambiguous definition of "resettlement" ;
- the creation of perverse incentives for massive land occupation that could result from a priori neglecting national laws;
- the lack of compatibility with other Bank policies that could paralyze future land-related lending operations;
- a legalistic focus on administrative and centralized solutions that would not allow decentralized interventions based on community-initiative.

#### 1. By including in the definition of "resettlement" (Para 2)

"Bank-financed investment projects in which a change in land use or water use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood .... "

#### and aiming to provide (Para. 2)

" measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water use, whether or not the people must move to another location"

the proposed OP would imply that virtually any project in the rural portfolio would be subject to the provisions of this OP. This would imply that, before project appraisal, a full *census* of households would have to be conducted (Para. 6). This census would include (Annex A, Para 5,)

"standard household characteristics; information on vulnerable people for whom special provisions may have to be made; a description of production systems, including labor and household organization; baseline information on the living standards (including, as appropriate, health status) and income of the affected population, including income derived from both formal and informal sectors, farm and nonfarm activities, and access to or use of common property; and an inventory of assets of affected households; social and cultural information about affected communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations [NGOs]) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities; estimates of the affected people's likely production levels, incomeearning capacities, and living standards as of the time of project completion if the project is not undertaken".

This would be difficult to reconcile with the desire to respond quickly and flexibly to client demand. Given the time frame necessary to implement such a census, and the vague rules of evidence (see footnote 16 stating that "lack of



documented occupancy is not in itself evidence of non occupancy”) is very likely to encourage further land invasions.

2. The fact that persons occupying land in violation of the laws of the country are entitled to compensation for land (Para. 8) clashes with national laws in virtually all of the world, including land laws that have been promoted by the Bank (e.g. in Bolivia). While all land laws recognize that long *bona fide*, peaceful, and uninterrupted possession of land can establish factual claim to land, the OP -de facto- requires borrowers interested in land-related loans, to change their legal framework (or establish parallel system), thereby giving rise to severe moral hazard. All over the world, land issues are politically extremely sensitive and applicable laws have been formulated in prolonged and painful processes of consensus building. The OP would require borrowers to override these laws in virtually every Bank project, thereby opening the door to protracted and inconclusive political maneuvering regarding a country's basic legal framework.

3. The good intentions underlying OP 4.12 will almost certainly have the perverse result of eliminating the scope for land-related projects in areas where poverty is most severe, where no clear property rights exist, and where public intervention would be most justified. This will shift staff efforts away from the Bank's agenda of poverty reduction and structural (“second generation”) reforms.

4. By promoting a relatively centralized process that aims to have all the critical questions answered in advance, the OP eliminates the scope for demand-driven based approaches like community-based titling (e.g. Ivory Coast, Bolivia, Nicaragua, Mexico) and market-assisted land reform. It may also generate perverse incentives for lodging imaginary claims that would slow down the process and threaten to undermine the economic viability of a large number of Bank projects.

5. Overlapping claims to land are the rule rather than the exception in rural areas in most of the Bank's client countries. Best practice indicates that there are great benefits for the poor from an area-based process that speedily resolves conflicting claims based on a transparent legal framework. By establishing a vague right to compensation for anybody who might feel disadvantaged, the OP threatens to undermine the rule of law that it intends to promote and in the process make it more difficult to attend to truly legitimate claims.

6. It would be more in line with the Bank's goals (and the spirit underlying the OP for resettlement) to

- adopt a more restrictive definition of resettlement;
- encourage task managers to find acceptable mechanisms within countries' legal framework rather than imposing parallel legal rules in project areas without thorough prior analysis;
- ensure consistency with other Bank policies (e.g. land regularization, titling, and negotiated land reform).

---

To: Gloria Davis-Sdv  
Robert T. Watson-Env  
Ian Johnson  
Maninder S. Gill





Gloria Davis-SDV  
10/16/98 11:29 AM

Extn: 82750  
Subject: OP 4.12

SDV

Tony

We had a good meeting yesterday afternoon with a number of urban staff. Mats Andersson who lead the group was very constructive and I believe he will be writing you a note on this meeting. We concentrated on substance rather than process with the aim of identifying the nature and scope of the issues and what should be done.

We identified a number of issues, which (for me) fell into three categories

1. A specific concern about applying the policy to all changes in land and water use whether or not people are physically displaced;
2. More general concerns that clarifying language and codifying good practice was raising standards and reducing flexibility;
3. A very broad point that the policy was not applicable to urban and should be applied only to rural projects.

Let me touch briefly on each.

As one of the people who may be called upon to apply this policy, I view the first issue with the utmost seriousness. Although the OPC had specifically asked for clarification of the treatment of economic (loss of livelihood) as well as physical impacts, it was evident from our discussions there were very different interpretations of what was implied by the wording in paragraph 2. Mohan Gopal (LEG) has offered to write a brief statement clarifying the implications of this paragraph. This is both necessary and welcome, but I doubt that it will be sufficient.

In order to come to closure on this, I believe it will be necessary for two or three of our staff, together with two or three of yours, to develop a matrix of common project interventions (land titling, land privatization, road closings, slum upgrading and the like) and to specify what these actions would entail in terms of compensation under the proposed policy. This matrix may indicate that agreements can be readily reached, or that changes are required in the language or intent. In either case, our objective should be to ensure that application of this policy element is both clear and feasible.

On the second item, our experience harmonizing IFC and Bank policies, suggests there is merit to clarifying what is required or expected, and when alternatives are discussed, most people will favor precision in language. This is not meant to short-circuit necessary discussion, to the contrary, it will be essential for the same technical group to identify the key areas of concern and to come to a common agreement on how these issues should be dealt with in the OP/BP. My prediction, however, is that it may be possible to reconcile our views in this area more easily than in the first.

On the last item, I welcome the suggestion by one of the urban staff that we expand our sourcebook to more fully cover good practice in urban projects and I would not rule out the fact that this may lead to changes in the guidelines over time. I would like to contain the view, however, that we can have one resettlement policy for urban and another for the rest of the Bank. The policy must be applicable to and



appropriate for all Bank projects and I would like your help in achieving this.

How to proceed? I understand that regional urban staff have been asked to review the policy and provide their comments by noon today. I encouraged Mats to forward these comments, with a brief covering note, by COB today, if at all possible. Our technical staff are back on Monday (though regrettably Mats will be on mission) and I would like to suggest that you and Mats identify two or three people who can meet on Monday and Tuesday to have technical discussions. These discussions should clarify any outstanding issues in the interpretation of paragraph 2, and define any other priority areas which need attention - hopefully resolving outstanding differences. I know this seems ambitious, given the nature of your concerns, but I feel we need to give this a shot to see how close or far apart our perspectives are and then weigh the alternatives for proceeding.

My own preference would be to let this go forward to CODE (with a possible flag on para 2), to see if any further issues are raised by the Board, but to go to the Board as a whole only when agreement is reached. I assume Joanne and Caio will take a decision on this some time today or early next week.

In conclusion, I would appreciate your help in bringing together a small technical team to discuss these matters and for your support in bringing this to closure when technical issues are addressed adequately. Thanks.

---

To: Anthony J. Pellegrini  
cc: Ian Johnson  
Joanne Salop  
Ralph Hanan  
Mats Andersson  
Mohan Gopalan Gopal  
Dan Aronson/Hq/lfc@lfc  
Maninder S. Gill



.....  
**Joanne Salop**  
.....

10/15/98 08:22 PM  
.....

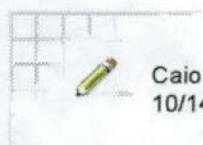
Extn: 37499 MDOPS  
Subject: OP 4.12

Hi. I think we should pull the OP from the Board and allow greater time for internal consultation.  
Do I have your support for this?

---

To: Andres Rigo Sureda  
Gloria Davis-Sdv  
cc: Ian Johnson  
Mohan Gopalan Gopal  
Ralph Hanan  
Patricia N. Rogers





Caio K. Koch-Weser  
10/14/98 11:02 PM

Extn: 84001  
Subject: OP 4.12

MDOMD

----- Forwarded by Caio K. Koch-Weser/Person/World Bank on 10/14/98 11:05 PM -----

Joanne Salop

10/14/98 10:40 PM

Extn: 37499 MDOPS

To: Johannes F. Linn cc: Caio K. Koch-Weser, Sven Sandstrom, Masood Ahmed PRMVP, Anthony J. Pellegrini  
Subject: OP 4.12

Johannes,

Caio forwarded me your E-mail on this and asked me to come back to you. Just to let you know that we don't have all the facts yet. When we do, we will clarify. But in the meantime I did want to apologize to you for the buzz this is creating for you and your management team -- adding additional issues that need to be managed to your already over-full agenda.

We will be meeting with several FPSI staff members tomorrow to listen to their concerns. As of today, it is not clear we have a substantive problem. The new OP is a conversion of an old OD -- policy content has not changed. In principle there should be no new issues. In practice, we have clarified some ambiguities. We think they go in the direction of easing the life of FPSI staff -- but let's wait until we hear tomorrow. There may be legitimate concerns; if so we will see how we can address them. But my guess is that the concerns about the policy that exist are not about the new OP but about the longstanding and unchanged underlying policy. That was not up for debate in this go-round.

As to process, this OP has been kicking around for such a long time -- in and out of the OPC, CODE, OVPs, with IFC, and so on literally for years -- that quite frankly I had thought everyone had seen it twenty times over. We are still checking institutional memories, but you will no doubt recall that Ibrahim raised issues about resettlement policy on coal in Russia -- wanting to apply the required compensation policy principle to policy-based relocations, such as mine closures. The OPC and OC shot that down. More recently, when Bob Picciotto's review of resettlement implementation was discussed by the OVPs, the issue of the new OP 's simply reaffirming existing policy and not breaking new ground was central to the management response and to the debate during the OVP meeting.

The bottom line for now is that I sincerely hope we can solve this problem expeditiously and allay staff concerns. I also hope we can look to your managers to help manage the process and staff concerns. Once we have the substantive facts and concerns squarely on the table, we will communicate what we know to you and your staff -- and to others.

Best regards.

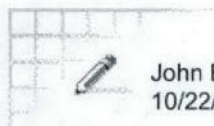
Joanne



---

To: Ian Johnson  
Gloria Davis-Sdv





John Briscoe  
10/22/98 09:23 PM

Extn: 35557 ESDGW  
Subject: Resettlement OD

Attached please see an excellent e mail on this from George LEdec in the Environment group in LAC.

John

**GEORGE  
LEDEC**

10/22/98 08:55 PM



Extn: 39267 LCSES

To: Maria Teresa Serra cc: ENVFAM-1ST, Maninder S. Gill, Dan Aronson, Cora Melania Shaw, Louise F. Scura, Kennan W.  
Subject: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement

1. Before leaving on mission, I wanted the working group which is revising the draft OP 4.12 on Involuntary Resettlement to be aware of my specific concerns. **I am deeply concerned that OP 4.12 (i) would establish a sweeping new policy on land and water use "takings" which is not part of the current OD 4.30 on Involuntary Resettlement and (ii) would make it much more difficult for the Bank to support many types of environmental projects and components.**

#### **Specific Problems with the Draft OP 4.12:**

2. **It Would Create Major New Bank Policy through Improper Channels.** While OD 4.30 sticks to involuntary resettlement (when people are required to relocate to a new primary residence to accommodate a Bank-supported project), OP 4.12 (Para. 2) drastically expands the scope of the policy to cover any loss of income sources attributable to a change in land or water use or restricted access to natural resources. The great majority of Bank-supported natural resource management projects (including protected areas, forestry, fisheries, soil conservation, etc.) do **not** involve any physical resettlement, but they **do** imply efforts to change land or water use and to restrict access to natural resources to promote sustainable use. (That is, after all, the main idea behind these types of projects.) Therefore, while most natural resource management projects and components are not subject to OD 4.30, they would be subject to OP 4.12. This would thus be a huge expansion of the scope of a policy called "Involuntary Resettlement" to cover many activities which are not resettlement at all. Any such major new policy needs to be considered carefully and transparently as a new Bank policy. The process of converting ODs to the new OP/BP/GP format is not an acceptable vehicle for establishing major Bank policy changes.

3. **It Would be the Wrong Way to Establish a New "Safety Net" Policy.** As I understand it, the intent behind Para. 2 of OP 4.12 is largely to provide a safety net for very poor and vulnerable people, so that they are not further impoverished by certain types of projects. While this is a very important and laudable goal, it is my impression that most modern Bank-supported natural resource management projects already have adequate provisions to treat affected persons fairly and avoid causing serious hardships for the poor. If social impact mitigation practices in Bank-supported natural resource management projects are already more or less adequate, a new safety net policy may not be needed. Even if such a new policy is warranted, it would be wrong to single out projects involving land, water, and natural resource use without also addressing the many other types of Bank-supported interventions which can adversely affect the poor in much greater numbers (such as privatization and adjustment operations which increase short-term unemployment).



4. **It Would Create Unjustified New Entitlements for Some Natural Resource Users.** Although the authors of OP 4.12 may have intended to protect the poorest and most vulnerable members of society, the current draft language would entitle certain natural resource users to claim some type of compensation for 100 percent or more of the income which a project might deny them, regardless of (i) whether they are really poor or vulnerable or (ii) whether their activities are even legal. In reading every word of OP 4.12, it is my impression that, for example, a man who illegally captures endangered parrots for the international black market could complain to the Inspection Panel that he has suffered an "involuntary ... loss of access to natural resources [and] income sources [and] means of livelihood" (Para. 2) and insist upon compensation for "at least" 100 percent (Para. 4) of his lost income, because a Bank-supported protected areas project effectively denied him his (illegal) access to the rare birds. While this would arguably not be a "reasonable" interpretation of OP 4.12, I am aware of several recent instances where Bank staff (especially our lawyers), determined to ensure strict compliance to the letter, have interpreted OD 4.30 and other Bank safeguard policies in ways that are more rigid than reasonable (details available upon request). If we want strict compliance with the Bank's safeguard policies, we need to ensure that the policies are written to ensure adequate flexibility. As currently written, the draft OP 4.12 does not meet the test of flexibility or common sense.

5. **It Would Greatly Increase Speculative Squatting (Moral Hazard).** OP 4.12 (Paras. 14, 15, and 17) requires resettlement policies to be made explicit by the Borrower prior to appraisal, even years before the resettlement might occur in a given (sub)project. At the same time, Para. 8 entitles any illegal squatters to a generous benefits package, so long as they have had "uninterrupted possession of the land for at least one year prior to the commencement of the census". In the real world, the time between appraisal and the start of any census often greatly exceeds one year (especially for subprojects initiated in the later years of a sector investment or APL operation). However, if likely subproject sites are known more than one year in advance of a census, the result can be large-scale induced squatting in the hope of obtaining OP 4.12-mandated benefits. Speculative squatting in anticipation of resettlement benefits is a serious problem in many of our client countries; it has virtually paralyzed some projects (examples available on request). The Bank's Involuntary Resettlement Policy should strike a careful balance between minimizing perverse incentives and providing an adequate safety net for those who are resettled. Such a balance is lacking in the draft OP 4.12, which does not even mention the need for resettlement policy frameworks and resettlement plans to be designed in ways that would minimize incentives for squatting.

6. **It Could Eliminate Bank Support for Many Environmental Projects.** Because the draft OP 4.12 covers virtually all types of natural resource management activities, even where there is zero resettlement (Para. 2) and mandates a generous benefits package for all affected persons (Paras. 5-8), it could greatly increase the costs of many of the Bank's environmental projects, thus making them unviable. This would result in many bad outcomes on the ground (increased environmental degradation, often irreversible, which could have been prevented), along with an abdication of the Bank's global leadership role in environmental protection. This is not just speculation; I can provide examples of important natural resource management activities which the Bank recently declined to support because of OP 4.12 (even in its draft form). OP 4.12, if approved as drafted, would keep the Bank from supporting some of the most progressive and innovative projects in our pipeline. This is not my idea of "improving service to our clients".

7. **It Would Make Compliance with Other Bank Safeguard Policies Much More Difficult,** both directly and indirectly. Directly, the onerous requirements of OP 4.12 would greatly complicate compliance with other Bank safeguard policies. For example, OP 4.04 on Natural Habitats sometimes requires support for the establishment or strengthening of compensatory protected areas, which (due especially to Para. 2 of OP 4.12) would often become prohibitively costly and difficult. Similarly, OD 4.20 on Indigenous Peoples sometimes mandates Indigenous Peoples Development Plans, the centerpiece of which is often indigenous land titling (which implies restricting access to natural resources by outsiders). Indirectly, because it is so onerous, OP 4.12 will undermine the credibility of those Bank staff (including myself) who are trying to promote compliance with all the safeguard policies (most of which are written



much more flexibly than OP 4.12).

**Recommendation:**


8. Before it is resubmitted to the Board, **OP 4.12 should be extensively rewritten**, so that it would be a "common sense" conversion of OD 4.30, without any controversial new policy content. In particular, the highly problematic paragraphs cited above (most of all, Para. 2) need to be completely rewritten.

9. Please let me know if you would like any clarifications (such as specific examples) or if I could otherwise be of further assistance. I expect to be back in the office on November 3, 1998.

---

To: Jsalop@Worldbank.Org  
Ian Johnson  
Anthony J. Pellegrini  
Alastair J. McKechnie  
cc: Sumter Lee Travers  
Barry Trembath  
Vincent J. Gouarne



 Anthony J. Pellegrini  
10/19/98 11:30 AM

Extn: 36752 TWUDR  
Subject: Involuntary Resettlement

Caio,

I must object to the attached memo from Gloria Davis suggesting that I might be disloyal to the institution because I expressed the strong view that we have a problem that we must deal with arising from a new version of the Involuntary Resettlement Policy that has not been seen by operational staff, Sector Boards, or Regions. Its important that substantive issues be dealt with substantively. As an institution we need to be less defensive, more open across Networks, and have the confidence to be willing to engage in serious, open (even lively) debate of such issues.

This memo is incorrect about my views and misleading about past discussions of involuntary resettlement.

I hope no one would doubt my very strongly held convictions that the Bank has an important obligation to protect those, especially the poor, who may be affected by a Bank project. About three years ago when Patricia Annez was Division Chief of the Urban Division, Dan Aronson, Gloria and others were invited by us to the annual retreat of Urban staff to discuss the original OD. The discussion was organized because many staff had expressed difficulties with the OD. Staff were clear in their support of the principles embodied in the OD, however, they felt that in some cases the interpretation was leading to perverse results. Patricia Annez and George Gattoni who are mentioned in the memo below, both expressed these concerns. *At that time, Patricia made a specific offer to Gloria to appoint sector staff who would work together with her team to do a redraft or interpretation document.* We reaffirmed this offer several times in the subsequent months, but Patricia never received a response. George Gattoni who is said to have worked on the revision is in fact one of those most concerned today because didn't know the new OP was being prepared, and worries that there *may* be serious negative consequences on his work in helping the poor. He is one of those who made a special appeal to me last week to try to draw attention to the need to discuss this OP with Regional staff who had project level responsibilities.


I have been assuming that we have precious few days to get the issues on the table, to discuss these with legal and others and to develop a course of action. I am fully aware of how delicate if not embarrassing it will be if it turns out that changes are required. Everyone is hoping that *clarification of how the OP will be interpreted* will do the trick. This is one of the Bank's most important policies. Enormous project preparation resources go into ensuring compliance. We owe it to staff to listen to them.

We will be in trouble as a learning institution and as a development institution if attempts to identify legitimate staff concerns are stifled by accusations of mischief and disloyalty.

Sorry to have to express these views.

Tony

----- Forwarded by Joanne Salop/Person/World Bank on 10/15/98 12:38 PM -----

 Gloria Davis-SDV  
10/15/98 12:18 PM



Extn: 82750 SDV  
To: Joanne Salop, Ralph Hanan  
Subject: OP 4.12

Joanne

Good note to Johannes (what was that about).

I have finally talked to Dan Aronson. He indicated that way back when Patricia Annez was head of Urban, staff we actively involved in discussion of the proposed revision - George Cattoni (sp) was mentioned and subsequently regional infrastructure staff especially in South Asia, were involved.

Tony, has made it clear from the outset that he is opposed to the Op. and this is more of the same. Isn't their some kind of sanction for this sort of mischief?

See you at 3:00.

---

To: Caio K. Koch-Weser  
cc: Sven Sandstrom  
Gloria Davis-Sdv  
Caio K. Koch-Weser  
Masood Ahmed Prmvp  
Ian Johnson  
Joanne Salop





Gloria Davis-SDV  
10/21/98 02:08 PM

Extn: 82750 SDV

Sent by: Myrtle Laura Diachok

Subject: Steering Committee - OP 4.12 on Resettlement

On behalf of Ian Johnson, I would like to invite you to serve on a Steering Committee which will provide guidance to the technical team reviewing the conversion of OP 4.12 on resettlement. Two additional members, whose names are currently under discussion, will be included in the Committee.

We have scheduled a meeting on **Friday, October 23 at 4 p.m. in Room MC5-414** to review the terms of reference for the technical team and the schedule of work.

I would be very pleased if you would confirm with Myrtle Diachok (ext. 82755) your willingness to serve on this Committee, as well as your ability to attend the meeting on Friday.

Many thanks.

---

To: Anthony J. Pellegrini  
Joanne Salop  
Andres Rigo Sureda  
Achim V. Heynitz  
cc: Ian Johnson  
Myrtle Laura Diachok  
M. Caryl Jones-Swahn  
Milagros Benedicto



## Status

- series of sectoral meetings.
- technical meetings ↔ constitutive meetings

(1) what is policy.

(2) eligibility for benefits.

(3) issues:

- squatters
- upland
- exclusion from services
- coverage.

① redrafting of words -  
broadly agreed.

## Process

- simpler framework → uncertainty
- managerial exception. → scope vs principle
- good practice & policy.

evolves  
"case law"

→ GP: \_\_\_\_\_

## next steps

- \* redraft OP: clarity para 2. | intentionally
- \* resolve issues before circulate: "next week"
- \* time for technical/regional.

→ expedite

what do we  
agree on?

what do we  
not agree on?



Reevaluation plan

→ EA related →

→ flexibility →

good intention

- (1) complexity
- "unintended consequences"
- (2) how they.

unintended consequences

good practice

OP →  
series →



relin to

OP → GP → BP

Shm - twetchbb 0 0

Endy

named →

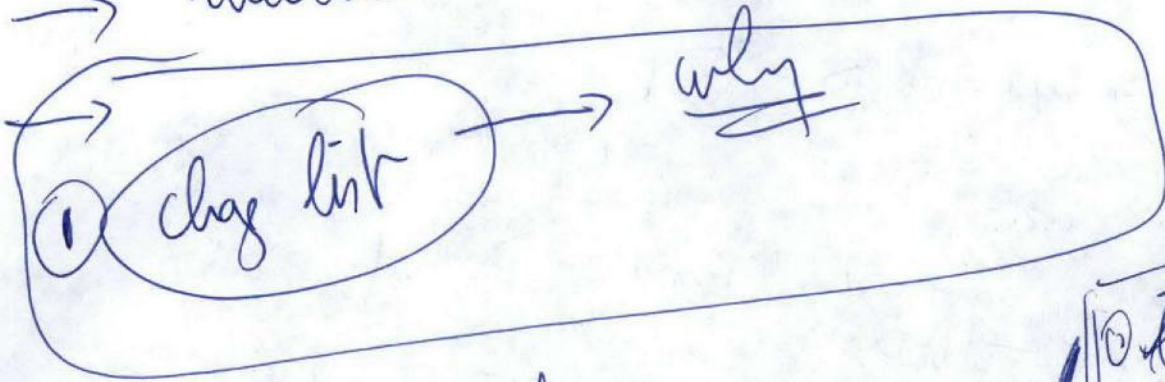
used  
not used why

of his



fail-safe - may prerogative

→ check back



② unintended consequences  
perverse incentives

① Technical  
② point 2  
→ base

③ discretion in  
implementing the policy

base

risk  
aversion

④ → inspector panel

Policy intent

equity:



## Application of OP 4.12

"Implementation of Bank-financed projects may require the taking of land. This may result in people living on such land being compelled to move out of the land on which they are living. Also, people may lose their means of livelihood, if it is based on the use or ownership of the land taken for the project (or, in some cases, on resources based on the land) and the project no longer permits such use, ownership, or access. People losing their means of livelihood in this way may **not** be compelled by the project to move out of the land on which they have been living but suffer direct economic impacts as a result of land taking or restriction of access to it. These impacts are referred to here as "displacement". This policy is **not** intended to cover loss of means of livelihood arising just from other causes such as mere changes of policies, laws and regulations (such as land titling, re-zoning, etc) unless people are involuntarily displaced.

.....

This policy does not apply to voluntary land transactions or to voluntary relocation or land settlement. If there is no involuntary relocation of people, it would not apply to land administration projects or programs such as land reform, titling, consolidation, privatization, or rezoning.<sup>1</sup> Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy.<sup>2</sup>

This policy does not cover indirect economic impacts (such as the loss of business when roads are rerouted) and intangible impacts (such as loss of view or other aesthetic values). However, it is good practice to avoid or mitigate indirect economic impacts, especially those affecting poor people, where feasible.

This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement. It also covers resettlement resulting from activities that are not part of the Bank-financed project, but are necessary to achieve its objectives (for example construction of a reservoir for a Bank assisted urban water supply project.)

### *Footnotes:*

1. Such projects may involve, for example, construction, upgrading or extension of dams, mines, new towns or ports, housing and urban infrastructure, large industrial plants, railways or highways, irrigation canals; slum upgrading; or the establishment or reestablishment of national parks, forests or protected areas.

2. See OP/BP 8.50, Emergency Recovery Assistance.



6. Timetable:

October 21-23 - The resettlement team will meet with sectoral teams from urban, transport, rural, energy and environment (among others).

October 23 - First meeting of the Steering Committee to review TOR.

October 26 - The technical team (resettlement team plus technical specialists) will begin work.

October 27-29 - The technical team will meet daily for two hours to scope the issues and make necessary changes.

October 29 - A note will be prepared summarizing progress made, in anticipation of the OPC meeting on October 30. (Fides)

November 2 - A second steering committee meeting will be held to take stock of where we stand.

November - If necessary meetings will continue until the work is completed.

We hope to finish by October 30, but this may not be feasible.

7. In bringing the process to closure, we will decide whether further internal or external consultations are required.

Oct 29<sup>th</sup> → Wednesday  
4:30 Thursday



# OFFICE MEMORANDUM

DATE: October 21, 1998

TO: Files

FROM: Gloria Davis, Director, SDV

EXTENSION: 82750

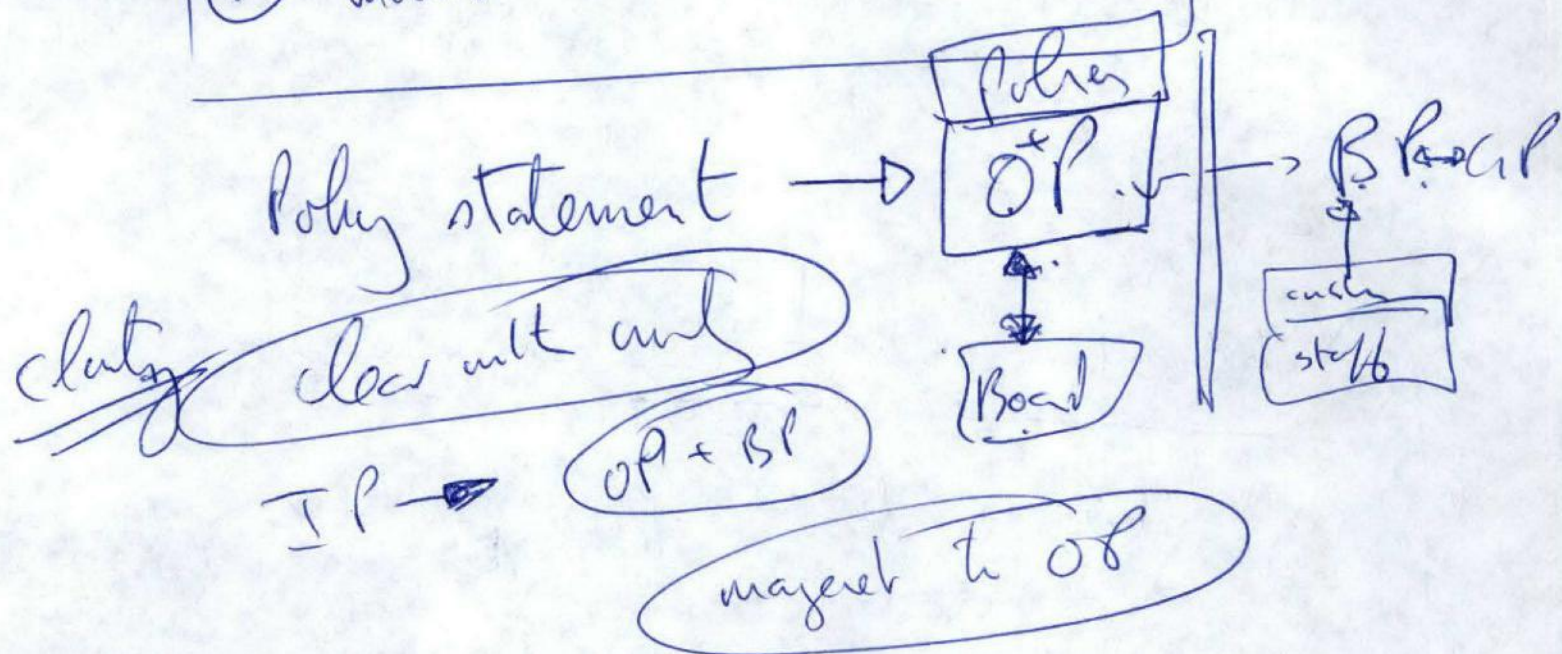
SUBJECT: **Conversion of OP 4.12 on Resettlement – Proposed Review Process**

The following note has been reviewed and agreed with Caio Koch-Weser and Ian Johnson. It will be discussed by the Steering Committee on Friday, October 23.

1. Paragraph 2 will be revised before the review begins, as it makes little sense to hold discussions without clarity in the coverage of the OP.
2. The resettlement team (consisting of the drafting group from SDV, MDOPS, and LEG) will continue to hold discussions with technical staff on a family/subsector basis. These discussions are intended to flag outstanding issues and concerns.
3. In parallel, each family/subsector will nominate a focal point who will be a member of the technical team discussing the draft document. It will be important to ensure that members represent the views of their colleagues and that they have adequate time for this work.
4. During the week of October 26, the technical team will be convened. Gloria Davis will chair this group. This team should consist of representatives from the sectors/families and the resettlement team. This technical team will report to a Steering Committee chaired by Ian Johnson, and including Tony Pellegrini, Joanne Salop and Andres Rigo, among others. They in turn will report to Caio Koch-Weser. We expect to meet with management on a weekly basis.
5. The following principles should be discussed at the outset as they will govern the work of the technical team.
  - We are not starting over. We should aim to get agreement on a conversion of the old OD.
  - This conversion should remain faithful to the coverage and intent of the original OD, but contain clarification as necessary.
  - Where there are issues that cannot be resolved at the technical level, the team should seek guidance from the Steering Committee on how these issues should be handled.
  - Core policy issues, if any, would be referred to the wider management group.



- ① land lab  $\leftrightarrow$  wild
- ② indirect vs direct.





3 Rys

- ① not start over
- ② faithful conversion
- ③ larger ones add a W Program.

(1) how to proceed:

(-1) principles re Glencoe  
1925

(2) key issues:

Development

lack of  
data, re policy

physical  
cases

led to  
physical relocation.

→ resettlement =  
economic  
not  
physical.

even ~~less~~ for  
agency for  
has 2 physical  
areas.





Gloria Davis-SDV  
10/27/98 02:10 PM

1. 0.01

Extn: 82750

SDV

Sent by: Myrtle Laura Diachok

Subject: REMINDER - Resettlement Joint Steering Committee/Technical Team Meeting on OP 4.12 on Thursday, Oct. 29



This is to remind you that there will be a joint meeting of the Steering Committee and Technical Team on **Thursday, October 29 at 4:30 p.m. in Room MC6-414**. This will follow upon the Technical Team meeting which will be held at 3:30 p.m. in the same room. Caio Koch-Weser is expected to join us towards the end of the meeting.

---

To: Ian Johnson  
Joanne Salop  
Anthony J. Pellegrini  
Andres Rigo Sureda  
Achim V. Heynitz  
Thomas B. Wiens  
Peter Watson  
Alastair J. Mckechnie  
Gloria Davis-Sdv  
Maria Teresa Serra  
Barry Trembath  
Peter A. Van Der Veen  
Cora Melania Shaw  
Mats Andersson  
Sumter Lee Travers  
Mohan Gopalan Gopal  
Ralph Hanan  
Daniel R. Gibson  
Dan Aronson/Hq/lfc@lfc  
Maninder S. Gill  
Kennan W. Rapp  
G. George Tharakan  
cc: Milagros Benedicto  
M. Caryl Jones-Swahn  
Vorapaktra Yongpradit





Ian Johnson  
12/02/98 08:40 AM

Extn: 31053 ESDVP  
Subject: Re: resettlement

Lou : Many thanks. I have a meeting with A Rigo this am and then we will outline a plan for finalization. This has been a very useful learning experience for me -- it shows what we have always said -- that we must work across the network as well as we do within and we must do so through "constituency" building. the example of including someone from ENV and RDV as representatives rather than thinking through who our stakeholders are (eg in ENV both green and brown presepectives were needed). It is also clear that the resettlement issue is a dam sight harder than any of us thought (both LEG and SDV now recognise this).

I am delighted that you gave us feedback -- it is exactly what we needed frankly and it makes me think of how I must do a much better job at reaching out and across the bank when we embark on work of this kind.

I do hope that you are enjoying Asia and the work. We miss you terribly. I am very concerned about ENV at the present time -- Bob is travelling constantly and there is a major management gap. I am currently trying to sort it out as my highest priority (even higher than resettlement!!!).

Can we do lunch sometime? I will ask caryl to set someting up.

Regards : ian

Caryl : can yo set up a lunch?

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To: Louise F. Scura  
cc: M. Caryl Jones-Swahn





Gloria Davis-SDV  
12/01/98 06:34 PM

Extn: 82750

SDV

Subject: Resettlement

Andres

Ian and I are looking forward to our meeting tomorrow at 11:00. If you agree, it will just be the three of us. Basically we want to talk about improving collaboration between ourselves and LEG, and of course getting on top of this resettlement issue.

I have attached the draft issues paper, which has also been circulated in draft to the technical team. This means it has been sent already to Mohan and (I think) to Carlos. I hope it will help familiarize you with the issues and persuade you that the concerns are real and substantive and not just a matter of following the September draft.

As always, look forward to your advice. See you tomorrow.



Issues1b.doc

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To: Andres Rigo Sureda  
cc: Ian Johnson



## **Background**

The original OMS on resettlement was written in 1980 with large dams and other major infrastructure projects in mind. While the OMS discussed urban resettlement, and the OD issued in 1990 specifically extended the policy to all investment projects that caused resettlement, the language of the policy continued to emphasize large-scale projects and the resettlement of people to sites where new infrastructure was provided and relations with host communities needed careful attention. Staff agree that the old OD and the new OP are well suited to this type of resettlement.

By 1986, the policy already applied to people who are not displaced but who lose significant portions of their assets, and subsequently it was extended to projects such as the creation of parks and slum upgrading. More recently, its application has been debated in projects involving land titling, the privatization of housing stock and parastatal enterprises -- projects in which the consequences of the proposed changes may be different (i.e. incomes in urban areas may be unaffected), and the instruments or solutions more variable. At best, this has led to a proliferation of rules which aim to anticipate questions about how to apply the policy; at worst, it has led to differing interpretations between regions and decisionmaking on a case-by-case basis. Moreover, in the absence of trust, external critics of the Bank have insisted on a detailed specification of the rules, and they see flexibility as tantamount to backsliding.

It should be noted that the application of this policy to a wide range of conditions has occurred, in part, because there is no umbrella or overarching policy which requires staff to assess general social impacts and to improve the social soundness of projects, or at least to minimize or mitigate adverse social impacts. Recent discussions, however, pose interesting questions for our consideration about what the policy should do and how variability in situations and contexts should be handled.

## **Key Changes**

In response to questions from technical staff about the interpretation of the proposed draft policy on resettlement, a number of changes were made. These changes can be seen in a side-by-side document showing the September draft OP and the November or "alternative" draft. While we began this process by agreeing that the September draft should be modified as little as possible (because it was sent to the Board), the new OP language forced a consideration of several specific issues.

Key drafting changes are as follows:

- Acknowledging an agrarian bias to the OMS and OD, we minimized this in some areas (by moving likely impacts in paragraph 1 to a footnote, for example). But we have only done this to a limited extent, since some internal and external commentators feel strongly that the detailed provisions in the text should be maintained.
- The provisions of the September draft that Resettlement Plans should only be as long or as complex as the circumstances of the project in question demanded, were brought forward from the Annex to the main text of the policy, to increase their visibility.
- We are also proposing more room for judgement in the BP, for some types of projects (i.e. exceptions are not warranted in traditional large-scale resettlement projects).
- The distinction between compensation (which is recognized in local laws) and other resettlement benefits (intended to provide for full replacement costs, restore incomes and living standards) is made



explicit in paragraph 12 and a process approach is suggested for resolving some eligibility issues. This was also in the September draft, but is not in the original OD.

In addition to these changes, which represent a slight shift in policy, the following changes which were meant to be editorial, were also incorporated in the revised text. LEG feels that some of these drafting changes also entail changes in policy.

- In response to the question, *What is the policy?* core elements of the policy were pulled forward into paragraph 1. (Alternative drafts incorporate comments from LEG.)
- In response to the question, *What projects does the policy apply to?* the types of projects covered are made explicit in paragraphs 3-4. There are several outstanding issues about what should be included and excluded and it is critical that these be resolved (see section on outstanding issues).
- We have tried to make the language on eligibility simpler, in part, by eliminating the sense of false precision in the examples previously provided. (For example, in the September draft, the cut-off date for determining eligibility of squatters to resettlement assistance was "one year prior to census" which is difficult to demonstrate)
- The description of the procedures for subprojects and financial intermediaries is greatly shortened by a better editing of the text.
- Many detailed footnotes, which in the final analysis appeared to us to be best practice rather than definitional in nature, have been eliminated and shifted to the GP.

We recognize that some unintended errors may have crept in with these revisions and have proposed that a drafting committee reconcile text, eliminating editorial inaccuracies and highlighting policy differences.

These changes fall short of what is wanted by those who feel we should have a minimal policy, those who want to see a different type of policy altogether, and those in LEG who have argued for closer adherence to the September draft.

### **Outstanding Issues**

There are also a number of gray areas, which cannot be addressed by editing alone. A careful consideration of what we want a policy to do, and how it will be interpreted, is worth consideration by the Steering Committee. Through the use of the examples below, we are requesting the view of the Steering Committee about how such issues should be handled, in general, and how they should be incorporated into the policy. The issues and concepts are outlined in the following paragraphs.

*Project Boundaries:* All components of a project which are mentioned in Schedule II, are covered by the resettlement policy, whether or not the component is financed by the Bank. This is intended to prevent "component shopping" to less stringent lenders. But the question arises whether this applies to associated activities not included in Schedule II, but necessary for achieving the objectives of the project (for example, construction of an access road to a Bank-financed reservoir). As the examples given below illustrate, the practice has been to apply Bank resettlement policy to non-Bank-funded activities when they are a) carried out concurrently with the Bank project, and b) necessary for achieving the objectives of the Bank project. *Does the Steering Committee agree that this is precise enough?*

### **Examples**

*In Vietnam, the policy was applied to resettlement from a newly built, locally funded reservoir whose water was being used exclusively to feed a Bank financed water supply project, even though the reservoir did not*



figure in Schedule II of the project. However, as the reservoir had been completed almost a year before the Bank's involvement in the project, a general evaluation of completed resettlement was carried out and community based measures to improve certain aspects of resettlement were proposed. A household based entitlement approach to the completed resettlement was not adopted due to the difficulties involved in tracking the resettlers given the difference in timing of the projects. On the other hand, in expressway construction, resettlement connected with concurrently constructed, locally funded feeders roads and interchanges is covered by the policy since they are essential for achieving the objectives of the project.

Similarly, in Pusan, Korea, resettlement from a locally funded metro rail line constructed concurrently and exclusively to run Bank funded metro cars was covered by the policy.

Private sector development in particular has called attention to these issues, because other components, even those that are critical to the operation of a project – a dedicated fuel supply line, or the exploitation of a new coal mine to feed a Bank Group-financed thermal power project – may be opened and operated by totally different corporate entities. In such cases, there may be no obvious leverage available as a function of the Bank Group's finance.

*Indirect Economic Impacts:* Another issue that has not been fully resolved is whether indirect economic impacts are covered by the policy, particularly when the adverse impacts on the indirectly affected people are not due to acquisition of the land owned or used by them. For example, we have assumed that the policy should cover the economic losses suffered by communities left behind when a major part of the village is relocated, and the losses suffered by shopkeepers when land acquisition results in restriction of access to their shops; but it does not apply to businesses which suffer losses when major thoroughfares are rerouted. (See examples below). The general approach in Bank projects has been to cover indirect impacts in situations where: (a) the livelihoods of the indirectly affected community are directly dependent on the "directly affected" community, and (b) access to productive assets is restricted as a result of land acquisition for the project. The Steering Committee should advise whether the above approach is appropriate or if a wider range of impacts should be covered by the policy.

### Examples

Parts of communities not affected by land acquisition or relocation, but potentially left behind by the move of the majority, have been covered under the policy because their livelihoods are directly dependent on the people who are moving. In situations where only a small section of the community has had to relocate, the adverse impact on businesses and occupations of members of the communities staying behind has never been covered by the policy

Temporary economic impacts on shopkeepers losing access to customers due to traffic disruption on account of project construction (shopkeepers affected by laying of water pipes along the street) have also typically been covered under the policy. However, when Bank projects involve construction of roads which draw traffic and business to new thoroughfares, those losing business income along the old alignment due to loss of traffic are not covered by the policy, though it would be considered good practice to create some alternative economic opportunities for them.

Landless laborers who lose their livelihoods as a result of acquisition of the land they work on have typically been covered under the policy. The argument made is that they have a long standing, one to one employment relationship with their employers and will not be able to get alternative employment once the land they work on is acquired. However, waiters and cooks working in relocated restaurants have not been covered by the policy since they are assumed to have marketable skills that can help them get alternative employment.

People whose employment was lost because of a change in technology brought both by the main investment and the resettlement – porters or cart drivers where roads were upgraded, or water sellers in an urban slum in which public water distribution was extended – have not been covered by the policy



*Unauthorized mobile vendors, who do not own any fixed assets, and who could move to another location to conduct their business, have sometimes been covered, sometimes not, depending upon whether a clear case could be made for their having had a "goodwill" asset in a regular clientele. Even for others, good design has usually meant that they are provided with spots to continue their business at a suitable location.*

#### Application of policy to non-Bank-funded activities:

*Adjustment Loans:* As with the new EA OP, we are proposing that the resettlement policy apply to SECALs, but not to SALs, where economy-wide impacts are more difficult to define. This issue was not discussed by the technical committee.

#### **Application to Specific Types of Projects**

Perhaps the most intensely disputed questions in the policy have been over its application to specific types of projects. In all the projects below, it is clear to both social and sectoral specialists that the resettlement policy is a blunt instrument for treating what are often much more subtle changes than the loss of land, or assets, or access. The social changes involved are both positive and negative, and offer room for approaches other than resettlement. Currently they are decided on a case-law basis, and this can be differently interpreted, as is evident in the outcomes of many "parks versus people" debates. *Does the Steering Committee agree that the proposed handling of slum upgrading and parks and protected areas is appropriate?*

*Slum Upgrading and community development projects:* Technical staff have argued that in most slum upgrading and community development projects (a) the adverse impacts are of a minor scale, and no one is required to relocate out of the community; (b) the people adversely affected by land acquisition (if any) directly benefit from the project; (c) the community members (including affected households) participate in and agree to decisions relating to project design and implementation, and (d) participation in the project is voluntary, i.e. potentially affected people have the option of not participating in the project. They contend that the policy should not apply to those participating voluntarily in such projects; however, they agree that the policy would apply to slum upgrading and community development projects that do not meet one or more of the above conditions, and that the affected people who are resettled out of the community would be covered by the policy. *Do technical staff and the Steering Committee agree?*

*Parks and Protected Areas:* Questions have been raised about the application of the policy to conservation / natural resource management projects. There is consensus that the policy would fully apply to people who are required to relocate out of such areas as a result of the project. However, the extent of assistance (if any) that should be offered to those who stay when their economic activities are restricted, or to those who are not given the option to relocate, but who must submit to restrictions, is debated.

It is possible to distinguish between three broad categories of people who inhabit parks and protected areas: (a) indigenous or traditional people, who have resided in these areas for many generations; (b) more recent, non-indigenous / non-traditional residents engaged in agriculture and other acceptable pursuits, and (c) recent encroachers engaged in outright illegal activities. It is argued that the policy would apply to those in category (a) and (b) - though the form in which it would be applied to category (b) is debated - and that the policy would not apply to those in category (c).

For those in category (a), relocation out of the park may not be a culturally acceptable option. Therefore, they need to be compensated for any restrictions on their economic activities within the park to ensure that their incomes and standards of living are not adversely affected. Those in category (b) could either relocate out of the park or continue residing in the park with provision of certain benefits in lieu of restrictions on their activities. Resettlement specialists have argued that such restrictions on land use and the pursuit of other economic activities constitute an expropriation of income, and that losses should be mitigated and incomes restored. Some environment staff, on the other hand, contend that since some of these activities



carried out by those in category (b) are unsustainable, they should not be fully compensated, although they agree that some "safety net" measures are needed for the poor. Regarding those in category (c), there is agreement between both sides that there should be no compensation for their illegal activities, especially those pursued by quasi-corporate entities (such as illegal logging by companies or poaching by organized gangs) or for activities that do not constitute a part of traditional lifestyles of affected people (for example, poaching of endangered species by agricultural communities). In general, there is more sympathy for protecting the people with traditional use rights than more recent encroachers. *Should this distinction be reflected in the policy?*

### **Not Covered by the Policy**

In some cases listed below, the policy has not been applied although there has been a discussion about whether it should be. *Is the Steering Committee comfortable with the distinction between projects which are covered and those which are not?*

**Privatization:** Privatization of public enterprises or public residential areas may result in adverse impacts on people who are working or living in such places. People adversely affected by enterprise closures may need to move since they may have been living in a particular town only because of their jobs. Indeed, if housing has been provided by the enterprises, then privatization or downsizing may involve compulsory relocation. In one-industry communities, and in emerging economies in which nearly all social services were provided by the enterprise itself, relocation may be the only solution for the retrenched workers. Nonetheless, retrenchment or relocation from such enterprises has not been covered by the resettlement policy, because the main objective of the project has been policy or sector reform, and the enterprise has not been "taken" for the project. The issue merits further discussion, because it is not clear whether the policy should apply when specific enterprises are closed to achieve project objectives, or whether the policy objective of income restoration is feasible.

**Rezoning:** Rezoning projects present another complex set of issues. In these projects, the specific land being used for a particular purpose (say, industrial) is change in zoning (for example, from industrial to residential). Normally, people and enterprises are not relocated from one zone to another. However, zoning affects future land use and land values. We assume the policy does not apply in such cases. (Is this a good description of the zoning issue?)



# Resettlement

①

① \* Cairo

① \* LEG

① \*

1. tech. group →

- \* Moham attended 1/2 time:
- \* no changes to be made
- \* Moham refused to attend.
- \* Archer not.

2. Current Status

→ LEG → legal interpretation

3. Next Steps →

→ counterparts in legal

[Moham = unreasonable;  
Carlos = not well intentioned]

→ partnerships

↓  
[polarized]

"stomach-  
leaving"

(Archer) →



② Legal, for:

→ large teams + groups [consensus]

→ direct + indirect

→ substantive Q on policy

(i) hybrid - agonistic settlement →  
"backlash"

(i) framework + process + →  
mechanism

what doesn't not apply to.

③ seek exceptions. ④

who

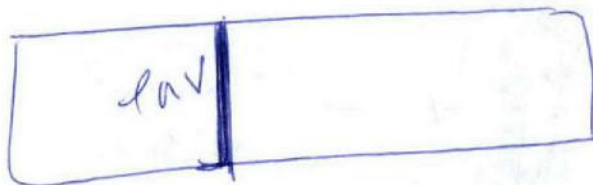
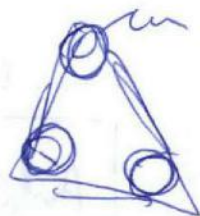
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## Involuntary Resettlement

### OP 4.12 (September)

1. Bank<sup>1</sup> experience indicates that, unless appropriate measures are carefully planned and carried out, involuntary resettlement under development projects<sup>2</sup> generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.<sup>3</sup>

FOR MOST OF TEXT ABOVE, SEE FN 1

FOOTNOTES ARE LOCATED ON  
PAGES 11 TO 15

### Revised OP 4.12 (11/10/98)

#### I. What is the Policy?

1. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.<sup>1</sup> For this reason, Bank<sup>2</sup> policy is to avoid or minimize involuntary resettlement in Bank assisted projects<sup>3</sup> and to mitigate its adverse impacts where resettlement is unavoidable. Resettlement programs are designed and executed as development programs, and displaced persons are provided opportunities to share in project benefits. Displaced persons are provided assistance to help them improve their former production levels, income earning capacity and living standards, or at least to restore them to levels that would have been achieved in the without-project case.

2. The Bank's policy on involuntary resettlement applies when: a) people are physically relocated as a result of land taking and they have no option to refuse; or b) land or other assets necessary for people's livelihoods are taken for project purposes; or c) physical access to natural resources is restricted by project activities, and this adversely affects income sources or livelihoods. The term "displaced persons" refers to people who are affected in any of these ways.

FOOTNOTES ARE LOCATED ON  
PAGES 11 TO 15



2. This policy applies to Bank-financed investment projects in which a change in land use or water use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. This policy provides for measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water use,<sup>4</sup> whether or not the people must move to another location.<sup>5</sup> This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.

3. Responsibility for resettlement rests with the borrower. In financing projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement.<sup>6</sup>

4. When involuntary resettlement is unavoidable under a Bank-financed project, resettlement measures are conceived and executed as development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits. The objective is to assist displaced persons in their efforts to improve their former production levels, income-earning capacity, and living standards or, at least, to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project.

## II. What Projects are Covered?

3. This policy applies to projects where land or properties are taken for project purposes (for example, in the construction of dams, roads, ports or other infrastructure); or where restrictions in access to natural resources adversely affects incomes and livelihoods (for example, in establishing parks). The policy applies whether or not the Bank is financing the part of the project causing involuntary resettlement;<sup>4</sup> and it covers resettlement resulting from activities (such as an access road to a power plant) that are not part of the Bank-financed project, but are necessary to achieving the project objectives.

4. The policy does not apply to: a) projects which entail the voluntary transfer or sale of land and property based on market transactions; b) projects such as land reform, titling, privatization or rezoning in which there is no taking of land for project purposes; or c) urban or rural investment projects with voluntary relocation where the affected people are the direct project beneficiaries and where they are fully involved in the decisions which have impacts upon them; the policy applies, however, to any persons involuntarily resettled as a result of such projects.<sup>5</sup>

SEE FN 3

SEE 2<sup>ND</sup> PART OF PARA. 1 ABOVE



5. To meet this objective, Bank-assisted projects include measures to ensure that

(a) Displaced people are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choice from among, and provided with technically and economically feasible resettlement alternatives;<sup>7</sup> (iii) provided prompt and effective compensation for losses attributable directly to the project<sup>8</sup> (with lost assets valued at full replacement cost);<sup>9,10,11,12</sup> (iv) whenever replacement land is offered, provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site; (v) at and after displacement assisted with any required relocation; and (vi) provided with development assistance and measures for support (such as subsistence allowances, training, job opportunities, land preparation, credit facilities) during a transition period until they have had a reasonable opportunity to reestablish their production levels, income-earning capacity, and living standards.<sup>13</sup> Particular attention is paid to the needs of vulnerable groups among those displaced, especially the poor, the elderly, women,<sup>14</sup> indigenous groups,<sup>15</sup> ethnic minorities, and pastoralists.

SEE FN 7

SEE 5.(iv) ABOVE

SEE FN 11

### III. What Measures are Required?

5. Where involuntary resettlement occurs, Bank-assisted projects include measures to ensure that displaced people are:

- (a) informed about their options and rights pertaining to resettlement;
- (b) consulted on technically and economically feasible resettlement alternatives and offered choices among them;
- (c) provided prompt and effective compensation for losses attributed directly to the project;<sup>6</sup>
- (d) compensated for lost assets at full replacement cost;<sup>7</sup>
- (e) provided assistance (such as moving allowances and subsistence support) during relocation;
- (f) offered support (such as short-term jobs, subsistence support or salary maintenance) during a transition period; and
- (g) provided with development assistance (such as land preparation, credit facilities, training, or job opportunities), in order to improve or reestablish their production levels, income earning capacities and living standards.<sup>8</sup>

In determining these measures, particular attention is paid to the needs of vulnerable groups among those displaced: especially the poor, the elderly, women and children, indigenous groups<sup>9</sup> and ethnic minorities.

6. Land-based resettlement options are normally provided for people displaced from agricultural settings. These options may include resettlement on public land or measures to identify land that resettlers can purchase. Whenever replacement land is offered, resettlers are provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. If sufficient land is not available and livelihoods are disrupted, options built around opportunities for employment or self-employment are required.

7. Bank experience has shown that cash compensation may be appropriate in some circumstances: where the land taken for the project is a small fraction of the total holdings of the affected people; or where livelihoods are not land-based, active markets for land and labor exist, and displaced people regularly use such markets. Cash compensation levels should be sufficient to replace the



(b) Land, housing, infrastructure, other forms of assistance under this policy, and compensation are provided to displaced people who may have usufruct or customary rights to land or other resources taken for the project. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

(c) Communities are provided timely and relevant information, are consulted on their resettlement, and are offered opportunities to participate in planning, implementing, and monitoring their resettlement. Appropriate and accessible grievance mechanisms are made available.

(d) To help resettlers integrate socially and economically into host communities and minimize adverse impacts on host communities, any host communities are informed about their options; they are consulted in planning, implementing, and monitoring those aspects of the resettlement that will affect them; and their views and preferences with respect to integrating resettlers into their communities are identified and taken into account.

(e) Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored.

(f) The implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation is paid; all other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

(g) The implementation of resettlement activities is adequately monitored and evaluated.

lost land and other assets at full replacement levels in local markets.<sup>10</sup>

SEE ELIGIBILITY SECTION, ESP. 13.(a)

8. Bank resettlement policy requires that the affected people participate in resettlement planning and implementation. The affected people and their communities, and any "host" communities receiving resettlers, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement.

9. In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve or maintain accessibility and levels of service. Alternative resources are provided to compensate for the loss of access to community resources (such as fishing areas, drinking water, fuel or fodder), or alternatives appropriate to the needs of the users are provided.

10. Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. Resettler preferences for relocating in preexisting communities and groups are honored to the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved.

11. Implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation and other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

SEE PARA. 21



**Eligibility for Benefits**

6. *Determination of Eligibility.* The borrower develops a procedure, satisfactory to the Bank, for establishing the criteria, consistent with paras. 7-8 below, by which affected people will be deemed eligible for compensation and other resettlement assistance to achieve the objectives of this policy. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs). As part of the procedure, the borrower carries out a census to identify the people who will be affected by the project (see Annex A, para. 5 (a)).

7. *Criteria for Eligibility.* Displaced persons in the following two groups are entitled to compensation for loss of land or water resources taken for project purposes:

(a) those who have formal legal rights to land or water resources (including customary and traditional rights recognized under the laws of the country); and

(b) those who do not have formal legal rights to land or water resources at the time the census begins but have a claim to such legal rights—e.g., rights derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage—provided that such claims become recognized under the laws of the country through a process identified in the resettlement plan (see Annex A, para. 6 (e)).

Displaced persons in these two groups are also entitled to compensation for loss of other assets, in particular, structures and crops. The absence of legal title to land or water resources is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

8. A third group of displaced persons—those who are occupying land in violation of the laws of the country and who do not fall within the category described in para. 7 (b)—is not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year

**IV. Who is Eligible for Benefits?**

12. The Bank recognizes a distinction between compensation which is paid for the loss of land and other assets, and which is based on rights recognized in national law, and other resettlement assistance, which is intended to meet the requirements of this policy.

SEE PARA. 15

13. Displaced persons are eligible for compensation for the loss of land taken for project purposes, and for the loss of other structures and crops, when:

(a) they have formal legal rights, including customary and traditional rights recognized under the laws of the country; and/or

(b) they do not have formal legal rights, but have a claim to such rights<sup>11</sup> provided that such claims become recognized through due process and are reflected in the resettlement plan.

SEE FN 11

People or households in both categories are also entitled to compensation for loss of other assets, and to other resettlement assistance.

DROPPED

14. Normally, under national law, compensation for land is not payable to displaced persons occupying land to which they have no formal or traditional legal rights. However, resettlement assistance, necessary to achieve the objectives set out in this policy, is provided to people if they were on that land when it was formally



prior to the commencement of the census,<sup>16</sup> they are entitled to resettlement assistance in lieu of compensation for land, as necessary to achieve the objectives set out in para. 4. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular, structures and crops.

SEE PARA. 6

demarcated (and provided this demarcation was made publicly known); or when the census was carried out. They are also entitled to compensation or other assistance for the loss of assets other than land, including structures and crops. People who arrive after the census is completed are not entitled to compensation or any other form of resettlement assistance. Measures may be necessary to protect areas demarcated for project purposes from encroachment and claims, as soon as the area is identified.

**15.** Determining eligibility for compensation and different forms of resettlement assistance can be complex. For this reason, the borrower develops a procedure, satisfactory to the Bank, for determining who is eligible for compensation and resettlement assistance. As part of the procedure, the borrower carries out a census as early as possible to identify the people who will be affected by the project (see Annex A, para. 5 (a)). The procedure includes provisions for consultations with potentially affected persons and communities, local authorities, and nongovernmental organizations, where appropriate. It also specifies grievance procedures. Special consideration is given to impacts on poor and vulnerable groups.



## Resettlement Plan

9. The borrower is responsible for preparing a resettlement plan that conforms to this policy.<sup>17</sup> The plan covers all aspects of the proposed resettlement and presents a strategy for achieving the objectives of this policy as set out in para. 4. Resettlement planning is coordinated with any environmental assessment (EA).<sup>18</sup> In preparing the resettlement plan, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. When independent technical advisory panels are established under para. 4 of OP 4.01, *Environmental Assessment*, for projects that involve resettlement, the panels include members with resettlement expertise acceptable to the Bank.

10. The borrower incorporates the resettlement plan into the Project Implementation Plan.

SEE PARA. 12 BELOW

11. The borrower makes a draft resettlement plan that meets the requirements of this policy available at a place accessible to project-affected people and communities and local NGOs. When necessary for ensuring effective disclosure, the borrower also makes the draft plan available in a form and language that are understandable and accessible to these groups. For projects that are in environmental assessment Category A, and for Category B projects that are proposed for IDA financing, this disclosure takes place before the Bank appraises the project.

12. The Bank requires, as a condition of appraisal, that the borrower provide to the Bank a draft resettlement plan that conforms to this policy.<sup>19</sup> Once the Bank accepts the borrower's plan as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again makes it available at a place accessible to, and in a form and language understandable to, project-affected people and communities and local NGOs; and the Bank makes it available at the InfoShop.

## What is in the Resettlement Plan?

16. The Borrower is responsible for preparing and implementing a resettlement plan which conforms to this policy. The scope and level of detail of the resettlement plan varies with the magnitude and complexity of resettlement. For this reason, projects benefit from early screening, scoping of key issues, and decisions about the nature of the impacts and the information required in the plan. In determining the issues to be covered and preparing the resettlement plan, both the Bank and the borrower draw on appropriate social, technical, and legal expertise and on community-based organizations and NGOs, as appropriate.<sup>12</sup> Annex A sets out the contents of a resettlement plan. Where impacts are minor (or in the case of projects with phased resettlement, are expected to be minor), an abbreviated plan or framework may be agreed with the borrower after consultation with appropriate Bank technical specialists.

SEE BEGINNING OF PARA. 18

17. The borrower provides the Bank with a draft resettlement plan that conforms to this policy as a condition of appraisal.<sup>13</sup> Prior to appraisal, the borrower makes a draft resettlement plan available at a place accessible to project-affected people and local NGOs, and in a form and language that are understandable to these groups.

OMIT—NOT ACCURATE!

Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again discloses it in the same manner.

SEE PARA. 17



**Legal Agreements**

13. Key elements of the resettlement plan,<sup>20</sup> and the borrower's obligations to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements for the project.

**Projects with Multiple Subprojects***Sector Investment and Financial Intermediary Loans*

14. For sector investment loans that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans, before appraisal the borrower submits a resettlement policy framework, consistent with this policy, that covers the following areas: principles, objectives, eligibility criteria, entitlements (compensation and resettlement assistance), implementation arrangements (including arrangements for community participation and grievance mechanisms), organizational responsibilities, methods of valuating assets, and monitoring and evaluation. The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

15. Similarly, for financial intermediary loans,<sup>21</sup> the Bank requires that the financial intermediary screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans also, the Bank requires that before appraisal the borrower submit to the Bank a resettlement policy framework containing the elements listed in para. 14. In addition, the framework includes an assessment of the institutional capacity and procedures of each of the onlending institutions that will be responsible for subproject financing.<sup>22</sup>

16. Under either sector investment or financial intermediary loans, for each subproject that may involve resettlement, the Bank requires that a satisfactory resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before subproject appraisal, whether such subprojects are included in the project before or after the Bank appraises the project.

*Other Projects with Multiple Subprojects*

[SHOULD THIS BE IN THE OP OR BP?]

18. The borrower incorporates the resettlement plan into the Project Implementation Plan. Key elements of the resettlement plan (or, where applicable, the resettlement policy framework), and the borrower's agreement to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements of the project.

19. Due to the nature or design of some Bank-assisted operations (e.g., sector investment loans, financial intermediary loans, or other investment projects with multiple subprojects), a full resettlement plan cannot be prepared prior to appraisal, because a) subprojects are not yet identified, b) the zone of impact for subprojects has not been determined, or c) the precise siting of alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework before appraisal, containing the elements set out in Annex A. Subsequent resettlement plans for subprojects are submitted to the Bank for approval before the subproject is accepted for Bank financing.  
[TIMING?]

← SEND TO ANNEX A

← SEND TO ANNEX A



17. For a Bank-financed project with multiple subprojects that is not a sector investment or financial intermediary loan, the Bank requires that a satisfactory draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project, (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined. For these cases, before appraisal the borrower submits a resettlement policy framework containing the elements set out in para. 14. Resettlement plans for all subprojects involving resettlement, whether the subproject is prepared before or after the Bank appraises the project, are subject to approval by the Bank, except as provided in para. 18.

*Delegation of Approval Authority*

18. For all projects with subprojects as defined in paras. 14-17, if in the opinion of the Bank the project implementing agency or a responsible government agency or financial intermediary has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy, the Bank may agree, in writing, that subproject resettlement plans may be approved by that agency without being subjected to prior review by the Bank. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found to be not in compliance with Bank policy, are reflected in the project legal documents. Any such delegation made during project implementation is approved by the Regional vice president in consultation with the Head, Social Development Board, and the Legal Department, and the legal agreements amended accordingly. In all such cases, implementation of the resettlement plans remains subject to supervision by the Bank.

FROM PARA 5.(g) & PARA. 9 OF THE SEPTEMBER BP 4.12

← SEND TO ANNEX A

20. The Bank may agree that subproject resettlement plans can be approved by the project implementing agency or a responsible government agency or financial intermediary without Bank review if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for plans subsequently found not to be in compliance with Bank policy, are reflected in the project legal documents. In all such cases, implementation of the resettlement plans is subject to Bank supervision.

← SEND TO BP

21. The implementation of resettlement activities is adequately monitored and evaluated. Before project completion, an assessment will be made whether the main objectives of the resettlement program have been realized. This assessment is based on baseline conditions, resettlement objectives, and project performance indicators determined at the start of the project. Follow up measures, if necessary, will be discussed with the Bank and would serve the basis for continued Bank supervision, as appropriate.



**Assistance on Resettlement Issues**

19. The Bank may support borrowers and other concerned entities by providing (a) assistance in assessing and strengthening resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level; (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement; (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and (d) financing of the investment costs of resettlement, either as (i) a component of the main investment project causing displacement and requiring resettlement, or (ii) a free-standing resettlement project with appropriate cross-conditionality, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition); however, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks (see OP 14.40, *Trust Funds*).

**VI. How can the Bank Assist the Borrower?**

22. The Bank may support borrowers and other concerned entities by providing:

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing for technical assistance to strengthen the capacities of agencies responsible for resettlement;
- (c) financing technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and
- (d) financing the investment costs of resettlement.

23. The Bank may finance, either a component of the main investment project causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionality, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

24. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to prepare resettlement policies, resettlement plans, or policy frameworks.



OP 4.12: FOOTNOTES

LANGUAGE FROM 2<sup>ND</sup> PART OF PARA. 1

FN 1: “Bank” includes IDA, “loans” includes credits and guarantees, and “projects” includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

SEE FN 6 BELOW

FN 2: Such projects may involve, for example, construction, establishment, reestablishment, upgrading, or extension of dams; mines; new towns or ports; housing and urban infrastructure; large industrial plants; railways or highways; irrigation canals; or forests, national parks, or protected areas.

FN 3: See also OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects*.

FN 4: Although the Bank does not finance closure of enterprises, it may be involved in addressing the consequences of a mine or plant closure that results in physically dislocating a large segment of a community or depriving them of the means of livelihood. In such cases,

Revised OP 4.12: FOOTNOTES

FN 1: Bank experience indicates that involuntary resettlement under development projects, if unmitigated, generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

NEW FN 2: “Bank” includes IDA, “loans” includes credits and guarantees, and “projects” includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

FN 3: In appraising projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement (for example, realignment of roads or reduction in dam height may reduce resettlement needs). It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 4: In such cases, this should be reflected in Schedule II of the Project Loan Agreement.

SEE PARA. 3

DROPPED

FN 5: The policy does not cover indirect economic impacts (such as the loss of roadside business to a new highway) or intangible impacts (such as the loss of view or other aesthetic values). It does not cover the closing of mines or other enterprises during restructuring,



it is good practice for the borrower to consider a resettlement plan along the lines set out in this policy.

FN 5: Refugees from natural disasters, war, or civil strife, who are involuntary resettlers, are not covered by this policy (but see OP/BP 8.50, *Emergency Recovery Assistance*).

FN 6: For example, realignment of roads or reduction in dam height may reduce resettlement needs. It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 7: For people displaced from agricultural settings, Bank experience shows that the objectives of this policy normally cannot be achieved without land-based resettlement strategies. Therefore, for those losing land, the Bank encourages borrowers to offer replacement land and, if sufficient land is not available, non-land-based options built around opportunities for employment or self-employment.

FN 8: Losses arising from sentimental attachment or aesthetic preference and losses not caused by the change in land use or water use under the project are beyond the scope of this policy.

SEE FN 12 BELOW

FN 9: With regard to land and structures, "replacement cost" is defined as follows: For agricultural land, it is the preproject market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of land preparation to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; for land in urban areas, it is the preproject market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; for houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any

although it is good practice to minimize and mitigate adverse social impacts, particularly upon poor people. Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy (see OP/BP 8.50, *Emergency Recovery Assistance*).

SEE FN 3 ABOVE

SEE PARA. 6

SEE 1<sup>ST</sup> PART OF FN 5

FN 6: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 7: In principle, "replacement cost" refers to the level of compensation sufficient to replace lost assets and cover transaction costs. Compensation for structures or assets should not be depreciated. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers; or fishing grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. In the absence of functional markets for affected land or assets, technical guidance and local research may be necessary to establish appropriate valuation procedures.

← SEND REST OF DEFINITION TO GLOSSARY OR SOURCEBOOK



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. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses in para. 5.

FN 10: For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to (a) public services, (b) customers and suppliers, or (c) fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

FN 11: Experience indicates that offering only cash compensation for lost assets rather than a choice among viable options is normally inadequate. However, cash compensation may be appropriate when the residual landholding of the affected person remains economically viable. In addition, when linear projects require acquisition of narrow (e.g., less than two meters wide) strips of land to widen roads or to provide walkways, canal improvements, or sanitation and water lines, and such acquisition has no appreciable effect on incomes or living standards, and it is inefficient to determine the precise replacement cost for each affected parcel (in part because it is likely to be impossible to replace such small strips of land), it may be appropriate to use a flat rate of cash compensation based on, or exceeding, prevailing land values in local land markets. As a safeguard, the land acquisition assessment should show that such acquisitions affect only outside edges or corners of affected parcels and affect less than 10 percent of any parcel. Landholders must also be compensated at full replacement cost for lost structures and crops on such parcels.

FN 12: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 13: The resettlement plan (see paras. 9-12) establishes a target date—the date on which the requirements of para. 5 (a)(vi) should reasonably have been met—for terminating such transitional assistance.

SEE MIDDLE OF FN 7

SEE PARA. 7

SEE FN 6 ABOVE

DROPPED



FN 14: See OP 4.20, *The Gender Dimensions of Development*.

FN 15: See OD 4.20, *Indigenous Peoples*.

FROM MIDDLE OF PARA. 7(b)

FN 16: Lack of documented occupancy is not in itself evidence of nonoccupancy.

SEE PARA. 9

FN 17: Annex A sets out the contents of a resettlement plan. Bank staff do not prepare the resettlement plan, nor do they engage consultants under a trust fund to prepare the plan (see OP 4.40, *Trust Funds*).

FN 18: Projects involving involuntary resettlement are normally classified as Category A projects for purposes of EA. OP/BP 4.01, *Environmental Assessment*, discusses the screening process and sets out the Bank's policies and procedures related to EA.

FN 19: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director (MD) concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the MD's approval stipulates a timetable and budget for

DROPPED

FN 8: Guidance is provided in Annex A to this OP and in the Resettlement Sourcebook.

FN 9: See OD 4.20, *Indigenous Peoples*.

FN 10: In such situations, it is often better to use blocked accounts, voucher systems, or other mechanisms to ensure that cash is used for mitigating the losses incurred under the project.

FN 11: For example, rights derived from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from traditional law and usage.

DROPPED

FN 12: For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally also engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of sittings of the panel depend on the nature of the resettlement. If independent technical advisory panels are established under OP 4.01 (*Environmental Assessment*), the resettlement panel may form part of the environmental panel of experts.

SEE PARAS. AND 16 & 24

DROPPED

FN 13: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the managing director's approval stipulates a timetable and



developing the resettlement plan.

FN 20: Key elements include the following, as necessary:  
(a) a definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project.

FN 21: See OP/BP 8.30, *Financial Intermediary Lending*.

FN 22: Once the Bank has approved the project, before a new onlending institution joins the project, the borrower provides this assessment of it to the Bank.

budget for developing the resettlement plan.

← SEND TO BP

← SEND TO ANNEX A?

← SEND TO ANNEX A?



## Involuntary Resettlement

### OP 4.12 (September)

1. Bank<sup>1</sup> experience indicates that, unless appropriate measures are carefully planned and carried out, involuntary resettlement under development projects<sup>2</sup> generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.<sup>3</sup>

FOR MOST OF TEXT ABOVE, SEE FN 1

### Revised OP 4.12 (11/10/98)

#### I. What is the Policy?

1. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.<sup>1</sup> For this reason, Bank<sup>2</sup> policy is to avoid or minimize involuntary resettlement in Bank assisted projects<sup>3</sup> and to mitigate its adverse impacts where resettlement is unavoidable. Resettlement programs are designed and executed as development programs, and displaced persons are provided opportunities to share in project benefits. Displaced persons are provided assistance to help them improve their former production levels, income earning capacity and living standards, or at least to restore them to levels that would have been achieved in the without-project case.

2. The Bank's policy on involuntary resettlement applies when: a) people are physically relocated as a result of land taking and they have no option to refuse; or b) land or other assets necessary for people's livelihoods are taken for project purposes; or c) physical access to natural resources is restricted by project activities, and this adversely affects income sources or livelihoods. The term "displaced persons" refers to people who are affected in any of these ways.



2. This policy applies to Bank-financed investment projects in which a change in land use or water use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. This policy provides for measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water use,<sup>4</sup> whether or not the people must move to another location.<sup>5</sup> This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.

3. Responsibility for resettlement rests with the borrower. In financing projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement.<sup>6</sup>

4. When involuntary resettlement is unavoidable under a Bank-financed project, resettlement measures are conceived and executed as development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits. The objective is to assist displaced persons in their efforts to improve their former production levels, income-earning capacity, and living standards or, at least, to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project.

## II. What Projects are Covered?

3. This policy applies to projects where land or properties are taken for project purposes (for example, in the construction of dams, roads, ports or other infrastructure); or where restrictions in access to natural resources adversely affects incomes and livelihoods (for example, in establishing parks). The policy applies whether or not the Bank is financing the part of the project causing involuntary resettlement;<sup>4</sup> and it covers resettlement resulting from activities (such as an access road to a power plant) that are not part of the Bank-financed project, but are necessary to achieving the project objectives.

4. The policy does not apply to: a) projects which entail the voluntary transfer or sale of land and property based on market transactions; b) projects such as land reform, titling, privatization or rezoning in which there is no taking of land for project purposes; or c) urban or rural investment projects with voluntary relocation where the affected people are the direct project beneficiaries and where they are fully involved in the decisions which have impacts upon them; the policy applies, however, to any persons involuntarily resettled as a result of such projects.<sup>5</sup>

SEE FN 3

SEE 2<sup>ND</sup> PART OF PARA. 1 ABOVE



5. To meet this objective, Bank-assisted projects include measures to ensure that

(a) Displaced people are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choice from among, and provided with technically and economically feasible resettlement alternatives;<sup>7</sup> (iii) provided prompt and effective compensation for losses attributable directly to the project<sup>8</sup> (with lost assets valued at full replacement cost);<sup>9,10,11,12</sup> (iv) whenever replacement land is offered, provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site; (v) at and after displacement assisted with any required relocation; and (vi) provided with development assistance and measures for support (such as subsistence allowances, training, job opportunities, land preparation, credit facilities) during a transition period until they have had a reasonable opportunity to reestablish their production levels, income-earning capacity, and living standards.<sup>13</sup> Particular attention is paid to the needs of vulnerable groups among those displaced, especially the poor, the elderly, women,<sup>14</sup> indigenous groups,<sup>15</sup> ethnic minorities, and pastoralists.

SEE FN 7

SEE 5.(iv) ABOVE

SEE FN 11

### III. What Measures are Required?

5. Where involuntary resettlement occurs, Bank-assisted projects include measures to ensure that displaced people are:

- (a) informed about their options and rights pertaining to resettlement;
- (b) consulted on technically and economically feasible resettlement alternatives and offered choices among them;
- (c) provided prompt and effective compensation for losses attributed directly to the project;<sup>6</sup>
- (d) compensated for lost assets at full replacement cost;<sup>7</sup>
- (e) provided assistance (such as moving allowances and subsistence support) during relocation;
- (f) offered support (such as short-term jobs, subsistence support or salary maintenance) during a transition period; and
- (g) provided with development assistance (such as land preparation, credit facilities, training, or job opportunities), in order to improve or reestablish their production levels, income earning capacities and living standards.<sup>8</sup>

In determining these measures, particular attention is paid to the needs of vulnerable groups among those displaced: especially the poor, the elderly, women and children, indigenous groups<sup>9</sup> and ethnic minorities.

6. Land-based resettlement options are normally provided for people displaced from agricultural settings. These options may include resettlement on public land or measures to identify land that resettlers can purchase. Whenever replacement land is offered, resettlers are provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. If sufficient land is not available and livelihoods are disrupted, options built around opportunities for employment or self-employment are required.

7. Bank experience has shown that cash compensation may be appropriate in some circumstances: where the land taken for the project is a small fraction of the total holdings of the affected people; or where livelihoods are not land-based, active markets for land and labor exist, and displaced people regularly use such markets. Cash compensation levels should be sufficient to replace the



(b) Land, housing, infrastructure, other forms of assistance under this policy, and compensation are provided to displaced people who may have usufruct or customary rights to land or other resources taken for the project. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

(c) Communities are provided timely and relevant information, are consulted on their resettlement, and are offered opportunities to participate in planning, implementing, and monitoring their resettlement. Appropriate and accessible grievance mechanisms are made available.

(d) To help resettlers integrate socially and economically into host communities and minimize adverse impacts on host communities, any host communities are informed about their options; they are consulted in planning, implementing, and monitoring those aspects of the resettlement that will affect them; and their views and preferences with respect to integrating resettlers into their communities are identified and taken into account.

(e) Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored.

(f) The implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation is paid; all other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

(g) The implementation of resettlement activities is adequately monitored and evaluated.

lost land and other assets at full replacement levels in local markets.<sup>10</sup>

SEE ELIGIBILITY SECTION, ESP. 13.(a)

8. Bank resettlement policy requires that the affected people participate in resettlement planning and implementation. The affected people and their communities, and any "host" communities receiving resettlers, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement.

9. In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve or maintain accessibility and levels of service. Alternative resources are provided to compensate for the loss of access to community resources (such as fishing areas, drinking water, fuel or fodder), or alternatives appropriate to the needs of the users are provided.

10. Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. Resettler preferences for relocating in preexisting communities and groups are honored to the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved.

11. Implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation and other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

SEE PARA. 21



**Eligibility for Benefits**

6. *Determination of Eligibility.* The borrower develops a procedure, satisfactory to the Bank, for establishing the criteria, consistent with paras. 7-8 below, by which affected people will be deemed eligible for compensation and other resettlement assistance to achieve the objectives of this policy. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs). As part of the procedure, the borrower carries out a census to identify the people who will be affected by the project (see Annex A, para. 5 (a)).

7. *Criteria for Eligibility.* Displaced persons in the following two groups are entitled to compensation for loss of land or water resources taken for project purposes:

(a) those who have formal legal rights to land or water resources (including customary and traditional rights recognized under the laws of the country); and

(b) those who do not have formal legal rights to land or water resources at the time the census begins but have a claim to such legal rights—e.g., rights derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage—provided that such claims become recognized under the laws of the country through a process identified in the resettlement plan (see Annex A, para. 6 (e)).

Displaced persons in these two groups are also entitled to compensation for loss of other assets, in particular, structures and crops. The absence of legal title to land or water resources is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

8. A third group of displaced persons—those who are occupying land in violation of the laws of the country and who do not fall within the category described in para. 7 (b)—is not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year

**IV. Who is Eligible for Benefits?**

12. The Bank recognizes a distinction between compensation which is paid for the loss of land and other assets, and which is based on rights recognized in national law, and other resettlement assistance, which is intended to meet the requirements of this policy.

SEE PARA. 15

13. Displaced persons are eligible for compensation for the loss of land taken for project purposes, and for the loss of other structures and crops, when:

(a) they have formal legal rights, including customary and traditional rights recognized under the laws of the country; and/or

(b) they do not have formal legal rights, but have a claim to such rights<sup>11</sup> provided that such claims become recognized through due process and are reflected in the resettlement plan.

SEE FN 11

People or households in both categories are also entitled to compensation for loss of other assets, and to other resettlement assistance.

DROPPED

14. Normally, under national law, compensation for land is not payable to displaced persons occupying land to which they have no formal or traditional legal rights. However, resettlement assistance, necessary to achieve the objectives set out in this policy, is provided to people if they were on that land when it was formally



prior to the commencement of the census,<sup>16</sup> they are entitled to resettlement assistance in lieu of compensation for land, as necessary to achieve the objectives set out in para. 4. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular, structures and crops.

SEE PARA. 6

demarcated (and provided this demarcation was made publicly known); or when the census was carried out. They are also entitled to compensation or other assistance for the loss of assets other than land, including structures and crops. People who arrive after the census is completed are not entitled to compensation or any other form of resettlement assistance. Measures may be necessary to protect areas demarcated for project purposes from encroachment and claims, as soon as the area is identified.

**15.** Determining eligibility for compensation and different forms of resettlement assistance can be complex. For this reason, the borrower develops a procedure, satisfactory to the Bank, for determining who is eligible for compensation and resettlement assistance. As part of the procedure, the borrower carries out a census as early as possible to identify the people who will be affected by the project (see Annex A, para. 5 (a)). The procedure includes provisions for consultations with potentially affected persons and communities, local authorities, and nongovernmental organizations, where appropriate. It also specifies grievance procedures. Special consideration is given to impacts on poor and vulnerable groups.



**Resettlement Plan**

9. The borrower is responsible for preparing a resettlement plan that conforms to this policy.<sup>17</sup> The plan covers all aspects of the proposed resettlement and presents a strategy for achieving the objectives of this policy as set out in para. 4. Resettlement planning is coordinated with any environmental assessment (EA).<sup>18</sup> In preparing the resettlement plan, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. When independent technical advisory panels are established under para. 4 of OP 4.01, *Environmental Assessment*, for projects that involve resettlement, the panels include members with resettlement expertise acceptable to the Bank.

10. The borrower incorporates the resettlement plan into the Project Implementation Plan.

SEE PARA. 12 BELOW

11. The borrower makes a draft resettlement plan that meets the requirements of this policy available at a place accessible to project-affected people and communities and local NGOs. When necessary for ensuring effective disclosure, the borrower also makes the draft plan available in a form and language that are understandable and accessible to these groups. For projects that are in environmental assessment Category A, and for Category B projects that are proposed for IDA financing, this disclosure takes place before the Bank appraises the project.

12. The Bank requires, as a condition of appraisal, that the borrower provide to the Bank a draft resettlement plan that conforms to this policy.<sup>19</sup> Once the Bank accepts the borrower's plan as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again makes it available at a place accessible to, and in a form and language understandable to, project-affected people and communities and local NGOs; and the Bank makes it available at the InfoShop.

**What is in the Resettlement Plan?**

16. The Borrower is responsible for preparing and implementing a resettlement plan which conforms to this policy. The scope and level of detail of the resettlement plan varies with the magnitude and complexity of resettlement. For this reason, projects benefit from early screening, scoping of key issues, and decisions about the nature of the impacts and the information required in the plan. In determining the issues to be covered and preparing the resettlement plan, both the Bank and the borrower draw on appropriate social, technical, and legal expertise and on community-based organizations and NGOs, as appropriate.<sup>12</sup> Annex A sets out the contents of a resettlement plan. Where impacts are minor (or in the case of projects with phased resettlement, are expected to be minor), an abbreviated plan or framework may be agreed with the borrower after consultation with appropriate Bank technical specialists.

SEE BEGINNING OF PARA. 18

17. The borrower provides the Bank with a draft resettlement plan that conforms to this policy as a condition of appraisal.<sup>13</sup> Prior to appraisal, the borrower makes a draft resettlement plan available at a place accessible to project-affected people and local NGOs, and in a form and language that are understandable to these groups.

OMIT—NOT ACCURATE!

Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again discloses it in the same manner.

SEE PARA. 17



**Legal Agreements**

13. Key elements of the resettlement plan,<sup>20</sup> and the borrower's obligations to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements for the project.

**Projects with Multiple Subprojects***Sector Investment and Financial Intermediary Loans*

14. For sector investment loans that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans, before appraisal the borrower submits a resettlement policy framework, consistent with this policy, that covers the following areas: principles, objectives, eligibility criteria, entitlements (compensation and resettlement assistance), implementation arrangements (including arrangements for community participation and grievance mechanisms), organizational responsibilities, methods of valuating assets, and monitoring and evaluation. The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

15. Similarly, for financial intermediary loans,<sup>21</sup> the Bank requires that the financial intermediary screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans also, the Bank requires that before appraisal the borrower submit to the Bank a resettlement policy framework containing the elements listed in para. 14. In addition, the framework includes an assessment of the institutional capacity and procedures of each of the onlending institutions that will be responsible for subproject financing.<sup>22</sup>

16. Under either sector investment or financial intermediary loans, for each subproject that may involve resettlement, the Bank requires that a satisfactory resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before subproject appraisal, whether such subprojects are included in the project before or after the Bank appraises the project.

*Other Projects with Multiple Subprojects*

[SHOULD THIS BE IN THE OP OR BP?]

18. The borrower incorporates the resettlement plan into the Project Implementation Plan. Key elements of the resettlement plan (or, where applicable, the resettlement policy framework), and the borrower's agreement to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements of the project.

19. Due to the nature or design of some Bank-assisted operations (e.g., sector investment loans, financial intermediary loans, or other investment projects with multiple subprojects), a full resettlement plan cannot be prepared prior to appraisal, because a) subprojects are not yet identified, b) the zone of impact for subprojects has not been determined, or c) the precise siting of alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework before appraisal, containing the elements set out in Annex A. Subsequent resettlement plans for subprojects are submitted to the Bank for approval before the subproject is accepted for Bank financing.  
[TIMING?]

← SEND TO ANNEX A

← SEND TO ANNEX A



17. For a Bank-financed project with multiple subprojects that is not a sector investment or financial intermediary loan, the Bank requires that a satisfactory draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project, (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined. For these cases, before appraisal the borrower submits a resettlement policy framework containing the elements set out in para. 14. Resettlement plans for all subprojects involving resettlement, whether the subproject is prepared before or after the Bank appraises the project, are subject to approval by the Bank, except as provided in para. 18.

*Delegation of Approval Authority*

18. For all projects with subprojects as defined in paras. 14-17, if in the opinion of the Bank the project implementing agency or a responsible government agency or financial intermediary has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy, the Bank may agree, in writing, that subproject resettlement plans may be approved by that agency without being subjected to prior review by the Bank. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found to be not in compliance with Bank policy, are reflected in the project legal documents. Any such delegation made during project implementation is approved by the Regional vice president in consultation with the Head, Social Development Board, and the Legal Department, and the legal agreements amended accordingly. In all such cases, implementation of the resettlement plans remains subject to supervision by the Bank.

FROM PARA 5.(g) & PARA. 9 OF THE SEPTEMBER BP 4.12

← SEND TO ANNEX A

20. The Bank may agree that subproject resettlement plans can be approved by the project implementing agency or a responsible government agency or financial intermediary without Bank review if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for plans subsequently found not to be in compliance with Bank policy, are reflected in the project legal documents. In all such cases, implementation of the resettlement plans is subject to Bank supervision.

← SEND TO BP

21. The implementation of resettlement activities is adequately monitored and evaluated. Before project completion, an assessment will be made whether the main objectives of the resettlement program have been realized. This assessment is based on baseline conditions, resettlement objectives, and project performance indicators determined at the start of the project. Follow up measures, if necessary, will be discussed with the Bank and would serve the basis for continued Bank supervision, as appropriate.



**Assistance on Resettlement Issues**

19. The Bank may support borrowers and other concerned entities by providing (a) assistance in assessing and strengthening resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level; (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement; (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and (d) financing of the investment costs of resettlement, either as (i) a component of the main investment project causing displacement and requiring resettlement, or (ii) a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition); however, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks (see OP 14.40, *Trust Funds*).

**VI. How can the Bank Assist the Borrower?**

22. The Bank may support borrowers and other concerned entities by providing:

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing for technical assistance to strengthen the capacities of agencies responsible for resettlement;
- (c) financing technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and
- (d) financing the investment costs of resettlement.

23. The Bank may finance, either a component of the main investment project causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

24. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to prepare resettlement policies, resettlement plans, or policy frameworks.



OP 4.12: FOOTNOTES

LANGUAGE FROM 2<sup>ND</sup> PART OF PARA. 1

FN 1: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

SEE FN 6 BELOW

FN 2: Such projects may involve, for example, construction, establishment, reestablishment, upgrading, or extension of dams; mines; new towns or ports; housing and urban infrastructure; large industrial plants; railways or highways; irrigation canals; or forests, national parks, or protected areas.

FN 3: See also OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects*.

FN 4: Although the Bank does not finance closure of enterprises, it may be involved in addressing the consequences of a mine or plant closure that results in physically dislocating a large segment of a community or depriving them of the means of livelihood. In such cases,

Revised OP 4.12: FOOTNOTES

FN 1: Bank experience indicates that involuntary resettlement under development projects, if unmitigated, generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

NEW FN 2: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

FN 3: In appraising projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement (for example, realignment of roads or reduction in dam height may reduce resettlement needs). It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 4: In such cases, this should be reflected in Schedule II of the Project Loan Agreement.

SEE PARA. 3

DROPPED

FN 5: The policy does not cover indirect economic impacts (such as the loss of roadside business to a new highway) or intangible impacts (such as the loss of view or other aesthetic values). It does not cover the closing of mines or other enterprises during restructuring,



it is good practice for the borrower to consider a resettlement plan along the lines set out in this policy.

FN 5: Refugees from natural disasters, war, or civil strife, who are involuntary resettlers, are not covered by this policy (but see OP/BP 8.50, *Emergency Recovery Assistance*).

FN 6: For example, realignment of roads or reduction in dam height may reduce resettlement needs. It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 7: For people displaced from agricultural settings, Bank experience shows that the objectives of this policy normally cannot be achieved without land-based resettlement strategies. Therefore, for those losing land, the Bank encourages borrowers to offer replacement land and, if sufficient land is not available, non-land-based options built around opportunities for employment or self-employment.

FN 8: Losses arising from sentimental attachment or aesthetic preference and losses not caused by the change in land use or water use under the project are beyond the scope of this policy.

SEE FN 12 BELOW

FN 9: With regard to land and structures, "replacement cost" is defined as follows: For agricultural land, it is the preproject market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of land preparation to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; for land in urban areas, it is the preproject market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; for houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any

although it is good practice to minimize and mitigate adverse social impacts, particularly upon poor people. Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy (see OP/BP 8.50, *Emergency Recovery Assistance*).

SEE FN 3 ABOVE

SEE PARA. 6

SEE 1<sup>ST</sup> PART OF FN 5

FN 6: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 7: In principle, "replacement cost" refers to the level of compensation sufficient to replace lost assets and cover transaction costs. Compensation for structures or assets should not be depreciated. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers; or fishing grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. In the absence of functional markets for affected land or assets, technical guidance and local research may be necessary to establish appropriate valuation procedures.

← SEND REST OF DEFINITION TO GLOSSARY OR SOURCEBOOK



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. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses in para. 5.

FN 10: For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to (a) public services, (b) customers and suppliers, or (c) fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

FN 11: Experience indicates that offering only cash compensation for lost assets rather than a choice among viable options is normally inadequate. However, cash compensation may be appropriate when the residual landholding of the affected person remains economically viable. In addition, when linear projects require acquisition of narrow (e.g., less than two meters wide) strips of land to widen roads or to provide walkways, canal improvements, or sanitation and water lines, and such acquisition has no appreciable effect on incomes or living standards, and it is inefficient to determine the precise replacement cost for each affected parcel (in part because it is likely to be impossible to replace such small strips of land), it may be appropriate to use a flat rate of cash compensation based on, or exceeding, prevailing land values in local land markets. As a safeguard, the land acquisition assessment should show that such acquisitions affect only outside edges or corners of affected parcels and affect less than 10 percent of any parcel. Landholders must also be compensated at full replacement cost for lost structures and crops on such parcels.

FN 12: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 13: The resettlement plan (see paras. 9-12) establishes a target date—the date on which the requirements of para. 5 (a)(vi) should reasonably have been met—for terminating such transitional assistance.

SEE MIDDLE OF FN 7

SEE PARA. 7

SEE FN 6 ABOVE

DROPPED



FN 14: See OP 4.20, *The Gender Dimensions of Development*.

FN 15: See OD 4.20, *Indigenous Peoples*.

FROM MIDDLE OF PARA. 7(b)

FN 16: Lack of documented occupancy is not in itself evidence of nonoccupancy.

SEE PARA. 9

FN 17: Annex A sets out the contents of a resettlement plan. Bank staff do not prepare the resettlement plan, nor do they engage consultants under a trust fund to prepare the plan (see OP 4.40, *Trust Funds*).

FN 18: Projects involving involuntary resettlement are normally classified as Category A projects for purposes of EA. OP/BP 4.01, *Environmental Assessment*, discusses the screening process and sets out the Bank's policies and procedures related to EA.

FN 19: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director (MD) concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the MD's approval stipulates a timetable and budget for

DROPPED

FN 8: Guidance is provided in Annex A to this OP and in the Resettlement Sourcebook.

FN 9: See OD 4.20, *Indigenous Peoples*.

FN 10: In such situations, it is often better to use blocked accounts, voucher systems, or other mechanisms to ensure that cash is used for mitigating the losses incurred under the project.

FN 11: For example, rights derived from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from traditional law and usage.

DROPPED

FN 12: For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally also engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of sittings of the panel depend on the nature of the resettlement. If independent technical advisory panels are established under OP 4.01 (*Environmental Assessment*), the resettlement panel may form part of the environmental panel of experts.

SEE PARAS. AND 16 & 24

DROPPED

FN 13: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the managing director's approval stipulates a timetable and



developing the resettlement plan.

FN 20: Key elements include the following, as necessary:  
(a) a definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project.

FN 21: See OP/BP 8.30, *Financial Intermediary Lending*.

FN 22: Once the Bank has approved the project, before a new onlending institution joins the project, the borrower provides this assessment of it to the Bank.

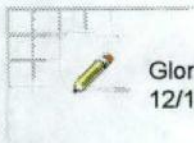
budget for developing the resettlement plan.

← SEND TO BP

← SEND TO ANNEX A?

← SEND TO ANNEX A?





Gloria Davis-SDV  
12/16/98 02:46 PM

Extn: 82750

SDV

Sent by: Milagros Benedicto

Subject: Resettlement Steering Committee Meeting

The Steering Committee Meeting will meet again on Friday, 18th December, 2:00-3:30 p.m. in Room MC5-414. We will discuss the "Application to Specific Types of Projects" section of the Issues memo which was not covered in our last meeting. Ian Johnson will be chairing.

Gloria

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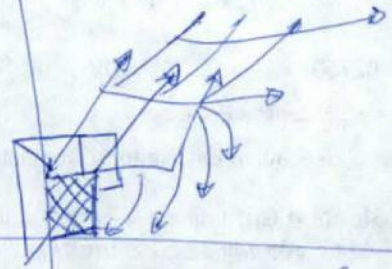
To: Joanne Salop  
Anthony J. Pellegrini  
Andres Rigo Sureda  
Achim V. Heynitz  
Thomas B. Wiens  
Peter Watson  
Alastair J. Mckechnie  
cc: Ian Johnson  
M. Caryl Jones-Swahn



① Natural Resources

② next steps: extend consultation

Pushing  
slowly open.



Process

↓  
conflict  
resolution

Objective

needed actions to  
meet the objectives.

consult consultation with  
communities  
process & culture -  
but satisfactory to  
the Bank

Issues

- ① inc. all natural  
resources. v3 just  
Green & parks.
- ② buy in or loans  
access to natural  
resources: own action 1st  
plan. [ main entire, } included.  
if entire: then policy  
would apply.

Framework - process.  
due process → "active  
involvement" - process

communities will  
never agree

generally  
not cause

Process → conflict resolution  
solution



**Issue:** *Indirect economic Impacts:* Due to the wide range of indirect economic impacts, this issue is perhaps the trickiest one to resolve. The discussion centers around what type of indirect impacts should be covered under the policy? In response to this discussion, the issues paper clarifies that the policy would cover only those indirect impacts where (a) the livelihoods of the indirectly affected people are directly dependent on the "directly affected" community, and (b) access to productive assets is restricted as a result of land acquisition for the project. Box 2 in the issues paper gives examples of indirect activities which have been covered and not covered under the policy.

**Question:** *Is the above proposal defining the types of indirect economic impacts covered by the policy acceptable to the Steering Committee?*

**Issue:** *Slum Upgrading and Protected Areas Projects:* In urban upgrading, and protected areas and natural resources projects, there are a number of approaches other than resettlement, to design and deal with project impacts, that could be positive as well as negative. The resettlement policy is a blunt instrument for dealing with what are often much more subtle changes than the loss of land, or assets, or access. Based on the above, technical staff from Urban and Environment have called for exemption to their sets of projects from policy exemption. While this would clearly not be possible, the general principles in application of the policy to these projects (elaborated in the issues paper), as well as cases where the policy would not apply, is proposed to be discussed in detail in the resettlement sourcebook.

**Question:** *Is the discussion of these issues in the "issues paper" acceptable? Would it be sufficient to incorporate a detailed discussion on application of the policy to these types of projects in the resettlement sourcebook?*



Govt  
unemployment  
(and + ...)



why would  
we not:

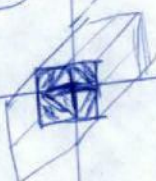
when  
(and ...)

→ skills  
→ privatization →

Govt  
unemployment



private



to - 2w

3 per dimensions

① TRB → no income

② degree of replacement  
costs policy

③



The following is a summary of the key outstanding issues, and the questions that need to be posed to the Steering Committee on each of these issues.

**Issue:** There is a clear statement in the December draft (para 4) listing the types of projects the policy would not apply to. Legal has opposed inclusion of this "negative list" and have stated that the policy, in principle, covers all projects.

**Question:** *Is it helpful if the policy explicitly mentions the "negative list" of projects where the impacts of the project do not constitute displacement requiring a resettlement plan. (Gloria would like to speak to these).*

**Issue:** A number of proposals have been included in the December draft to introduce flexibility in application of the policy: For example, (a) the draft BP includes establishment of a Resettlement Committee to consider requests from Task Teams for modified application of the resettlement policy; (b) the OP includes provisions for flexibility in the form and content of resettlement plans corresponding to the scale and complexity of the resettlement situation; (c) where the Bank and borrower estimate that a project will not entail any resettlement, a standard provision in the loan agreement covering any contingent situation would be sufficient.

**Question:** *Does the Steering Committee support the incorporation of the above flexibility in application of the policy?*

**Issue:** The EA OP has been extended to SECALs and SALs. LEG feels it will be difficult to apply the policy in resettlement operations.

**Question:** *Should the policy apply to SECALs and SALs?*

**Issue:** *Editorial changes* in Section 4, page 3 of the Issues paper. There may be some discussion on why the "one year prior to the date of census survey" cut-off date for provision of resettlement assistance to squatters was revised. The proposal now is to include all those who are present in the project area on the date of the "well disseminated" demarcation of the project area. The problem with the old proposal was the difficulty in determining who has been present for how long, rendering it very difficult to operationalize the cut-off date.

**Question:** *Is the new proposal acceptable to LEG, technical staff, and the Steering Committee? Are the other editorial changes acceptable?*

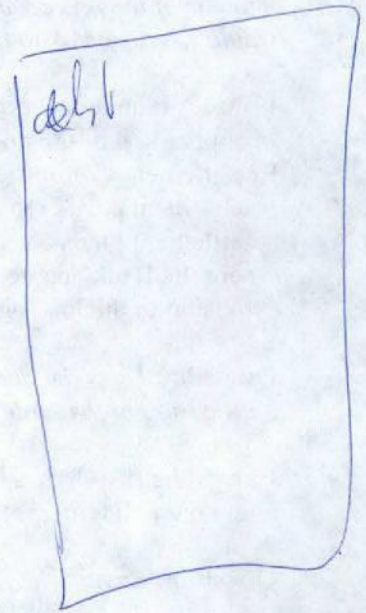
**Issue:** Project Boundaries: The issue here is about coverage of non-Bank financed activities under the resettlement policy. The December draft covers activities which are (a) necessary for achieving the objectives of the Bank project, and (b) are carried out concurrently with the Bank project. There is reasonable agreement between technical staff, LEGAL and resettlement specialists on (a). On (b) LEG feels that the word "concurrently" might be exploited by staff to sequence activities in a way that the ones requiring resettlement are completed before the Bank is approached. Operational staff, on the other hand feel that in the absence of a clarification that this applies only to concurrently conducted activities, components completed years ago may be subjected to the Bank's resettlement policy.

**Question:** *Is the proposal to apply the Bank policy only to those non-Bank activities that are (a) carried out concurrently with the Bank project, and (b) necessary for achieving the objectives of the Bank project, acceptable to the Steering Committee?*



① NAO unit → "leadership + advocacy" →  
 ↳ political insider

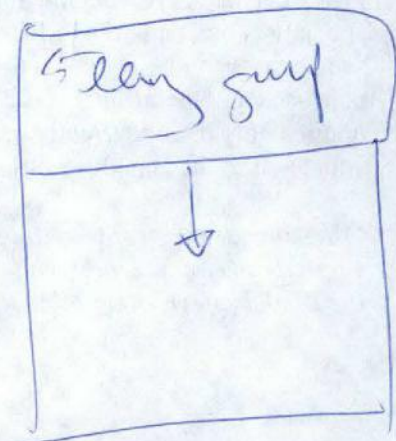
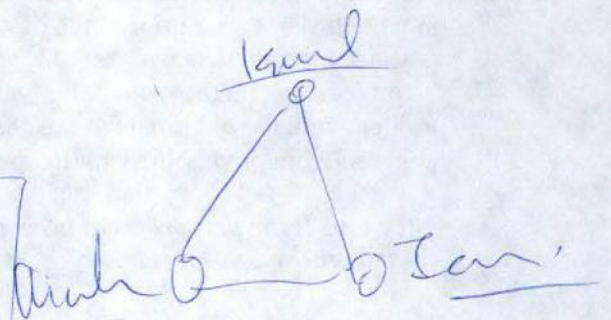
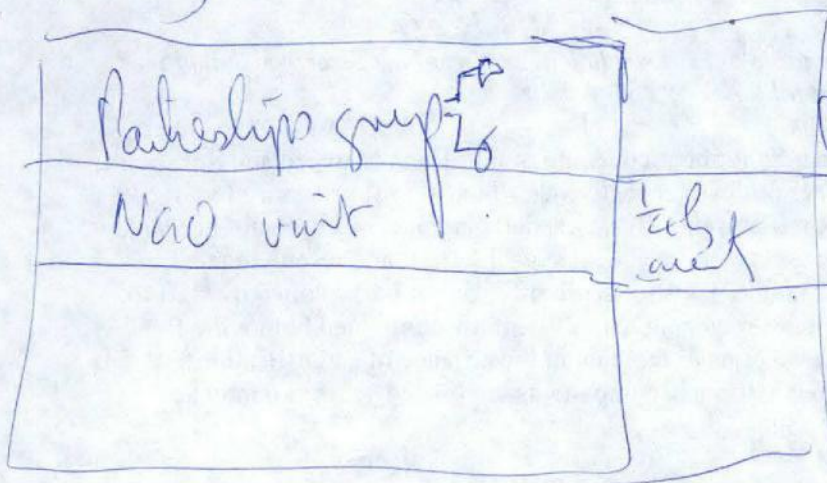
② millennium jubilee  
insider →



③ Steeg  
 Counter +

↳ Bah - NAO unit

Steeg Counter





## Involuntary Resettlement

### OP 4.12 (9/98)

1. Bank<sup>1</sup> experience indicates that, unless appropriate measures are carefully planned and carried out, involuntary resettlement under development projects<sup>2</sup> generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.<sup>3</sup>

[FOR MOST OF TEXT ABOVE, SEE FN 1]

2. This policy applies to the taking of land, and other assets under Bank-financed investment projects which results in involuntary relocation or loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. The policy applies to such taking of land, or other assets<sup>4</sup> whether or not the people must move to another location.<sup>5</sup> The term "displaced persons" refers to people who are affected in any of these ways.

[UNDERLINED WORDING IS BASED ON SUGGESTIONS MADE BY CARLOS TO ADDRESS ISSUES IN PARA. 2. THIS PARA. IS ACCEPTABLE TO THE RESETTLEMENT TEAM.]

### Revised OP 4.12 (as of 12/03/98)

#### I. What is the Policy?

1. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.<sup>1</sup> For this reason:

- Involuntary resettlement is avoided or minimized where feasible, exploring all viable alternative project designs;<sup>2</sup>
- Where displacement is unavoidable, resettlement programs are conceived and executed as development programs, with resettlers provided sufficient resources and opportunities to share in project benefits;
- Community participation in planning and implementing resettlement programs is encouraged;
- Displaced persons are provided assistance to help them improve their former production levels, income earning capacity and living standards, or at least to restore them to levels that would have been achieved in the without-project case.

For this reason, Bank<sup>2</sup> policy is to avoid or minimize involuntary resettlement in Bank-assisted projects<sup>3</sup> and to mitigate its adverse impacts where resettlement is unavoidable. Resettlement programs are designed and executed as development programs, and displaced persons are provided opportunities to share in project benefits.

Particular attention is given to the needs of the poorest groups to be resettled.

[ALL UNDERLINED SECTIONS ABOVE ARE FROM OD 4.30, WITH WORDING CHANGES INDICATED IN ITALICS]

2. The Bank's<sup>3</sup> policy on involuntary resettlement applies when: a) people are physically relocated as a result of the ~~land taking of land or structures~~ and they have no option to refuse; or b) land or other assets ~~necessary for people's livelihoods~~ are expropriated ~~taken~~ for project purposes; or c) physical access to natural resources is restricted by project activities, and this adversely affects income sources or livelihoods. The term "displaced persons" refers to people who are affected in any of these ways.



~~2. This policy applies to Bank-financed investment projects in which a change in land use or water use results in involuntary loss of shelter, loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. This policy provides for measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water use,<sup>4</sup> whether or not the people must move to another location.<sup>5</sup>~~

This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.

4. Responsibility for resettlement rests with the borrower. In financing projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement.<sup>8</sup>

5. When involuntary resettlement is unavoidable under a Bank-financed project, resettlement measures are conceived and executed as development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in

## II. What Projects are Covered?

~~3. This policy applies to projects where land or properties are taken for project purposes (for example, in the construction of dams, roads, ports or other infrastructure); or where restrictions in access to natural resources adversely affects incomes and livelihoods (for example, in establishing parks).~~

[SEE FOOTNOTE 4]

~~This~~ policy applies whether or not the Bank is financing the part of the project<sup>4</sup> causing involuntary resettlement;<sup>5</sup> and it covers resettlement resulting from activities (such as the construction of an access road to a power plant) that are not part of the Bank-financed project, but are necessary to achieving the project objectives and are carried out concurrently.

4. The policy does not apply to: a) projects which entail the voluntary ~~transfer or~~ sale of land and property based on-market transactions [LEG HAS OBJECTED TO THIS; Carlos / Mohan to provide wording]; b) projects such as land reform, titling, privatization or rezoning [LEG HAS OBJECTED TO THIS] in which there may be change in land use but there is no taking of land for project purposes; or c) community based development projects urban or rural investment projects with voluntary relocation where the affected people project directly benefits the community and where affected people are the direct project beneficiaries and where they are are fully involved and agree to in project design the decisions which have impacts upon them; the policy applies, however, to any persons involuntarily resettled as a result of such projects.<sup>6</sup>

SEE NEW FN 2

SEE 2<sup>ND</sup> PART OF PARA. 1 ABOVE



project benefits. The objective is to assist displaced persons in their efforts to improve their former production levels, income-earning capacity, and living standards or, at least, to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project.



6. To meet this objective, Bank-assisted projects include measures to ensure that

(a) Displaced people are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choice from among, and provided with technically and economically feasible resettlement alternatives;<sup>9</sup> (iii) provided prompt and effective compensation for losses attributable directly to the project<sup>10</sup> (with lost assets valued at full replacement cost);<sup>11,12,13,14</sup> (iv) whenever replacement land is offered, provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site; (v) at and after displacement assisted with any required relocation; and (vi) provided with development assistance and measures for support (such as subsistence allowances, training, job opportunities, land preparation, credit facilities) during a transition period until they have had a reasonable opportunity to reestablish their production levels, income-earning capacity, and living standards.<sup>15</sup> Particular attention is paid to the needs of vulnerable groups among those displaced, especially the poor, the elderly, women,<sup>16</sup> indigenous groups,<sup>17</sup> ethnic minorities, and pastoralists.

SEE FN 7

SEE 5.(iv) ABOVE

SEE FN 11

### III. What Measures are Required?

5. Where involuntary resettlement occurs, Bank-assisted projects include measures to ensure that displaced people are:

- (a) informed about their options and rights pertaining to resettlement;
- (b) consulted on technically and economically feasible resettlement alternatives and offered choices among them;
- (c) provided prompt and effective (?) compensation for losses attributed directly to the project;<sup>7</sup>
- (d) compensated for lost assets at full replacement cost;<sup>8</sup>
- (e) provided assistance (such as moving allowances and subsistence support) during relocation;
- (f) offered support (such as short-term jobs, subsistence support or salary maintenance) during a transition period; and
- (g) provided with development assistance (such as land preparation, credit facilities, training, or job opportunities), in order to improve or reestablish their production levels, income earning capacities and living standards.<sup>9</sup>

In determining these measures, particular attention is paid to the needs of vulnerable groups among those displaced: especially the poor, the elderly, women and children, indigenous groups<sup>10</sup> and ethnic minorities.

6. Land-based resettlement options are normally provided for people displaced from agricultural settings. These options may include resettlement on public land or measures to identify land that resettlers can purchase. Whenever replacement land is offered, resettlers are provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. If sufficient land is not available and livelihoods are disrupted, options built around opportunities for employment or self-employment are required.

7. Bank experience has shown that cash compensation may be appropriate in some circumstances: where the land taken for the project is a small fraction of the total holdings of the affected people; or where livelihoods are not land-based, active markets for land and labor exist, and displaced people regularly use such markets. Cash compensation levels should be sufficient to replace the



(b) Land, housing, infrastructure, other forms of assistance under this policy, and compensation are provided to displaced people who may have usufruct or customary rights to land or other resources taken for the project. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

(c) Communities are provided timely and relevant information, are consulted on their resettlement, and are offered opportunities to participate in planning, implementing, and monitoring their resettlement. Appropriate and accessible grievance mechanisms are made available.

(d) To help resettlers integrate socially and economically into host communities and minimize adverse impacts on host communities, any host communities are informed about their options; they are consulted in planning, implementing, and monitoring those aspects of the resettlement that will affect them; and their views and preferences with respect to integrating resettlers into their communities are identified and taken into account.

(e) Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored.

(f) The implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation is paid; all other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

(g) The implementation of resettlement activities is adequately monitored and evaluated.

lost land and other assets at full replacement levels in local markets.<sup>11</sup>

SEE ELIGIBILITY SECTION, ESP. 13.(a)

SEE PARA. 13

8. Bank resettlement policy requires that the affected people participate in resettlement planning and implementation. The affected people and their communities, and any "host" communities receiving resettlers, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement.

9. In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve or maintain accessibility and levels of service. Alternative resources are provided to compensate for the loss of access to community resources (such as fishing areas, drinking water, fuel or fodder), or alternatives appropriate to the needs of the users are provided.

10. Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. Resettler preferences for relocating in preexisting communities and groups are honored to the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved.

11. Implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation and other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

SEE PARA. 21



## Eligibility for Benefits

7. *Determination of Eligibility.* The borrower develops a procedure, satisfactory to the Bank, for establishing the criteria, consistent with paras. 7-8 below, by which affected people will be deemed eligible for compensation and other resettlement assistance to achieve the objectives of this policy. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs). As part of the procedure, the borrower carries out a census to identify the people who will be affected by the project (see Annex A, para. 5 (a)).

8. *Criteria for Eligibility.* Displaced persons in the following two groups are entitled to compensation for loss of land or water resources taken for project purposes:

(a) those who have formal legal rights to land or water resources (including customary and traditional rights recognized under the laws of the country); and

(b) those who do not have formal legal rights to land or water resources at the time the census begins but have a claim to such legal rights—e.g., rights derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage—provided that such claims become recognized under the laws of the country through a process identified in the resettlement plan (see Annex A, para. 6 (e)).

Displaced persons in these two groups are also entitled to compensation for loss of other assets, in particular, structures and crops. The absence of legal title to land or water resources is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

SEE PARA. 6.(b)

9. A third group of displaced persons—those who are occupying land in violation of the laws of the country and

## IV. Who is Eligible for Benefits?

12. The Bank recognizes a distinction between compensation which is paid for the loss of land and other assets, and which is based on rights recognized in national law, and other resettlement assistance, which is intended to meet the requirements of this policy.

SEE PARA. 15

13. Displaced persons are eligible for compensation for the loss of land taken for project purposes, and for the loss of other structures and crops, when:

(a) they have formal legal rights to these resources, including customary and traditional rights recognized under the laws of the country; and/or

(b) they do not have formal legal rights to these resources, but have a claim to such rights<sup>12</sup> provided that such claims become recognized through due process and are reflected in the resettlement plan.

SEE FN 12

People or households in both categories are also entitled to compensation for loss of other assets, and to other resettlement assistance. The absence of legal title is not, in itself, a bar to compensation for lost assets or other resettlement assistance. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

14. Normally, under national law, compensation for land is not payable to displaced persons occupying land to



who do not fall within the category described in para. 7 (b)—is not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census,<sup>18</sup> they are entitled to resettlement assistance in lieu of compensation for land, as necessary to achieve the objectives set out in para. 4. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular, structures and crops.

SEE PARA. 6

which they have no formal or traditional legal rights. However, resettlement assistance, necessary to achieve the objectives set out in this policy, is provided to people if they were on that land when it was formally demarcated (and provided this demarcation was made publicly known) (is there a better word than demaracation?), or when the census was carried out. They are also entitled to compensation or other assistance for the loss of assets other than land, including structures and crops. People who arrive after the formal demarcation or census is completed are not entitled to compensation or any other form of resettlement assistance. Measures may be necessary to protect areas demarcated for project purposes from encroachment and claims, as soon as the area is identified.

15. Determining eligibility for compensation and different forms of resettlement assistance can be complex. For this reason, the borrower develops a procedure, satisfactory to the Bank, for determining who is eligible for compensation and resettlement assistance. As part of the procedure, the borrower carries out a census as early as possible to identify the people who will be affected by the project (see Annex A, para. 5 (a)). The procedure includes provisions for consultations with potentially affected persons and communities, local authorities, and nongovernmental organizations, where appropriate. It also specifies grievance procedures. Special consideration is given to impacts on poor and vulnerable groups.



## Resettlement Plan

10. The borrower is responsible for preparing a resettlement plan that conforms to this policy.<sup>19</sup> The plan covers all aspects of the proposed resettlement and presents a strategy for achieving the objectives of this policy as set out in para. 4. Resettlement planning is coordinated with any environmental assessment (EA).<sup>20</sup> In preparing the resettlement plan, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. When independent technical advisory panels are established under para. 4 of OP 4.01, *Environmental Assessment*, for projects that involve resettlement, the panels include members with resettlement expertise acceptable to the Bank.

11. The borrower incorporates the resettlement plan into the Project Implementation Plan.

SEE PARA. 12 BELOW

12. The borrower makes a draft resettlement plan that meets the requirements of this policy available at a place accessible to project-affected people and communities and local NGOs. When necessary for ensuring effective disclosure, the borrower also makes the draft plan available in a form and language that are understandable and accessible to these groups. For projects that are in environmental assessment Category A, and for Category B projects that are proposed for IDA financing, this disclosure takes place before the Bank appraises the project.

13. The Bank requires, as a condition of appraisal, that the borrower provide to the Bank a draft resettlement plan that conforms to this policy.<sup>21</sup> Once the Bank accepts the borrower's plan as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again makes it available at a place accessible to, and in a form and language understandable to, project-affected people and communities and local NGOs; and the Bank makes it available at the InfoShop.

## What is in the Resettlement Plan?

16. The Borrower is responsible for preparing and implementing a resettlement plan which conforms to this policy. The scope and level of detail of the resettlement plan varies with the magnitude and complexity of resettlement. For this reason, projects benefit from early screening, scoping of key issues, and decisions about the nature of the impacts and the information required in the plan. In determining the issues to be covered and preparing the resettlement plan, both the Bank and the borrower draw on appropriate social, technical, and legal expertise and on community-based organizations and NGOs, as appropriate.<sup>13</sup> Annex A sets out the contents of a resettlement plan. Where impacts are minor (or in the case of projects with phased resettlement, are expected to be minor), an abbreviated plan or framework may be agreed with the borrower after consultation with appropriate Bank technical specialists.

SEE BEGINNING OF PARA. 18

17. The borrower provides the Bank with a draft resettlement plan that conforms to this policy as a condition of appraisal.<sup>14</sup> Prior to appraisal, the borrower makes a draft resettlement plan available at a place accessible to project-affected people and local NGOs, and in a form and language that are understandable to these groups.

OMIT—NOT ACCURATE!

Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again discloses it in the same manner.

SEE PARA. 17



## Legal Agreements

14. Key elements of the resettlement plan,<sup>22</sup> and the borrower's obligations to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements for the project.

## Projects with Multiple Subprojects

### *Sector Investment and Financial Intermediary Loans*

15. For sector investment loans that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans, before appraisal the borrower submits a resettlement policy framework, consistent with this policy, that covers the following areas: principles, objectives, eligibility criteria, entitlements (compensation and resettlement assistance), implementation arrangements (including arrangements for community participation and grievance mechanisms), organizational responsibilities, methods of valuating assets, and monitoring and evaluation. The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

16. Similarly, for financial intermediary loans,<sup>23</sup> the Bank requires that the financial intermediary screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans also, the Bank requires that before appraisal the borrower submit to the Bank a resettlement policy framework containing the elements listed in para. 14. In addition, the framework includes an assessment of the institutional capacity and procedures of each of the onlending institutions that will be responsible for subproject financing.<sup>24</sup>

17. Under either sector investment or financial intermediary loans, for each subproject that may involve resettlement, the Bank requires that a satisfactory resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before subproject appraisal, whether such subprojects are included in the project before or after the Bank appraises the project.

18. The borrower incorporates the resettlement plan into the Project Implementation Plan. Key elements of the resettlement plan (or, where applicable, the resettlement policy framework), and the borrower's agreement to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements of the project.

19. Due to the nature or design of some Bank-assisted operations (e.g., sector investment loans, financial intermediary loans, or other investment projects with multiple subprojects), a full resettlement plan cannot be prepared prior to appraisal, because a) subprojects are not yet identified, b) the zone of impact for subprojects has not been determined, or c) the precise siting of alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework before appraisal, containing the elements set out in Annex A. Subsequent resettlement plans for subprojects are submitted to the Bank for approval before the subproject is accepted for Bank financing.

← SEND TO ANNEX A

← SEND TO ANNEX A



*Other Projects with Multiple Subprojects*

18. For a Bank-financed project with multiple subprojects that is not a sector investment or financial intermediary loan, the Bank requires that a satisfactory draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project, (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined. For these cases, before appraisal the borrower submits a resettlement policy framework containing the elements set out in para. 14. Resettlement plans for all subprojects involving resettlement, whether the subproject is prepared before or after the Bank appraises the project, are subject to approval by the Bank, except as provided in para. 18.

*Delegation of Approval Authority*

19. For all projects with subprojects as defined in paras. 14-17, if in the opinion of the Bank the project implementing agency or a responsible government agency or financial intermediary has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy, the Bank may agree, in writing, that subproject resettlement plans may be approved by that agency without being subjected to prior review by the Bank. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found to be not in compliance with Bank policy, are reflected in the project legal documents. Any such delegation made during project implementation is approved by the Regional vice president in consultation with the Head, Social Development Board, and the Legal Department, and the legal agreements amended accordingly. In all such cases, implementation of the resettlement plans remains subject to supervision by the Bank.

FROM PARA 5.(g) & PARA. 9 OF THE SEPTEMBER BP 4.12

← SEND TO ANNEX A

20. The Bank may agree that subproject resettlement plans can be approved by the project implementing agency or a responsible government agency or financial intermediary without Bank review if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for plans subsequently found not to be in compliance with Bank policy, are reflected in the project legal documents. In all such cases, implementation of the resettlement plans is subject to Bank supervision.

← SEND TO BP

21. The implementation of resettlement activities is adequately monitored and evaluated. Before project completion, an assessment will be made whether the main objectives of the resettlement program have been realized. This assessment is based on baseline conditions, resettlement objectives, and project performance indicators determined at the start of the project. Follow up measures, if necessary, will be discussed with the Bank and would serve the basis for continued Bank supervision, as appropriate.



**Assistance on Resettlement Issues**

20. The Bank may support borrowers and other concerned entities by providing (a) assistance in assessing and strengthening resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level; (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement; (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and (d) financing of the investment costs of resettlement, either as (i) a component of the main investment project causing displacement and requiring resettlement, or (ii) a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition); however, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks (see OP 14.40, *Trust Funds*).

**VI. How can the Bank Assist the Borrower?**

22. The Bank may support borrowers and other concerned entities by providing:

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing for technical assistance to strengthen the capacities of agencies responsible for resettlement;
- (c) financing technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and
- (d) financing the investment costs of resettlement.

23. The Bank may finance, either a component of the main investment project causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

24. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to prepare resettlement policies, resettlement plans, or policy frameworks.



OP 4.12: FOOTNOTES

LANGUAGE FROM 2<sup>ND</sup> PART OF PARA. 1

SEE FN 6 BELOW

FN 1: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

FN 2: Such projects may involve, for example, construction, establishment, reestablishment, upgrading, or extension of dams; mines; new towns or ports; housing and urban infrastructure; large industrial plants; railways or highways; irrigation canals; or forests, national parks, or protected areas.

FN 3: See also OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects*.

FN 4: Although the Bank does not finance closure of enterprises, it may be involved in addressing the consequences of a mine or plant closure that results in physically dislocating a large segment of a community or

Revised OP 4.12: FOOTNOTES

FN 1: Bank experience indicates that involuntary resettlement under development projects, if unmitigated, generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

NEW FN 2: In appraising projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement (for example, realignment of roads or reduction in dam height may reduce resettlement needs). It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

NEW FN 3: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

~~SEE PARA. 3~~ NEW FN 4: Such projects may involve, for example, the taking of land for the construction of dams, roads, ports, or other infrastructure; or restricting access to natural resources in a way that adversely affects incomes and livelihoods (for example, in establishing parks).

FN 5: In such cases, this should be reflected in Schedule II of the Project Loan Agreement.

DROPPED

FN 6: The policy does not cover ~~indirect~~ economic impacts (such as the loss of roadside business to a new highway) ~~not directly caused by the project~~ or intangible impacts (such as the loss of view or other aesthetic



depriving them of the means of livelihood. In such cases, it is good practice for the borrower to consider a resettlement plan along the lines set out in this policy.

FN 5: Refugees from natural disasters, war, or civil strife, who are involuntary resettlers, are not covered by this policy (but see OP/BP 8.50, *Emergency Recovery Assistance*).

FN 6: For example, realignment of roads or reduction in dam height may reduce resettlement needs. It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 7: For people displaced from agricultural settings, Bank experience shows that the objectives of this policy normally cannot be achieved without land-based resettlement strategies. Therefore, for those losing land, the Bank encourages borrowers to offer replacement land and, if sufficient land is not available, non-land-based options built around opportunities for employment or self-employment.

FN 8: Losses arising from sentimental attachment or aesthetic preference and losses not caused by the change in land use or water use under the project are beyond the scope of this policy.

SEE FN 12 BELOW

FN 9: With regard to land and structures, "replacement cost" is defined as follows: For agricultural land, it is the preproject market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of land preparation to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; for land in urban areas, it is the preproject market value of land of equal size and use, with similar or improved public infrastructure facilities and services and

values). It does not cover the closing of mines or other enterprises during restructuring, ~~although although it is good practice to minimize and mitigate adverse social impacts, particularly upon poor people.~~ in cases where the closure of enterprises results in physically dislocating a large segment of a community or depriving them of the means of livelihood, it is good practice for the borrower to undertake a social assessment (see OP/BP 10.05, *Social Analysis*) and implement measures to minimize and mitigate adverse social impacts, particularly upon poor and vulnerable groups.—Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy (see OP/BP 8.50, *Emergency Recovery Assistance*).

SEE FN 2 ABOVE

SEE PARA. 6

SEE 1<sup>ST</sup> PART OF FN 6

FN 7: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 8: In principle, "replacement cost" refers to the level of compensation sufficient to replace lost assets and cover transaction costs. [more detailed definition could be provided in the definitions section] Compensation for structures or assets should not be depreciated. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers; or fishing grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. In the



located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; for houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of 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. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses in para. 5.

FN 10: For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to (a) public services, (b) customers and suppliers, or (c) fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

FN 11: Experience indicates that offering only cash compensation for lost assets rather than a choice among viable options is normally inadequate. However, cash compensation may be appropriate when the residual landholding of the affected person remains economically viable. In addition, when linear projects require acquisition of narrow (e.g., less than two meters wide) strips of land to widen roads or to provide walkways, canal improvements, or sanitation and water lines, and such acquisition has no appreciable effect on incomes or living standards, and it is inefficient to determine the precise replacement cost for each affected parcel (in part because it is likely to be impossible to replace such small strips of land), it may be appropriate to use a flat rate of cash compensation based on, or exceeding, prevailing land values in local land markets. As a safeguard, the land acquisition assessment should show that such acquisitions affect only outside edges or corners of affected parcels and affect less than 10 percent of any parcel. Landholders must also be compensated at full replacement cost for lost structures and crops on such parcels.

FN 12: For households that lose a share of assets or income large enough to make the remainder of such assets

absence of functional markets for affected land or assets, technical guidance and local research may be necessary to establish appropriate valuation procedures.

← SEND REST OF DEFINITION TO GLOSSARY OR SOURCEBOOK

SEE MIDDLE OF FN 8

SEE PARA. 7

SEE FN 7 ABOVE



or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 13: The resettlement plan (see paras. 9-12) establishes a target date—the date on which the requirements of para. 5 (a)(vi) should reasonably have been met—for terminating such transitional assistance.

FN 14: See OP 4.20, *The Gender Dimensions of Development*.

FN 15: See OD 4.20, *Indigenous Peoples*.

FROM MIDDLE OF PARA. 7(b)

FN 16: Lack of documented occupancy is not in itself evidence of nonoccupancy.

SEE PARA. 9

FN 17: Annex A sets out the contents of a resettlement plan. Bank staff do not prepare the resettlement plan, nor do they engage consultants under a trust fund to prepare the plan (see OP 14.40, *Trust Funds*).

FN 18: Projects involving involuntary resettlement are normally classified as Category A projects for purposes of EA. OP/BP 4.01, *Environmental Assessment*, discusses

DROPPED

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FN 9: Guidance is provided in Annex A to this OP and in the Resettlement Sourcebook.

FN 10: See OD 4.20, *Indigenous Peoples*.

FN 11: In such situations, it is often better to use blocked accounts, voucher systems, or other mechanisms to ensure that cash is used for mitigating the losses incurred under the project.

FN 12: For example, rights derived from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from traditional law and usage.

DROPPED

FN 13: For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally also engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of sittings of the panel depend on the nature of the resettlement. If independent technical advisory panels are established under OP 4.01 (*Environmental Assessment*), the resettlement panel may form part of the environmental panel of experts.

SEE PARAS. AND 16 & 24

DROPPED



the screening process and sets out the Bank's policies and procedures related to EA.

FN 19: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director (MD) concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the MD's approval stipulates a timetable and budget for developing the resettlement plan.

FN 20: Key elements include the following, as necessary: (a) a definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project.

FN 21: See OP/BP 8.30, *Financial Intermediary Lending*.

FN 22: Once the Bank has approved the project, before a new onlending institution joins the project, the borrower provides this assessment of it to the Bank.

FN 14: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the managing director's approval stipulates a timetable and budget for developing the resettlement plan.

← SEND TO BP

← SEND TO ANNEX A?

← SEND TO ANNEX A?



# OFFICE MEMORANDUM

DATE: December 8, 1998

TO: Steering Committee

FROM: Gloria Davis, SDV

EXTENSION: 82750

SUBJECT: **Draft OP 4.12: Key Changes and Outstanding Issues**

## Background

The original OMS on resettlement was written in 1980 with large dams and other major infrastructure projects in mind. While the OMS discussed urban resettlement, and the OD issued in 1990 specifically extended the policy to all investment projects that caused resettlement, the language of the policy continued to emphasize large-scale projects and the resettlement of people to sites where new infrastructure was provided and relations with host communities needed careful attention. Staff agree that the old OD and the new OP are well suited to this type of resettlement.

By 1986, the resettlement policy already applied to people who are not displaced, but who lose significant portions of their assets, and subsequently it was extended to projects such as the creation of parks and slum upgrading. More recently, its application has been debated in projects involving land titling, the privatization of housing stock and parastatal enterprises, and zoning. In these projects the consequences of the proposed changes differ (i.e. incomes in urban areas may be unaffected), and the instruments or solutions are more variable.

Application of the policy to a wide range of conditions has occurred, in part, because there is no umbrella or overarching policy which requires staff to assess general social impacts and to improve the social soundness of projects, or at least to minimize or mitigate adverse social impacts. At best, this has led to a proliferation of rules which aim to anticipate questions about how to apply the resettlement policy; at worst, it has led to differing interpretations between regions and decisionmaking on a case-by-case basis.

In this context, recent discussions by technical staff have posed important questions about what the policy should do, and how variability in situations and contexts should be handled. These, in turn, have led to some proposed changes in the draft policy. In reviewing these changes and deciding how they should be treated, we must weigh both substantive and presentational issues; for while some staff find the guidelines/rules excessively prescriptive, external critics of the Bank have insisted on a detailed specification of the rules, and they see flexibility as tantamount to backsliding.

## Key Changes

In response to questions from technical staff about the interpretation of the proposed draft policy on resettlement (OP 4.12), a number of changes were made. These changes can be seen in a side-

*dam - index*  
*one stop shopping*

*will*

*market garden*  
*↑*  
*OM 52.02*



by-side document showing the September draft OP and the December or "alternative" draft. Recent changes, made since the drafts were circulated in late November, are underlined.

Four types of key changes have been introduced: 1) clarification of the types of projects covered and not covered; 2) provisions for flexibility and specification of review and appeal procedures; 3) clarification of the handling of SECALs and projects where resettlement is unlikely, but not impossible, and; 4) other minor editorial changes.

1) Clarification of the types of projects covered and not covered

- In response to the question, *What is the policy?* core elements of the policy were pulled forward into paragraph 1. (Both drafts incorporate comments from LEG.)
- In response to the question, *What projects does the policy apply to?* the types of projects covered are made explicit in paragraphs 3-4. There are several outstanding issues about what should be included and excluded (see the next major section).

LEG feels that the policy in principle covers all projects and that a negative list should not be included. Does the Steering Committee consider that both a positive and a negative project list are appropriate?

2) Provisions for flexibility and specification of review and appeal procedures

As a result of technical discussions and comments on the draft issues paper, we have proposed three additions to the September draft OP:

- More structure is given to judgements on how the policy would be applied. Specifically, we are proposing to establish a mechanism by which task teams can request a meeting with a Resettlement Committee consisting of authorized representatives of the Social Development and the Legal Departments in case the TTs wish to a) obtain institutional endorsement, b) request guidance, or c) request modifications in the manner in which the policy is applied to avoid perverse outcomes (for example, windfalls for the rich). In cases where a TT is not satisfied with the decision of the Resettlement Committee, an appeal can be made to the Vice President responsible for resettlement, who will be advised by LEG.
- The provisions of the September draft that resettlement plans should only be as long or as complex as the circumstances of the project in question demanded, were brought forward from the Annex to the main text of the policy, to increase their visibility (this is not in the original OD).
- Where a "good faith" technical estimate made by the borrower and the Bank indicates "zero resettlement," we have introduced language to permit a standard provision in the loan agreement to cover any contingent situation involving resettlement. Should resettlement occur, the Borrower agrees to (i) inform the Bank immediately and (ii) prepare resettlement plans consistent with the policy before any relocation takes place.

*Does the Steering Committee support the incorporation of the above flexibility in the application of the policy?*

inputs under projects

no negative list

info. disclosure  
PIC



3) Clarification of the handling of SECALs and SALs

- As with the new OP for EA, we are proposing that the resettlement policy apply to SECALs, but not to SALs where economy-wide impacts are more difficult to define. This issue was not discussed by the technical committee.

*Is this acceptable to the Steering Committee?*

4) Other minor editorial changes

- Acknowledging an agrarian bias to the OMS and OD, we minimized this in some areas (by moving likely impacts in paragraph 1 to a footnote, for example). But we have only done this to a limited extent, since some internal and external commentators feel strongly that the detailed provisions in the text should be maintained.
- We have elaborated on the circumstances under which cash compensation may be appropriate (see para. 7).
- The distinction between compensation (which is recognized in local laws) and other resettlement benefits (intended to provide for full replacement costs, restore incomes and living standards) is made explicit in paragraph 12 and a process approach is suggested for resolving some eligibility issues. This was also in the September draft, but is not in the original OD.
- We have tried to make the language on eligibility simpler, in part, by eliminating the sense of false precision in the examples previously provided. (For example, in the September draft, the cut-off date for determining eligibility of squatters to resettlement assistance was "one year prior to census" which is difficult to demonstrate.)
- The description of the procedures for subprojects and financial intermediaries is greatly shortened by a better editing of the text.
- Many detailed footnotes, which in the final analysis appeared to us to be best practice rather than definitional in nature, have been eliminated and shifted to the GP.

We recognize that some unintended errors may have crept in with these revisions and have proposed that a drafting committee reconcile text, eliminating editorial inaccuracies and highlighting policy differences.

These changes fall short of what is wanted by those who feel we should have a minimal policy, those who want to see a different type of policy altogether, and those in LEG who have argued for closer adherence to the September draft.

*Are there other comments or corrections from LEG, technical staff, or the Steering Committee?*

**Outstanding Issues**

There are also a number of gray areas, which cannot be addressed by editing. A careful consideration of what we want a policy to do, and how it will be interpreted, is worth



consideration by the Steering Committee. Through the use of the examples below, we are requesting the view of the Steering Committee about how such issues should be handled in general, and specifically how they should be incorporated into the policy. The issues and concepts are outlined in the following paragraphs.

*Does the Steering Committee agree with the proposed handling of these issues?*

✓ Project Boundaries: All components of a project which are mentioned in Schedule II, are covered by the resettlement policy, whether or not the component is financed by the Bank. This is intended to prevent "component shopping" to less stringent lenders. But the question arises whether this applies to associated activities not included in Schedule II, but necessary for achieving the objectives of the project (for example, construction of an access road to a Bank-financed reservoir). As the examples in Box 1 illustrate, the practice has generally been to apply Bank resettlement policy to non-Bank-funded activities when they are a) carried out concurrently with the Bank project, and b) necessary for achieving the objectives of the Bank project.

### Box 1: Examples of Project Boundary Issues

In Vietnam, the policy was applied to resettlement from a newly built, locally funded reservoir whose water was being used exclusively to feed a Bank financed water supply project, even though the reservoir did not figure in Schedule II of the project. However, as the reservoir had been completed almost a year before the Bank's involvement in the project, a general evaluation of completed resettlement was carried out and community based measures to improve certain aspects of resettlement were proposed. A household based entitlement approach to the completed resettlement was not adopted due to the difficulties involved in tracking the resettlers given the difference in timing of the projects.

In projects that involve expressway construction, resettlement connected with concurrently constructed, locally funded feeders roads and interchanges is covered by the policy since they are essential for achieving the objectives of the project.

In Pusan, Korea, resettlement from a locally funded metro rail line constructed concurrently and exclusively to run Bank funded metro cars was covered by the policy.

Private sector development projects, in particular, have called attention to these issues, because project components, even those that are critical to the operation of a project—a dedicated fuel supply line, or the exploitation of a new coal mine to feed a Bank Group-financed thermal power project—may be opened and operated by totally different corporate entities. In such cases, there may be limited leverage available as a function of the Bank Group's finance.

Indirect Economic Impacts: Another issue that has not been fully resolved is whether indirect economic impacts are covered by the policy, particularly when the adverse impacts are not due to acquisition of the land owned or used by them. For example, we have assumed that the policy should cover the economic losses suffered by communities left behind when a major part of the village is relocated, and it should cover the losses suffered by shopkeepers when land acquisition results in restriction of access to their shops; but it does not apply to businesses which suffer losses when major thoroughfares are rerouted. (See examples in Box 2.) The general approach in

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draft →

✓ searched

Bank projects has been to cover indirect impacts in situations where: (a) the livelihoods of the indirectly affected community are directly dependent on the "directly affected" community, and (b) access to productive assets is restricted as a result of land acquisition for the project.

### Box 2: Examples of Indirect Economic Impact Issues

Parts of communities not affected by land acquisition or relocation, but left behind by the move of the majority, have been covered under the policy because their livelihoods are directly dependent on the people who are moving. In situations where only a small section of the community has had to relocate, the adverse impact on businesses and occupations of members of the communities staying behind has never been covered by the policy.

Temporary economic impacts on shopkeepers losing access to customers due to traffic disruption on account of project construction (shopkeepers affected by laying of water pipes along the street) have also typically been covered under the policy. However, when Bank projects involve construction of roads which draw traffic and business to new thoroughfares, those losing business income along the old alignment due to loss of traffic are not covered by the policy, though it would be considered good practice to create some alternative economic opportunities for them.

✓ Landless laborers who lose their livelihoods as a result of acquisition of the land they work on have typically been covered under the policy. The argument made is that they have a long standing, one to one employment relationship with their employers and will not be able to get alternative employment once the land they work on is acquired. However, waiters and cooks working in relocated restaurants have not been covered by the policy since they are assumed to have marketable skills that can help them get alternative employment.

People whose employment was lost because of a change in technology brought both by the main investment and the resettlement—porters or cart drivers where roads were upgraded, or water sellers in an urban slum in which public water distribution was extended—have not been covered by the policy.

Unauthorized mobile vendors, who do not own any fixed assets, and who could move to another location to conduct their business, have sometimes been covered, sometimes not, depending upon whether a clear case could be made for their having had a "goodwill" asset in a regular clientele. Even for others, good design has usually meant that they are provided with spots to continue their business at a suitable location.

### Application to Specific Types of Projects

Perhaps the most intensely disputed questions in the policy have been over how it would be applied to specific types of projects. In all the projects below, it is clear to both social and sectoral specialists that the resettlement policy is a blunt instrument for treating what are often much more subtle changes than the loss of land, or assets, or access. The social changes involved are both positive and negative, and offer room for approaches other than resettlement. Currently they are decided on a time consuming, case-law basis, and this can be differently interpreted, as is



evident in the outcomes of many "parks versus people" debates. General principles are set out in the following section.

*We invite Steering Committee discussion and comment on these issues and on whether their incorporation into the forthcoming Resettlement Sourcebook is sufficient and appropriate.*

Slum Upgrading and neighborhood improvement projects: Technical staff have argued that in most slum upgrading and neighborhood improvement projects (a) the adverse impacts are of a minor scale, and no one is required to relocate out of the community; (b) the people adversely affected by land acquisition (if any) directly benefit from the project; (c) the community members (including affected households) participate in and agree to decisions relating to project design and implementation, and (d) participation in the project is voluntary, i.e. potentially affected people have the option of not participating in the project. As a result, they feel that the policy should not apply to those participating voluntarily in such projects. However, they agree that the policy would apply to slum upgrading and community development projects if they do not meet the above conditions, and that the affected people who are resettled out of the community would be covered by the policy. They also feel that due to the evolving design of such projects, resettlement framework would be a more appropriate planning tool than an up-front resettlement plan. This would be incorporated into the *Resettlement Sourcebook*.

Parks, Protected Areas, and Natural Resource Management Projects: Questions have been raised about the application of the policy to conservation/natural resource management projects. There is consensus that the policy would fully apply to people who are required to relocate out of such areas as a result of the project. However, the extent of assistance (if any) that should be offered to those who stay when their economic activities are restricted, or to those who are not given the option to relocate, but who must submit to restrictions, is debated. Resolution along the following lines is proposed.

Projects will distinguish between three broad categories of people who inhabit parks and protected areas (though environmental staff have pointed out that there could be a considerable overlap between the categories): (a) indigenous or traditional people, who have resided in these areas for many generations, (b) more recent, non-indigenous/non-traditional residents engaged in agriculture and other acceptable pursuits, and (c) those engaged in illegal activities.

For those in category (a) relocation out of the park may not be a culturally acceptable option. Therefore, they need to be compensated for any restrictions on their economic activities within the park to ensure that their incomes and standards of living are not adversely affected. Those in category (b) could either relocate out of the park or continue residing in the park with provision of certain benefits (that can be a part of project design) in exchange for restrictions on their activities. Resettlement specialists have argued that such restrictions on land use and the pursuit of other economic activities constitute an expropriation of income, and that losses should be mitigated and incomes restored. But some environment staff contend that since some of these activities carried out by those in category (b) are unsustainable, they should not be fully compensated, although they agree that some "safety net" measures are needed for the poor. Regarding those in category (c), there is agreement between both sides that there should be no compensation for their illegal activities, especially those pursued by quasi-corporate entities (such as illegal logging by companies, extension of farming estates into protected areas by large farmers, or poaching by organized bands) or for activities that do not constitute a part of traditional lifestyles of affected people (for example, poaching of endangered species by agricultural communities). We propose to include these distinctions in the *Resettlement Sourcebook*, but not in the policy.



Privatization: Privatization of public enterprises or public residential areas may result in adverse impacts on people who are working or living in such places. People adversely affected by enterprise closures may need to move since they may have been living in a particular town only because of their jobs. Indeed, if housing has been provided by the enterprises, then privatization or downsizing may involve compulsory relocation. In one-industry communities, and in emerging economies in which nearly all social services were provided by the enterprise itself, relocation may be the only solution for the retrenched workers. Nonetheless, retrenchment or relocation from such enterprises has not been covered by the resettlement policy, because the main objective of the project has been policy or sector reform, and the enterprise has not been "taken" for the project. The issue merits further discussion, because it is not clear whether the policy should apply when specific enterprises are closed to achieve project objectives, or whether the policy objective of income restoration is feasible.

Rezoning: Rezoning projects present another complex set of issues. In these projects, the status of land being used for a particular purpose (say, industrial) is changed through zoning (for example, from industrial to residential). Normally, people and enterprises are not relocated from one zone to another. However, zoning affects future land use and land values. We assume the policy does not apply in such cases. However, there are some rezoning projects where enterprises and / or people are required to relocate out of specific zones. Though the practice regarding application of the policy has been variable in the past, we now propose that the policy should apply to such cases.

### Proposed Next Steps

The Steering Committee needs to provide guidance on the substantive and presentational issues raised here. The drafting team (LEG, SDV and MDOPS) will then revise the draft OP to incorporate the agreed changes into the text. After a final version is available, we will brief the OPC on the main changes, and the draft will be simultaneously posted on the web to inform external stakeholders about the changes and why they were made. The final draft should be discussed at CODE; given the extent of debate around this policy, we propose that it then be sent to the Board for approval.

- ① voluntary resettlement → does not apply.
- ② policy → physical & non-physical  
of types of lands
-





Gloria Davis-SDV  
12/09/98 03:21 PM

Extn: 82750

SDV

**Subject:** URGENT - Steering Committee Meeting - Monday, December 14th

1. Ian Johnson is requesting your presence at a meeting of the resettlement steering committee to be held on **Monday, December 14 at 4:00 in Room MC 6-414**. I apologize for the delay which is due to difficulties in bringing the principals together.
2. The technical committee has prepared a revised draft OP 4.12 which is attached as a "side by side" version, comparing it with corresponding text from the September draft of the OP. Sentences which are underlined have been changed since the November draft was first circulated.
3. We attach an issues paper which is intended to familiarize the Steering Committee with the nature of the issues and help them provide guidance on a number of changes and outstanding questions. The issues paper is organized along the following lines:

#### Background

#### Key Changes - *Does the Steering Committee Agree?*

- Additions and Clarifications
- Main Drafting Changes
- Editorial Changes

#### Outstanding Issues - *Steering Committee guidance is sought on the following issues*

- Project Boundaries
- Indirect Economic Impacts
- Application to Adjustment Loans

#### Application to Specific Types of Projects - *Does the Steering Committee accept the proposed handling?*

- Slum Upgrading
- Parks, Protected Areas and Natural Resource Management Projects
- Privatization
- Rezoning

#### Next Steps - *Decisions are needed on further processing and external posting of changes.*

4. Once the Steering Committee has met and advised the drafting committee on these matters, we will incorporate any necessary changes into the text. Given the extent of the discussion we would propose to resubmit the document to the OPC and to CODE, explaining why the changes were made.
5. We look forward to seeing you on the 14th.

Gloria

#### Issues Paper:



Issues4.doc





Gloria Davis-SDV  
12/08/98 03:01 PM

Extn: 82750 SDV  
Subject: Resettlement

I know how busy both of you are, as we are having serious difficulties finding the two of you in the same place at the same time. But I wonder if I could ask your help in facilitating the following?

1. We have scheduled a Steering Committee meeting for Monday at 4:00. It is crucial that you both attend, so Ian, have have taken the liberty of asking Caryl to reschedule your management meeting. Sorry about that.

2. If possible, we would like to have LEG comments on the issues paper by Friday, December 11, as this will allow us to do as much as we possibly can to accomodate LEG views, and simplify the number of issues to be covered, prior to the meeting.

3. I need your help in scheduling the "drafting" meeting ASAP after the Steering Committee meeting, ideally Tuesday or Wednesday. I believe we should aim for 2:00 to 5:00, but continue until we are done.


My objective would be to have a clean draft by December 18, which is the last day most technical people (including me) are likely to be around.

I would be very grateful for your help in facilitating this.

---


To: Andres Rigo Sureda  
Ian Johnson  
cc: Maninder S. Gill  
Milagros Benedicto



 Gloria Davis-SDV  
12/08/98 09:44 AM

Extn: 82750 SDV  
Subject: URGENT - Resettlement Steering Committee Meeting

----- Forwarded by Gloria Davis-SDV/Person/World Bank on 12/08/98 09:45 AM -----

 Gloria Davis-SDV  
12/07/98 05:38 PM

Extn: 82750 SDV \*\*\* DRAFT \*\*\*

To:  
cc:  
bcc:  
Subject: URGENT - Resettlement Steering Committee Meeting

1. Ian Johnson is requesting your presence at a meeting of the resettlement steering committee to be held on Thursday, December 10 at 4:00 in Room MC 6-218. I apologize for the delay which is due to difficulties in bringing the principals together.

2. We attach an issues paper which is intended to familiarize the Steering Committee with the nature of the issues and help them provide guidance on a number of changes and outstanding questions. The issues paper is organized along the following lines:

#### Background

#### Key Changes - *Does the Steering Committee Agree?*

- Additions and Clarifications
- Main Drafting Changes
- Editorial Changes

#### Outstanding Issues - *Steering Committee guidance is sought on the following issues*

- Project Boundaries
- Indirect Economic Impacts
- Application to Adjustment Loans

#### Application to Specific Types of Projects - *Does the Steering Committee accept the proposed handling?*

- Slum Upgrading
- Parks, Protected Areas and Natural Resource Management Projects
- Privatization
- Rezoning

#### Next Steps - *Does the Steering Committee agree?*

3. Once the Steering Committee has met and advised the drafting committee on these matters we will incorporate any necessary changes into the text. Given the extent of the discussion we would propose to resubmit the document to the OPC and to CODE, explaining why the changes were made.



# OFFICE MEMORANDUM

DATE: December 8, 1998

TO: Steering Committee

FROM: Gloria Davis, SDV

EXTENSION: 82750

SUBJECT: **Draft OP 4.12: Key Changes and Outstanding Issues**

## Background

The original OMS on resettlement was written in 1980 with large dams and other major infrastructure projects in mind. While the OMS discussed urban resettlement, and the OD issued in 1990 specifically extended the policy to all investment projects that caused resettlement, the language of the policy continued to emphasize large-scale projects and the resettlement of people to sites where new infrastructure was provided and relations with host communities needed careful attention. Staff agree that the old OD and the new OP are well suited to this type of resettlement.

By 1986, the resettlement policy already applied to people who are not displaced, but who lose significant portions of their assets, and subsequently it was extended to projects such as the creation of parks and slum upgrading. More recently, its application has been debated in projects involving land titling, the privatization of housing stock and parastatal enterprises, and zoning. In these projects the consequences of the proposed changes differ (i.e. incomes in urban areas may be unaffected), and the instruments or solutions are more variable.

Application of the policy to a wide range of conditions has occurred, in part, because there is no umbrella or overarching policy which requires staff to assess general social impacts and to improve the social soundness of projects, or at least to minimize or mitigate adverse social impacts. At best, this has led to a proliferation of rules which aim to anticipate questions about how to apply the resettlement policy; at worst, it has led to differing interpretations between regions and decisionmaking on a case-by-case basis.

In this context, recent discussions by technical staff have posed important questions about what the policy should do, and how variability in situations and contexts should be handled. These, in turn, have led to some proposed changes in the draft policy. In reviewing these changes and deciding how they should be treated, we must weigh both substantive and presentational issues; for while some staff find the guidelines/rules excessively prescriptive, external critics of the Bank have insisted on a detailed specification of the rules, and they see flexibility as tantamount to backsliding.

## Key Changes

In response to questions from technical staff about the interpretation of the proposed draft policy on resettlement (OP 4.12), a number of changes were made. These changes can be seen in a side-



by-side document showing the September draft OP and the December or "alternative" draft. Recent changes, made since the drafts were circulated in late November, are underlined.

Four types of key changes have been introduced: 1) clarification of the types of projects covered and not covered; 2) provisions for flexibility and specification of review and appeal procedures; 3) clarification of the handling of SECALs and projects where resettlement is unlikely, but not impossible, and; 4) other minor editorial changes.

1) Clarification of the types of projects covered and not covered

- In response to the question, *What is the policy?* core elements of the policy were pulled forward into paragraph 1. (Both drafts incorporate comments from LEG.)
- In response to the question, *What projects does the policy apply to?* the types of projects covered are made explicit in paragraphs 3-4. There are several outstanding issues about what should be included and excluded (see the next major section).

*LEG feels that the policy in principle covers all projects and that a negative list should not be included. Does the Steering Committee consider that both a positive and a negative project list are appropriate?*

2) Provisions for flexibility and specification of review and appeal procedures

As a result of technical discussions and comments on the draft issues paper, we have proposed three additions to the September draft OP:

- More structure is given to judgements on how the policy would be applied. Specifically, we are proposing to establish a mechanism by which task teams can request a meeting with a Resettlement Committee consisting of authorized representatives of the Social Development and the Legal Departments in case the TTs wish to a) obtain institutional endorsement, b) request guidance, or c) request modifications in the manner in which the policy is applied to avoid perverse outcomes (for example, windfalls for the rich). In cases where a TT is not satisfied with the decision of the Resettlement Committee, an appeal can be made to the Vice President responsible for resettlement, who will be advised by LEG.
- The provisions of the September draft that resettlement plans should only be as long or as complex as the circumstances of the project in question demanded, were brought forward from the Annex to the main text of the policy, to increase their visibility (this is not in the original OD).
- Where a "good faith" technical estimate made by the borrower and the Bank indicates "zero resettlement," we have introduced language to permit a standard provision in the loan agreement to cover any contingent situation involving resettlement. Should resettlement occur, the Borrower agrees to (i) inform the Bank immediately and (ii) prepare resettlement plans consistent with the policy before any relocation takes place.

*Does the Steering Committee support the incorporation of the above flexibility in the application of the policy?*



3) Clarification of the handling of SECALs and SALs

- As with the new OP for EA, we are proposing that the resettlement policy apply to SECALs, but not to SALs where economy-wide impacts are more difficult to define. This issue was not discussed by the technical committee.

*Is this acceptable to the Steering Committee?*

4) Other minor editorial changes

- Acknowledging an agrarian bias to the OMS and OD, we minimized this in some areas (by moving likely impacts in paragraph 1 to a footnote, for example). But we have only done this to a limited extent, since some internal and external commentators feel strongly that the detailed provisions in the text should be maintained.
- We have elaborated on the circumstances under which cash compensation may be appropriate (see para. 7).
- The distinction between compensation (which is recognized in local laws) and other resettlement benefits (intended to provide for full replacement costs, restore incomes and living standards) is made explicit in paragraph 12 and a process approach is suggested for resolving some eligibility issues. This was also in the September draft, but is not in the original OD.
- We have tried to make the language on eligibility simpler, in part, by eliminating the sense of false precision in the examples previously provided. (For example, in the September draft, the cut-off date for determining eligibility of squatters to resettlement assistance was "one year prior to census" which is difficult to demonstrate.)
- The description of the procedures for subprojects and financial intermediaries is greatly shortened by a better editing of the text.
- Many detailed footnotes, which in the final analysis appeared to us to be best practice rather than definitional in nature, have been eliminated and shifted to the GP.

We recognize that some unintended errors may have crept in with these revisions and have proposed that a drafting committee reconcile text, eliminating editorial inaccuracies and highlighting policy differences.

These changes fall short of what is wanted by those who feel we should have a minimal policy, those who want to see a different type of policy altogether, and those in LEG who have argued for closer adherence to the September draft.

*Are there other comments or corrections from LEG, technical staff, or the Steering Committee?*

### **Outstanding Issues**

There are also a number of gray areas, which cannot be addressed by editing. A careful consideration of what we want a policy to do, and how it will be interpreted, is worth



consideration by the Steering Committee. Through the use of the examples below, we are requesting the view of the Steering Committee about how such issues should be handled in general, and specifically how they should be incorporated into the policy. The issues and concepts are outlined in the following paragraphs.

*Does the Steering Committee agree with the proposed handling of these issues?*

Project Boundaries: All components of a project which are mentioned in Schedule II, are covered by the resettlement policy, whether or not the component is financed by the Bank. This is intended to prevent "component shopping" to less stringent lenders. But the question arises whether this applies to associated activities not included in Schedule II, but necessary for achieving the objectives of the project (for example, construction of an access road to a Bank-financed reservoir). As the examples in Box 1 illustrate, the practice has generally been to apply Bank resettlement policy to non-Bank-funded activities when they are a) carried out concurrently with the Bank project, and b) necessary for achieving the objectives of the Bank project.

### **Box 1: Examples of Project Boundary Issues**

In Vietnam, the policy was applied to resettlement from a newly built, locally funded reservoir whose water was being used exclusively to feed a Bank financed water supply project, even though the reservoir did not figure in Schedule II of the project. However, as the reservoir had been completed almost a year before the Bank's involvement in the project, a general evaluation of completed resettlement was carried out and community based measures to improve certain aspects of resettlement were proposed. A household based entitlement approach to the completed resettlement was not adopted due to the difficulties involved in tracking the resettlers given the difference in timing of the projects.

In projects that involve expressway construction, resettlement connected with concurrently constructed, locally funded feeders roads and interchanges is covered by the policy since they are essential for achieving the objectives of the project.

In Pusan, Korea, resettlement from a locally funded metro rail line constructed concurrently and exclusively to run Bank funded metro cars was covered by the policy.

Private sector development projects, in particular, have called attention to these issues, because project components, even those that are critical to the operation of a project—a dedicated fuel supply line, or the exploitation of a new coal mine to feed a Bank Group-financed thermal power project—may be opened and operated by totally different corporate entities. In such cases, there may be limited leverage available as a function of the Bank Group's finance.

Indirect Economic Impacts: Another issue that has not been fully resolved is whether indirect economic impacts are covered by the policy, particularly when the adverse impacts are not due to acquisition of the land owned or used by them. For example, we have assumed that the policy should cover the economic losses suffered by communities left behind when a major part of the village is relocated, and it should cover the losses suffered by shopkeepers when land acquisition results in restriction of access to their shops; but it does not apply to businesses which suffer losses when major thoroughfares are rerouted. (See examples in Box 2.) The general approach in



Bank projects has been to cover indirect impacts in situations where: (a) the livelihoods of the indirectly affected community are directly dependent on the “directly affected” community, and (b) access to productive assets is restricted as a result of land acquisition for the project.

### **Box 2: Examples of Indirect Economic Impact Issues**

Parts of communities not affected by land acquisition or relocation, but left behind by the move of the majority, have been covered under the policy because their livelihoods are directly dependent on the people who are moving. In situations where only a small section of the community has had to relocate, the adverse impact on businesses and occupations of members of the communities staying behind has never been covered by the policy.

Temporary economic impacts on shopkeepers losing access to customers due to traffic disruption on account of project construction (shopkeepers affected by laying of water pipes along the street) have also typically been covered under the policy. However, when Bank projects involve construction of roads which draw traffic and business to new thoroughfares, those losing business income along the old alignment due to loss of traffic are not covered by the policy, though it would be considered good practice to create some alternative economic opportunities for them.

Landless laborers who lose their livelihoods as a result of acquisition of the land they work on have typically been covered under the policy. The argument made is that they have a long standing, one to one employment relationship with their employers and will not be able to get alternative employment once the land they work on is acquired. However, waiters and cooks working in relocated restaurants have not been covered by the policy since they are assumed to have marketable skills that can help them get alternative employment.

People whose employment was lost because of a change in technology brought both by the main investment and the resettlement—porters or cart drivers where roads were upgraded, or water sellers in an urban slum in which public water distribution was extended—have not been covered by the policy.

Unauthorized mobile vendors, who do not own any fixed assets, and who could move to another location to conduct their business, have sometimes been covered, sometimes not, depending upon whether a clear case could be made for their having had a “goodwill” asset in a regular clientele. Even for others, good design has usually meant that they are provided with spots to continue their business at a suitable location.

### **Application to Specific Types of Projects**

Perhaps the most intensely disputed questions in the policy have been over how it would be applied to specific types of projects. In all the projects below, it is clear to both social and sectoral specialists that the resettlement policy is a blunt instrument for treating what are often much more subtle changes than the loss of land, or assets, or access. The social changes involved are both positive and negative, and offer room for approaches other than resettlement. Currently they are decided on a time consuming, case-law basis, and this can be differently interpreted, as is



evident in the outcomes of many “parks versus people” debates. General principles are set out in the following section.

*We invite Steering Committee discussion and comment on these issues and on whether their incorporation into the forthcoming Resettlement Sourcebook is sufficient and appropriate.*

Slum Upgrading and neighborhood improvement projects: Technical staff have argued that in most slum upgrading and neighborhood improvement projects (a) the adverse impacts are of a minor scale, and no one is required to relocate out of the community; (b) the people adversely affected by land acquisition (if any) directly benefit from the project; (c) the community members (including affected households) participate in and agree to decisions relating to project design and implementation, and (d) participation in the project is voluntary, i.e. potentially affected people have the option of not participating in the project. As a result, they feel that the policy should not apply to those participating voluntarily in such projects. However, they agree that the policy would apply to slum upgrading and community development projects if they do not meet the above conditions, and that the affected people who are resettled out of the community would be covered by the policy. They also feel that due to the evolving design of such projects, resettlement framework would be a more appropriate planning tool than an up-front resettlement plan. This would be incorporated into the *Resettlement Sourcebook*.

Parks, Protected Areas, and Natural Resource Management Projects: Questions have been raised about the application of the policy to conservation/natural resource management projects. There is consensus that the policy would fully apply to people who are required to relocate out of such areas as a result of the project. However, the extent of assistance (if any) that should be offered to those who stay when their economic activities are restricted, or to those who are not given the option to relocate, but who must submit to restrictions, is debated. Resolution along the following lines is proposed.

Projects will distinguish between three broad categories of people who inhabit parks and protected areas (though environmental staff have pointed out that there could be a considerable overlap between the categories): (a) indigenous or traditional people, who have resided in these areas for many generations, (b) more recent, non-indigenous/non-traditional residents engaged in agriculture and other acceptable pursuits, and (c) those engaged in illegal activities.

For those in category (a) relocation out of the park may not be a culturally acceptable option. Therefore, they need to be compensated for any restrictions on their economic activities within the park to ensure that their incomes and standards of living are not adversely affected. Those in category (b) could either relocate out of the park or continue residing in the park with provision of certain benefits (that can be a part of project design) in exchange for restrictions on their activities. Resettlement specialists have argued that such restrictions on land use and the pursuit of other economic activities constitute an expropriation of income, and that losses should be mitigated and incomes restored. But some environment staff contend that since some of these activities carried out by those in category (b) are unsustainable, they should not be fully compensated, although they agree that some “safety net” measures are needed for the poor. Regarding those in category (c), there is agreement between both sides that there should be no compensation for their illegal activities, especially those pursued by quasi-corporate entities (such as illegal logging by companies, extension of farming estates into protected areas by large farmers, or poaching by organized bands) or for activities that do not constitute a part of traditional lifestyles of affected people (for example, poaching of endangered species by agricultural communities). We propose to include these distinctions in the *Resettlement Sourcebook*, but not in the policy.



Privatization: Privatization of public enterprises or public residential areas may result in adverse impacts on people who are working or living in such places. People adversely affected by enterprise closures may need to move since they may have been living in a particular town only because of their jobs. Indeed, if housing has been provided by the enterprises, then privatization or downsizing may involve compulsory relocation. In one-industry communities, and in emerging economies in which nearly all social services were provided by the enterprise itself, relocation may be the only solution for the retrenched workers. Nonetheless, retrenchment or relocation from such enterprises has not been covered by the resettlement policy, because the main objective of the project has been policy or sector reform, and the enterprise has not been "taken" for the project. The issue merits further discussion, because it is not clear whether the policy should apply when specific enterprises are closed to achieve project objectives, or whether the policy objective of income restoration is feasible.

Rezoning: Rezoning projects present another complex set of issues. In these projects, the status of land being used for a particular purpose (say, industrial) is changed through zoning (for example, from industrial to residential). Normally, people and enterprises are not relocated from one zone to another. However, zoning affects future land use and land values. We assume the policy does not apply in such cases. However, there are some rezoning projects where enterprises and / or people are required to relocate out of specific zones. Though the practice regarding application of the policy has been variable in the past, we now propose that the policy should apply to such cases.

### **Proposed Next Steps**

The Steering Committee needs to provide guidance on the substantive and presentational issues raised here. The drafting team (LEG, SDV and MDOPS) will then revise the draft OP to incorporate the agreed changes into the text. After a final version is available, we will brief the OPC on the main changes, and the draft will be simultaneously posted on the web to inform external stakeholders about the changes and why they were made. The final draft should be discussed at CODE; given the extent of debate around this policy, we propose that it then be sent to the Board for approval.



## Involuntary Resettlement

### OP 4.12 (9/98)

1. Bank<sup>1</sup> experience indicates that, unless appropriate measures are carefully planned and carried out, involuntary resettlement under development projects<sup>2</sup> generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.<sup>3</sup>

[FOR MOST OF TEXT ABOVE, SEE FN 1]

2. This policy applies to the taking of land, and other assets under Bank-financed investment projects which results in involuntary relocation or loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. The policy applies to such taking of land, or other assets<sup>4</sup> whether or not the people must move to another location.<sup>5</sup> The term "displaced persons" refers to people who are affected in any of these ways.

[UNDERLINED WORDING IS BASED ON SUGGESTIONS MADE BY CARLOS TO ADDRESS ISSUES IN PARA. 2. THIS PARA. IS ACCEPTABLE TO THE RESETTLEMENT TEAM.]

### Revised OP 4.12 (as of 12/03/98)

#### I. What is the Policy?

1. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.<sup>1</sup> For this reason:

- Involuntary resettlement is avoided or minimized where feasible, exploring all viable alternative project designs.<sup>2</sup>
- Where displacement is unavoidable, resettlement programs are conceived and executed as development programs, with resettlers provided sufficient resources and opportunities to share in project benefits;
- Community participation in planning and implementing resettlement programs is encouraged;
- Displaced persons are provided assistance to help them improve their former production levels, income earning capacity and living standards, or at least to restore them to levels that would have been achieved in the without-project case.

For this reason, Bank<sup>3</sup> policy is to avoid or minimize involuntary resettlement in Bank-assisted projects<sup>3</sup> and to mitigate its adverse impacts where resettlement is unavoidable. Resettlement programs are designed and executed as development programs, and displaced persons are provided opportunities to share in project benefits.

Particular attention is given to the needs of the poorest groups to be resettled.

[ALL UNDERLINED SECTIONS ABOVE ARE FROM OD 4.30, WITH WORDING CHANGES INDICATED IN ITALICS]

2. The Bank's<sup>3</sup> policy on involuntary resettlement applies when: a) people are physically relocated as a result of the land-taking of land or structures and they have no option to refuse; or b) land or other assets necessary for people's livelihoods are expropriated taken for project purposes; or c) physical access to natural resources is restricted by project activities, and this adversely affects income sources or livelihoods. The term "displaced persons" refers to people who are affected in any of these ways.



~~2. This policy applies to Bank-financed investment projects in which a change in land-use or water-use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. This policy provides for measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water use,<sup>4</sup> whether or not the people must move to another location.<sup>5</sup>~~

This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.

4. Responsibility for resettlement rests with the borrower. In financing projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement.<sup>8</sup>

5. When involuntary resettlement is unavoidable under a Bank-financed project, resettlement measures are conceived and executed as development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in

## II. What Projects are Covered?

~~3. This policy applies to projects where land or properties are taken for project purposes (for example, in the construction of dams, roads, ports or other infrastructure); or where restrictions in access to natural resources adversely affects incomes and livelihoods (for example, in establishing parks).~~  
[SEE FOOTNOTE 4]

~~This~~ policy applies whether or not the Bank is financing the part of the project<sup>4</sup> causing involuntary resettlement;<sup>5</sup> and it covers resettlement resulting from activities (such as the construction of an access road to a power plant) that are not part of the Bank-financed project, but are necessary to achieving the project objectives and are carried out concurrently.

4. The policy does not apply to: a) projects which entail the voluntary ~~transfer or~~ sale of land and property based on-market transactions [LEG HAS OBJECTED TO THIS; Carlos / Mohan to provide wording]; b) projects such as land reform, titling, privatization or rezoning [LEG HAS OBJECTED TO THIS] in which there may be change in land use but there is no taking of land for project purposes; or c) community based development projects urban or rural investment projects with voluntary relocation where the affected people project directly benefits the community and where affected people are the direct project beneficiaries and where they are fully involved and agree to in project design the decisions which have impacts upon them; the policy applies, however, to any persons involuntarily resettled as a result of such projects.<sup>6</sup>

SEE NEW FN 2

SEE 2<sup>ND</sup> PART OF PARA. 1 ABOVE



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project benefits. The objective is to assist displaced persons in their efforts to improve their former production levels, income-earning capacity, and living standards or, at least, to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project.



6. To meet this objective, Bank-assisted projects include measures to ensure that

(a) Displaced people are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choice from among, and provided with technically and economically feasible resettlement alternatives;<sup>9</sup> (iii) provided prompt and effective compensation for losses attributable directly to the project<sup>10</sup> (with lost assets valued at full replacement cost);<sup>11,12,13,14</sup> (iv) whenever replacement land is offered, provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site; (v) at and after displacement assisted with any required relocation; and (vi) provided with development assistance and measures for support (such as subsistence allowances, training, job opportunities, land preparation, credit facilities) during a transition period until they have had a reasonable opportunity to reestablish their production levels, income-earning capacity, and living standards.<sup>15</sup> Particular attention is paid to the needs of vulnerable groups among those displaced, especially the poor, the elderly, women,<sup>16</sup> indigenous groups,<sup>17</sup> ethnic minorities, and pastoralists.

SEE FN 7

SEE 5.(iv) ABOVE

SEE FN 11

### III. What Measures are Required?

5. Where involuntary resettlement occurs, Bank-assisted projects include measures to ensure that displaced people are:

- (a) informed about their options and rights pertaining to resettlement;
- (b) consulted on technically and economically feasible resettlement alternatives and offered choices among them;
- (c) provided prompt and effective (?) compensation for losses attributed directly to the project;<sup>7</sup>
- (d) compensated for lost assets at full replacement cost;<sup>8</sup>
- (e) provided assistance (such as moving allowances and subsistence support) during relocation;
- (f) offered support (such as short-term jobs, subsistence support or salary maintenance) during a transition period; and
- (g) provided with development assistance (such as land preparation, credit facilities, training, or job opportunities), in order to improve or reestablish their production levels, income earning capacities and living standards.<sup>9</sup>

In determining these measures, particular attention is paid to the needs of vulnerable groups among those displaced: especially the poor, the elderly, women and children, indigenous groups<sup>10</sup> and ethnic minorities.

6. Land-based resettlement options are normally provided for people displaced from agricultural settings. These options may include resettlement on public land or measures to identify land that resettlers can purchase. Whenever replacement land is offered, resettlers are provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. If sufficient land is not available and livelihoods are disrupted, options built around opportunities for employment or self-employment are required.

7. Bank experience has shown that cash compensation may be appropriate in some circumstances: where the land taken for the project is a small fraction of the total holdings of the affected people; or where livelihoods are not land-based, active markets for land and labor exist, and displaced people regularly use such markets. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement levels in local



(b) Land, housing, infrastructure, other forms of assistance under this policy, and compensation are provided to displaced people who may have usufruct or customary rights to land or other resources taken for the project. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

(c) Communities are provided timely and relevant information, are consulted on their resettlement, and are offered opportunities to participate in planning, implementing, and monitoring their resettlement. Appropriate and accessible grievance mechanisms are made available.

(d) To help resettlers integrate socially and economically into host communities and minimize adverse impacts on host communities, any host communities are informed about their options; they are consulted in planning, implementing, and monitoring those aspects of the resettlement that will affect them; and their views and preferences with respect to integrating resettlers into their communities are identified and taken into account.

(e) Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored.

(f) The implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation is paid; all other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

(g) The implementation of resettlement activities is adequately monitored and evaluated.

markets.<sup>11</sup>

SEE ELIGIBILITY SECTION, ESP. 13.(a)

**SEE PARA. 13**

8. Bank resettlement policy requires that the affected people participate in resettlement planning and implementation. The affected people and their communities, and any "host" communities receiving resettlers, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement.

9. In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve or maintain accessibility and levels of service. Alternative resources are provided to compensate for the loss of access to community resources (such as fishing areas, drinking water, fuel or fodder), or alternatives appropriate to the needs of the users are provided.

10. Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. Resettler preferences for relocating in preexisting communities and groups are honored to the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved.

11. Implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation and other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

SEE PARA. 21



## Eligibility for Benefits

7. *Determination of Eligibility.* The borrower develops a procedure, satisfactory to the Bank, for establishing the criteria, consistent with paras. 7-8 below, by which affected people will be deemed eligible for compensation and other resettlement assistance to achieve the objectives of this policy. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs). As part of the procedure, the borrower carries out a census to identify the people who will be affected by the project (see Annex A, para. 5 (a)).

8. *Criteria for Eligibility.* Displaced persons in the following two groups are entitled to compensation for loss of land or water resources taken for project purposes:

(a) those who have formal legal rights to land or water resources (including customary and traditional rights recognized under the laws of the country); and

(b) those who do not have formal legal rights to land or water resources at the time the census begins but have a claim to such legal rights—e.g., rights derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage—provided that such claims become recognized under the laws of the country through a process identified in the resettlement plan (see Annex A, para. 6 (e)).

Displaced persons in these two groups are also entitled to compensation for loss of other assets, in particular, structures and crops. The absence of legal title to land or water resources is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

### SEE PARA. 6.(b)

9. A third group of displaced persons—those who are occupying land in violation of the laws of the country and

## IV. Who is Eligible for Benefits?

12. The Bank recognizes a distinction between compensation which is paid for the loss of land and other assets, and which is based on rights recognized in national law, and other resettlement assistance, which is intended to meet the requirements of this policy.

SEE PARA. 15

13. Displaced persons are eligible for compensation for the loss of land taken for project purposes, and for the loss of other structures and crops, when:

(a) they have formal legal rights to these resources, including customary and traditional rights recognized under the laws of the country; and/or

(b) they do not have formal legal rights to these resources, but have a claim to such rights<sup>12</sup> provided that such claims become recognized through due process and are reflected in the resettlement plan.

SEE FN 12

People or households in both categories are also entitled to compensation for loss of other assets, and to other resettlement assistance. The absence of legal title is not, in itself, a bar to compensation for lost assets or other resettlement assistance. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.

14. Normally, under national law, compensation for land is not payable to displaced persons occupying land to



who do not fall within the category described in para. 7 (b)—is not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census,<sup>18</sup> they are entitled to resettlement assistance in lieu of compensation for land, as necessary to achieve the objectives set out in para. 4. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular, structures and crops.

SEE PARA. 6

which they have no formal or traditional legal rights. However, resettlement assistance, necessary to achieve the objectives set out in this policy, is provided to people if they were on that land when it was formally demarcated (and provided this demarcation was made publicly known) (is there a better word than demaracation?), or when the census was carried out. They are also entitled to compensation or other assistance for the loss of assets other than land, including structures and crops. People who arrive after the formal demarcation or census is completed are not entitled to compensation or any other form of resettlement assistance. Measures may be necessary to protect areas demarcated for project purposes from encroachment and claims, as soon as the area is identified.

**15.** Determining eligibility for compensation and different forms of resettlement assistance can be complex. For this reason, the borrower develops a procedure, satisfactory to the Bank, for determining who is eligible for compensation and resettlement assistance. As part of the procedure, the borrower carries out a census as early as possible to identify the people who will be affected by the project (see Annex A, para. 5 (a)). The procedure includes provisions for consultations with potentially affected persons and communities, local authorities, and nongovernmental organizations, where appropriate. It also specifies grievance procedures. Special consideration is given to impacts on poor and vulnerable groups.



## Resettlement Plan

10. The borrower is responsible for preparing a resettlement plan that conforms to this policy.<sup>19</sup> The plan covers all aspects of the proposed resettlement and presents a strategy for achieving the objectives of this policy as set out in para. 4. Resettlement planning is coordinated with any environmental assessment (EA).<sup>20</sup> In preparing the resettlement plan, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. When independent technical advisory panels are established under para. 4 of OP 4.01, *Environmental Assessment*, for projects that involve resettlement, the panels include members with resettlement expertise acceptable to the Bank.

11. The borrower incorporates the resettlement plan into the Project Implementation Plan.

SEE PARA. 12 BELOW

12. The borrower makes a draft resettlement plan that meets the requirements of this policy available at a place accessible to project-affected people and communities and local NGOs. When necessary for ensuring effective disclosure, the borrower also makes the draft plan available in a form and language that are understandable and accessible to these groups. For projects that are in environmental assessment Category A, and for Category B projects that are proposed for IDA financing, this disclosure takes place before the Bank appraises the project.

13. The Bank requires, as a condition of appraisal, that the borrower provide to the Bank a draft resettlement plan that conforms to this policy.<sup>21</sup> Once the Bank accepts the borrower's plan as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again makes it available at a place accessible to, and in a form and language understandable to, project-affected people and communities and local NGOs; and the Bank makes it available at the InfoShop.

## What is in the Resettlement Plan?

16. The Borrower is responsible for preparing and implementing a resettlement plan which conforms to this policy. The scope and level of detail of the resettlement plan varies with the magnitude and complexity of resettlement. For this reason, projects benefit from early screening, scoping of key issues, and decisions about the nature of the impacts and the information required in the plan. In determining the issues to be covered and preparing the resettlement plan, both the Bank and the borrower draw on appropriate social, technical, and legal expertise and on community-based organizations and NGOs, as appropriate.<sup>13</sup> Annex A sets out the contents of a resettlement plan. Where impacts are minor (or in the case of projects with phased resettlement, are expected to be minor), an abbreviated plan or framework may be agreed with the borrower after consultation with appropriate Bank technical specialists.

SEE BEGINNING OF PARA. 18

17. The borrower provides the Bank with a draft resettlement plan that conforms to this policy as a condition of appraisal.<sup>14</sup> Prior to appraisal, the borrower makes a draft resettlement plan available at a place accessible to project-affected people and local NGOs, and in a form and language that are understandable to these groups.

OMIT—NOT ACCURATE!

Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again discloses it in the same manner.

SEE PARA. 17



## Legal Agreements

14. Key elements of the resettlement plan,<sup>22</sup> and the borrower's obligations to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements for the project.

## Projects with Multiple Subprojects

### *Sector Investment and Financial Intermediary Loans*

15. For sector investment loans that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans, before appraisal the borrower submits a resettlement policy framework, consistent with this policy, that covers the following areas: principles, objectives, eligibility criteria, entitlements (compensation and resettlement assistance), implementation arrangements (including arrangements for community participation and grievance mechanisms), organizational responsibilities, methods of valuating assets, and monitoring and evaluation. The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

16. Similarly, for financial intermediary loans,<sup>23</sup> the Bank requires that the financial intermediary screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans also, the Bank requires that before appraisal the borrower submit to the Bank a resettlement policy framework containing the elements listed in para. 14. In addition, the framework includes an assessment of the institutional capacity and procedures of each of the onlending institutions that will be responsible for subproject financing.<sup>24</sup>

17. Under either sector investment or financial intermediary loans, for each subproject that may involve resettlement, the Bank requires that a satisfactory resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before subproject appraisal, whether such subprojects are included in the project before or after the Bank appraises the project.

18. The borrower incorporates the resettlement plan into the Project Implementation Plan. Key elements of the resettlement plan (or, where applicable, the resettlement policy framework), and the borrower's agreement to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements of the project.

19. Due to the nature or design of some Bank-assisted operations (e.g., sector investment loans, financial intermediary loans, or other investment projects with multiple subprojects), a full resettlement plan cannot be prepared prior to appraisal, because a) subprojects are not yet identified, b) the zone of impact for subprojects has not been determined, or c) the precise siting of alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework before appraisal, containing the elements set out in Annex A. Subsequent resettlement plans for subprojects are submitted to the Bank for approval before the subproject is accepted for Bank financing.

← SEND TO ANNEX A

← SEND TO ANNEX A



*Other Projects with Multiple Subprojects*

18. For a Bank-financed project with multiple subprojects that is not a sector investment or financial intermediary loan, the Bank requires that a satisfactory draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project, (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined. For these cases, before appraisal the borrower submits a resettlement policy framework containing the elements set out in para. 14. Resettlement plans for all subprojects involving resettlement, whether the subproject is prepared before or after the Bank appraises the project, are subject to approval by the Bank, except as provided in para. 18.

*Delegation of Approval Authority*

19. For all projects with subprojects as defined in paras. 14-17, if in the opinion of the Bank the project implementing agency or a responsible government agency or financial intermediary has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy, the Bank may agree, in writing, that subproject resettlement plans may be approved by that agency without being subjected to prior review by the Bank. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found to be not in compliance with Bank policy, are reflected in the project legal documents. Any such delegation made during project implementation is approved by the Regional vice president in consultation with the Head, Social Development Board, and the Legal Department, and the legal agreements amended accordingly. In all such cases, implementation of the resettlement plans remains subject to supervision by the Bank.

FROM PARA 5.(g) & PARA. 9 OF THE SEPTEMBER  
BP 4.12

← SEND TO ANNEX A

20. The Bank may agree that subproject resettlement plans can be approved by the project implementing agency or a responsible government agency or financial intermediary without Bank review if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for plans subsequently found not to be in compliance with Bank policy, are reflected in the project legal documents. In all such cases, implementation of the resettlement plans is subject to Bank supervision.

← SEND TO BP

21. The implementation of resettlement activities is adequately monitored and evaluated. Before project completion, an assessment will be made whether the main objectives of the resettlement program have been realized. This assessment is based on baseline conditions, resettlement objectives, and project performance indicators determined at the start of the project. Follow up measures, if necessary, will be discussed with the Bank and would serve the basis for continued Bank supervision, as appropriate.



**Assistance on Resettlement Issues**

**20.** The Bank may support borrowers and other concerned entities by providing (a) assistance in assessing and strengthening resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level; (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement; (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and (d) financing of the investment costs of resettlement, either as (i) a component of the main investment project causing displacement and requiring resettlement, or (ii) a free-standing resettlement project with appropriate cross-conditionality, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition); however, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks (see OP 14.40, *Trust Funds*).

**VI. How can the Bank Assist the Borrower?**

**22.** The Bank may support borrowers and other concerned entities by providing:

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing for technical assistance to strengthen the capacities of agencies responsible for resettlement;
- (c) financing technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and
- (d) financing the investment costs of resettlement.

**23.** The Bank may finance, either a component of the main investment project causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionality, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

**24.** The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities. The Bank does not retain consultants to prepare resettlement policies, resettlement plans, or policy frameworks.



OP 4.12: FOOTNOTES

LANGUAGE FROM 2<sup>ND</sup> PART OF PARA. 1

SEE FN 6 BELOW

FN 1: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

FN 2: Such projects may involve, for example, construction, establishment, reestablishment, upgrading, or extension of dams; mines; new towns or ports; housing and urban infrastructure; large industrial plants; railways or highways; irrigation canals; or forests, national parks, or protected areas.

FN 3: See also OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects*.

FN 4: Although the Bank does not finance closure of enterprises, it may be involved in addressing the consequences of a mine or plant closure that results in physically dislocating a large segment of a community or depriving them of the means of livelihood. In such cases, it

Revised OP 4.12: FOOTNOTES

FN 1: Bank experience indicates that involuntary resettlement under development projects, if unmitigated, generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

NEW FN 2: In appraising projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement (for example, realignment of roads or reduction in dam height may reduce resettlement needs). It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

NEW FN 32: "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.

SEE PARA. 3 NEW FN 4: Such projects may involve, for example, the taking of land for the construction of dams, roads, ports, or other infrastructure; or restricting access to natural resources in a way that adversely affects incomes and livelihoods (for example, in establishing parks).

FN 5: In such cases, this should be reflected in Schedule II of the Project Loan Agreement.

DROPPED

FN 6: The policy does not cover ~~indirect~~-economic impacts (such as the loss of roadside business to a new highway) not directly caused by the project or intangible impacts (such as the loss of view or other aesthetic values). It does not cover the closing of mines or other



is good practice for the borrower to consider a resettlement plan along the lines set out in this policy.

FN 5: Refugees from natural disasters, war, or civil strife, who are involuntary resettlers, are not covered by this policy (but see OP/BP 8.50, *Emergency Recovery Assistance*).

FN 6: For example, realignment of roads or reduction in dam height may reduce resettlement needs. It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

FN 7: For people displaced from agricultural settings, Bank experience shows that the objectives of this policy normally cannot be achieved without land-based resettlement strategies. Therefore, for those losing land, the Bank encourages borrowers to offer replacement land and, if sufficient land is not available, non-land-based options built around opportunities for employment or self-employment.

FN 8: Losses arising from sentimental attachment or aesthetic preference and losses not caused by the change in land use or water use under the project are beyond the scope of this policy.

SEE FN 12 BELOW

FN 9: With regard to land and structures, "replacement cost" is defined as follows: For agricultural land, it is the preproject market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of land preparation to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; for land in urban areas, it is the preproject market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; for houses and other structures, it is the market cost of the materials to build a

enterprises during restructuring, ~~although although it is good practice to minimize and mitigate adverse social impacts, particularly upon poor people, in cases where the closure of enterprises results in physically dislocating a large segment of a community or depriving them of the means of livelihood, it is good practice for the borrower to undertake a social assessment (see OP/BP 10.05, *Social Analysis*) and implement measures to minimize and mitigate adverse social impacts, particularly upon poor and vulnerable groups.~~—Refugees from natural disasters, war or civil strife are involuntary resettlers, but they are not covered by this policy (see OP/BP 8.50, *Emergency Recovery Assistance*).

SEE FN 2 ABOVE

SEE PARA. 6

SEE 1<sup>ST</sup> PART OF FN 6

FN 7: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

FN 8: In principle, "replacement cost" refers to the level of compensation sufficient to replace lost assets and cover transaction costs. [more detailed definition could be provided in the definitions section] Compensation for structures or assets should not be depreciated. For losses that cannot easily be valued or compensated in monetary terms (e.g. access to public services, customers and suppliers; or fishing grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. In the absence of functional markets for affected land or assets, technical guidance and local research may be necessary to



replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of 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. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses in para. 5.

FN 10: For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to (a) public services, (b) customers and suppliers, or (c) fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

FN 11: Experience indicates that offering only cash compensation for lost assets rather than a choice among viable options is normally inadequate. However, cash compensation may be appropriate when the residual landholding of the affected person remains economically viable. In addition, when linear projects require acquisition of narrow (e.g., less than two meters wide) strips of land to widen roads or to provide walkways, canal improvements, or sanitation and water lines, and such acquisition has no appreciable effect on incomes or living standards, and it is inefficient to determine the precise replacement cost for each affected parcel (in part because it is likely to be impossible to replace such small strips of land), it may be appropriate to use a flat rate of cash compensation based on, or exceeding, prevailing land values in local land markets. As a safeguard, the land acquisition assessment should show that such acquisitions affect only outside edges or corners of affected parcels and affect less than 10 percent of any parcel. Landholders must also be compensated at full replacement cost for lost structures and crops on such parcels.

FN 12: For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.

establish appropriate valuation procedures.

← SEND REST OF DEFINITION TO GLOSSARY OR SOURCEBOOK

SEE MIDDLE OF FN 8

SEE PARA. 7

SEE FN 7 ABOVE



FN 13: The resettlement plan (see paras. 9-12) establishes a target date—the date on which the requirements of para. 5 (a)(vi) should reasonably have been met—for terminating such transitional assistance.

FN 14: See OP 4.20, *The Gender Dimensions of Development*.

FN 15: See OD 4.20, *Indigenous Peoples*.

FROM MIDDLE OF PARA. 7(b)

FN 16: Lack of documented occupancy is not in itself evidence of nonoccupancy.

SEE PARA. 9

FN 17: Annex A sets out the contents of a resettlement plan. Bank staff do not prepare the resettlement plan, nor do they engage consultants under a trust fund to prepare the plan (see OP 14.40, *Trust Funds*).

FN 18: Projects involving involuntary resettlement are normally classified as Category A projects for purposes of EA. OP/BP 4.01, *Environmental Assessment*, discusses the screening process and sets out the Bank's policies and procedures related to EA.

FN 19: An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery

DROPPED

DROPPED

FN 9: Guidance is provided in Annex A to this OP and in the Resettlement Sourcebook.

FN 10: See OD 4.20, *Indigenous Peoples*.

FN 11: In such situations, it is often better to use blocked accounts, voucher systems, or other mechanisms to ensure that cash is used for mitigating the losses incurred under the project.

FN 12: For example, rights derived from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from traditional law and usage.

DROPPED

FN 13: For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally also engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of sittings of the panel depend on the nature of the resettlement. If independent technical advisory panels are established under OP 4.01 (*Environmental Assessment*), the resettlement panel may form part of the environmental panel of experts.

SEE PARAS. AND 16 & 24

DROPPED

FN 14: An exception to this requirement may be made in highly unusual circumstances (such as emergency



operations) with the approval of the managing director (MD) concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the MD's approval stipulates a timetable and budget for developing the resettlement plan.

FN 20: Key elements include the following, as necessary: (a) a definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project.

FN 21: See OP/BP 8.30, *Financial Intermediary Lending*.

FN 22: Once the Bank has approved the project, before a new onlending institution joins the project, the borrower provides this assessment of it to the Bank.

recovery operations) with the approval of the managing director concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the managing director's approval stipulates a timetable and budget for developing the resettlement plan.

← SEND TO BP

← SEND TO ANNEX A?

← SEND TO ANNEX A?



## Involuntary Resettlement

1. Planning resettlement activities is an integral part of preparation for Bank<sup>1</sup>-financed projects that cause involuntary resettlement. During project identification, the task team (TT) reviews each investment project; if it identifies any potential involuntary resettlement<sup>2</sup> under the project, it promptly informs the Regional social development unit and the Legal Department (LEG). Throughout project processing, the TT consults the Regional social development unit and LEG and, as necessary, the Social Development Family.

2. When a proposed project is likely to involve involuntary resettlement, the TT informs the borrower of the provisions of OP/BP/GP 4.12. The TT and borrower staff (a) review past borrower experience with similar operations; (b) assess government and implementing agencies' policies (identifying any inconsistencies between such policies and the Bank's policy) and experiences and the legal framework covering resettlement; (c) discuss with the agencies responsible for resettlement the policies (including measures to address any inconsistencies between government or implementing

agency policies and Bank policy) and institutional, legal, and consultative arrangements for resettlement; and (d) agree on any technical assistance to be provided to the borrower (see OP 4.12, para. 19). ~~Based on a review of The TT also agrees with the Borrower on the scope, coverage and the level of detail required in the resettlement plan~~ Based on a review of the magnitude and complexity of resettlement, the TT agrees with the Regional social unit and LEG on the scope, coverage and the level of detail required in the resettlement plan. The TT conveys this to the borrower and also discusses with the borrower any measures necessary to prepare a resettlement plan,<sup>3</sup> agrees on the timing of these measures, and monitors progress on implementing them. The TT summarizes in the Project Concept Document (PCD) and the Project Information Document (PID) current information on the magnitude, strategy, and timing of the resettlement activities, and it periodically updates these documents as project planning proceeds.

In cases where the Task Team wishes to a) obtain institutional endorsement, or b) guidance on the manner in which it proposes to address

1. "Bank" includes IDA; "loans" includes credits and guarantees; "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility; and "resettlement plan" includes, as appropriate, resettlement policy framework.
2. ~~The Bank's policy on involuntary resettlement applies to Bank-financed investment projects in which a change in land or water use results in involuntary loss of shelter, loss of productive assets or access to productive assets, including natural resources, or loss of income and means of livelihood. The Bank's policy on involuntary resettlement applies when: a) people are physically relocated as a result of the taking of land or structures; or b) land or other assets are expropriated for project purposes; or c) physical access to natural resources is restricted by project activities, and this adversely affects income sources or livelihoods.~~ Involuntary resettlement as used in this document covers both (a) the involuntary displacement ~~(physical and nonphysical)~~ of affected people that arises from such impact changes, whether or not the people must move to another location; and (b) the measures for mitigating the impacts of displacement. The policy set out in OP 4.12 applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from concurrent activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.
3. Such measures may include, for example, developing procedures for establishing eligibility for resettlement assistance; conducting socioeconomic surveys and legal analyses; carrying out public consultation; identifying resettlement sites; or evaluating options for income restoration.

**Note:** OP and BP 4.12 together replace OD 4.30. *Involuntary Resettlement*. Questions may be addressed to



resettlement issues in a project, or c) request modifications in the manner in which the policy is applied to avoid perverse outcomes (for example, windfalls for the rich or further impoverishment of the poor), the TT can request a meeting of the Resettlement Committee consisting of authorized representatives of the Social Development and the Legal Departments. In deciding the issue, the Committee is guided, among other sources, by the Resettlement Sourcebook, which will be regularly updated to reflect good practice. In cases where the TT is not satisfied with the decision of the Resettlement Committee, an appeal can be made to the Vice President responsible for resettlement, who will be advised by LEG.

3. During project preparation, the TT discusses with the borrower its progress in examining resettlement options, developing a strategy for carrying out the chosen option, drafting the resettlement plan, and making financial arrangements. The full costs of resettlement activities are included in the total cost of the project. The costs of resettlement, like those of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective subject to the policies set out in OP 4.12.

### **Appraisal**

4. The borrower's submission to the Bank of a resettlement plan that conforms with the requirements of OP 4.12 is a condition of appraisal for projects involving resettlement (see OP 4.12,

para. 16 and 172). Once the borrower officially transmits the draft resettlement plan to the Bank, Bank staff—including the appropriate resettlement specialists, the lawyer, and other technical experts—review it to determine whether it provides an adequate basis for project appraisal. They advise Regional management accordingly. The TT sends the plan to the Bank's InfoShop.

5. Project appraisal assesses (a) the extent to which project alternatives were considered to minimize involuntary resettlement; (b) the adequacy of the plan, including the timetable, budget, and financial arrangements for compensation and resettlement; the provisions for sites and funding for all resettlement activities; the involvement of affected groups and the extent to which the views of such groups were considered; and the institutional, implementation, and monitoring arrangements; (c) the feasibility of the plans for the improvement (or at least restoration) of production levels, income-earning capacities, and living standards; (d) borrower commitment to and capacity for carrying out the resettlement plan; and (e) significant risks from inadequate implementation of the resettlement activity. Appraisal is complete only when the final draft resettlement plan conforming to Bank policy is officially transmitted to the Bank.

6. In the Project Appraisal Document (Block 3: Summary Project Assessments, under the entry "Environmental Assessment"), the TT describes the resettlement plan. An annex to the Project Appraisal Document summarizes the plan, covering, inter alia, the basic information on affected populations (including baseline data), development packages, resettlement risks and the proposed measures for their risk mitigation, timetable, budget, and performance monitoring

4. Key elements of a resettlement plan include the following, as necessary: (a) definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project. See OP 4.12, para-Annex A, Section II-14, for key elements of a resettlement policy framework.
5. See OP 4.12, para. 11-5(f).
6. See OP/BP 13.05, *Project Supervision* (forthcoming).



indicators. The PAD annex shows the overall cost of resettlement as a distinct part of project costs.

7. The project description in the Loan Agreement describes the resettlement component or subcomponent. The legal agreements include as necessary covenants reflecting key elements of the resettlement plan<sup>4</sup> and the borrower's obligation to carry out the plan and keep the Bank informed. Disbursements under the loan are sequenced to extend throughout the period of implementation of project resettlement activities.<sup>5</sup> At negotiations, the borrower and the Bank agree on the resettlement plan. Before presenting the project to the Board, the TT confirms that the responsible authority of the borrower and any implementation agency have provided final approval of the resettlement.

### Supervision

8. In recognition of the importance of close and frequent supervision<sup>6</sup> to good resettlement outcomes, the TT establishes supervision arrangements appropriate to the complexity of the resettlement component. It supervises the project's resettlement activities throughout project implementation, ensuring that the requisite social, financial, legal, and technical experts are included in supervision missions. To facilitate a timely response to problems or opportunities that may arise with respect to resettlement, the TT reviews project resettlement planning and implementation during the early stages of project implementation; as appropriate, it engages the borrower in discussing and amending the resettlement plan on the basis of the findings of this review.

9. A project is not considered complete until the resettlement activities set out in the resettlement plan have been implemented. The project Implementation Completion Report

(ICR)<sup>7</sup> evaluates (a) the extent of the displacement, (b) the impact of the project on the standards of living of those displaced and of any host population, and (c) the achievement of the resettlement objectives as assessed with reference to the agreed implementation measures and performance indicators in the legal agreements.<sup>8</sup> Since resettlement activities often continue after construction works are finished, the ICR also recommends any follow-up actions, including provisions for any Bank supervision that may be needed after loan closing to ensure that resettlement activities are satisfactorily completed. If the borrower has fully implemented the agreed measures but the project's resettlement objectives have not been realized, the ICR assesses the appropriateness of the agreed measures and proposes a future course of action including, as appropriate, continued supervision by the Bank.

### Country Assistance Strategy

10. In countries with a series of operations requiring resettlement, Bank staff include in the ongoing country and sector dialogue with the government any issues pertaining to the country's policy, institutional, and legal framework for resettlement. They also reflect these issues in country economic and sector work and the Country Assistance Strategy.

7. See OP/BP 13.55, *Implementation Completion Report*.

8. The ICR's assessment of the extent to which resettlement objectives were realized is normally based on a socioeconomic survey of affected people conducted at the time of project completion.



# Resettlement

- Norm (i) access to natural resources.
- relocation from parks (compensate for illegal activity).
  - open access: protect coral reefs + people who have livelihoods. (But not resettled).
- In past - agreed that compensation is needed. No person

Substantive issue

OP:  
includes/  
excludes

→ exclude from policy.





sell/buy

accounts  
w/ run

NRM

① accounts  
w/ run =  
sell/buy  
for land.

② very  
unstructured (and)  
- so hard  
out.

delete

③ keep it  
in the  
policy but  
actually it's  
up to variable.

CONCAC → Indonesia



Agis' note

M. in B

- ① den on NGO int - Kerkel.
- ② issued, not + ne → VP-NGO:  
NGO - Bank - Steer Committee on NGOs (IS.)
- ③ - Steer Committee (EXT led).  
thematic team on NGOs
- ④ Post Conflict = ambivalent.  
postconflict fund → #1
- ④ energy, EXT - NGO imes.  
millennium debt initiative



## OFFICE MEMORANDUM

DATE: December 16, 1998

TO: Gloria Davis, Director, SDV

FROM: Kenn Rapp, Operations Analyst, SDV *OK Rapp*

EXTENSION: 39811

SUBJECT: **Record of Contacts Between Environment and Resettlement Staff in the Process of Converting Draft OP 4.12**

Dear Gloria,

I am attaching a listing, in the form of a chart, of the most significant formal contacts that have taken place between the Resettlement Team and Environment Department staff for the purposes of converting the involuntary resettlement OP.

All listings correspond to printed documentation, which I have attached. Entries listed in blue represent consultation meetings.

The record shows that the Resettlement Team's contacts with specialists from various regional Environment Departments has been frequent and sustained since October 23rd. In fact, **we have had more individual consultation meetings with this sector than with any other.** However, the record also shows inconsistencies in the exact individuals participating in the consultations, especially on the part of ENV. This helps to explain the apparent need to call so many meetings, although we feel the lack of clear representation and fluid communications within the Environment Family have also contributed to this.

Finally, we feel the record shows that conversations on the OP's treatment of environmental issues have become circular, with both sides returning to fundamental points of principle again and again. The net result has been the dilemma confronting us today: substantive lack of progress on key issues of natural resource management, parks, and protected areas. Although in our view a clear understanding of the issues exists, we have reached the point of diminishing returns in our joint ability to achieve closure on them at the technical level. Firm guidance from the Steering Committee is going to be essential if these issues are to be resolved.

Cc: Maninder Gill, SDV



RECORD OF CONTACTS BETWEEN ENVIRONMENT AND RESETTLEMENT STAFF  
IN THE PROCESS OF CONVERTING DRAFT OP 4.12  
(FORMAL CONSULTATION MEETINGS INDICATED IN BLUE)

Contact or Meeting	Date	Environment Staff Participating	Resettlement Staff Participating	Issues Under Discussion	Outputs [ATTACHED]
RDV/ENV joint consultation meeting	10/21	T. Serra, G. Ledec (left early), L. Scura, G. Castro, staff from LCSES	M. Gill, D. Aronson, D. Gibson, K. Rapp, R. Kvam, M.C. Mejía, S. Peabody, W. van Wicklin	Application of September OP to NRM and parks/protected areas projects; host areas and the natural habitats policy; illegal activities; conversion vs. revision of the September OP	1. 12/21 K. Rapp minutes 2. 10/22 L. Scura additions
1 <sup>st</sup> Ledec/ Aronson memo exchange	10/22	G. Ledec	D. Aronson	Expansion of existing OD; creation of moral hazards; chilling effect on ENV portfolio	3. 10/22 memo and response
ENV consultation meeting (called by T. Serra)	10/23	T. Serra, C. Cruz (GEF)	M. Gill, K. Rapp	Responsibility for policy compliance in GEF projects; illegal activities	4. 10/26 K. Rapp minutes 5. 10/26 T. Serra additions 6. 10/27 A. Kiss memo 7. 11/08 K. Kimes memo
NRM consultation meeting (called by G. Davis)	11/4	G. Ledec, C. Shaw, T. Serra?	G. Davis, M. Gill?	? (no minutes were taken)	8. 11/2 GD memo calling for meeting (no minutes were taken)
2 <sup>nd</sup> Ledec/ Aronson memo exchange	11/17	G. Ledec	D. Aronson	Expansion of existing OD; creation of moral hazards; chilling effect on ENV portfolio	9. 11/17 memo and response
ENV consultation meeting (called by S. Shen)	11/19	G. Ledec, S. Shen, A. Kiss	M. Gill, D. Aronson, K. Rapp, A. Dani, C. del Castillo, C. Zhang, W. Waters	Application of September OP to NRM and parks/protected areas projects; illegal activities; voluntary vs. involuntary and entitlements	10. 11/20 M. Gill summary memo 11. 11/23 A. Kiss response



Aronson/Shen memo exchange	11/19	S. Shen, A. Kiss	D. Aronson	Consultation process	12. 11/19 memo and responses
ENV consultation meeting	11/24	G. Ledec, S. Shen	M. Gill, K. Rapp, C. Zhang, W. Waters	Illegal activities; voluntary vs. involuntary and entitlements	--
ENV consultation meeting	11/30	A. Kiss	M. Gill	FU to 11/19 & 11/24 mtgs.	13. Section on "Parks, Protected Areas, and NRM Projects" in 12/8 Changes and Outstanding Issues memo
Recent memo exchanges	12/10-12/16	A. Kiss, L. Scura, C. Di Leva	M. Gill	Application of September OP to NRM and parks/protected areas projects; consultation process	14. 12/15 C. Di Leva memo 15. 12/15 M. Gill memo 16. 12/16 A. Kiss memo



From: Kennan W. Rapp on 10/21/98 06:40 PM



From: Kennan W. Rapp on 10/21/98 06:40 PM

To: Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, George Ledec/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Maria Teresa Serra/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank

cc: Maninder S. Gill/Person/World Bank, mmejia@worldbank.org, Dan Aronson/Hq/lfc@lfc, Daniel R. Gibson/Person/World Bank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Gloria Davis-SDV/Person/World Bank@WorldBank, Patricia N. Rogers/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank

Subject: **1st consultation on OP 4.12 with RDV and ENV technical specialists**

This first encounter between the team of resettlement specialists and, principally, RDV/ENV technical specialists in the regions was chaired by Teresa Serra, and lasted from 2:00 pm to approximately 4:15 pm. In the course of the discussion, a number of issues, concerns, and case examples were raised, and the following points were agreed:

- In light of the view by many that paragraph 2 of OP 4.12 represents a considerable broadening of the scope of the policy, the resettlement team will rewrite this section to make it clearer and more specific, possibly adding language to state that land titling and land administration projects are not covered by the policy.
- The resettlement team will review the language in paragraphs 7(b) and 8, with regard to the undesirability of creating perverse incentives to encroach upon public lands or open-access areas.
- Paragraphs 14 together with paragraph 17, which discuss the need to prepare a resettlement policy framework for projects with multiple subprojects whose impacts cannot be known at the time of appraisal, were seen by RDV/ENV specialists as impractical and costly. The resettlement team stressed the importance of preventive planning for even the possibility of involuntary resettlement but agreed to review the grouping of operational dictates, Bank procedures, and good practice points in the policy.
- Responding to concerns about the cost burdens that the financing arrangements mandated in paragraph 19 impose on borrowers (particularly if, as in the case of some GEF grants, they are NGOs), the resettlement team and the legal representative confirmed that the Bank cannot retain consultants to prepare resettlement plans, but agreed to examine the possibility of adding language on how to secure other sources of funding.
- It was generally acknowledged that the resettlement OP cannot be expected to guide the mitigation of all social impacts of a project, and that more comprehensive social analysis up front can remove the need to plan for every possible eventuality.
- The question of whether the OP would apply to projects that establish or enforce the boundaries of national parks or conservation areas was not resolved. But it was agreed that any consideration of limiting people's access to resources should refer both to the policy on environmental assessment and to the policy on natural habitats.



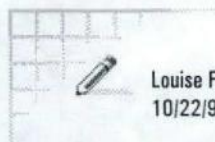
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The World Bank  
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202-473-9811 (phone)  
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To: Kennan W. Rapp  
cc: Paola Agostini  
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Mark E. Cackler  
Gonzalo Castro  
Carlos Ricardo Escudero  
Douglas A. Forno  
Nalini B. Kumar  
George Ledec  
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Patricia N. Rogers  
Ralph Hanan  
Mohan Gopalan Gopal  
Ian Johnson  
Caio K. Koch-Weser  
Joanne Salop  
Geoffrey B. Fox  
Mark D. Wilson



2



Louise F. Scura  
10/22/98 01:52 PM

Extn: 81921

EASRD

Subject: Re: 1st consultation on OP 4.12 with RDV and ENV technical specialists

Kennan,

Thank you for your note on yesterday's meeting.

In my view, your note does not adequately report on some of the issues that were discussed, particularly those raised by George Ledec and myself about the reference in the draft regarding access to natural resources, which is a major broadening of scope from the old OD.

The current draft of the OP poses major problems for the Bank to continue to do much needed work on natural resources management in our client countries. In essence, the draft OP suggests that if a country has not had adequate natural resource management regulations and/or the capability to consistently enforce its natural resource management regulations to date, the Bank will not be able to assist the country to enhance these regulations and enforcement capabilities without raising major (nonphysical) "resettlement" issues. Furthermore, in some places (particularly paras 7b and 8 which introduce significant moral hazard) the draft seems to be in direct conflict with the Bank's Natural Habitats Policy (OP 4.04).

In addition to the suggestion in your note to explicitly exclude land titling and land administration projects, paragraph 2 of the draft OP should be revised to clarify that natural resource management projects that result in restricted access to natural resources but do not physically relocate people should also be excluded. For example, if through a natural resource management project overfishing of coastal waters is better regulated and access to the fishery thus reduced, the Involuntary Resettlement Policy should not apply to the affected fishers. This is distinct from a situation where, for example, construction of a dam eliminates a downstream fishing ground, and the Involuntary Resettlement Policy should apply to the affected fishers. In my view, the phrase in paragraph 2 ("... investment projects in which a change in land or water use results in...") and footnote 8 do not adequately distinguish these two very different cases. This argument applies equally to every other natural resource --grazing land, water, trees, etc.-- that requires management.

Similarly, with regard to National Parks and Protected Areas, if people are not physically relocated, the Involuntary Resettlement Policy should not apply. Obviously, best practice for projects that help to strengthen management of parks and protected areas, as well as projects focused on management of natural resources more generally, involve the participation of local communities in management planning and implementation. However, the outcomes of community consultations should not be constrained by the overly determined solutions listed in the policy, and resettlement plans should not be required by Bank policy in these cases.

Reference to the Natural Habitats Policy (OP 4.04) should be made in footnote 7. The resettlement of affected people under a project cannot, under any circumstances, result in the significant conversion or degradation of critical natural habitats. Furthermore, it cannot involve significant conversion or degradation of (non-critical) natural habitats, unless there are no feasible alternatives, and the resettlement plan includes appropriate mitigation measures.

Also missed in your note was the point made by George Ledec about the absence of a defined threshold or a materiality test. Footnote 1 in Annex A of the OP relates to numbers of people affected, but not the degree to which they are affected. The issue of degree needs to be defined precisely regarding access to resources. Is the policy evoked when there is a complete loss of access, a incomplete but still "significant" loss of access ("significant" must be defined), or any loss of access?

Finally, I would like to reiterate the multiple comments at the start of yesterday's meeting that the internal consultation process for this draft continues to need improvement. The inadequate notice for the meeting significantly undermined the quality of the consultation.

Regards,

Lou Scura




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Dan Aronson @ IFC

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10/22/98 10:16 PM

Subject: Re: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement 

George,

Interesting note. I hope that the promised rewrite of para 2, which should be presented tomorrow, will go some way toward reducing your fears. One key issue that you have near the center of your concern will probably have to be decided at high levels. The facts on the ground are that since the very beginning of work on resettlement, the trigger to screening and possible application of the policy has been the loss of assets/land takings/disruption of livelihood by the direct taking of land. Of course there are conflicts between different policies, because policies embody differing values. The very useful debate about mammals in the NT2 area in Laos vs. the 5000 residents, and more broadly the "people vs. parks" issue, arise because of those different values: articulation of the differences, and the attempts to reconcile them, have given rise to much very useful natural resource management approaches, as I am sure you agree. The results of such conflicting choices have not been to make one side or the other lose, but to mitigate for any losses to either side. Much less is it worth throwing out, or extensively discounting, one policy or another because they conflict in real life cases.

I'd like to have the examples you refer to in your message, in part because two of the "shocking" examples used by others at Caio's meeting the other day have turned out to have utterly different stories behind them than the ones suggested. You refer to (a) examples where the lawyers were "more rigid than reasonable," (b) examples where "speculative squatting" has paralyzed some projects, and (c) examples of natural resource management activities which the Bank declined because of OP 4.12.

I know you are going off on mission, but having these examples sooner rather than later might help us get through the work ahead, whether because the examples you have in mind turn out to have important lessons for the rewriting, or because they are stories that circulate and have other less alarmed and alarming versions.

Incidentally, there are also many stories about backing away from projects because of various of the environmental policies: IFC just let one go instead of developing it, because it would cut a couple of thousand hectares of Amazonian forest that was only protected from the fate of the well-used areas all around it because it was the last 2000 undeveloped hectares of a 10,000 hectare private plantation. I can believe this was a misreading of the environmental policies, if you can believe that there are also misreadings of the resettlement policy. We should have lunch and talk about this some time, or perhaps have you over to talk to our Environment and Social Review Unit about compliance issues in LAC, where a huge part of IFC's portfolio and opportunities lie.

Examples soon? Lunch later?

Dan

From: George Ledec on 10/22/98 08:55 PM  
To: Maria Teresa Serra/Person/World Bank@WorldBank



cc: ENVFAM-1ST, Maninder S. Gill/Person/World Bank@WorldBank, Dan Aronson/HQ/IFC@IFC, Cora Melania Shaw/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Kennan W. Rapp/Person/World Bank@WorldBank, Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank@WorldBank, Daniel R. Gibson/Person/World Bank@WorldBank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Gloria Davis-SDV/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank, Maria Isabel Junqueira Braga/Person/World Bank@WorldBank, Maria-Valeria Pena/Person/World Bank@WorldBank, Juan D. Quintero/Person/World Bank@WorldBank, Walter Vergara/Person/World Bank@WorldBank, Colin P. Rees/Person/World Bank@WorldBank, Robert Goodland/Person/World Bank@WorldBank, Robert Kirmse/Person/World Bank@WorldBank, Luis F. Constantino/Person/World Bank@WorldBank, Cesar Alejandro Plaza/Person/World Bank@WorldBank, Esteban Brenes/Person/World Bank@WorldBank, Daniel R. Gross/Person/World Bank@WorldBank, Douglas J. Graham/Person/World Bank@WorldBank, Thomas E. Lovejoy/Person/World Bank@WorldBank, Maritta R. V. B. Koch-Weser/Person/World Bank@WorldBank, Philip Hazelton/Person/World Bank@WorldBank, Maria C. Mejia/Person/World Bank@WorldBank, Ian Johnson/Person/World Bank@WorldBank, Robert T. Watson-ENV/Person/World Bank@WorldBank, Thomas B. Wiens/Person/World Bank@WorldBank, Jessica Mott/Person/World Bank@WorldBank, Gershon Feder/Person/World Bank@WorldBank, Mats Andersson/Person/World Bank@WorldBank, Margret C. Thalwitz/Person/World Bank@WorldBank, Anthony J. Pellegrini/Person/World Bank@WorldBank, Wosilat Olaitan Alli/Person/World Bank@WorldBank, Eileen Margaret Fredriksen/Person/World Bank@WorldBank, Alexandra Ortiz/Person/World Bank@WorldBank, Andres Rigo Sureda/Person/World Bank@WorldBank, Joanne Salop/Person/World Bank@WorldBank, Reidar Kvam/Person/World Bank@WorldBank, John Redwood/Person/World Bank@WorldBank, ESSD-GREEN, Robert R. Schneider/Person/World Bank@WorldBank, Christine A. Stover/Person/World Bank@WorldBank, M. Caryl Jones-Swahn/Person/World Bank@WorldBank, Eveling Bermudez/Person/World Bank@WorldBank, Maria-Isabel Alegre/Person/World Bank@WorldBank, Milagros Benedicto/Person/World Bank@WorldBank, M. Ismail Serageldin/Person/World Bank@WorldBank, Masood Ahmed PRMVP/Person/World Bank@WorldBank, Sven Sandstrom/Person/World Bank@WorldBank, Caio K. Koch-Weser/Person/World Bank@WorldBank, John Briscoe/Person/World Bank@WorldBank, Katherine Sierra/Person/World Bank@WorldBank, Vincent J. Gouarne/Person/World Bank@WorldBank, Edward B. Rice/Person/World Bank@WorldBank, Robert Picciotto/Person/World Bank@WorldBank, Callisto E. Madavo/Person/World Bank@WorldBank, Pamela Cox/Person/World Bank@WorldBank, Alexander F. Mccalla/Person/World Bank@WorldBank, James P. Bond/Person/World Bank@WorldBank, Sushma Ganguly/Person/World Bank@WorldBank, Shelton H. Davis/Person/World Bank@WorldBank, Caroline O. Moser/Person/World Bank@WorldBank, Frederic de Dinechin/Person/World Bank@WorldBank, Jeffrey Balkind/Person/World Bank@WorldBank, Laszlo Lovei/Person/World Bank@WorldBank, Abdelmoula M. Ghzala/Person/World Bank@WorldBank, Abel Mejia/Person/World Bank@WorldBank, Abha Joshi-Ghani/Person/World Bank@WorldBank, Adrian Demayo/Person/World Bank@WorldBank, Adriana Jordanova Damianova/Person/World Bank@WorldBank, Wosilat Olaitan Alli/Person/World Bank@WorldBank, Jason Jacques Paiement/Person/World Bank@WorldBank, Lynn C. Holstein/Person/World Bank@WorldBank, Augusta Molnar/Person/World Bank@WorldBank, Gisu Mohadjer/Person/World Bank@WorldBank, John Henry Stein/Person/World Bank@WorldBank, Omar M. Razzaz/Person/World Bank@WorldBank, David Freestone/Person/World Bank@WorldBank

Subject: Urgent Need for Major Changes in Draft OP 4.12 on Involuntary Resettlement

1. Before leaving on mission, I wanted the working group which is revising the draft OP 4.12 on Involuntary Resettlement to be aware of my specific concerns. **I am deeply concerned that OP 4.12 (i) would establish a sweeping new policy on land and water use "takings" which is not part of the current OD 4.30 on Involuntary Resettlement and (ii) would make it much more difficult for the Bank to support many types of environmental projects and components.**

**Specific Problems with the Draft OP 4.12:**



2. **It Would Create Major New Bank Policy through Improper Channels.** While OD 4.30 sticks to involuntary resettlement (when people are required to relocate to a new primary residence to accommodate a Bank-supported project), OP 4.12 (Para. 2) drastically expands the scope of the policy to cover any loss of income sources attributable to a change in land or water use or restricted access to natural resources. The great majority of Bank-supported natural resource management projects (including protected areas, forestry, fisheries, soil conservation, etc.) do **not** involve any physical resettlement, but they **do** imply efforts to change land or water use and to restrict access to natural resources to promote sustainable use. (That is, after all, the main idea behind these types of projects.) Therefore, while most natural resource management projects and components are not subject to OD 4.30, they would be subject to OP 4.12. This would thus be a huge expansion of the scope of a policy called "Involuntary Resettlement" to cover many activities which are not resettlement at all. Any such major new policy needs to be considered carefully and transparently as a new Bank policy. The process of converting ODs to the new OP/BP/GP format is not an acceptable vehicle for establishing major Bank policy changes.

3. **It Would be the Wrong Way to Establish a New "Safety Net" Policy.** As I understand it, the intent behind Para. 2 of OP 4.12 is largely to provide a safety net for very poor and vulnerable people, so that they are not further impoverished by certain types of projects. While this is a very important and laudable goal, it is my impression that most modern Bank-supported natural resource management projects already have adequate provisions to treat affected persons fairly and avoid causing serious hardships for the poor. If social impact mitigation practices in Bank-supported natural resource management projects are already more or less adequate, a new safety net policy may not be needed. Even if such a new policy is warranted, it would be wrong to single out projects involving land, water, and natural resource use without also addressing the many other types of Bank-supported interventions which can adversely affect the poor in much greater numbers (such as privatization and adjustment operations which increase short-term unemployment).

4. **It Would Create Unjustified New Entitlements for Some Natural Resource Users.** Although the authors of OP 4.12 may have intended to protect the poorest and most vulnerable members of society, the current draft language would entitle certain natural resource users to claim some type of compensation for 100 percent or more of the income which a project might deny them, regardless of (i) whether they are really poor or vulnerable or (ii) whether their activities are even legal. In reading every word of OP 4.12, it is my impression that, for example, a man who illegally captures endangered parrots for the international black market could complain to the Inspection Panel that he has suffered an "involuntary ... loss of access to natural resources [and] income sources [and] means of livelihood" (Para. 2) and insist upon compensation for "at least" 100 percent (Para. 4) of his lost income, because a Bank-supported protected areas project effectively denied him his (illegal) access to the rare birds. While this would arguably not be a "reasonable" interpretation of OP 4.12, I am aware of several recent instances where Bank staff (especially our lawyers), determined to ensure strict compliance to the letter, have interpreted OD 4.30 and other Bank safeguard policies in ways that are more rigid than reasonable (details available upon request). If we want strict compliance with the Bank's safeguard policies, we need to ensure that the policies are written to ensure adequate flexibility. As currently written, the draft OP 4.12 does not meet the test of flexibility or common sense.

5. **It Would Greatly Increase Speculative Squatting (Moral Hazard).** OP 4.12 (Paras. 14, 15, and 17) requires resettlement policies to be made explicit by the Borrower prior to appraisal, even years before the resettlement might occur in a given (sub)project. At the same time, Para. 8 entitles any illegal squatters to a generous benefits package, so long as they have had "uninterrupted possession of the land for at least one year prior to the commencement of the census". In the real world, the time between appraisal and the start of any census often greatly exceeds one year (especially for subprojects initiated in the later years of a sector investment or APL operation). However, if likely subproject sites are known more than one year in advance of a census, the result can be large-scale induced squatting in the hope of obtaining OP 4.12-mandated benefits. Speculative squatting in anticipation of resettlement benefits is a serious problem in many of our client countries; it has virtually paralyzed some projects (examples available on request). The Bank's Involuntary Resettlement Policy should strike a careful balance



between minimizing perverse incentives and providing an adequate safety net for those who are resettled. Such a balance is lacking in the draft OP 4.12, which does not even mention the need for resettlement policy frameworks and resettlement plans to be designed in ways that would minimize incentives for squatting.

6. **It Could Eliminate Bank Support for Many Environmental Projects.** Because the draft OP 4.12 covers virtually all types of natural resource management activities, even where there is zero resettlement (Para. 2) and mandates a generous benefits package for all affected persons (Paras. 5-8), it could greatly increase the costs of many of the Bank's environmental projects, thus making them unviable. This would result in many bad outcomes on the ground (increased environmental degradation, often irreversible, which could have been prevented), along with an abdication of the Bank's global leadership role in environmental protection. This is not just speculation; I can provide examples of important natural resource management activities which the Bank recently declined to support because of OP 4.12 (even in its draft form). OP 4.12, if approved as drafted, would keep the Bank from supporting some of the most progressive and innovative projects in our pipeline. This is not my idea of "improving service to our clients".

7. **It Would Make Compliance with Other Bank Safeguard Policies Much More Difficult**, both directly and indirectly. Directly, the onerous requirements of OP 4.12 would greatly complicate compliance with other Bank safeguard policies. For example, OP 4.04 on Natural Habitats sometimes requires support for the establishment or strengthening of compensatory protected areas, which (due especially to Para. 2 of OP 4.12) would often become prohibitively costly and difficult. Similarly, OD 4.20 on Indigenous Peoples sometimes mandates Indigenous Peoples Development Plans, the centerpiece of which is often indigenous land titling (which implies restricting access to natural resources by outsiders). Indirectly, because it is so onerous, OP 4.12 will undermine the credibility of those Bank staff (including myself) who are trying to promote compliance with all the safeguard policies (most of which are written much more flexibly than OP 4.12).

#### **Recommendation:**

8. Before it is resubmitted to the Board, **OP 4.12 should be extensively rewritten**, so that it would be a "common sense" conversion of OD 4.30, without any controversial new policy content. In particular, the highly problematic paragraphs cited above (most of all, Para. 2) need to be completely rewritten.

9. Please let me know if you would like any clarifications (such as specific examples) or if I could otherwise be of further assistance. I expect to be back in the office on November 3, 1998.





From: Kennan W. Rapp on 10/26/98 06:48 PM

To: Maria Teresa Serra/Person/World Bank@WorldBank, Maria C. J. Cruz/Person/World Bank@WorldBank, Joseph Wambia/Person/World Bank@WorldBank, Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, George Ledec/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank

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Subject: 2nd consultation on draft OP 4.12 with ENV

Representatives from the Resettlement Thematic Group met with task team leaders working on projects involving environmental issues met last Friday morning from 9:30 am to approximately 11 am. The meeting was chaired by Teresa Serra, and in the course of the discussion of the OP the following points were made:

- The OP needs to differentiate between situations that entail resettlement: e.g., physical movement, loss of livelihood, possible vs. clearly known resettlement impacts, etc.
- There is fear on the part of operations that we are raising the bar to standards that will impose unrealistic costs on our borrowers; needs to recognize the often huge gap between our requirements/policies and borrowers' implementation capacities; the policy needs to be such that borrowers can really buy into proposed approaches to resettlement.
- The policy is silent on the distribution of responsibility for resettlement financing and implementation in projects with multiple financiers or executing entities. The example cited was a GEF project that was funded by the government but implemented by NGOs. It was suggested in such cases, the borrower should be held responsible for financing the resettlement works, regardless of who implements them. It was also recognized that root cause analysis, as well as acting upon recommendations that might emerge from such an analysis, while important, was unrealistic when one is faced with preparation of specific projects.
- As written, the OP allows co-financiers to shift responsibility for resettlement to the Bank and the borrower. The ideal would be to have sharing of responsibilities among all co-financiers but if financing structure does not allow that need at least to attribute full responsibility/require commitment in cases where resettlement results from a specific co-financier's component.
- Para. 8, on illegal occupants of lands acquired for a project, addresses the "open target" issue, but not the "open access" issue. It was suggested that when the acquisition of land blocks access to vital resources by illegal occupants living in the vicinity, a process should be put in place which determines their entitlements on a project-by-project basis.

In addition, some general comments were made on more general issues pertaining to resettlement

- Must avoid excessive costs/time of project preparation/implementation in the case of "possible" (albeit unlikely or very minor)



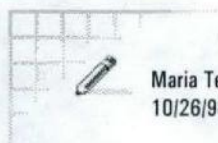
resettlement; frequently the work required by the social/resettlement team or QAT reviewers is an overkill and leads to unrealistic policy frameworks which Borrowers prepare but have no real intention of implementing.

- The institutional capacity of a borrower should be assessed more carefully prior to undertaking a project with resettlement in that country, perhaps independently of the preparation of the project in question. It was suggested that the CAS and sector strategy formulation process might provide an appropriate framework for such assessments.
- For active projects with resettlement, country department managers and task team leaders will have to be provided with the resources they need to ensure that the resettlement is implemented and supervised adequately.
- Resettlement specialists in the Bank, rather than simply working in a review/clearance or advisory capacity, should become more engaged in the actual implementation of resettlement and rehabilitation programs and should be held accountable for their results.

Resettlement Thematic Group  
Social Development Family  
The World Bank  
1818 H Street, NW  
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202-473-9811 (phone)  
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5



Maria Teresa Serra  
10/26/98 12:32 PM

Extn: 35754

LCSES

Subject: Re: Draft minutes from 10/23 ENV meeting

Kennan,

Thanks for the summary. A couple of points that I think need inclusion/further explanation are as follows:

**1 from Maria Cruz/GEF;**

- the OD needs to differentiate between situations that entail resettlement: e.g., physical movement, loss of livelihood, possible vs. clearly known resettlement impacts, etc.
- as written, the OD allows co-financiers to shift responsibility for resettlement to the Bank and the Government; ideal would be to have sharing of responsibilities among all co-financiers but if financing structure does not allow that need at least to at least attribute full responsibility/require commitment in cases where resettlement results from a specific co-financiers component.

I suggest you ask Maria Cruz for a brief para. on the open access/open target issue. Alternatively you might refer to the George Ledec memo discussion of para. 8 (cited by her) which captures much of what I believe Maria Cruz is also raising.

**2 from Asia Region/Joseph Wambia:**

- first bullet: It was also recognized that root cause analysis, as well as acting upon recommendations that might emerge from such an analysis, although important, was also unrealistic when one is faced with preparation of specific projects.
- OD should not be too specific, too prescriptive
- fear on the part of operations that we are raising the bar to standards that will impose unrealistic costs on our Borrowers; needs to recognize the often huge gap between our requirements/policies and Borrowers' implementation capacity; the policy needs to be such that Borrowers can really buy into proposed approaches to resettlement
- must avoid excessive costs/time of project preparation/implementation in the case of "possible (albeit unlikely or very small)" resettlement; frequently the work required by the social/resettlement team or QAT reviewers is an overkill and leads to unrealistic policy frameworks which Borrowers prepare but have no real intention of implementing
- intent of policy is not contested but it should take into account differences with respect to: type of project, type of impact, legal framework and capacity of borrower, context w/ respect to availability of physical solutions

In any case, I think its important to circulate this today. Thanks very much for your help,

Teresa

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To: Kennan W. Rapp




6



Agnes I. Kiss on 10/27/98 11:51:44 AM

Extn: 87180

AFTE1

Subject: Re: 2nd consultation on draft OP 4.12 with ENV 

I'm a bit surprised that, based on this summary, some of the important issues raised by George Ledec and echoed by others don't really seem to have been addressed. E.g. the "moral hazard" issue of stimulating people to move into areas targetted for "takings" specifically in expectation of getting compensation.

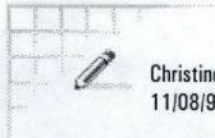
Also, saying that entitlement for compensation for loss of access to land/resources should be determined on a "case by case basis" seems to dodge the issue. Shouldn't the Bank bite the bullet at this point and come up with some clear policy guidance, i.e. provide a policy framework against which the individual cases may be evaluated?

---

To: Maria Teresa Serra  
cc: Envfam-1St  
Esd-Social  
Maninder S. Gill  
Dan Aronson/Hq/lfc@lfc  
Kennan W. Rapp



7



Christine E. Kimes  
11/08/98 01:23 PM

Subject: Re: 2nd consultation on draft OP 4.12 with ENV

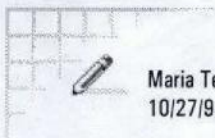
PS - I don't really like to single out GEF-funded projects as a special case because I think the OP raises issues affecting all biodi/resource mgt projects regardless of funding source. However, the one way in which GEF DOES differ from IBRD/IDA is that we are able to enter legal agreements directly with NGOs for projects conceived and executed by NGOs/local communities without any government involvement. Therefore the third bullet point in the attached em is not accurate as to the challenge we face with NGOs in the GEF world: we are not talking about projects funded by governments but executed by NGOs, we are talking about projects funded and executed by NGOs with absolutely NO government financial contribution. Therefore, holding the government responsible for the "resettlement" costs of such projects is a non-starter.

While this category of projects is small in proportion to total number of Bank projects and/or WB/GEF projects (we are probably talking about 50 such projects worldwide currently under preparation), it would be nice to come up with operational policy/guidance which would be sensitive to this distinct group of grant recipients/executing agencies. (Actually, NGOs tend to be extremely proactive in coming up with voluntary consensual agreements with local communities in "their" projects, precisely because they have no power to compel/impose actions on local affected populations; we would not have to be dealing with this category of GEF recipients were it not for the fact that the draft OP redefined involuntary resettlement so broadly and included any change in land use and access to resources).

Please let me know if this is clear (as mud?) and if I can help in any way with the on-going discussion beyond these emails!

Tina

Maria Teresa Serra



Maria Teresa Serra  
10/27/98 10:34 AM

Extn: 35754 LCSES

To: ENVFAM-1ST, ESSD-SOCIAL cc: Maninder S. Gill, Dan Aronson, Kennan W. Rapp

Subject: 2nd consultation on draft OP 4.12 with ENV

----- Forwarded by Maria Teresa Serra/Person/World Bank on 10/27/98 10:30 AM -----

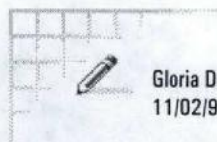


From: Kennan W. Rapp on 10/26/98 06:48 PM

To: Maria Teresa Serra/Person/World Bank@WorldBank, Maria C. J. Cruz/Person/World Bank@WorldBank, Joseph Wambia/Person/World Bank@WorldBank, Paola Agostini/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, George Ledec/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank



8  
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Gloria Davis-SDV  
11/02/98 07:12 PM

Extn: 82750 SDV

Sent by: Milagros Benedicto

Subject: Revised OP 4.12 and Parks

A meeting to discuss OP 4.12 and Parks has been scheduled for Wednesday, November 4th at 12:00-2:00 p.m. in Room MC6-218.

Please confirm with Mito Benedicto.

Thank you.

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To: Claudia L. Alderman  
Andrew H. Bond  
Luis F. Constantino  
Shelton H. Davis  
Scott E. Guggenheim  
Marea Eleni Hatzios  
Agi Kiss  
Thomas B. Wiens  
George Ledec  
Jessica Mott  
Louise F. Scura  
Christine E. Kimes  
Maninder S. Gill  
Kennan W. Rapp  
Cora Melania Shaw  
Augusta Molnar




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Dan Aronson @ IFC

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11/18/98 01:22 AM

Subject: Re: Implications of Draft OP 4.12 (Involuntary Resettlement) for Conservation Projects 

George,

Your position on the Resettlement OD/OP is fully consistent with your very similar note of October 22, but I and many of my colleagues think it to be just as misdirected as the earlier ones in some of its key assertions. It is also highly politicized, and once again tells a cautionary tale about the Evils Inflicted by the OD on Resettlement. I think it's about time we started talking about real people, so as I reply to your points I will narrate a bit of my own experience with Natural Resource Projects, as you do with Resettlement.

**1. Does OP 4.12 Expand the Scope of the Resettlement Policy?** As you know, since at least 1988, when the OMS was still in place before OD 4.30 was written, Legal staff were reporting that resettlement policy in the Bank covered economic losses as well as physical moves. Fifteen years of practice, legal documents, and recent decisions of OPC and other bodies have all reaffirmed this fundamental principle. The Narmada Tribunal, which has helped inform Bank practice in the last decade, made awards to all those who lost 25% or more of their holdings, whether or not they had to move. The practice of other MDBs, based as it is on our own, similarly covers economic displacement, whether from parks or any other land to be taken or restricted. As Mr. Shihata put it in a seminal article some years ago, "most projects that entail a major change in land use [sic.] are likely to involve involuntary displacement." And, as you rightly note, the existing OD calls for computation of income from all sources, and for compensatory measures for the loss of access to areas often under common or community property regimes.

And as for your assertion that in general "Bank-supported natural resource management projects do not involve any physical relocation," I wonder what tree you've been sitting under. I'd like you to make that statement to the 50,000 or so people who were burned out of their houses in Uganda in a project that the Bank denied was its own until it came time to count the benefits in the PCR when they helped improve the IRR; or the 500,000 in Cote d'Ivoire who might have been thrown out of forests until a story in the New York Times precipitated a major Bank compliance mission; or the 50,000 in Tanzania whom the government kindly routed before we assisted the natural forest recovery efforts. They were threatened or harmed not because of OD 4.30, but in spite of it, by people with other objectives in mind. I'm sorry, George, but NO set of projects has succeeded in maintaining the purity you claim that "our NRM projects treat affected persons fairly and avoid causing serious hardships for the poor."

I would be quite amused if a report of this consultation process went to the Board recommending that the Resettlement OP specifically exclude benefits to those who are not forced to move but only lose their livelihoods. The resultant crisis, I am quite sure, would ensure that resources are finally put in a serious way to the job of implementing this policy.

**2. Does the Policy Create New Entitlements for Natural Resource Users?** You indicate astonishment that people who use natural resources would get benefits "(i) whether their project-related loss of income is significant; (ii) whether or not they are poor; or even (iii) whether they are citizens of the client country." I won't even address the third point, which so disparages refugees worldwide, hundreds of thousands of Pakistanis from India who fill Karachi's slums, and millions of economic migrants in Africa, southeast Asia, and Latin America. As for the first two: (i) yes, in resettlement practice insignificant losses have generally not been covered, though what is insignificant to you may be my ability to send my kid to school or not (to cite one case I worked on); and (ii) you are right, even the non-poor should be compensated for losses, as a fundamental matter of the idea of justice in takings for public purposes. As for "negotiated compromises," recent exchanges have pointed out that there are two types of these: those negotiated freely, and those negotiated under the threat of expropriation. We'll get the language right for the "voluntariness" of the former, but I hope you wouldn't agree to the validity of the latter.

**3. Does the Policy Create Perverse Incentives to Squat?** I agree that we need to take account of the time lags between identification and establishment of a project. Of course dam sites have very often been identified many decades in advance (the sites now being dammed in Lesotho were identified in 1934); port and bridge sites are often pretty obvious; etc. So once again, your sector is not especially different from others. But for every conjured squatter there has been a real person denied fair treatment under resource takings because of discrimination (as in the area where I live in Washington), because traditional forms of tenure have been disparaged, or because her "squatter" status is a function of the same poverty of good policy that has failed to provide a "legal" framework for perfectly



normal local ways of trying to make a living.

Is it the generosity of benefits under Bank-supported projects that you are really objecting to, as creating perverse incentives? I think we've agreed with Urban that so do "regularization" projects in squatter settlements worldwide, yet that has been a staple of Bank urban policy for 20 years. We all agree, I think, that very often a country's standards are not high enough (and certainly I hear that we have a "Cadillac" environmental policy as often as I hear that we have a "gold-plated" resettlement policy). I don't know about you, but I'm pretty proud to be at the institution which is setting world standards on such questions, and for resettlement we should bear in mind that our policy is now also the policy of the IDB, the ADB, the OECD, and an increasing number of countries, major parastatals, and ministries.

Maybe we should solve this one along with the perverse incentives created by Project Management Units, Bank consulting rates, and the rise and fall of various generations of excitement about Bank project types. (Where are all those people trained to do Integrated Rural Development, anyway? Probably hanging out with Community Development Officers.) I would be happy to show you the documentation that the 50,000 people in Uganda who were burned out in 1992 were victims of the "perverse incentive" of Green enthusiasm for "saving" the genetic diversity of 150 elephants.

**4. But what about the higher project costs?** Though you repeat yourself on this point (the non-poor, the non-citizens, etc.), your main point here is that decent resettlement costs money. You would like the affected people, or the economy at large, to bear such costs. Sorry: this is the same argument that dam-builders used twenty-five years ago, and the urban sector used about poor city councils ten years ago, and with the same justification ("my sector is vital to the future of the world, so dammit, get out of the way"). And it is no more convincing. You become more transparent here: you say that since land is expensive, you'd just as soon not give it to people who only lose the land they depend on but "are not even resettled." That's highly single-minded of you, but it makes me wonder a little bit about that principle of fairness-all-the-time that you claimed a few paragraphs earlier. To put your concern the other way around, **if your amendments were adopted, or if conservation projects are allowed to set aside justice for the people affected by them, then your activities are incompatible with the Bank's continued global leadership role in resettlement practice and in social development.**

**5. Does OP 4.12 Create Compliance Problems for Other Safeguard Policies?** Not at all. Of course protected areas should be established, and of course indigenous lands should be protected from depredation. OP 4.12 simply sets out the obvious requirement that such protections not be done at the direct expense of those who own or have been using such lands. Even then, their ownership or use can be restricted or denied, but with the full compensatory measures included that you would want, too, if your government decided to "protect" your land, or to return it to a group of indigenous people after it had come to you through what you thought was a legitimate chain of title. And of course there are cases where one policy -- and the positive values they derive from -- conflicts with another. For example, we all know cases in which the Indigenous Peoples policy conflicts with the Natural Habitats Policy. Yet solutions are reached -- the very satisfactory strategy for the watershed area of Nam Theun 2 is only one of many that you and I could name. We should not at this late date repudiate, as you seem to want to do, all the utility that has come from the "People vs Parks" debate.

**6. An aftertaste of things that have already happened.** There are many stories that are told of the evils of other people's projects. Here you cite a case in which the Government of Guatemala was willing to provide \$ 400,000 for a change of land use among squatters, and then you say that being required to write down what they would do ("have a resettlement framework") caused the government to drop the component? Just doesn't add up -- GoG provides perverse incentives, you say? Maybe the fires will be caused by people looking to raise the ante to \$ 800,000. It is, however, an unacceptable calumny to blame it on 4.12, when the existing OD equally calls for resettlement frameworks in some cases, and you do not want the existing policy to change! Again, you seem to state here your preference for human degradation over environmental degradation. I must be missing something that you're not recounting in the story editing. On the other hand, the bitter aftertaste of Narmada, Pangué, Kibale Forest, Upper Krishna, and a whole set of Brazilian dams -- facts of history that have already happened, and are not just being used to Scare the Young -- may be making me misunderstand you.

**7. Your Recommendations.** Yes, yes, the "simplest and most effective solution would be for OP 4.12 to specify that the Involuntary Resettlement Policy does not apply to" your back yard. I thought you environmental people understood the poverty of those arguments! At least here you give back projects that would force people to move -- and thus some of those grant/GEF projects that you worry about. It's not on, at least by any argument that can be resolved at our level.

**8. Your alternative is to exempt those people whose income loss would be insignificant.** Not a bad idea: of course we'd have to see the socioeconomic studies of everyone, and distinguish those for whom loss was significant from those for whom it is not. Some might argue, as resettlement experts have, that it is easier to figure out the income loss (compute the yield, figure out the cost of BTU replacement of the firewood, etc.) than to do those studies. But would I be loyal to my discipline if I didn't let you impose a system that would guarantee



work for broad generations of income surveyors? As for denying the need to replace "illegal" income, I must be reading this too late at night -- I thought the Region you work in has vast programs for replacing just such income, of coca growers, prostitutes, even Finance Ministry staff members so there will be elite units less open to corruption! Surely you must agree that we need sharper instruments than "no compensation for illegals"!

Your language on "before demarcation, but in the opinion of the Bank in anticipation of benefits" bears thinking about. But it's one thing to figure out that 1000 hectares were cleared "in anticipation" of either resettlement or natural habitat policy application (horrors, more perverse incentives, this time for project proponents in your policy!), and quite another to figure out which 2000 among 22,000 settlers in an area are there "in anticipation." Again, it's a makework suggestion that I'd love to have for students of sociology across the world, but it's not practicable either on the ground, or as a least-cost method for getting the project done.

Re your 12, there is no pre-determined benefit -- all benefits are always project specific. What the policy doesn't allow is "benefits" of less than full reparation for losses -- I guess that would be < benefits > to show the minus sign. But real net benefits in exchange for agreed changes in practices? No problem, unless everyone gets the same benefit despite highly variable direct losses.

Flood protection projects automatically "voluntary"? Let me tell you the story of the flood protection project in a certain southeastern African island country in which only a handful of the hundreds of affected families got any benefit at all. Or the story of Madurai canals. Of course I'd have no objection at all to adding to a list of projects with voluntary relocation those flood protection projects that are voluntary, but I guess that's a little redundant.

Thanks for your final note of hopefulness. I'm quite sure that we will end up with a policy that renders good service to our real clients. The world that has come to rely on our leadership in Involuntary Resettlement won't let us have it any other way.

Dan Aronson  
Principal Social Scientist  
Environment and Social Review Unit  
IFC

GEORGE LEDEC @

**GEORGE LEDEC @**  
**WORLDBANK**  
11/17/98 06:20 PM



To: Maninder S. Gill/Person/World Bank@WorldBank, Cora Melania Shaw/Person/World Bank@WorldBank, Maria Teresa Serra/Person/World Bank@WorldBank



cc: Gloria Davis/SDV/Person/World Bank@WorldBank, Thomas B. Wiens/Person/World Bank@WorldBank, Augusta Molnar/Person/World Bank@WorldBank, Kennan W. Rapp/Person/World Bank@WorldBank, Barry Trembath/Person/World Bank@WorldBank, Peter A. Van Der Veen/Person/World Bank@WorldBank, Kenneth M. Gwilliam/Person/World Bank@WorldBank, Mats Andersson/Person/World Bank@WorldBank, Sumter Lee Travers/Person/World Bank@WorldBank, Mohan Gopalan Gopal/Person/World Bank@WorldBank, Ralph Hanan/Person/World Bank@WorldBank, Daniel R. Gibson/Person/World Bank@WorldBank, Dan Aronson/HQ/IFC@IFC, Sofia U. Bettencourt/Person/World Bank@WorldBank, Louise F. Scura/Person/World Bank@WorldBank, Thomas E. Walton/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Maria C. Mejia/Person/World Bank@WorldBank, Marjory-Anne Bromhead/Person/World Bank@WorldBank, Mark E. Cackler/Person/World Bank@WorldBank, Carlos Ricardo Escudero/Person/World Bank@WorldBank, Douglas A. Forno/Person/World Bank@WorldBank, Nalini B. Kumar/Person/World Bank@WorldBank, Kirsten L. Oleson/Person/World Bank@WorldBank, Steven William Oliver/Person/World Bank@WorldBank, Jelena Pantelic/Person/World Bank@WorldBank, Warren A. Van Wicklin/Person/World Bank@WorldBank, Anis A. Dani/Person/World Bank@WorldBank, Cyprian F. Fisiy/Person/World Bank@WorldBank, Norval Stanley Peabody/Person/World Bank@WorldBank, Patricia N. Rogers/Person/World Bank@WorldBank, Ian Johnson/Person/World Bank@WorldBank, Caio K. Koch-Weser/Person/World Bank@WorldBank, Joanne Salop/Person/World Bank@WorldBank, Geoffrey B. Fox/Person/World Bank@WorldBank, Mark D. Wilson/Person/World Bank@WorldBank, Paola Agostini/Person/World Bank@WorldBank, Christine E. Kimes/Person/World Bank@WorldBank, Kathleen S. Mackinnon/Person/World Bank@WorldBank, Lars O. Vidaeus/Person/World Bank@WorldBank, Gonzalo Castro/Person/World Bank@WorldBank, Kathleen G. Mikitin/Person/World Bank@WorldBank, Judith M. Lisansky/Person/World Bank@WorldBank, Graciela Lituma/Person/World Bank@WorldBank, Maritta R. V. B. Koch-Weser/Person/World Bank@WorldBank, John Redwood/Person/World Bank@WorldBank, Anthony J. Pellegrini/Person/World Bank@WorldBank, Ian Johnson/Person/World Bank@WorldBank, Andres Rigo Sureda/Person/World Bank@WorldBank, Agi Kiss/Person/World Bank@WorldBank

Subject: Implications of Draft OP 4.12 (Involuntary Resettlement) for Conservation Projects

1. Per your recent request, this memo summarizes and explains my concerns (shared by many Bank colleagues) regarding the likely effects of the proposed new Involuntary Resettlement Policy (OP 4.12) on projects involving natural resource management, including protected areas. My comments refer to both the original October 1998 draft (which was recently withdrawn from Board consideration) and the November 1998 revised draft (which follows a more user-friendly format but is still highly problematic in substance).

2. **Expanded Scope of the New Policy.** The text of the Bank's existing Involuntary Resettlement Policy (OD 4.30) sticks quite closely to involuntary resettlement, which occurs when people are physically relocated to achieve project objectives and have no choice but to move. (Although Para. 15 of OD 4.30 refers to loss of access to fishing, grazing, or forest areas, this appears very much to be written in the context of persons who are physically relocated.) Both the October and November drafts of OP 4.12 greatly expand the scope of OD 4.30 by covering situations in which there is no physical relocation, but where "physical access to natural resources is restricted by project activities and this adversely affects incomes and living standards" (November OP 4.12, Para. 2). The great majority of Bank-supported natural resource management projects (protected areas, forestry, fisheries, etc.) do not involve any physical relocation, but they do restrict some access to natural resources to promote sustainable use. (That is the main idea of these types of projects.) Thus, while most natural resource management projects and components (in my experience) have not been not subjected to OD 4.30, they would be explicitly subjected to the requirements of OP 4.12. In practice, virtually all Bank-supported natural resource management projects have provisions to treat affected persons fairly and avoid causing serious hardships for the poor. However, I believe that this has taken place in spite of OD 4.30—not because of it. As written, both the October and November drafts of OP 4.12 are too inflexible to be regarded as codifying existing good practices related to natural resource management.

3. **Although it is important to adequately address the social impacts of natural resource management projects, the Bank's Involuntary Resettlement Policy is not the best vehicle for dealing with this issue.** First, restricted access to natural resources is not the same as involuntary resettlement; solutions for the latter situation are often inappropriate for the former. Both the October and November drafts of OP 4.12 begin by stating that the Involuntary Resettlement Policy covers restricted access to natural resources (even with no resettlement), but then prescribe solutions which are appropriate only for cases of real resettlement. Second, it is inappropriate to use the process of simply converting an existing OD into the new OP/BP/GP format for establishing major Bank policy changes, especially in the absence of thorough and transparent consultation with the Bank staff who would be responsible for implementing the new policy. Third, if the concern is to have a "safety net" policy for poor people, it is distortionary to subject natural resource management projects to a much more demanding standard than many other types of Bank-supported interventions which can adversely affect the poor in much greater numbers (such as privatization and adjustment operations which increase short-term unemployment). Fourth, other Bank documents, such as the proposed GP 10.05 on Social Assessment, may be more suitable vehicles for dealing flexibly with the complex range of social issues related to natural resource management, without imposing rigid, unworkable prescriptions on new projects.



**4. New Entitlements for Natural Resource Users.** Under OP 4.12, persons whose access to natural resources has been restricted are entitled to at least 100% restoration of their incomes (October draft, Para. 4; November draft, Para. 1), irrespective of (i) whether their project-related loss of income is significant; (ii) whether or not they are poor; or even (iii) whether they are citizens of the client country. The October draft would also invite claims from persons whose activities are completely illegal (such as market hunting of protected wildlife species); the November draft apparently closes this loophole by referring to "a process, recognized under the laws of the country" (Para. 11.(b)). While arguably appropriate for most persons who are physically resettled, **the entitlements in OP 4.12 would make it very difficult to implement most natural resource management projects, which rely on negotiated compromises with natural resource users, rather than rigidly-applied rights to compensation.** In many natural resource management projects, people who use resources unsustainably are asked to change their practices in specific ways that are more sustainable, in exchange for a negotiated set of benefits. By mandating "up front" the benefits to which all affected persons would be entitled (including 100+% income restoration), OP 4.12 would remove most of the leverage which natural resource managers normally have to negotiate solutions which properly balance human needs with sustainable resource use.

**5. Perverse Incentives for Speculative Squatting.** Both the October and November drafts of OP 4.12 would provide perverse incentives for (i) new settlement and (ii) new natural resource exploitation within areas identified for protection or other special management. The October draft (Para. 8) entitles any illegal squatters to a generous benefits package if they have had "uninterrupted possession of the land for at least one year" (in practical terms, an excessively short time). The November draft (Para. 12) states that "assistance is normally provided to people located on land required for project purposes if they were there when the land was formally demarcated". While the physical demarcation of most protected areas is fundamentally important for their conservation, there are often considerable time lags between when an area is (i) formally proposed for protection, (ii) legally established on paper, and (iii) physically demarcated. Legally, physical demarcation cannot even begin until formal protected area establishment (via a law or decree, with publication in the country's official gazette); it is often also delayed for other reasons typical of developing countries (such as lack of timely flow-of-funds). The November draft (Para. 12) dismisses these very real constraints by asserting: "Measures may be necessary to protect areas demarcated for project purposes from encroachment and claims, as soon as the area is identified." In the real world, several years can elapse between when a protected area is "identified" (e.g. formally proposed for protection) and physically demarcated, even under protected area projects which are implemented on schedule.

**6. Prohibitively Higher Project Costs.** For many conservation projects, compliance with the letter of OP 4.12 (October and November drafts) would make them prohibitively expensive to implement. In the context of rapid and irreversible global biodiversity loss, deforestation, and other environmental crises, funds for protected areas projects are extremely limited worldwide (despite the GEF). As drafted to date, OP 4.12 would make many protected areas and other natural resource management projects prohibitively expensive, by mandating a rigid set of "resettlement" benefits--even to people who would not be resettled, whose loss of income may not be significant, who need not be poor or vulnerable, who need not be citizens of the client country, or (per the October draft) whose natural resource uses might be completely illegal. For many conservation projects, these mandated benefits would cost more than the rest of the project combined. Furthermore, the most expensive items in such "resettlement" packages would usually be (i) acquisition of replacement lands or (ii) cash compensation, both of which are transfer payments that the Bank cannot finance. In the case of GEF Mid-Sized Projects, the grant recipient is frequently an NGO (rather than a government), which normally lacks the capacity to finance or implement "resettlement" packages for people who are not even resettled. For these reasons, **I am very concerned that, if adopted as drafted and implemented to the letter, OP 4.12 would be incompatible with the Bank's continued global leadership role in supporting conservation projects.**

**7. Compliance Problems for Other Safeguard Policies.** As detailed in my earlier (November 6) E-mail on this topic, the onerous requirements of OP 4.12 (October and November drafts) would make it much more difficult for Bank-supported projects to comply with (i) the Natural Habitats Policy (OP 4.04), which often requires the establishment or strengthening of compensatory protected areas and (ii) the Indigenous Peoples Policy (OD 4.20), which often requires restricting access by outsiders to natural resources on indigenous lands. Indirectly, the excessive requirements of OP 4.12 (even compared with OD 4.30) would likely generate a backlash by Bank staff that would undermine compliance with all the Bank's safeguard policies (most of which are written much more flexibly than OP 4.12).

**8. The Fallacy of a "Panel-Proof" Approach.** From conversations with several of the staff involved with the re-drafting of OP 4.12, one apparent objective is to protect the Bank from future Inspection Panel claims by writing a "Panel-proof" policy that is very detailed and specific in the types of activities which the Bank cannot support. While well-intentioned, I believe that this approach is mistaken, for two reasons. First, if the policy statement is long, detailed, and highly prescriptive, it will provide more specific opportunities



for the Bank's critics to fashion a detailed claim to the Inspection Panel; in other words, a longer policy document provides more "hooks" for attaching an Inspection Panel claim. Second, in the two Inspection Panel claims that I've followed, the Bank's argued insisted that the claim was legally unfounded, but Bank management insisted on responding as if the claim were legally legitimate, because they did not want to be perceived as "hiding behind a technicality". We need to recognize that the Inspection Panel process is inherently more political than legal, such that legalistic efforts to deter inspections with overly detailed policy prescriptions are likely to prove counterproductive.

**9. A Possible Taste of Things to Come.** Unfortunately, the bad outcomes predicted for Bank-supported natural resource management projects are not just my speculation about the future. Even in draft form, OP 4.12 has caused the Bank to decline support for important natural resource management activities. In the recently-negotiated Guatemala Land Administration Project, the Government had proposed to include a \$400,000 component to provide conditional land use rights to illegal squatters in the Maya Biosphere Reserve, in exchange for the squatters' agreeing to specific changes in their land use practices to reduce deforestation (without having to relocate). However, after Bank staff indicated that a "resettlement framework" would be needed for squatters whose access to natural resources within the Biosphere Reserve might be restricted, the Government requested removing this component altogether, noting that it would set a troubling precedent of entitlements to illegal squatters. Since this component was dropped, **we can expect to see more forest-clearing fires in Guatemala's Maya Biosphere Reserve during the next dry season--an unintended but very real consequence of OP 4.12.** If the Bank approves either the October or November drafts of OP 4.12, we can expect more cases like this one--important natural resource management activities will be avoided, with increased (often irreversible) environmental degradation that could have been prevented.

**10. Recommendations.** The simplest and most effective solution would be for OP 4.12 to specify that the Involuntary Resettlement Policy does not apply to natural resource management projects (including protected areas, forestry, and fisheries) in which people are not required to relocate. This could be done by (i) adding to the list of exceptions in Para. 4 and (ii) removing Para. 2.(c) of the November draft. I believe that this exemption for natural resource projects with no involuntary resettlement would represent an honest, straightforward conversion of OD 4.30 (rather than a sweeping expansion of its scope).

11. The alternative to specifically exempting natural resource projects without involuntary resettlement would be to make numerous changes in the text of OP 4.12 to make it more workable. For cases of benefits (in excess of those required by local law) provided to compensate for lost income due to restricted access to natural resources, (i) the income loss should be significant (in the Bank's opinion); (ii) the affected population should be poor or otherwise vulnerable (in the Bank's opinion); (iii) the affected persons should be citizens of the project country; (iv) the minimum income restoration could be less than 100%, if (in the Bank's opinion) it is sufficient to avoid undue hardship and poverty for the affected population; and (v) affected persons should not be entitled to any compensation for natural resource uses which are unambiguously illegal for everyone in the country (such as opium cultivation or the hunting of fully protected species). No benefits (in excess of any required under local law) should be provided to squatters who either (i) moved into a project area after it was demarcated or (ii) moved into a project area prior to demarcation but, in the Bank's opinion, in anticipation of receiving resettlement or related benefits. (The "in the Bank's opinion, in anticipation of..." clause has a precedent in other Bank safeguard policies, such as Natural Habitats OP 4.04, Para. 5.)

12. Furthermore, affected persons who are not involuntarily relocated should not be automatically entitled to a full set of pre-determined benefits. Rather, the benefits they might receive to compensate for restricted access to natural resources should be negotiated on a project-specific basis, according to a process acceptable to the Bank. Certain benefits might be provided conditionally, in exchange for agreed-upon, sustainable natural resource use practices. In the November draft, Para. 5 would need to be re-written accordingly.

13. Finally, I strongly recommend retaining the very sensible language of Para. 4.(c) of the November draft that voluntary relocation is exempt from the Involuntary Resettlement Policy. However, I recommend adding flood protection projects (important in the LAC Region) to the indicative list of investment projects with voluntary relocation.

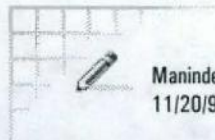
14. Notwithstanding the scary implications of both the October and November drafts, I remain hopeful that the final version of OP 4.12 will be written so as to enable the Bank (including GEF) to continue supporting the full range of protected area and other natural resource management projects, in ways that are cost-effective and a good service to our clients. Please let me know if you have any questions or if I can be of further assistance.



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To: George Ledec  
cc: Maninder S. Gill  
Cora Melania Shaw  
Maria Teresa Serra  
Gloria Davis-Sdv  
Thomas B. Wiens  
Augusta Molnar  
Kennan W. Rapp  
Barry Trembath  
Peter A. Van Der Veen  
Kenneth M. Gwilliam  
Mats Andersson  
Sumter Lee Travers  
Mohan Gopalan Gopal  
Ralph Hanan  
Daniel R. Gibson  
Sofia U. Bettencourt  
Louise F. Scura  
Thomas E. Walton  
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Maria C. Mejia  
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Nalini B. Kumar  
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Steven William Oliver  
Jelena Pantelic  
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Anis A. Dani  
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Ian Johnson  
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Maninder S. Gill  
11/20/98 06:28 PM

Extn: 81296 SDV  
Subject: Summary of discussions on resettlement issues in conservation / natural resource managements projects - 11/19/98

Maninder S. Gill



Maninder S. Gill  
11/20/98 05:22 PM

Extn: 81296 SDV  
To: Kennan W. Rapp  
Subject:

1. Representatives of ENV and SDV (resettlement thematic group) met yesterday to:
  - identify the specific categories of impacts on people affected by conservation and natural resource management projects, and
  - discuss the issue of application of Bank's resettlement policy to each category of impact.

2. As evident in the paragraphs below, there was lot of common ground between the two groups. There was a general agreement on the categories of impact that should be covered by the Bank's resettlement policy. However, issues pertaining to what constitutes reasonable standards for providing assistance to certain categories of affected persons could not be resolved in the meeting. This and a host of other issues would require further discussions before a consensus can emerge or before we can articulate specific disagreements, if any.

3. The following is a draft statement of our common understanding of the issues. Please provide your comments on the following, especially if you think the discussions at the meeting have not faithfully captured in the note:

**Categories of affected people and their coverage under the policy:**

I. People who are residing in parks / natural resource areas, and are required to leave the area as a consequence of the project: They would be covered by the resettlement policy. (issues related to the form of application are discussed in para 6 below).

II. If the project provides the people living in the parks / natural resource area with the following options:

(a) to stay within the area but to accept some restrictions in the activities they are engaged in (often with benefits they receive in return), or

(b) to relocate out of the park area

4. Those selecting option II (b), i.e. to relocate out of the park area, would be covered by the resettlement policy. The policy would not apply to those who select option II (a). It would be a part of the project design to address the issue of formulating appropriate alternative economic activities to compensate for the restrictions imposed by the project.

5. If, at any stage of project implementation, the people who selected option II (a) above feel that the anticipated benefits of the project, based on which they had opted to remain in their current location, have not materialized, or are not expected to materialize, they can change their option to II (b), and opt for moving out of the park / natural resource area ---- In such cases they would be covered by the resettlement policy.



6. While there was agreement on the need to provide assistance under the resettlement policy to the categories of impact identified above, the representatives of the environment group felt that unsustainable or illegal activities should not be compensated to full income restoration levels, and there should only be some "safety net" mechanisms to assist those who are required to discontinue these activities. They did, however, recognize the point made by SD staff that some of the activities termed illegal may in fact be based on traditional socio-economic lifestyle of the park residents. There was lot of common ground even on this issue and both sides agreed that illegal activities of corporate-type entities (illegal logging companies), or activities that do not constitute the traditional activities of the affected people and are outright illegal (such as poaching by people who are traditionally agriculturists) should not be compensated. However, the social group felt that those and engaged in legal occupations (such as agriculture), regardless of formal legality accorded to their specific case by local authorities (for example, titles to lands cultivated by them), should be compensated to full income restoration levels. It was agreed that we would need to meet again to further discuss this issue.

7. Addressing a concern raised by ENV staff that the proposed wording of the OP would promote widespread encroachments of parks and natural resource areas, the SD staff clarified that the intent of the OP wording was to deny any compensation or resettlement assistance to all encroachments made after the project area is "formally delineated and such delineation is effectively made public" (and not after physical demarcation on the ground, as the current draft seems to suggest). Alternative wording which adequately reflects this intent would be incorporated into a revised draft of the OP.

8. Another concern raised by ENV staff was whether the OP would apply to community development projects where specific communities are given the right to manage certain natural resources, with corresponding restrictions on the access of other communities to the same resources. They clarified that though the OD 4.30 had not been applied to such projects in the past, they felt that the wording of the draft OP could be interpreted to require application of the policy to these projects. The SD group felt that the critical issue here is the process by which the "community" that would have access to the natural resources under the project was defined. As long as the rights of communities to access such resources was determined through a participatory process involving all stakeholders, they argued, there should be no reason to apply the resettlement policy. SD staff felt, however, that further details on the operation of such projects and their impacts on the concerned communities would need to be discussed before the issue could be conclusively resolved.


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To: Anis A. Dani  
Kennan W. Rapp  
Chaohua Zhang  
George Ledec  
Susan S. Shen  
Dan Aronson/Hq/lfc@lfc  
Warren Waters  
Concepcion Esperanza Del Castillo  
Norval Stanley Peabody



Extn: 87180

AFTE1

Subject: Re: Continuation of the meeting on resettlement and conservation / natural resources projects 

Maninder, unfortunately I will not be in tomorrow. Following is a summary of where I feel things stand... hope it's helpful:

I think there's not a lot of dissent about what are appropriate actions to be taken on the ground -- the dispute is more over what the OP should or shouldn't say in order to enable this to happen (particularly in view of the increasingly legalistic approach the Bank is taking in an effort to be "Inspection Panel-proof").

Dan A. confirmed that, just as we thought, this is not a simple conversion from OD 4.3 to an OP -- the mandate was to do an "update" simultaneously with the conversion, i.e. to incorporate evolving Bank practice of the past few years (codifying the ad hoc interpretation the OD has undergone in practice).

As I see it, the main source of the controversy is that, while OD 4.3 did refer (very briefly) to the need to compensate for/restore lost income from the loss of productive assets other than land, this was clearly in the context of activities where people were in fact being physically displaced. **Although it could be argued that the OD could have been applied to other situations, in practice it wasn't.** Unless physical relocation was involved for at least some people, nobody brought up OD 4.3 or tried to apply it. (Dan Aronson seems to think otherwise, but which of us ever considered applying, or was called upon to apply, the Resettlement OD to a community-based natural resource project?)

The way the draft OP is phrased, it seems likely that it could start to be applied in many situations where physical relocation is not involved. We environment/rural people (among others) are concerned about this because of the potential application to: (1) projects aiming to improve protection of (i.e. reduce users' access to) Protected Areas; and (2) community-based NRM projects, which are based on empowering a designated community to manage natural resources, as this almost inevitably means reducing access on the part of some others (indigenous peoples' tenure/titling/empowerment is a sub-set of this).

While I have yet to see the actual draft OP (!), as I understand it, there are two aspects that particularly worry us. We're concerned that any time anyone's access to resources is in anyway restricted, under this OP: (1) a "resettlement plan" must be developed, and (2) this "resettlement plan" must result in every affected person getting 100% of their previous income from the NR use restored or compensated for, regardless of whether this NR use was legal or sustainable or whatever. We're concerned that this provision will encourage more unsustainable NR use in areas where a project is being prepared, will reward commercial poachers, and will be so prohibitively complicated and expensive as to make it impossible to do any more PA protection or community-based NRM projects.

By the end of last week's meeting, I think we got **good consensus on the following:**

(1) projects that restrict peoples' access to natural resources can create negative economic impacts, and it should (continue to) be Bank policy to try to mitigate these impacts and assist those people to improve their livelihoods through various means (e.g. agricultural intensification on their lands outside PAs, development of other income sources, etc.);

(2) however, it is **not** realistic or reasonable to make it a matter of policy to restore 100% of the income lost in every case. In many cases the income being earned through NR use is unsustainable and/or is benefiting a few individuals to the detriment of others and society as a whole, so 100% compensation should not be required.



(3) whenever a Bank-financed operation will restrict some peoples' access to resources, project preparation should identify them and the kinds of losses they will suffer, and should also **identify appropriate mitigation measures to be supported under the project to reduce negative impacts on them**. It was fully agreed that the appropriate measures to be taken will depend on the specific circumstances and can only be decided on a case-by-case basis, based on a wide range of possible factors (i.e., one size does not fit all). However, I would say we did not fully agree on what the underlying principle or target should be (i.e. if it's not 100% restoration/compensation) -- George was pushing for a "safety net" concept but not everyone agreed.

Unfortunately, as the draft OP is now written, it seems that this "mitigation plan" is automatically called a **"resettlement plan"** even if no physical relocation is involved. The drafters insist that, despite being called a "resettlement plan," this does not prescribe a rigid set of requirements, but provides all necessary flexibility to take the actions appropriate to the specific situation. But some of us aren't so sure, as we feel that calling it a "resettlement plan" implies a certain set of measures, like providing alternative land. We would urge that it be called something else, e.g. an **"economic mitigation plan"** unless actual resettlement is involved.

(4) similarly, if operations with no actual resettlement at all are to come under this OP, it seems sensible to call it something else, such as **"OP on Economic Displacement and Resettlement"**. I think you said that this issue has been raised and rejected by OPC before (I guess that would sound too much like really changing the existing policy....). Still, I think it's worth pushing for a name change...

Cheers, Agi

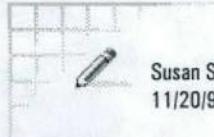
Agi Kiss  
J-3-129, The World Bank  
1818 H Street, NW  
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akiss@worldbank.org

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To: Maninder S. Gill



12



Susan S. Shen  
11/20/98 09:18 AM

Extn: 82716 EASRD  
Subject: O.P. on Resettlement and implications on NRM projects

Dan:

It is unfortunate that you did not feel the meeting yesterday was needed or constructive.

The meeting was convened at my suggestion after seeing the EMail traffic escalating to a level of unconstructive point-counter-point. The objective of the meeting was to move the debate/dispute which people working in Natural Resources Management have with the latest version of the O.P. 4.12 forward. I realize that Gloria had convened a meeting earlier to discuss people and parks issue but the distribution list was quite limited and issued with short notice.

My offer to Maninder, Resettlement Coordinator for the Social Family, was to figure out how those of us in the trenches who has been dealing with these contentious issues for years could help, particularly since many of us are around. The idea also was get a better regional representation of people with extensive practical experiences in NRM projects to meet and discuss the outstanding issues. I had no idea who Maninder was going to invite from the Social Family. It is unfortunate that some people felt obligated to come to defend the draft and the process rather than to discuss constructively the remaining outstanding issues.

I have always thought that getting together to discuss issues constructively face-to-face is better than communicating through EM which inevitably escalates to miscommunication and misunderstanding. And I think most people at the meeting would agree that it did accomplish that much.

As we agreed, the lack of transparency of the consultation process is due more to the failure of the Env/Rural family reps on the technical committee and possibly sector board representatives to communicate to the membership than to the process itself. This is not only an issue for the Environment Family but also for Rural which oversees NRM projects and I have never seen anything from the Rural Board!

However, the perception of staff of the lack of transparency of this process of converting the O.D. into the O.P. is *still valid and should be addressed*. I hope Maninder could outline the process with timetable and circulate to the technical committee members and ask them to circulate to their respective family members, so that people could have a better level of comfort that the process is not going to proceed in an ad hoc manner as it is currently being perceived. I don't think the differences are irreconcilable but it will require patience on all sides to work through these very important issues again (and again and again).

Susan

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11/20/98 12:00 AM

Extn: 87180 AFTE1

To: Dan Aronson cc: Maninder S. Gill, Anis A. Dani, Kennan W. Rapp, Chaohua Zhang, George Ledec, Susan S. Shen, Gloria Davis-SDV, Robert T. Watson-ENV  
Subject: Re: No more ENV meetings, please

Dan, FYI - I was indeed invited to the "Parks" meeting, but it was on short notice and unfortunately I had a prior commitment, as I informed Gloria. This was after George had sent out his 10/22 email, and I had responded to it -- I guess that's why I wound up on the invitation list and many other people didn't.

I agree it's unfortunate that our "in-family" or "in-network" communications and consultations systems don't seem to be working as well as they should, but I guess it's only in a case like this that it becomes apparent and we see we have a problem to address.



I understand your impatience with what seems like going over the same ground repeatedly, but I do feel this issue is an important one, and I thought that, by the end, today's meeting turned out to be quite useful. We probably should have spent less time at the beginning talking about who did and didn't know about what by when, and whose fault that might have been... cheers, Agi

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Dan Aronson @ IFC

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11/19/98 09:59 PM

To: Maninder S. Gill cc: Anis A. Dani, Kennan W. Rapp, Chaohua Zhang, Agi Kiss, George Ledec, Susan S. Shen, Gloria Davis-SDV, Robert T. Watson-ENV  
Subject: No more ENV meetings, please

We spent 45 minutes at a special meeting today trying to respond to the question why environment people across the Bank might not have been clued in to the **three** different meetings that resettlement people had with enviro staff to discuss the Involuntary Resettlement policy. Special concern was raised by Agi Kiss and Susan Shen for not having gotten messages about the issues and the progress. The resettlement specialists could only say that Technical Committee members, including a rep from ENV appointed by the ENV sector board, had all assured the committee that they were in continuous contact with their peers over this issue.

Just for the record, I attach three messages. The first, inviting ENV to the first specialized discussion, was sent by Teresa Serra to "ENVFAM-1st" (the same list George used for his first e-m, 10/22) and copied directly to Francois Falloux, who represents Africa on the Env Board. The second was an early one, before the process began, and was concerned to get a process started. It was sent to "ENV sector board principals" and "Env sector board extended". The third, calling a meeting re Parks, was sent to Agi Kiss and George Ledec, among others, and to Lou Scura in EASRD (where Susan Shen sits). Earlier, Kristina Georgieva (EASEN sector leader), among others, had been an active participant in meetings.

You will pardon SDV for not knowing where to find each and every environmental person. You may excuse us for thinking that various distribution lists might have included pretty much all the key people. You can excuse yourselves for being busy people who don't have time to read all your e-m's, or for not quite understanding the significance of a message that doesn't clue in to background.

But enough is enough. Maninder, please don't invite me to any further meetings with new rounds of ENV people who claim not to know.

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To: Dan Aronson/Hq/lfc@lfc  
cc: Maninder S. Gill  
Anis A. Dani  
Kennan W. Rapp  
Chaohua Zhang  
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Robert T. Watson-Env  
Kristalina I. Georgieva  
Gfox@Worldbank.Org  
Alexander F. Mccalla



Parks, Protected Areas, and Natural Resource Management Projects: Questions have been raised about the application of the policy to conservation/natural resource management projects. There is consensus that the policy would fully apply to people who are required to relocate out of such areas as a result of the project. However, the extent of assistance (if any) that should be offered to those who stay when their economic activities are restricted, or to those who are not given the option to relocate, but who must submit to restrictions, is debated. Resolution along the following lines is proposed.

Projects will distinguish between three broad categories of people who inhabit parks and protected areas (though environmental staff have pointed out that there could be a considerable overlap between the categories): (a) indigenous or traditional people, who have resided in these areas for many generations, (b) more recent, non-indigenous/non-traditional residents engaged in agriculture and other acceptable pursuits, and (c) those engaged in illegal activities.

For those in category (a) relocation out of the park may not be a culturally acceptable option. Therefore, they need to be compensated for any restrictions on their economic activities within the park to ensure that their incomes and standards of living are not adversely affected. Those in category (b) could either relocate out of the park or continue residing in the park with provision of certain benefits (that can be a part of project design) in exchange for restrictions on their activities. Resettlement specialists have argued that such restrictions on land use and the pursuit of other economic activities constitute an expropriation of income, and that losses should be mitigated and incomes restored. But some environment staff contend that since some of these activities carried out by those in category (b) are unsustainable, they should not be fully compensated, although they agree that some "safety net" measures are needed for the poor. Regarding those in category (c), there is agreement between both sides that there should be no compensation for their illegal activities, especially those pursued by quasi-corporate entities (such as illegal logging by companies, extension of farming estates into protected areas by large farmers, or poaching by organized bands) or for activities that do not constitute a part of traditional lifestyles of affected people (for example, poaching of endangered species by agricultural communities). We propose to include these distinctions in the *Resettlement Sourcebook*, but not in the policy.





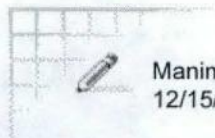
# Record Removal Notice

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<b>File Title</b> Shared Unit Files - Policy Development Records - Operational Policy 4.12 Involuntary Resettlement - ESSD Correspondence File - October 1998		<b>Barcode No.</b>  1831715		
<b>Document Date</b> December 15, 1998	<b>Document Type</b> Email			
<b>Correspondents / Participants</b> To: Andres Rigo Sureda From: Charles E. Di Leva, LEGEN				
<b>Subject / Title</b> Re: Resettlement: 12/3/98 draft OP				
<b>Exception(s)</b> Attorney-Client Privilege				
<b>Additional Comments</b>		The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.		
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<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019			



15



Maninder S. Gill  
12/15/98 07:43 PM

Extn: 81296 SDV  
Subject: OP 4.12 - Draft Issues Paper

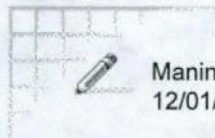
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Please find attached the exchange of messages between Agi and myself on incorporating the concerns of the environment group into the issues paper and the draft OP. As you will see, the last message from Agi confirmed that she was satisfied with my clarification regarding the process being followed. Gloria, however, just informed me that there is a perception in your group that the process has not been very open and that your views have not been taken into account in the drafting of the issues paper. I don't think we have ever claimed that the issues paper reflects the richness of all the comments received on this subject - neither does the paper preempt the issue one way or another. The Steering Committee meeting held yesterday decided to discuss this issue in detail on Friday, the 18th. Gloria especially requested Andres Rigo to include Charles Di Leva, who is most experienced on conservation and natural resources projects, in the discussions of the Steering Committee. I hope this addresses your concerns on the process being followed. If you have any further suggestions, please let me know.

regards

Maninder

----- Forwarded by Maninder S. Gill/Person/World Bank on 12/15/98 07:24 PM -----



Maninder S. Gill  
12/01/98 12:53 PM

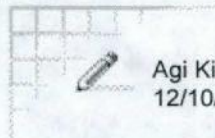
Extn: 81296 SDV  
To: Agi Kiss, George Ledec, Susan S. Shen  
Subject: OP 4.12 - Draft Issues Paper

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regards

Maninder

----- Forwarded by Maninder S. Gill/Person/World Bank on 12/01/98 12:49 PM -----



Agi Kiss  
12/10/98 04:32 PM


Extn: 87180 AFTE1  
To: Louise F. Scura cc: George Ledec, Susan S. Shen, Marjory-Anne Bromhead, Sofia U. Bettencourt, Richard G. Scobey, C  
Subject: Re: OP 4.12 - Side-by-side 

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The revised version is indicated to be as of 12/3/98, but it does not seem to incorporate or reflect any of the concerns raised in my email of 12/1/98 or yours or others sent to Maninder at about the same time...

----- Forwarded by Maninder S. Gill/Person/World Bank on 12/15/98 07:24 PM -----

 Maninder S. Gill  
12/10/98 05:00 PM

Extn: 81296 SDV

To: Agi Kiss cc: Louise F. Scura, George Ledec, Susan S. Shen, Marjory-Anne Bromhead, Sofia U. Bettencourt, Richard G.  
Subject: Re: OP 4.12 - Side-by-side 

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regards

Maninder


 Agi Kiss  
12/10/98 05:40 PM

Extn: 87180 AFTE1

To: Maninder S. Gill cc: Louise F. Scura, George Ledec, Susan S. Shen, Marjory-Anne Bromhead, Sofia U. Bettencourt, Ric  
Subject: Re: OP 4.12 - Side-by-side 

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Agi Kiss  
J-3-129, The World Bank  
1818 H Street, NW  
Washington, DC 20433  
akiss@worldbank.org

 Maninder S. Gill  
12/10/98 06:20 PM

Extn: 81296 SDV

To: Agi Kiss



Subject: Re: OP 4.12 - Side-by-side 

Here it comes, Agi.

cheers

**Issues Paper:**



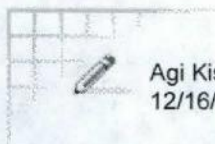
Issues4.doc

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To: Louise F. Scura  
cc: Gloria Davis-Sdv  
Agi Kiss



16



Agi Kiss  
12/16/98 11:44 AM

Extn: 87180                      AFTE1  
Subject: Re: OP 4.12 - Draft Issues Paper 

Maninder, please note -- my message of 12/10/98 was only to thank you for clarifying that the draft of 12/3/98 did not yet incorporate our comments of 12/1/98 but that this would be done in future ... I have not commented on whether I was satisfied with clarification given of the overall consultation process overall -- frankly, I still don't really know what the process is meant to be.

I am, however pleased to see that Charles will be involved in the meeting on the 18th, as I think he will be very helpful in facilitating incorporation of the concerns that have been expressed over the past few weeks by me, Lou, Sofia, etc.

Agi Kiss  
J-3-129, The World Bank  
1818 H Street, NW  
Washington, DC 20433  
akiss@worldbank.org

---

To: Maninder S. Gill  
cc: Louise F. Scura  
Gloria Davis-Sdv



 Louise F. Scura  
12/16/98 05:16 PM

Extn: 81921 EASRD  
Subject: Re: resettlement

Ian,


As you know, I stopped by to see you yesterday.

Our frustration is that we are spending considerable time engaging, to the extent that we are allowed, in the process. However, we are being kept at arms length and, whether intentional or not, our comments on such things as the issues note (which is supposed to lay out unresolved issues) are filtered out.


Regards,

Lou

----- Forwarded by Louise F. Scura/Person/World Bank on 12/16/98 05:04 PM -----

 Louise F. Scura  
12/16/98 05:01 PM

Extn: 81921 EASRD

To: Maninder S. Gill cc: Gloria Davis-SDV, Agi Kiss, Susan S. Shen, George Ledec, Marjory-Anne Bromhead, Sofia U. Bette  
Subject: Re: OP 4.12 - Draft Issues Paper 

Maninder,

Thanks for your note and the attached copy of the "revised" issues paper.

I ran into Gloria outside Ian Johnson's office last night and indicated to her that the Bankwide community of practice on NRM feels that there are still outstanding issues in the current draft policy, and that we are not yet clear on the process being followed to finalize the policy. She expressed genuine surprise, and suggested that we should meet to clarify the issues before your Friday meeting. I think this is a very constructive suggestion.

Both Agi Kiss and I had provided extensive comments on an earlier draft of the issues paper, but neither of us had received any indication from you on whether and how the issues that we raised had been incorporated in the revised issues paper or the draft policy. (I note from your EM that Agi, who is currently on mission in Africa, was forwarded a copy of the revised issues paper a few days ago in response to her inquiry from the field about where things stood.)

I see from the revised issues paper that you forwarded last night that you have attempted to incorporate some of the issues. It is still our view that these issues require clarification in the policy, and therefore do not agree with your suggestion to address these concerns through the Resettlement Sourcebook.

Moreover, you have not incorporated other issues that we raised. I can appreciate that you could not capture the details of all of our comments. I also take your point that the issues paper does not preempt discussion by the Steering Committee of issues that are not included. But this begs the question, how do



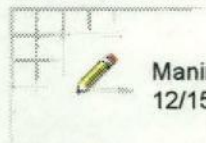
we get these recognized as outstanding issues and on the agenda for discussion with the Steering Committee? In my discussion with Gloria last night I learned that she was not even aware of our concern about the apparent expansion of application of the policy to NRM outside parks and protected areas, a point which many of us have been making since the very first rural/environment consultation. This does not give me much confidence that the issue will be discussed with the Steering Committee without some additional intervention on our part. Perhaps this gives you some indication why I raised the process issue with Gloria.

We view Charles Di Leva's inclusion in the discussion with the Steering Committee a very positive development. We hold Charles in very high regard. He has made a point to consult widely with NRM specialists on the technical issues involved. Nonetheless, I hope you recognize that that Charles' engagement in the process is not a substitute for the continued involvement of and consultation with technical specialists.

Regards,

Lou

Maninder S. Gill



Maninder S. Gill  
12/15/98 07:43 PM

Extn: 81296

SDV

To: Louise F. Scura cc: Gloria Davis-SDV, Agi Kiss

Subject: OP 4.12 - Draft Issues Paper

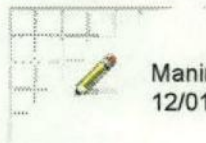
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Extn: 81296

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Subject: Re: OP 4.12 - Side-by-side 

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cheers

Issues Paper:



Issues4.doc

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To: Ian Johnson



FOR OFFICIAL USE ONLY

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R98-245

WBG ARCHIVES

FROM: The Secretary

September 29, 1998

OP 4.12, Involuntary Resettlement

Attached is a memorandum from the President entitled "OP 4.12, Involuntary Resettlement", together with OP, BP, and GP 4.12. "IFC OP 4.12, Involuntary Resettlement" will be circulated shortly.

In the absence of objection (to be communicated to the Secretary by close of business on October 13, 1998), the recommendation in paragraph 4 of the memorandum will be deemed approved and so recorded in the minutes of a subsequent meeting of the Executive Directors.

Questions on this paper should be referred to Mr. Gill (X81296).

Distribution:

Executive Directors and Alternates  
President  
Bank Group Senior Management  
Vice Presidents, Bank, IFC and MIGA  
Directors and Department Heads, Bank, IFC and MIGA

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FROM: The President

September 21, 1998

### OP 4.12, INVOLUNTARY RESETTLEMENT

1. Attached are OP, BP, and GP 4.12, *Involuntary Resettlement*. These documents represent a conversion of OD 4.30 (issued in June 1990) to the OP/BP/GP format. Preparation of the documents has included close collaboration with IFC and consultation with external parties. It has taken into account the findings of the OED study *Recent Experience with Involuntary Resettlement* and Management's Response to it (CODE98-20), and the concerns expressed at the CODE discussion on April 29, 1998.

#### I. Clarifications

2. Preparation of the OP/BP/GP has also been informed by some eight years of experience with the OD. Thus the OP contains several provisions intended not to change but to clarify provisions of the OD that have caused confusion in the past. Specific examples follow.

- (a) Para. 2 clarifies that the policy on resettlement applies only to projects in which displacement results from a change in land or water use (however, footnote 5 adds that when the Bank is involved in a project in which closure of enterprises leads to dislocation in the community, it is good practice for the borrower to consider a resettlement plan along the lines set out in the OP). Para. 2 also clarifies that the policy addresses both the physical displacement and nonphysical displacement (such as loss of the means of livelihood) that may result from such a change in use. Like the OD, this para. states that the policy applies whether or not the Bank itself is financing the part of the project that may require resettlement; but it adds that the policy covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.
- (b) Para. 4 uses the OD language to state that the Bank's policy is to assist displaced persons in improving their situation, but it clarifies that the minimum standard is to assist them to achieve not their *former* living standard (as in the OD), but the living standard they are likely to have achieved if the project had not taken place.
- (c) Footnote 9 provides definitions to help clarify the concept of "full replacement cost."
- (d) Footnote 11 clarifies that cash compensation may be used with respect to certain defined situations—edges, corners, and small strips of land.



- (e) Para. 5 (f) provides greater specificity on appropriate linkages between the implementation of the resettlement component and the implementation of the investment component.
- (f) The OD made several references to eligibility for resettlement benefits, but it did not define how eligibility was to be determined. For example, OD para. 3 (e) stated that benefits should be provided to people "who may have usufruct or customary rights to the land" and added that "the absence of legal title to land by such groups should not be a bar to compensation." OD paras. 11 and 14 (d) referred to measures "to prevent inflows of population ineligible for compensation; and para. 14 (c) required "establishing criteria for determining the resettlement eligibility of affected households, e.g., households that have only partially lost their assets but are no longer economically viable should be entitled to full resettlement." The experience of Bank staff indicated that this area raised questions in nearly every project, particularly questions about the eligibility of people who do not have formal title to land. Therefore, para. 6 requires the borrower to develop a procedure for determining eligibility criteria; and paras. 7 and 8 of the OP set out with greater specificity the eligibility criteria for different groups of affected people and the kinds of resettlement benefits the borrower is expected to provide to them.
- (g) *The World Bank Policy on Disclosure of Information* makes no specific provision for the disclosure of resettlement plans, except to say in footnote 9 that "environmental assessments and environmental analyses incorporate, wherever relevant, resettlement plans and indigenous peoples development plans." Although the development of a resettlement plan must be closely related to any environmental assessment, the two efforts are usually carried out by different experts and on different timetables. Thus, it is often difficult to disclose the resulting documents together. The OP addresses this problem by providing that resettlement plans are disclosed to the public in the same way as—but not necessarily with—environmental assessment reports (paras. 11-12).

## II. Recommended Policy Changes

3. With the OP, management is recommending changes in the Bank's policy on projects with multiple subprojects. Para. 26 (c) of the OD provided that for sector investment loans for which the specific resettlement needs of each subproject were not known in advance, the borrower would agree to certain basic principles as a condition of the loan; then subprojects would "be screened by the implementing agency to ensure consistency with this directive, and approved individually by the Bank." In practice, the meaning of this requirement was found to be unclear. Therefore, the OP adds clarity to these provisions by requiring that the basic principles be presented in a *resettlement policy framework* (para. 14) and that, for each subproject involving resettlement, a



- (e) Para. 5 (f) provides greater specificity on appropriate linkages between the implementation of the resettlement component and the implementation of the investment component.
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subproject resettlement plan be submitted for Bank review (para. 16). Recommended changes to the policy set out in the OD are as follows:

- (a) Like OD and OP 4.01, *Environmental Assessment*, para. 15 of OP 4.12 makes similar provisions for financial intermediary loans and the subprojects under them as for sector investment loans. The para. requires that the resettlement policy framework assess the institutional capacity of each of the onlending institutions that will be responsible for subproject financing, and it provides that the financial intermediary screen the subprojects. Para. 16 provides that for each subproject involving resettlement, a subproject resettlement plan be prepared and submitted for Bank review.
- (b) Para. 17 makes similar provisions for other projects with multiple subprojects, if the zone of impact or precise siting alignments of the subprojects cannot be determined before project appraisal.
- (c) Recognizing that some borrowers have developed substantial capacity for reviewing subproject resettlement plans, para. 18 provides for the Bank to delegate that responsibility to appropriate agencies in certain cases.

### **III. Recommendation**

- 4. It is recommended that the Executive Directors approve the policy changes described in para. 3. Following Board approval, the OP/BP/GP reflecting these changes would be issued.

James D. Wolfensohn  
President

by  
Caio K. Koch-Weser

September 21, 1998  
Washington, D.C.





## Involuntary Resettlement

1. Bank<sup>1</sup> experience indicates that, unless appropriate measures are carefully planned and carried out, involuntary resettlement under development projects<sup>2</sup> generally gives rise to severe economic, social, and environmental problems: production systems are dismantled; people are impoverished when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.<sup>3</sup>

2. This policy applies to Bank-financed investment projects in which a change in land use or water use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income sources or means of livelihood. This policy provides for measures to mitigate the impacts of the involuntary displacement (physical and nonphysical) of affected people that arises from such changes in land or water

use,<sup>4</sup> whether or not the people must move to another location.<sup>5</sup> This policy applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.

3. Responsibility for resettlement rests with the borrower. In financing projects, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid the need for involuntary resettlement and, when it cannot be avoided, to minimize the scale and impacts of resettlement.<sup>6</sup>

4. When involuntary resettlement is unavoidable under a Bank-financed project, resettlement measures are conceived and executed as development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits. The objective is to assist displaced persons in their efforts to improve their former production levels,

1. "Bank" includes IDA, "loans" includes credits and guarantees, and "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility.
2. Such projects may involve, for example, construction, establishment, reestablishment, upgrading, or extension of dams; mines; new towns or ports; housing and urban infrastructure; large industrial plants; railways or highways; irrigation canals; or forests, national parks, or protected areas.
3. See also OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects*.
4. Although the Bank does not finance closure of enterprises, it may be involved in addressing the consequences of a mine or plant closure that results in physically dislocating a large segment of a community or depriving them of the means of livelihood. In such cases, it is good practice for the borrower to consider a resettlement plan along the lines set out in this policy.
5. Refugees from natural disasters, war, or civil strife, who are involuntary resettlers, are not covered by this policy (but see OP/BP 8.50, *Emergency Recovery Assistance*).
6. For example, realignment of roads or reduction in dam height may reduce resettlement needs. It is important to note that such alternative designs are subject to other applicable Bank policies—for example, those relating to indigenous peoples and natural habitats (see OD 4.20, *Indigenous Peoples*, and OP/BP 4.04, *Natural Habitats*).

**Note:** OP and BP 4.12 together replace OD 4.30, *Involuntary Resettlement*. Questions may be addressed to the Head, Social Development Board.





income-earning capacity, and living standards or, at least, to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project.

5. To meet this objective, Bank-assisted projects include measures to ensure that

- (a) Displaced people are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choice from among, and provided with technically and economically

feasible resettlement alternatives;<sup>7</sup> (iii) provided prompt and effective compensation for losses attributable directly to the project<sup>8</sup> (with lost assets valued at full replacement cost);<sup>9,10,11,12</sup> (iv) whenever replacement land is offered, provided with sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site; (v) at and after displacement assisted with any required relocation; and (vi) provided with development assistance

7. For people displaced from agricultural settings, Bank experience shows that the objectives of this policy normally cannot be achieved without land-based resettlement strategies. Therefore, for those losing land, the Bank encourages borrowers to offer replacement land and, if sufficient land is not available, non-land-based options built around opportunities for employment or self-employment.
8. Losses arising from sentimental attachment or aesthetic preference and losses not caused by the change in land use or water use under the project are beyond the scope of this policy.
9. With regard to land and structures, "replacement cost" is defined as follows: For *agricultural land*, it is the preproject market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of land preparation to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; for *land in urban areas*, it is the preproject market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; for *houses and other structures*, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of 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. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses in para. 5.
10. For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to (a) public services, (b) customers and suppliers, or (c) fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.
11. Experience indicates that offering only cash compensation for lost assets rather than a choice among viable options is normally inadequate. However, cash compensation may be appropriate when the residual landholding of the affected person remains economically viable. In addition, when linear projects require acquisition of narrow (e.g., less than two meters wide) strips of land to widen roads or to provide walkways, canal improvements, or sanitation and water lines, and such acquisition has no appreciable effect on incomes or living standards, and it is inefficient to determine the precise replacement cost for each affected parcel (in part because it is likely to be impossible to replace such small strips of land), it may be appropriate to use a flat rate of cash compensation based on, or exceeding, prevailing land values in local land markets. As a safeguard, the land acquisition assessment should show that such acquisitions affect only outside edges or corners of affected parcels and affect less than 10 percent of any parcel. Landholders must also be compensated at full replacement cost for lost structures and crops on such parcels.
12. For households that lose a share of assets or income large enough to make the remainder of such assets or sources of income economically unviable, compensation and other resettlement assistance are provided as if their entire holdings had been taken.





and measures for support (such as subsistence allowances, training, job opportunities, land preparation, credit facilities) during a transition period until they have had a reasonable opportunity to reestablish their production levels, income-earning capacity, and living standards.<sup>13</sup> Particular attention is paid to the needs of vulnerable groups among those displaced, especially the poor, the elderly, women,<sup>14</sup> indigenous groups,<sup>15</sup> ethnic minorities, and pastoralists.

- (b) Land, housing, infrastructure, other forms of assistance under this policy, and compensation are provided to displaced people who may have usufruct or customary rights to land or other resources taken for the project. Customary and formal rights are recognized equally in providing assistance under this policy and in devising criteria for entitlements and procedures for compensation and other resettlement assistance.
- (c) Communities are provided timely and relevant information, are consulted on their resettlement, and are offered opportunities to participate in planning, implementing, and monitoring their resettlement. Appropriate and accessible grievance mechanisms are made available.
- (d) To help resettlers integrate socially and economically into host

communities and minimize adverse impacts on host communities, any host communities are informed about their options; they are consulted in planning, implementing, and monitoring those aspects of the resettlement that will affect them; and their views and preferences with respect to integrating resettlers into their communities are identified and taken into account.

- (e) Patterns of community organization appropriate to the new circumstances are based on choices made by the affected communities. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honored.
- (f) The implementation of resettlement activities is linked to the implementation of the investment component of the project so as to ensure that displacement does not occur before necessary measures for resettlement are in place: that is, compensation is paid; all other payments required for relocation are provided prior to displacement; and, where required, resettlement sites with adequate facilities are ready. In particular, land taken for project purposes is not physically used or affected until occupants are relocated in accordance with this policy.

13. The resettlement plan (see paras. 9-12) establishes a target date—the date on which the requirements of para. 5 (a)(vi) should reasonably have been met—for terminating such transitional assistance.

14. See OP 4.20, *The Gender Dimensions of Development*.

15. See OD 4.20, *Indigenous Peoples*.





- (g) The implementation of resettlement activities is adequately monitored and evaluated.

### **Eligibility for Benefits**

6. *Determination of Eligibility.* The borrower develops a procedure, satisfactory to the Bank, for establishing the criteria, consistent with paras. 7-8 below, by which affected people will be deemed eligible for compensation and other resettlement assistance to achieve the objectives of this policy. The procedure includes provisions for consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs). As part of the procedure, the borrower carries out a census to identify the people who will be affected by the project (see Annex A, para. 5 (a)).

7. *Criteria for Eligibility.* Displaced persons in the following two groups are entitled to compensation for loss of land or water resources taken for project purposes:

- (a) those who have formal legal rights to land or water resources (including customary and traditional rights recognized under the laws of the country); and
- (b) those who do not have formal legal rights to land or water resources at the time the census begins but have a claim to such legal rights—e.g., rights derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the

government), or from customary and traditional law and usage—provided that such claims become recognized under the laws of the country through a process identified in the resettlement plan (see Annex A, para. 6 (e)).

Displaced persons in these two groups are also entitled to compensation for loss of other assets, in particular, structures and crops. The absence of legal title to land or water resources is not, in itself, a bar to compensation for lost assets or other resettlement assistance.

8. A third group of displaced persons—those who are occupying land in violation of the laws of the country and who do not fall within the category described in para. 7 (b)—is not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census,<sup>16</sup> they are entitled to resettlement assistance in lieu of compensation for land, as necessary to achieve the objectives set out in para. 4. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular, structures and crops.

### **Resettlement Plan**

9. The borrower is responsible for preparing a resettlement plan that conforms to this policy.<sup>17</sup> The plan covers all aspects of the proposed resettlement and presents a strategy for achieving the objectives of this policy as set out in para. 4. Resettlement planning is coordinated with any environmental assessment (EA).<sup>18</sup> In preparing the resettlement plan, the borrower

16. Lack of documented occupancy is not in itself evidence of nonoccupancy.

17. Annex A sets out the contents of a resettlement plan. Bank staff do not prepare the resettlement plan, nor do they engage consultants under a trust fund to prepare the plan (see OP 14.40, *Trust Funds*).

18. Projects involving involuntary resettlement are normally classified as Category A projects for purposes of EA. OP/BP 4.01, *Environmental Assessment*, discusses the screening process and sets out the Bank's policies and procedures related to EA.





draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. When independent technical advisory panels are established under para. 4 of OP 4.01, *Environmental Assessment*, for projects that involve resettlement, the panels include members with resettlement expertise acceptable to the Bank.

10. The borrower incorporates the resettlement plan into the Project Implementation Plan.

11. The borrower makes a draft resettlement plan that meets the requirements of this policy available at a place accessible to project-affected people and communities and local NGOs. When necessary for ensuring effective disclosure, the borrower also makes the draft plan available in a form and language that are understandable and accessible to these groups. For projects that are in environmental assessment Category A, and for Category B projects that are proposed for IDA financing, this disclosure takes place before the Bank appraises the project.

12. The Bank requires, as a condition of appraisal, that the borrower provide to the Bank a draft resettlement plan that conforms to this policy.<sup>19</sup> Once the Bank accepts the borrower's plan as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. Once the borrower approves and the Bank agrees to the final resettlement plan, the borrower again makes it available at a place accessible to, and in a form and language understandable to, project-affected people and communities and local NGOs; and the Bank makes it available at the InfoShop.

### Legal Agreements

13. Key elements of the resettlement plan,<sup>20</sup> and the borrower's obligations to carry out the plan and to keep the Bank informed of implementation progress, are reflected in the legal agreements for the project.

### Projects with Multiple Subprojects

#### *Sector Investment and Financial Intermediary Loans*

14. For sector investment loans that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans, before appraisal the borrower submits a resettlement policy framework, consistent with this policy, that covers the following areas: principles, objectives, eligibility criteria, entitlements (compensation and resettlement assistance), implementation arrangements (including arrangements for community participation and grievance mechanisms), organizational responsibilities, methods of valuating assets, and monitoring and evaluation. The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

15. Similarly, for financial intermediary loans,<sup>21</sup> the Bank requires that the financial intermediary screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these loans also, the Bank requires that before appraisal the borrower submit to the

19. An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of the managing director (MD) concerned in consultation with the Head of the Social Development Board and LEG. In such cases, the MD's approval stipulates a timetable and budget for developing the resettlement plan.

20. Key elements include the following, as necessary: (a) a definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project.

21. See OP/BP 8.30, *Financial Intermediary Lending*.



Bank a resettlement policy framework containing the elements listed in para. 14. In addition, the framework includes an assessment of the institutional capacity and procedures of each of the onlending institutions that will be responsible for subproject financing.<sup>22</sup>

16. Under either sector investment or financial intermediary loans, for each subproject that may involve resettlement, the Bank requires that a satisfactory resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before subproject appraisal, whether such subprojects are included in the project before or after the Bank appraises the project.

#### *Other Projects with Multiple Subprojects*

17. For a Bank-financed project with multiple subprojects that is not a sector investment or financial intermediary loan, the Bank requires that a satisfactory draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project, (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined. For these cases, before appraisal the borrower submits a resettlement policy framework containing the elements set out in para. 14. Resettlement plans for all subprojects involving resettlement, whether the subproject is prepared before or after the Bank appraises the project, are subject to approval by the Bank, except as provided in para. 18.

#### *Delegation of Approval Authority*

18. For all projects with subprojects as defined in paras. 14-17, if in the opinion of the Bank the project implementing agency or a

responsible government agency or financial intermediary has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy, the Bank may agree, in writing, that subproject resettlement plans may be approved by that agency without being subjected to prior review by the Bank. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found to be not in compliance with Bank policy, are reflected in the project legal documents. Any such delegation made during project implementation is approved by the Regional vice president in consultation with the Head, Social Development Board, and the Legal Department, and the legal agreements amended accordingly. In all such cases, implementation of the resettlement plans remains subject to supervision by the Bank.

#### **Assistance on Resettlement Issues**

19. The Bank may support borrowers and other concerned entities by providing (a) assistance in assessing and strengthening resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level; (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement; (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans for a project proposed for Bank financing; and (d) financing of the investment costs of resettlement, either as (i) a component of the main investment project causing displacement and requiring resettlement, or (ii) a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes

22. Once the Bank has approved the project, before a new onlending institution joins the project, the borrower provides this assessment of it to the Bank.





resettlement necessary. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition); however, it may finance the

cost of land improvement associated with resettlement activities. The Bank does not retain consultants to assist the borrower in preparing resettlement policies, resettlement plans, or policy frameworks (see OP 14.40, *Trust Funds*).





## Resettlement Plan

1. The scope and level of detail of the resettlement plan vary with circumstances, especially the magnitude and complexity of resettlement.<sup>1</sup> The plan is based on up-to-date and reliable information about the proposed resettlement and its impacts on the affected people, and about the legal issues involved in resettlement. The resettlement plan covers the following elements, as relevant.<sup>2</sup>

2. *Description of the project.* General description of the project and its various components, specifically those that will cause resettlement.

3. *Potential impacts.* Identification of the project area and the types of impacts that could give rise to resettlement.

4. *Objectives.* The main objectives of the resettlement activities.

5. *Socioeconomic studies.* The findings of socioeconomic studies, including

- (a) the results of a census, conducted as early as possible in project processing to help establish a basis for determining the current occupants of the area and for discouraging inflows of people who will not be eligible for assistance, and updated later in project preparation as necessary to reflect proposed criteria of eligibility for resettlement assistance and final project siting or alignment;

- (b) standard household characteristics; information on vulnerable people for whom special provisions may have to be made; a description of production systems, including labor and household organization; baseline information on the living standards (including, as appropriate, health status) and income of the affected population, including income derived from both formal and informal sectors, farm and nonfarm activities, and access to or use of common property; and an inventory of assets of affected households;

- (c) the main land tenure and transfer systems, including common property and non-title-based usufruct systems governed by locally recognized land allocation mechanisms and any issues raised by different tenure systems in the project area;

- (d) public infrastructure and social services that will be affected;

- (e) social and cultural information about affected communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations [NGOs]) that may be relevant to the consultation strategy and to

1. The principles of OP 4.12 apply to all displaced persons, regardless of their total number. When only a few individuals (up to about 200) are to be displaced, depending on the complexity of the resettlement, it may not be necessary to carry out full-scale socioeconomic and legal analyses as part of the resettlement plan. In such cases, the Bank requires a limited resettlement plan covering at least the following: project impacts; a census of affected persons, their household characteristics, and an associated inventory of their assets; compensation and other resettlement assistance to assist affected people in their efforts to improve their production levels, income-earning capacity, and living standards, or at least to achieve the production levels, income-earning capacity, and living standards they are likely to have had without the project; evidence of meaningful consultations with those people about acceptable alternatives; identification of the agency responsible; costs and budget; implementation schedule; and a plan for evaluating the resettlement process.
2. When any element is not relevant to project circumstances, the borrower explains the reason in the resettlement plan.



designing and implementing the resettlement activities:

- (f) estimates of the affected people's likely production levels, income-earning capacities, and living standards as of the time of project completion if the project is not undertaken; and
- (g) the magnitude of displacement and of the expected loss—total or partial—of individual or group assets.

6. *Legal framework.* The findings of an analysis of the legal framework, covering

- (a) the scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- (b) the applicable legal and administrative procedures, including a description of the remedies available to affected persons in the judicial process, and the normal time frame for such procedures; any available alternative dispute resolution (ADR) mechanisms that may be relevant to resettlement under the project;
- (c) relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, land consolidation, land use, water rights, and natural resources; customary personal law related to the displacement; and environmental laws and social welfare legislation;
- (d) laws and regulations relating to the agencies responsible for implementing resettlement activities; and
- (e) any legal steps necessary to ensure the effective implementation of resettlement activities under the

project, including, as appropriate, a process for recognizing claims to legal rights to land—including claims that derive from customary and traditional law and usage (see OP para. 7(b)).

7. *Eligibility.* The criteria for determining affected persons' eligibility for compensation and other resettlement assistance; also, a description of the process through which these criteria were established.

8. *Valuation of and compensation for losses.* The methodology to be used in valuating losses; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.

9. *Compensation and resettlement assistance.* A description of the packages of compensation and resettlement assistance that will assist each category of eligible affected people in their efforts to improve their production levels, income-earning capacities, and living standards, or at a minimum to achieve the production levels, income-earning capacities, and living standards they are likely to have had without the project. The packages include (a) the transition measures required for displaced people to reestablish their homes and new income sources—for example, construction allowances, relocation allowances, employment in the main project, and provisions for temporary income maintenance in cash or in kind; (b) for those being resettled through land-based strategies, the actions that will afford them the opportunities and investment resources to achieve the development objectives of the plan; and (c) the arrangements (such as training, employment, credit, business incentives, extension) for those eligible affected persons who are not agriculturalists, those for whom appropriate land cannot be found, and those who choose non-land-based options. The plan also includes land allocation or culturally acceptable alternative income-earning strategies to protect the livelihoods of vulnerable groups (e.g., indigenous people, landless and semilandless





people, households headed by women, or the aged).

10. *Acquisition and transfer of land and related rights.* As necessary, provisions for conducting studies to identify new land and ancillary resources (e.g., rights to water or forest products) for resettlers. The plan estimates the time needed to acquire and transfer land and ancillary resources.

11. *Site selection, site preparation, and relocation.* Alternative sites considered (whether for the resettlement of groups of families or individual families) and explanation of those selected, covering (a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites; (b) any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites; (c) procedures for physical relocation under the project, including timetables for site preparation and transfer; and (d) legal arrangements for regularizing tenure and transferring titles to resettlers.

12. *Housing, infrastructure, and social services.* Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services<sup>3</sup>), taking population growth into account; plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

13. *Environmental protection and management.* A description of the boundaries of the relocation area; calculation of the impact of increased population density; and analysis of the

environmental impacts of the proposed resettlement<sup>4</sup> and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

14. *Community participation.* Involvement of resettlers and host communities,<sup>5</sup> including (a) a description of the strategy for obtaining the cooperation and participation of resettlers and hosts; (b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan; (c) a review of the resettlement alternatives presented and the choices made by affected people, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g., places of worship, pilgrimage centers, cemeteries);<sup>6</sup> and (d) institutionalized arrangements by which affected people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women were adequately represented.

15. *Integration with host populations.* Measures to mitigate the impact of resettlement on any host communities, including (a) consultations with host communities and local governments; (b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers; (c) arrangements for resolving any conflict that may arise between resettlers and host communities; and (d) any measures necessary to augment services (e.g., education, water, health, and production services) in host

3. Provision of health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the stress of being uprooted, and the increased risk of disease.

4. Negative impacts that should be anticipated and mitigated include, for rural resettlement, deforestation, overgrazing, soil erosion, sanitation, and pollution; and for urban resettlement, such density-related issues as transportation capacity and access to potable water, sanitation systems, and health facilities.

5. Experience has shown that local NGOs can often provide valuable assistance and ensure viable community participation.

6. See OP 4.11, *Safeguarding Cultural Property in Bank-Financed Projects* (forthcoming).



communities to make them at least comparable to services available to resettlers.

16. *Organizational responsibilities.* The organizational framework for implementing resettlement, and any measures (including technical assistance and capacity building) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for assigning appropriate responsibilities to local authorities, local leadership, or resettlers themselves, and for transferring other such responsibilities from the resettlement implementing agencies when appropriate.

17. *Costs and budget.* Tables showing itemized cost estimates for all resettlement activities, including allowances for contingencies; timetables for expenditures; and a budget showing sources of funds and arrangements for timely flow of funds.

18. *Implementation schedule.* For each activity, an implementation schedule covering all resettlement activities from preparation

through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance.

19. *Monitoring and evaluation.* Performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities, and institutional arrangements for (a) monitoring and assessing implementation of the plan<sup>7</sup> and promptly taking any necessary corrective action, and (b) evaluating the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed. (The monitoring and evaluation arrangements should also be reflected in the Project Implementation Plan).

20. *Grievance procedures.* Affordable and accessible procedures for third-party settlement of disputes arising from the resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute-settlement mechanisms.

7. In-house monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information.





## Involuntary Resettlement

1. Planning resettlement activities is an integral part of preparation for Bank<sup>1</sup>-financed projects that cause involuntary resettlement. During project identification, the task team (TT) reviews each investment project; if it identifies any potential involuntary resettlement<sup>2</sup> under the project, it promptly informs the Regional social development unit and the Legal Department (LEG). Throughout project processing, the TT consults the Regional social development unit and LEG and, as necessary, the Social Development Family.

2. When a proposed project is likely to involve involuntary resettlement, the TT informs the borrower of the provisions of OP/BP/GP 4.12. The TT and borrower staff (a) review past borrower experience with similar operations; (b) assess government and implementing agencies' policies (identifying any inconsistencies between such policies and the Bank's policy) and experiences and the legal framework covering resettlement; (c) discuss with the agencies responsible for resettlement the policies (including measures to address any inconsistencies between government or implementing

agency policies and Bank policy) and institutional, legal, and consultative arrangements for resettlement; and (d) agree on any technical assistance to be provided to the borrower (see OP 4.12, para. 19). The TT also discusses with the borrower any measures necessary to prepare a resettlement plan,<sup>3</sup> agrees on the timing of these measures, and monitors progress on implementing them. The TT summarizes in the Project Concept Document (PCD) and the Project Information Document (PID) current information on the magnitude, strategy, and timing of the resettlement activities, and it periodically updates these documents as project planning proceeds.

3. During project preparation, the TT discusses with the borrower its progress in examining resettlement options, developing a strategy for carrying out the chosen option, drafting the resettlement plan, and making financial arrangements. The full costs of resettlement activities are included in the total cost of the project. The costs of resettlement, like those of other project activities, are treated as a charge against the economic benefits of the project; and any net

1. "Bank" includes IDA; "loans" includes credits and guarantees; "projects" includes projects under adaptable program loans and projects and components funded under the Global Environment Facility; and "resettlement plan" includes, as appropriate, resettlement policy framework.
2. The Bank's policy on involuntary resettlement applies to Bank-financed investment projects in which a change in land or water use results in involuntary loss of shelter; loss of productive assets or access to productive assets, including natural resources; or loss of income and means of livelihood. Involuntary resettlement as used in this document covers both (a) the involuntary displacement (physical and nonphysical) of affected people that arises from such changes, whether or not the people must move to another location; and (b) the measures for mitigating the impacts of displacement. The policy set out in OP 4.12 applies whether or not the Bank itself is financing the part of the project that may require involuntary resettlement, and it covers resettlement resulting from activities that are not part of the Bank-financed project but are necessary to achieving the objectives of the project.
3. Such measures may include, for example, developing procedures for establishing eligibility for resettlement assistance; conducting socioeconomic surveys and legal analyses; carrying out public consultation; identifying resettlement sites; or evaluating options for income restoration.

**Note:** OP and BP 4.12 together replace OD 4.30, *Involuntary Resettlement*. Questions may be addressed to the Head, Social Development Board.





benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective subject to the policies set out in OP 4.12.

### Appraisal

4. The borrower's submission to the Bank of a resettlement plan that conforms with the requirements of OP 4.12 is a condition of appraisal for projects involving resettlement (see OP 4.12, para. 12). Once the borrower officially transmits the draft resettlement plan to the Bank, Bank staff—including the appropriate resettlement specialists, the lawyer, and other technical experts—review it to determine whether it provides an adequate basis for project appraisal. They advise Regional management accordingly. The TT sends the plan to the Bank's InfoShop.

5. Project appraisal assesses (a) the extent to which project alternatives were considered to minimize involuntary resettlement; (b) the adequacy of the plan, including the timetable, budget, and financial arrangements for compensation and resettlement; the provisions for sites and funding for all resettlement activities; the involvement of affected groups and the extent to which the views of such groups were considered; and the institutional, implementation, and monitoring arrangements; (c) the feasibility of the plans for the improvement (or at least restoration) of production levels, income-earning capacities, and living standards; (d) borrower commitment to and capacity for carrying out the resettlement plan; and

(e) significant risks from inadequate implementation of the resettlement activity. Appraisal is complete only when the final draft resettlement plan conforming to Bank policy is officially transmitted to the Bank.

6. In the Project Appraisal Document (Block 3: Summary Project Assessments, under the entry "Environmental Assessment"), the TT describes the resettlement plan. An annex to the Project Appraisal Document summarizes the plan, covering, inter alia, the basic information on affected populations (including baseline data), development packages, risk mitigation, timetable, budget, and performance monitoring indicators. The PAD annex shows the overall cost of resettlement as a distinct part of project costs.

7. The project description in the Loan Agreement describes the resettlement component or subcomponent. The legal agreements include as necessary covenants reflecting key elements of the resettlement plan<sup>4</sup> and the borrower's obligation to carry out the plan and keep the Bank informed. Disbursements under the loan are sequenced to extend throughout the period of implementation of project resettlement activities.<sup>5</sup> At negotiations, the borrower and the Bank agree on the resettlement plan. Before presenting the project to the Board, the TT confirms that the responsible authority of the borrower and any implementation agency have provided final approval of the resettlement.

### Supervision

8. In recognition of the importance of close and frequent supervision<sup>6</sup> to good resettlement

- 
4. Key elements of a resettlement plan include the following, as necessary: (a) definition of affected persons; (b) monitoring arrangements; (c) financing arrangements, including arrangements for timely provision of counterpart funds; (d) performance monitoring indicators; and (e) linkage with the implementation schedule of the investment component of the project. See OP 4.12, para. 14, for key elements of a resettlement policy framework.
5. See OP 4.12, para. 5 (f).
6. See OP/BP 13.05, *Project Supervision* (forthcoming).





outcomes, the TT establishes supervision arrangements appropriate to the complexity of the resettlement component. It supervises the project's resettlement activities throughout project implementation, ensuring that the requisite social, financial, legal, and technical experts are included in supervision missions. To facilitate a timely response to problems or opportunities that may arise with respect to resettlement, the TT reviews project resettlement planning and implementation during the early stages of project implementation; as appropriate, it engages the borrower in discussing and amending the resettlement plan on the basis of the findings of this review.

9. The project Implementation Completion Report (ICR)<sup>7</sup> evaluates (a) the extent of the displacement, (b) the impact of the project on the standards of living of those displaced and of any host population, and (c) the achievement of the resettlement objectives as assessed with reference to the agreed implementation measures and performance indicators in the

legal agreements.<sup>8</sup> Since resettlement activities often continue after construction works are finished, the ICR also recommends any follow-up actions, including provisions for any Bank supervision that may be needed after loan closing to ensure that resettlement activities are satisfactorily completed. If the borrower has fully implemented the agreed measures but the project's resettlement objectives have not been realized, the ICR assesses the appropriateness of the agreed measures and proposes a future course of action including, as appropriate, continued supervision by the Bank.

### Country Assistance Strategy

10. In countries with a series of operations requiring resettlement, Bank staff include in the ongoing country and sector dialogue with the government any issues pertaining to the country's policy, institutional, and legal framework for resettlement. They also reflect these issues in country economic and sector work and the Country Assistance Strategy.

7. See OP/BP 13.55, *Implementation Completion Report*.

8. The ICR's assessment of the extent to which resettlement objectives were realized is normally based on a socioeconomic survey of affected people conducted at the time of project completion.



## Involuntary Resettlement

*The Bank is converting its operational policy statements to a new format consisting of OPs (Operational Policies), BPs (Bank Procedures), and GPs (Good Practices). As part of this process, the Bank is reissuing OD 4.30, Involuntary Resettlement (June 1990), as OP/BP 4.12. During 1999 the Bank will also issue a new sourcebook on involuntary resettlement, updating good practice in involuntary resettlement and reflecting the Bank's experience in implementing OD 4.30 over the last eight years. In the interim, to ensure that staff continue to have access to existing guidance, the Bank is issuing this GP, which contains the good practice material of OD 4.30. This GP supplements OP/BP 4.12 and does not repeat provisions of OD 4.30 that have been transferred to the OP/BP. This GP will be replaced by the sourcebook when it is issued.*

### Resettlement Plan

#### Organizational Responsibilities

1. The borrower/implementing agency should develop the organizational framework for managing resettlement as early as possible during project preparation. The organization responsible for resettlement should be strengthened when the entities that are implementing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement. Creation of a special resettlement unit within the project entity can facilitate the involvement of other line agencies. Another approach is to entrust resettlement to the regional or town administration that knows the population and area, can mobilize local expertise, speaks the resettlers' language, and will ultimately be responsible for implementing the resettlement activities. There also may be scope for involving nongovernmental organizations (NGOs) in planning, implementing, and monitoring resettlement.

#### Community Participation in Relocation

2. Many people who are resettled prefer to move as part of a preexisting community, neighborhood, or kinship group. The acceptability of a resettlement plan can be

increased and the disruption caused by resettlement can be cushioned by moving people in groups, reducing dispersion, sustaining existing patterns of group organization, and retaining access to cultural property (temples, pilgrimage centers, etc.)—if necessary, by relocating such property.

3. The involvement of resettlers and hosts in planning prior to the move is critical. Initial resistance to involuntary resettlement is to be expected. The cooperation, participation, and feedback of resettlers and hosts may be obtained either directly or through formal and informal leaders and representatives. Institutionalized arrangements, such as regular meetings between project officials and communities, should be provided; in addition, local NGOs can often provide valuable assistance and ensure viable community participation.

4. Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, forests, services, and so on, or if the resettlers are provided services and housing superior to those of the hosts. Conditions and services in host communities should improve, or at least not deteriorate. Providing improved education, water, health, and production services to both groups fosters a better social climate for their integration. In the long run, the extra

**Note:** Questions on involuntary resettlement may be addressed to the Social Development Board.





investment should help prevent conflicts and secure the project's aims.

### *Compensation and Entitlements*

5. The following criteria have been used in one project to determine whether affected people would receive land for land or cash compensation:

- (a) If a project-affected family loses less than 20 percent of its productive asset and the remainder is economically viable, it may receive cash compensation. If the remaining asset is not economically viable, the family is compensated both for the lost asset and the remaining unproductive asset by the provision of alternative land in the vicinity, with a productive value equal to or greater than that of the lost land, and acceptable to the affected family.
- (b) If a project-affected family loses more than 20 percent of its productive assets and the remainder is not economically viable, it is compensated for the entire asset by the provision of alternative land, as in (a). If the remainder is economically viable, the family may receive cash compensation for the lost portion of the asset if it wishes.

### *Grievances*

6. Disputes of varying kinds may arise during implementation of the agreed resettlement plan. These conflicts could take the form of appeals related to the compensation payable to affected persons, conflicts between the resettled persons and the host population, appeals to the agency charged with the implementation of the resettlement with regard to services promised, and so forth. Therefore, it is important for the resettlement plan to include procedures for conflict resolution that, as far as possible, take into account existing procedures

for settling disputes in the country or area concerned.

### *Alternative Sites and Site Selection*

7. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for both rural and urban resettlement. For rural settlers, irrigation, land reclamation, tree crop development, intensification of production, and other innovations can increase the production potential to make limited amounts of land adequate to resettle agriculturalists, even in countries with high population densities. In selecting sites, attention should be paid to the availability of sources of off-farm income (fishing, gathering forest products, seasonal wage employment) to complement farm income. For urban resettlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities.

8. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the settlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of ongoing schemes. Local leadership should be encouraged to assume responsibility for infrastructure maintenance and environmental management.

### *Shelter, Infrastructure, and Social Services*

9. Since community- or self-built houses are often better accepted and more tailored to the resettlers' needs than contractor-built housing, provision of a building site with suitable infrastructure, model plans, building materials, technical assistance, and "construction allowances" (for income forgone while resettlers build their houses) is an option communities should be offered.

### *Economic Development Packages*

10. General economic growth cannot automatically be relied on to protect the welfare of



the project-affected population. When considering alternative employment strategies, the resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement. Vocational training, employment counseling, transportation to jobs, employment in the main investment project or in resettlement activities, establishment of industries, incentives for firms to locate in the area, and credit and extension for small businesses or reservoir aquaculture may be considered.

#### *Environmental Protection and Management*

11. Any environmental assessment (EA) of the main investment requiring the resettlement should cover the potential environmental impacts of the resettlement. In agricultural projects (involving, for example, relocation to the catchment surrounding a reservoir, or to a downstream command area), if the incoming resettled population is large in relation to the host population, such environmental issues as deforestation, overgrazing, soil erosion, sanitation, and pollution are likely to become serious; thus the plan should either include appropriate mitigating measures, including training of displaced persons, or allow for alternative sites to be selected. Urban resettlement raises other density-related issues (e.g., transportation capacity; access to potable water, sanitation systems, and health facilities). Constructive environmental management, provided through the EA's mitigation plan, may provide good opportunities and benefits to resettlers and host populations alike (for

example, project-financed compensatory afforestation not only replaces the forests submerged by reservoirs but also offers gainful employment). If the likely consequences on the environment are unacceptable, alternative and/or additional relocation sites should be found.

#### *Implementation Schedule, Monitoring, and Evaluation*

12. Monitoring provides both a warning system for project managers and a channel for the resettlers to make known their needs and their reactions to resettlement execution. Monitoring and evaluation units should be adequately funded and staffed by specialists in resettlement.

#### **Implementation and Supervision**

13. Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. For large-scale resettlement, frequent reviews of progress and in-depth midterm reviews of progress are highly desirable.

#### *Resettlement under Adaptable Program Loans*

14. Under adaptable program loans (APLs), some projects that follow the initial project may include involuntary resettlement. To avoid delaying preparation of the resettlement plan and approval of such a future project, it is good practice to address the legal and institutional framework for resettlement in conjunction with one of the earlier projects under the APL.



# Operational Directive

## Operational Directive 430: Involuntary Resettlement

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# Operational Directive

## Involuntary Resettlement

### Introduction

1. This directive describes Bank<sup>1</sup> policy and procedures on involuntary resettlement, as well as the conditions that borrowers are expected to meet in operations involving involuntary resettlement.<sup>2</sup> Planning and financing resettlement components or free-standing projects are an integral part of preparation for projects that cause involuntary displacement. Any operation that involves land acquisition or is screened as a Category A or B project for environmental assessment purposes<sup>3</sup> should be reviewed for potential resettlement requirements early in the project cycle (para. 20).

2. Development projects that displace people involuntarily<sup>4</sup> generally give rise to severe economic, social, and environmental problems: production systems are dismantled; productive assets and income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community structures and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.<sup>5</sup>

### Policy Objectives

3. The objective of the Bank's resettlement policy is to ensure that the population displaced

by a project receives benefits from it. Involuntary resettlement is an integral part of project design and should be dealt with from the earliest stages of project preparation (para. 28), taking into account the following policy considerations:

- (a) Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs. For example, realignment of roads or reductions in dam height may significantly reduce resettlement needs.
- (b) Where displacement is unavoidable, resettlement plans should be developed. All involuntary resettlement should be conceived and executed as development programs, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be (i) compensated for their losses at full replacement cost prior to the actual move; (ii) assisted with the move and supported during the transition period in the resettlement site; and (iii) assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them. Particular attention should be paid to the needs of the poorest groups to be resettled.
- (c) Community participation in planning and implementing resettlement should be encouraged. Appropriate patterns of social organization should be estab-

1. "Bank" includes IDA, and "loans" includes credits.

2. See also *Involuntary Resettlement in Development Projects*, World Bank Technical Paper No. 80 (Washington, D.C.: The World Bank, 1988).

3. OD 4.00, Annex A, *Environmental Assessment*, para. 18.

4. Such projects may include construction or establishment of (a) dams, (b) new towns or ports, (c) housing and urban infrastructure, (d) mines, (e) large industrial plants, (f) railways or highways, (g) irrigation canals, and (h) national parks or protected areas. Refugees from natural disasters, war, or civil strife are also involuntary resettlers, but they are not discussed in this directive (see OD 8.50, *Emergency Recovery Assistance*).

5. OD 4.00, Annex A, *Environmental Assessment*, para. 2, and Annex A3.



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lished, and existing social and cultural institutions of resettlers and their hosts<sup>6</sup> should be supported and used to the greatest extent possible.

- (d) Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. The best way of achieving this integration is for resettlement to be planned in areas benefiting from the project and through consultation with the future hosts.
- (e) Land, housing, infrastructure, and other compensation should be provided to the adversely affected population, indigenous groups,<sup>7</sup> ethnic minorities, and pastoralists who may have usufruct or customary rights to the land or other resources taken for the project. The absence of legal title to land by such groups should not be a bar to compensation.

## Resettlement Planning

4. Where large-scale<sup>8</sup> population displacement is unavoidable, a detailed resettlement plan, timetable, and budget are required. Resettlement plans should be built around a development strategy and package aimed at improving or at least restoring the economic base for those relocated. Experience indicates that cash compensation alone is normally inadequate. Voluntary settlement may form part of a resettlement plan, provided measures to address the special circumstances of involuntary resettlers are included. Preference should be given to land-based resettlement strategies for people displaced from agricultural settings. If suitable land is unavailable, nonland-based strategies built around opportunities for employment or self-employment may be used.

## Plan Content

5. The content and level of detail of resettlement plans, which will vary with circumstances, especially the magnitude of resettlement, should normally include a statement of objectives and policies, an executive summary, and provision for the following:

- (a) organizational responsibilities (para. 6);
- (b) community participation and integration with host populations (paras. 7-10);
- (c) socioeconomic survey (para. 11);
- (d) legal framework (para. 12);
- (e) alternative sites and selection (para. 13);
- (f) valuation of and compensation for lost assets (paras. 14-16);
- (g) land tenure, acquisition, and transfer (para. 17);
- (h) access to training, employment, and credit (para. 18);
- (i) shelter, infrastructure, and social services (para. 19);
- (j) environmental protection and management (para. 20); and
- (k) implementation schedule, monitoring, and evaluation (paras. 21-22).

Cost estimates should be prepared for these activities, and they should be budgeted and scheduled in coordination with the physical works of the main investment project.

6. Host communities receiving resettlers.

7. See OMS 2.34, *Tribal People in Bank-Financed Projects*, to be reissued as OD 4.40, *Tribal People*.

8. Where only a few people (e.g., about 100-200 individuals) are to be relocated, appropriate compensation for assets, logistical support for moving, and a relocation grant may be the only requirements. However, the principles on which compensation is to be based are the same as for larger groups.



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## *Organizational Responsibilities*

6. The responsibility for resettlement rests with the borrower. The organizational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organization responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement. One alternative is to create a special resettlement unit within the project entity: this can facilitate the involvement of other line agencies. Another alternative is to entrust resettlement to the regional or town administration that knows the population and area, can mobilize local expertise, speaks the resettlers' language, and will ultimately be responsible for the integration of resettlers into the host population and area. There also may be considerable scope for involving nongovernmental organizations (NGOs) in planning, implementing, and monitoring resettlement.<sup>9</sup>

## *Community Participation and Integration with Host Population*

7. Most displaced people prefer to move as part of a preexisting community, neighborhood, or kinship group. The acceptability of a resettlement plan can be increased and the disruption caused by resettlement can be cushioned by moving people in groups, reducing dispersion, sustaining existing patterns of group organization, and retaining access to cultural property<sup>10</sup> (temples, pilgrimage centers, etc.), if necessary, through the relocation of the property.

8. The involvement of involuntary resettlers and hosts in planning prior to the move is critical. Initial resistance to the idea of involuntary resettlement is to be expected. To obtain cooper-

eration, participation, and feedback, the affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They should also be able to choose from a number of acceptable resettlement alternatives. These steps can be taken directly or through formal and informal leaders and representatives. Experience has shown that local NGOs can often provide valuable assistance and ensure viable community participation. Moreover, institutionalized arrangements, such as regular meetings between project officials and communities, should be provided for resettlers and hosts to communicate their concerns about the resettlement program to project staff throughout planning and implementation.<sup>11</sup> Particular attention must be given to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are represented adequately in such arrangements.

9. The plan should address and mitigate resettlement's impact on host populations. Host communities and local governments should be informed and consulted. Any payment due the hosts for land or other assets provided to resettlers should be promptly rendered. Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, forests, services, etc., or if the resettlers are provided services and housing superior to that of the hosts. Conditions and services in host communities should improve, or at least not deteriorate. Providing improved education, water, health, and production services to both groups fosters a better social climate for their integration. In the long run, the extra investment will help prevent conflicts and secure the project's aims.

10. Successful resettlement requires a timely transfer of responsibility from settlement agen-

9. See OD 14.70, *Involving Nongovernmental Organizations in Bank-Supported Activities*.

10. See OPN 11.03, *Management of Cultural Property in Bank-Financed Projects*, to be reissued as OD 4.50, *Cultural Property*.

11. Disputes of varying kinds may arise in the process of implementation of the agreed resettlement plan. These conflicts could take the form of appeals related to the compensation payable to affected persons, conflicts between the displaced persons and the host population, appeals to the agency charged with the implementation of the resettlement with regard to services promised, etc. It is therefore important to devise schemes for conflict resolution for all resettlement plans. Such schemes should, as far as possible, take into account existing procedures for settling disputes in the country or area concerned.



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cies to the settlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

## *Socioeconomic Survey*

11. Resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socioeconomic surveys should describe (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and nonfarm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions (such as community organizations, ritual groups, etc.) that can assist with designing and implementing the resettlement programs; and (f) attitudes on resettlement options. Socioeconomic surveys, recording the names of affected families, should be conducted as early as possible to prevent inflows of population ineligible for compensation.

## *Legal Framework*

12. A clear understanding of the legal issues involved in resettlement is needed to design a feasible resettlement plan. An analysis should be made to determine the nature of the legal framework for the resettlement envisaged, including (a) the scope of the power of eminent domain, the nature of compensation associated with it, both in terms of the valuation methodology and the timing of payment; (b) the legal and administrative procedures applicable, including the appeals process and the normal time-frame for such procedures; (c) land titling and registration procedures; and (d) laws and regulations relating to the agencies responsible for implementing resettlement and those related to land compensation, consolidation, land use, environment, water use, and social welfare.

## *Alternative Sites and Selection*

13. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for both rural and urban resettlement. For land-based resettlement, the new site's productive potential and locational advantages should be at least equivalent to those of the old site. The Bank encourages "land for land" approaches, providing replacement land at least equivalent to the lost land. For rural settlers, irrigation, land reclamation, tree crop development, intensification of production, and other innovations often can provide adequate production potential on limited amounts of land to resettle agriculturalists, even in countries with high population densities. In selecting sites, attention must be paid to the availability of sources of off-farm income (fishing, gathering forest products, seasonal wage employment) to complement farm income. For urban resettlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities. For both rural and urban resettlement, the borrower needs to (a) develop institutional and technical arrangements for identifying and preparing relocation sites, e.g., pooling together small plots, wasteland reclamation, land leveling, and terracing; (b) draw up timetables and budgets for site preparation and transfer; (c) make legal arrangements for transferring titles to resettlers; and (d) consider, when necessary, a temporary freeze on land transactions within the relocation area to prevent land speculation. Though the Bank does not normally disburse against land acquisition, it can finance land improvement to accommodate resettlers.

## *Valuation of and Compensation for Lost Assets*

14. Valuation of lost assets should be made at their replacement cost. Compensation is facilitated by (a) paying special attention to the adequacy of the legal arrangements concerning land title, registration, and site occupation; (b) publicizing among people to be displaced the laws and regulations on valuation and compensation; (c) establishing criteria for determining the resettlement eligibility of affected households, e.g., households that have only partially lost their



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assets but are no longer economically viable should be entitled to full resettlement; and (d) developing mechanisms to prevent illegal encroachers and squatters, including an influx of nonresidents entering to take advantage of such benefits, from participating in the compensation arrangements, by an early recording of the numbers and names of the affected populations entitled to compensation/rehabilitation.

15. Some types of loss, such as access to (a) public services; (b) customers and suppliers; and (c) fishing, grazing, or forest areas, cannot easily be evaluated or compensated for in monetary terms. Attempts must therefore be made to establish access to equivalent and culturally acceptable resources and earning opportunities.

16. Vulnerable groups at particular risk are indigenous people, the landless and semilandless, and households headed by females who, though displaced, may not be protected through national land compensation legislation. The resettlement plan must include land allocation or culturally acceptable alternative income-earning strategies to protect the livelihood of these people.

## *Land Tenure, Acquisition, and Transfer*

17. Resettlement plans should review the main land tenure and transfer systems, including common property and nontitle-based usufruct systems governed by locally recognized land allocation mechanisms. The objective is to treat customary and formal rights as equally as possible in devising compensation rules and procedures. The plan should address the issues raised by the different tenure systems found in a project area, including (a) the compensation eligibility of land-dependent populations; (b) the valuation procedures applicable to different tenure types; and (c) the grievance procedures available for disputes over land acquisition. Plans should contain provisions for conducting land surveys

and regularizing land tenure in the earliest stages of project development. Planning should also anticipate the approximate time needed to acquire and transfer land.

## *Access to Training, Employment, and Credit*

18. Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population. Thus, alternative employment strategies are needed for nonagricultural displaced people, or where the land that can be made available is not sufficient to accommodate all the displaced farmers. The resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement. Vocational training, employment counseling, transportation to jobs, employment in the main investment project or in resettlement activities, establishment of industries, incentives for firms to locate in the area, credit and extension for small businesses or reservoir aquaculture, and preference in public sector employment should all be considered where appropriate.

## *Shelter, Infrastructure, and Social Services*

19. To ensure the economic and social viability of the relocated communities, adequate resources should be allocated to provide shelter, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health care centers).<sup>12</sup> Site development, engineering, and architectural designs should be prepared for shelter, infrastructure, and social services. Since community or self-built houses are often better accepted and more tailored to the resettlers' needs than contractor-built housing, provision of a building site with suitable infrastructure, model plans, building materials, technical assistance, and "construction allowances" (for income foregone while resettlers build their houses) is an option communities should be offered. Planning for shelter, infrastructure, and services should take into account population growth.

12. Health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the stress of being uprooted, and the usually increased risk of water-borne diseases.



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## *Environmental Protection and Management*

20. The screening process for an environmental assessment (EA) normally classifies projects involving involuntary resettlement as Category A.<sup>13</sup> The EA of the main investment requiring the resettlement should thus cover the potential environmental impacts of the resettlement. The resettlement plan must be developed in coordination with the EA and define the boundaries of the relocation area, and calculate incremental population density per land unit. In agricultural projects (involving, for example, relocation to the catchment surrounding a reservoir, or to a downstream command area), if the incoming resettled population is large in relation to the host population, such environmental issues as deforestation, overgrazing, soil erosion, sanitation, and pollution are likely to become serious and plans should either include appropriate mitigating measures, including training of oustees, or else should allow for alternative sites to be selected. Urban resettlement raises other density-related issues (e.g., transportation capacity, access to potable water, sanitation systems, health facilities, etc.). Constructive environmental management, provided through the EA's mitigation plan,<sup>14</sup> may provide good opportunities and benefits to resettlers and host populations alike (e.g., project-financed compensatory afforestation not only replaces the forests submerged by reservoirs but also offers gainful employment). If the likely consequences on the environment are unacceptable, alternative and/or additional relocation sites must be found.

## *Implementation Schedule, Monitoring, and Evaluation*

21. The timing of resettlement should be coordinated with the implementation of the main investment component of the project requiring the resettlement. All resettlement plans should

include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post-relocation economic and social activities. The plan should include a target date when the expected benefits to resettlers and hosts would be achieved.

22. Arrangements for monitoring implementation of resettlement and evaluating its impact should be developed by the borrower during project preparation and used during supervision.<sup>15</sup> Monitoring provides both a warning system for project managers and a channel for the resettlers to make known their needs and their reactions to resettlement execution. Monitoring and evaluation units should be adequately funded and staffed by specialists in resettlement. In-house monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information. Annual and midterm reviews are desirable for large-scale resettlement. The borrower should be required to continue impact evaluation for a reasonable period after all resettlement and related development activities have been completed. The borrower should also be required to inform the Bank about the findings.

## **Bank Role and Project Options**

23. The Bank supports borrowers' efforts through (a) assistance in designing and assessing resettlement policy, strategies, laws, regulations, and specific plans; (b) financing technical assistance to strengthen the capacity of agencies responsible for resettlement; and (c) direct financing of the investment costs of resettlement. The Bank may sometimes finance resettlement even though it has not financed the main investment that made displacement and resettlement necessary (para. 26).

24. The task manager (TM) should inform the borrower of the Bank's resettlement policy.

13. See OD 4.00, Annex A, *Environmental Assessment*, and Annex B, *Environmental Policy for Dam and Reservoir Projects*. The environmental implications of involuntary resettlement will be further discussed under para 6.0, "Special Issues in Environmental Assessment," in *Environmental Assessment Sourcebook* (Washington, D.C.: The World Bank, to be issued).

14. See Annex A1, para. 2, in OD 4.00, Annex A, *Environmental Assessment*.

15. See OD 10.70, *Project Monitoring and Evaluation*.



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Starting early in the project cycle, the TM with the support of Bank operational, research, and legal staff should assess government policies, experiences, institutions, and the legal framework covering resettlement. In particular, the TM needs to ensure that involuntary resettlement is avoided or minimized, that laws and regulations concerning displaced people provide compensation sufficient to replace all lost assets, and that displaced persons are assisted to improve, or at least restore, their former living standards, income earning capacity, and production levels.

25. The adequacy of the resettlement plan should be reviewed by appropriate social, technical, and legal experts. Resettlement specialists should visit the possible resettlement sites and review their suitability. In the case of large-scale relocation, such experts should be included in independent technical or environmental review boards.<sup>16</sup>

26. Bank financing of resettlement can be provided as follows: (a) As a component of the main investment project causing displacement and requiring resettlement. (b) If large enough, as a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The latter approach may better focus country and Bank attention on the effective resolution of resettlement issues. (c) As a sector investment loan.<sup>17</sup> Where the specific resettlement needs of each subproject are not known in advance, the borrower would need to agree to resettlement policies, planning principles, institutional arrangements, and design criteria that meet Bank policy and requirements as a condition of the loan. An estimate should be provided of total population to be displaced and overall resettlement costs, as well as an evaluation of proposed resettlement sites. Subprojects in sector investment loans

should be screened by the implementing agency to ensure consistency with this directive, and approved individually by the Bank. For countries with a series of operations requiring resettlement, efforts to improve the policy, institutional, and legal framework for resettlement should form part of the Bank's ongoing country and sector dialogue with the government. These efforts should be appropriately reflected in economic and sector work and in country strategy papers and briefs.

## Processing and Documentation

27. The Regional Vice President (RVP) should be kept informed of major resettlement issues, and his guidance sought where necessary. The Regional Environment Division (RED), the Legal Department (LEG), and settlement specialists in Sector Policy and Research (PRS) should be consulted or included as necessary in peer reviews on involuntary resettlement issues throughout the project cycle.

## Identification

28. The possibility of involuntary resettlement should be determined as early as possible and described in all project documents. The TM should (a) briefly summarize in the Initial Executive Project Summary (Initial EPS)<sup>18</sup> the magnitude, strategy, and timing of the resettlement; (b) inform borrowers of the Bank's resettlement policy; (c) review past borrower experience with similar operations; (d) invite agencies responsible for resettlement to discuss their policies, plans, and institutional, consultative, and legal arrangements for resettlement; and (e) where appropriate, ensure that technical assistance is provided early to borrowers. Such assistance should include the use of project preparation facility (PPF) resources<sup>19</sup> for planning resettlement and building institutional capacity.

16. See OD 4.00, Annex B, *Environmental Policy for Dam and Reservoir Projects*.

17. See OD 1.00, *Bank Goals and Instruments*, and OD 8.20, *Sector Investment and Maintenance Loans*, both to be issued.

18. See Circular Op 87/03, *Procedures for Processing Investment Loans and Credits*, filed as OMS 2.00, to be reissued as OD 9.00, *Processing and Documentation for Investment Lending*.

19. See OMS 2.15, *Project Preparation Facility*, to be reissued as OD 8.00, *Project Preparation Facility and Special Project Preparation Facility*.



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## *Preparation*

29. During project preparation, the feasibility of resettlement must be established, a strategy agreed upon, the resettlement plan drafted, and budget estimates prepared.<sup>20</sup> The full costs of resettlement should be identified and included in the total cost of the main investment project, regardless of financing source. The costs of resettlement should also be treated as a charge against the economic benefits of the investment project that causes the relocation. Any net benefits to resettlers (as compared to the "without project" circumstances) should be added to the benefit stream of the main investment. While the resettlement component or free-standing project need not be economically viable on its own, it should be the least-cost approach consistent with the policies laid out above.

## *Appraisal and Negotiation*

30. Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement, except for sector investment loans as discussed in para. 26. All final EPSs should confirm that this requirement has been met. The appraisal mission should ascertain (a) the extent that involuntary resettlement and human hardship will be minimized and whether borrowers can manage the process; (b) the adequacy of the plan, including the timetable and budget for resettlement and compensation; (c) the soundness of the economic and financial analysis; (d) the availability and adequacy of sites and funding for all resettlement activities; (e) the feasibility of the implementation arrangements; and (f) the extent of involvement

of beneficiaries. At negotiations, the borrower and the Bank should agree on the resettlement plan. The resettlement plan and the borrower's obligation to carry it out should be reflected in the legal documents. Other necessary resettlement-related actions must be covenanted. The Staff Appraisal Report and the Memorandum and Recommendation of the President should summarize the plan and state that it meets Bank policy requirements.

## *Implementation and Supervision*

31. Resettlement components should be supervised throughout implementation.<sup>21</sup> Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. Bank supervision missions should be staffed with the requisite social, economic, and technical expertise. Annual reviews of large-scale resettlement and in-depth Bank reviews of midterm progress are highly desirable. These reviews should be planned from the outset to allow the Bank and the borrower to make necessary adjustments in project implementation. Complete recovery from resettlement can be protracted and can often make it necessary to continue Bank supervision until well after populations have been relocated, sometimes even after a project has been closed.

## *Ex Post Evaluation*

32. The project completion report<sup>22</sup> submitted to the Operations Evaluation Department should evaluate resettlement and its impact on the standards of living of the resettlers and the host population.

20. Detailed guidelines for preparing and appraising resettlement plans are provided in *Involuntary Resettlement in Development Projects*, World Bank Technical Paper No. 80, Annex 1 (Washington, D.C.: The World Bank, 1988). Pro forma cost tables and guidelines for economic and financial analysis are provided in Annex 2.

21. See OD 13.05, *Project Supervision*, particularly paras. 44-47.

22. See the OPNSV memorandum, *Guidelines for Preparing Project Completion Reports*, June 7, 1989, and OMS 3.58, *General Guidelines for Preparing Project Completion Reports*, which are to be combined and reissued as OD 13.55, *Project Completion Reports*.





# Record Removal Notice

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<b>Subject / Title</b> CODE Meeting/Involuntary resettlement				
<b>Exception(s)</b> Deliberative Information				
<b>Additional Comments</b>		<p>The item(s) identified above has/have been removed in accordance with The World Bank Policy on Access to Information or other disclosure policies of the World Bank Group.</p> <table border="1"><tr><td><b>Withdrawn by</b> Shiri Alon</td><td><b>Date</b> May 23, 2019</td></tr></table>	<b>Withdrawn by</b> Shiri Alon	<b>Date</b> May 23, 2019
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