



Yangon Region  
Land Acquisition & Resettlement  
Seminar - December 5, 2016

## **GOOD PRACTICE APPROACHES TO LAND ACQUISITION & RESETTLEMENT IN PERI-URBAN AND URBAN ENVIRONMENTS**

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### **SEMINAR AGENDA**

1. Overview of International Standards
2. Good Practice Approaches to Land Acquisition, Resettlement & Livelihoods
3. Interactive Discussion using:
  - Case Studies on Resettlement
  - Small Group Exercises on Livelihood Restoration, Community Engagement, and Complaints Management
4. Reflections and Wrap-Up

## SESSION 1: OVERVIEW OF INTERNATIONAL STANDARDS & KEY REQUIREMENTS

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### TERMINOLOGY

- **Involuntary Resettlement** - occurs when affected individuals or communities do not have the right to refuse land acquisition that results in displacement
- **Project-Affected Person (PAP)** - any person who, as a result of the implementation of the project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, pastoral or undeveloped/unused land), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily.
- Not all PAPs must physically move as a result of a project

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## TERMINOLOGY (CONTINUED)

- **Physical displacement** - loss of shelter
- **Economic displacement** - loss of means of livelihood
- **Resettlement Action Plan** (or Resettlement Work Plan) – a document that defines planning activities, the resettlement process, anticipated outcomes, proposed monitoring, the intended schedule and the cost of implementing the resettlement program
- **Livelihood Restoration Plan** (or Income Restoration Plan) – defines the specific activities for livelihood restoration for economically displaced persons

**Resettlement terminology is a continuing source of confusion**

For Example: A large pipeline project across 3 countries has three "Resettlement Action Plans," although not a single person was physically displaced or resettled under any of the plans

Important that Government, Company, Others use consistent and properly defined terms when consulting with stakeholders

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## RESETTLEMENT AND LAND ACQUISITION IS COMPLEX AND DIFFICULT

**No resettlement program will avoid having problems and complaints**

- But there are proven ways to minimize problems and achieve good outcomes.....if there is willingness and commitment

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## OVERVIEW OF INTERNATIONAL STANDARDS

	<b>World Bank Safeguards / Environmental and Social Standards</b>
	<b>IFC Performance Standards</b>
	<b>JICA Guidelines for Environmental and Social Considerations</b>
	<b>Asian Development Bank's Environmental and Social Safeguards</b>
	<b>Equator Principles III for Financial Institutions</b>

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### GLOBAL EQUATOR PRINCIPLES FINANCIAL INSTITUTIONS

- Currently 80 Equator Principles Financial Institutions, in 35 countries
- Cover over 70% of international project finance debt in emerging markets



## WHEN DO THESE STANDARDS APPLY?

- Land acquisition or long-term lease
- Restrictions on land and natural resource use
- Economic displacement from activities other than land acquisition, e.g. loss of access to fishing grounds
- What does “*willing buyer-willing seller*” mean?
- If there is a willing buyer-willing seller scenario, does this mean these standards should be applied?
- Physical and economic displacement

Beware of applying “willing buyer-willing seller” concept.

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## HOW ARE THEY RELEVANT FOR MYANMAR?

- Developed for emerging economies – so very relevant to Myanmar
- Myanmar EIA Procedure 2015 requires World Bank/Asian Development Bank Safeguards to be applied (para. 7)
- They don’t “tell you what to do”.....they are designed to be flexible – instead they highlight the *key requirements* which should be met
- The standards promote good practice but there are many different ways to “get there”
- This seminar focuses on ‘field-tested’ good practices which meet these standards

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## WHAT STANDARDS NEED TO BE MET?

- Resettlement planning and implementation needs to meet both **national laws** on land acquisition and compensation **AND** **international standards**
- Use a **Gap Analysis** to identify differences – in policy and practice (e.g. some levels of Government may not follow own policy)
- The **higher standard shall be met** in case of differences
- Mitigation measures for gaps developed by Government and Companies/Lenders
- **Involve experts and advisors** including legal

National laws should always prevail; international standards generally require national laws to be 'complemented' through supplementary measures if need to meet more rigorous requirements

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## EXAMPLE: BRIDGING NATIONAL AND INTERNATIONAL REQUIREMENTS

Myanmar	No policy, practice or legislation for avoiding / minimizing resettlement	Cut-off Date not required	Compensation rates for land set by Government but not required to meet full replacement cost	Some legislation requires standard of living to be restored but in practice this is not applied
International	Require documented evidence of alternatives analysis and effort to minimize land acquisition	Cut-off date should be set at time of inventory / DMS and publicly announced	Full replacement cost including transaction cost should be met	Livelihood restoration required until livelihoods restored; transition allowance also expected

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## GENERAL OBJECTIVES



“Not Net Harm” /  
“No Worse Off”

- ✓ Avoid, minimize adverse impacts from land acquisition or restrictions on land use
- ✓ Avoid or minimize displacement
- ✓ Avoid forced eviction
- ✓ Improve or restore livelihoods and standards of living
- ✓ Improve living conditions among displaced persons e.g. adequate housing, security of tenure

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## LAND AND RESETTLEMENT: A COMPREHENSIVE APPROACH

- ✓ Compensation of lost assets at full replacement costs
- ✓ Restitution of livelihood losses
- ✓ Respecting different tenure systems
- ✓ Consultation & engagement



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## KEY RISKS



### For Affected Persons

- Impoverishment - homeless, landless, jobless, marginalized
- Breakdown of social and cultural networks
- Difficulty in transitioning to new lives

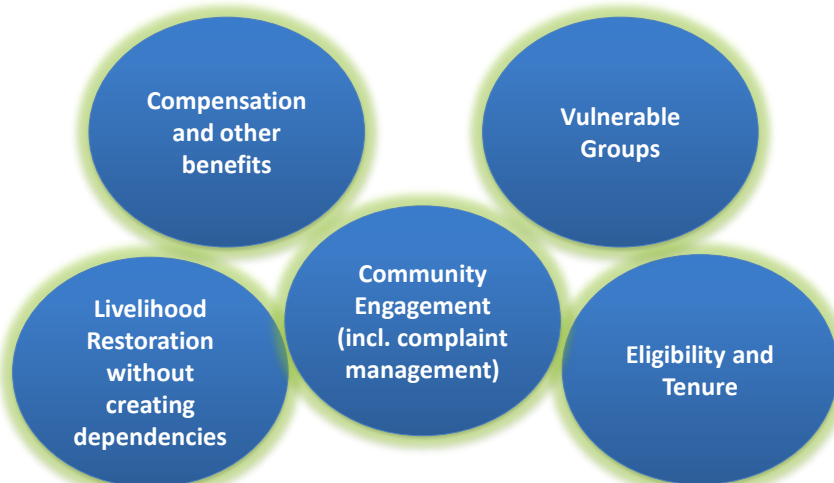
### For Governments and Companies

- Loss of social license to operate
- Business disruption and budget overruns
- Public scrutiny -> increased transaction costs
- Delays in project completion
- Dependency - “resettlement syndrome”

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## KEY ISSUES AND CHALLENGES RELATED TO INVOLUNTARY RESETTLEMENT

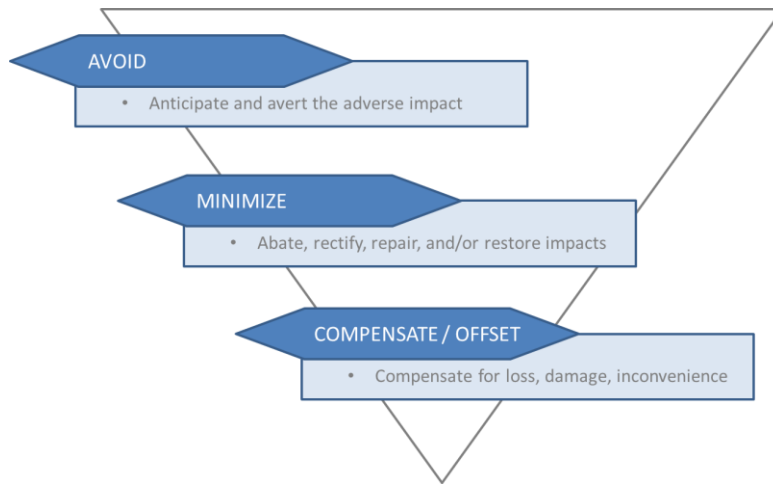


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## MITIGATION HIERARCHY



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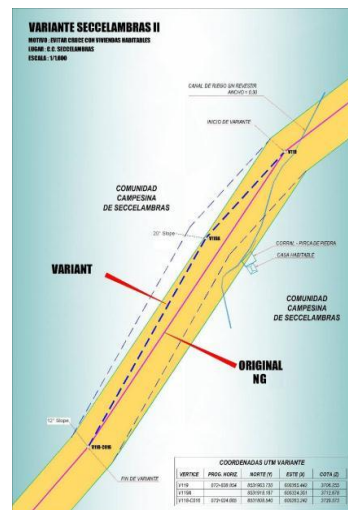
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## AVOIDING AND MINIMIZING DISPLACEMENT

### Project Design

- Anticipate, avoid & minimize displacement
- Much can be achieved by alternative project design
- Determine the potential cost for mitigation, compensation, and livelihood restoration

### ROW Re-Routing



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## RESETTLEMENT PLANNING AND IMPLEMENTATION – KEY STEPS

### Resettlement Planning

- Census, Asset Inventory, Valuation, Tenure, Eligibility
- Consultation
- Establishing cut-off date
- Resettlement Action Plan or Livelihood Restoration Plan (or Framework)

### Resettlement Implementation

- Replace, compensate, assist
- Monitor and evaluate
- Consultation and Grievance Mechanism
- Completion Audit



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## BALANCING ACT: CAREFUL PLANNING VS MOVING PROJECT ALONG



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## SESSION 2: GOOD PRACTICE APPROACHES TO LAND ACQUISITION AND RESETTLEMENT

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### UNDERSTANDING THE LAND HISTORY

Myanmar's land history needs to be carefully considered in current developments.....

Who owns / uses the land now?

What major land transfers have occurred in past 20, 30 or more years?

Has there been a previous compensation program in the area?

Are there any known or likely land claims in the area?

#### HOW?

- Engage local government and communities
- Review and document land history
- Identify risks and propose mitigations

#### WHY?

- Minimize future claims
- Manage public scrutiny and reputation risks
- Minimize delays and cost over-runs
- Maximize potential investments

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## SOME REAL EXAMPLES FROM MYANMAR

Government manages land acquisition for a company. Land classification based on survey maps/data from 1917. Land Use Certificates issued in 2012 under new Land Law. Only farmland from 1917 is paid at higher compensation rate; all other land is deemed pastureland and paid at a lower rate. In reality, the land is of similar quality across the whole area.

Farmer is cultivating land that is needed to build a resettlement site. Government pays crop compensation to farmer; brothers and sisters also make claim on the land.

Land acquired by Government in 1990's. Land was not developed then but is now being developed by a private company. Compensation is being paid to current users but they are not the 'original owners' who still live nearby.

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## LAND TENURE & ELIGIBILITY

### **Eligibility:** classified as persons

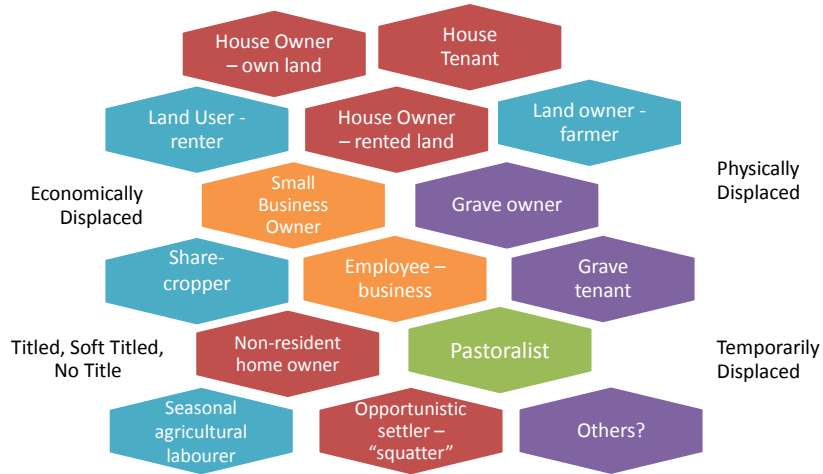
- i. who have formal legal rights to the land or assets they occupy or use;
- ii. who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law; or
- iii. who have no recognizable legal right or claim to the land or assets they occupy or use

**The inventory & census is designed to identify ALL potentially eligible people (e.g. owners, renters, sharecroppers, 'squatters' etc).**

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## LAND TENURE & ELIGIBILITY



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## SQUATTERS.....?

### When is a squatter not a squatter?



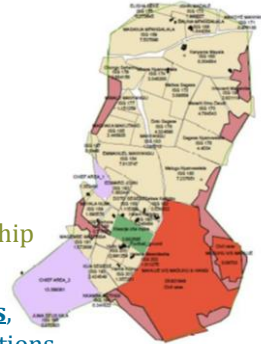
- ✓ Traditional rights where the State never legally acquired land
- ✓ Local recognition based on taxes and other fees; de facto ownership
- ✓ No enforcement of exclusion zones
- ✓ Promises of land regularization by politicians
- ✓ Inconsistent application of policies
- ✓ Others?

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## INVENTORIES AND SURVEYS

- Establishes the number and type of ALL potentially displaced persons – **Project Affected Person (PAPs)**
- Sensitization of community before the inventory is essential
- Good practice – **village resettlement committee(s)**
- Time required to sort out and document land ownership and land use can be significant
- Build in support for PAPs – E.g., **trusted third parties**, **respected local leaders**, community-based organizations.



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Timing is important, e.g., agricultural season

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Dilution is not the "solution"

## ELIGIBILITY CRITERIA – WHAT IS IT?

### Entitlements Matrix

Affected Right or Interest	Eligible Entity (Individual or Household or Other)	Eligibility Conditions	Entitlements
Land held under a registered title	Registered land owner (usually a physical person – one case in the Project-Affected Area) <b>INDIVIDUAL</b>	Hold a registered land title that was registered with relevant Authorities prior to the Cut-Off Date	Compensation – X Or Y or X and Y Allowances – Livelihood restoration assistance -
Land held under customary ownership and not registered	Customary land owner whether resident or non-resident (includes "transhumant farmers") <b>INDIVIDUAL</b>	Hold, prior to the Cut-Off Date, an unregistered, customary land right recognized as such by local customary authorities	Compensation – X Or Y or X and Y Allowances – Livelihood restoration assistance -

Asset, Right, Interest

Individual, Household, Community, Others?

Titles, Local Authority Approval, Others?

**Compensation** – at full replacement cost  
**Allowances** – to ensure people are not 'worse off' in transition phase  
**Livelihood restoration** – to restore livelihoods / income levels

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## OTHER ECONOMIC DISPLACEMENT

Shops/Small  
Businesses & Workers



Forest resources



Pastoralism



Formal /  
informal tourism

Fishing / fish  
production



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## EXAMPLE: SMALL/INFORMAL BUSINESSES



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## CUT-OFF DATE

- Established at time of inventory/DMS exercise
- Should be well documented and communicated
- Disseminated throughout project area
- Government should always be involved when establishing the Cut-Off Date
- Common challenges with Cut-Off Date?
  - ✓ Minimises speculation if people know they will not be included after cut-off date
  - ✓ Brings intra-family claims to light early

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## BUILDING BLOCKS OF SUPPORT: ENTITLEMENTS



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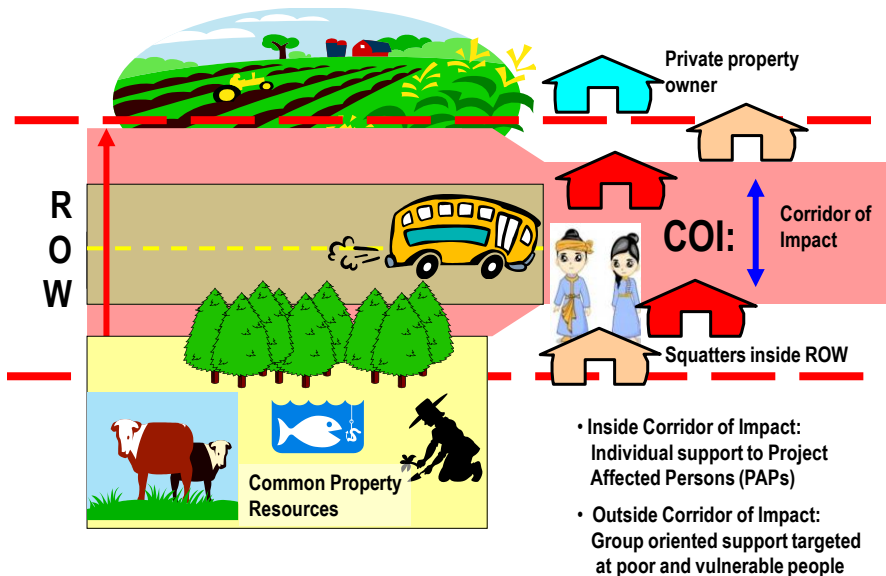
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## WHAT ABOUT LINEAR PROJECTS LIKE ROADS?



## WHO IS ELIGIBLE AND WHAT ARE THE ENTITLEMENTS?



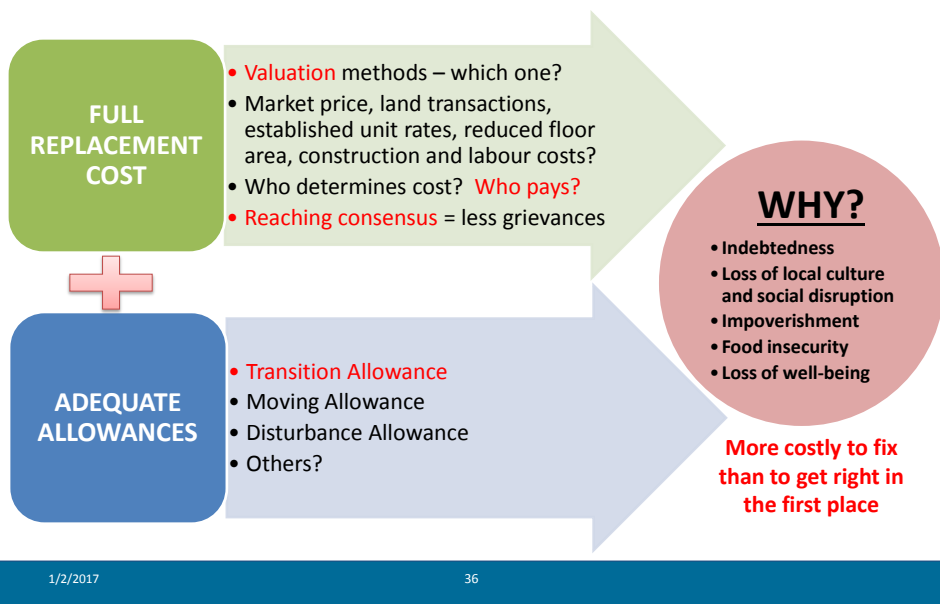
## KEY COMPENSATION REQUIREMENTS

- Compensation standards will be transparent and applied consistently to all parts of the project and communities and persons affected by the displacement
- The project will take possession of acquired land and assets only after compensation available/paid
- Resettlement and compensation packages will include options and alternatives
- National laws will be met, and complemented to meet international standards
- Compensation at full replacement cost
- Compensation can be “in-kind” as well as “cash”

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## FULL REPLACEMENT COST & ALLOWANCES



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## WHAT ABOUT COMPENSATION FOR COMMUNAL LAND AND ASSETS, SOCIAL INFRASTRUCTURE, NATURAL RESOURCES

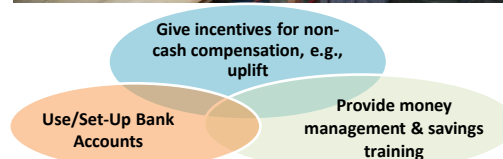


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## MINIMIZE CASH COMPENSATION

- **Cash** compensation as a **last resort**
- Cash in cash-poor economies can have negative consequences
- **Over-compensation can be as harmful** as under-compensation (grows the gap between “haves” and “have-nots”; encourages compensation fever, bribery, jealousy.....)
- **Land for land, home for home** is nearly always preferred



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## PHYSICAL RESETTLEMENT

If people living in the area must physically move to another location, the development shall:

- Offer choices among feasible resettlement options
- Provide relocation assistance
- Provide other relevant support and assistance such as moving help
- Provide security of tenure (e.g., title) at no cost to affected persons

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## HOUSING: BEFORE AND AFTER

- Housing should be of improved standard (e.g., generally improved quality and size)
- Urban housing can be costly compared to semi-urban/rural housing
- Also many examples of nice houses that people cannot maintain, don't use properly, e.g., latrine being used as storage shed
- Gardens are generally recommended, even in semi-urban resettlement



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## HOUSING AND RESETTLEMENT SITES

- **Options** for resettlement sites and housing type need to be provided
- Important for **resettlement site services to be properly planned** and aligned with town/master planning



Engage Host Communities



Build some demonstration homes

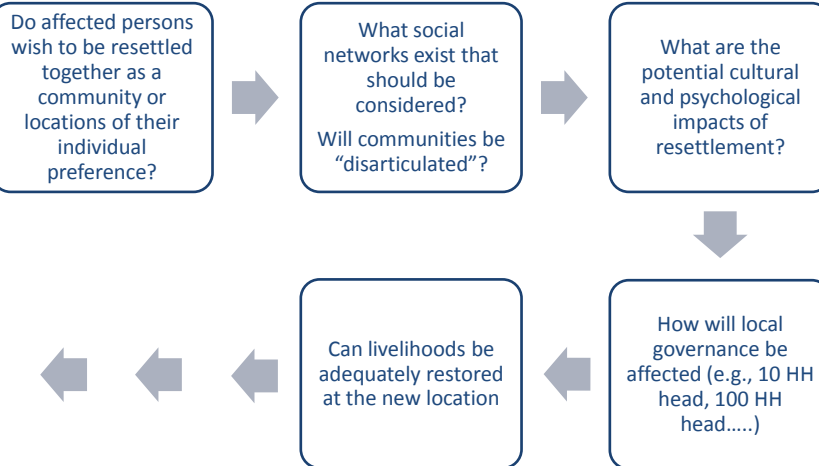


Model Homes Consultation Materials and Open House

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## SOME IMPORTANT CONSIDERATIONS FOR RESETTLEMENT PLANNING



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## SHOULD AFFECTED PEOPLE BE ALLOWED TO BUILD THEIR OWN HOMES?

- Sometimes affected people will want to build their own homes and this is usually an option the project should offer
- **Self reconstruction is often a good option, particularly in urban resettlement of low-income communities** – the strategy can be based on providing a developed plot with basic services and access to credit
- Other options include providing a developed plot and shell for the home that the affected household can then ‘fit-out’ themselves

Reconstruction of houses in resettlement projects provides good opportunities for employment, local/local procurement and capacity building but there can also be risks



## RESETTLEMENT SITES AND INFILL RESETTLEMENT

Resettlement sites are not always possible in urban environments

Infill resettlement might be more appropriate

When should self-relocation be encouraged?



## WHAT HAPPENS IF PEOPLE DO NOT WANT TO MOVE?

Involve government and legal advisors early to develop expropriation plan so that it is in place in the event that not everybody agrees to sell willingly

The expropriation process must

Not put affected peoples' rights at risk

Have safeguards in place to protect affected peoples' rights

Demonstrate all reasonable steps taken to offer suitable resettlement, compensation and other support before expropriation

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## HOST COMMUNITIES

- What is the willingness of the host community towards receiving resettled people? Involve host community in consultation
- Will there be disparities between accommodation and services in host community residents and resettled people?
- Are there common cultural characteristics, e.g., religion that need to be considered?
- Are there plans in place to help bring the host community to a similar level as resettled people?
- Do social infrastructure and services need to be upgraded to cope with population increase?

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## KEY CONSIDERATIONS FOR LIVELIHOOD RESTORATION

- Improve or at least restore livelihoods
- It is **challenging**; particularly for agriculture- or fishing- based economies
- Should include **viable alternatives**
- Experience shows that it is usually very difficult to 'change' livelihoods
- Is there a **history of success or failure** of the proposed models?
- Are there **adequate food security** measures in each of the models?
- **Jobs for affected persons/locals during construction & operation of a project do not happen without considerable efforts**

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**TRAINING ALONE IS USUALLY NOT ENOUGH**

## EMPLOYMENT AND JOB MATCHING

- **Example: Refinery and Economic Zone**

### Strong Local Recruitment:

- **Strong local recruitment** policies and requirements for sub-contractors
- Support to **sub-contractors**
- **Work ready training** and ongoing **mentoring** for affected persons



### Recruitment Campaigns:

- More than **2,300** job offers given
- **880+** candidates passed interviews

### Job Seeker Support Services:

- Almost **4,000** registered resettlement-affected job seekers
- **1** main office; **4** branch offices; **10** staff





## ESSENTIAL COMPONENTS OF SMALL SCALE BUSINESS DEVELOPMENT



## EXAMPLE: SMALL SCALE BUSINESS DEVELOPMENT

- **Comprehensive** livelihood restoration **program**
- **All** categories of **economically displaced**
- Provision of **materials and capital investment**
- Strong **monitoring and evaluation**



## LIVELIHOOD RESTORATION

### Some other considerations for livelihood restoration

- Livelihood restoration programs very often under-budgeted / funded
- **Vulnerable people** require tailored livelihood restoration
- While nice houses are appreciated in the short-term, **nice houses do nothing to restore livelihoods**
- **Host communities** should be included
- **The time to restore livelihoods is usually several years**



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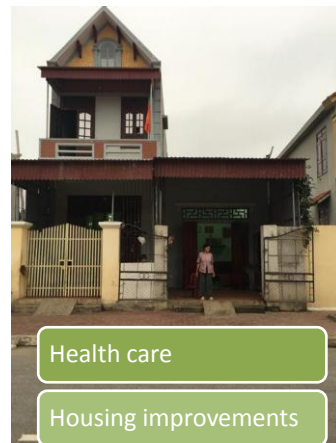
## VULNERABLE PEOPLE

How do you define Vulnerable People?

Food support

Tailored livelihood activities

Family support



Health care

Housing improvements

Others

**Vulnerable People are disproportionately affected by land acquisition and resettlement**

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## COMMUNITY ENGAGEMENT IN RESETTLEMENT

- **Resettlement** requires intensive engagement with affected people on an ongoing basis
- **Active participation and negotiation** should be central to any resettlement program
  - ✓ Long consultation and negotiation processes are often necessary
  - ✓ It is usually **good to organize** affected people in resettlement committees **at the community level**
- Keeping affected people **fully informed of their rights and responsibilities** is crucial to the success of resettlement
- Balance disclosure of information with “**compensation fever**” and risks of **opportunistic settlement**

## EXAMPLE: ENGAGEMENT IDEAS



### Stakeholder engagement – home owner handbooks



## EXAMPLE: GOOD COMMUNITY ENGAGEMENT

**QUY TRÌNH THANH TOÁN ĐẾN BÙ**

**- Compensation Procedure**  
**- Poster on Recruitment**

**TRUNG TÂM THÔNG TIN**

**Good passive and active engagement**

- **Wide range** of community engagement **methods & tools**
- **Local** community relations **team** – in place early; good support

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## WHY ARE GRIEVANCE MECHANISMS IMPORTANT?

- Allows affected people to have their complaints heard and addressed.
- Important component of stakeholder engagement but **not** a substitute
- Early warning sign for Government /companies – can address issues before they escalate
- Good stakeholder engagement can reduce complaints and risk!





## COMMUNITY COMPLAINT MECHANISMS – PROCESS STEPS



- Multiple access points
- Awareness-raising about the grievance mechanism
- Systematic tracking (logs & databases)
- Seeking feedback (users and non-users)
- Engaging communities in design of mechanism
- Build in dispute resolution/mediation processes

Keep it Simple

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## SOME COMMON MISCONCEPTIONS

- Many resettlement projects consider building nice houses as a priority; while rewarding to show, and appreciated by PAPs in the short term, **nice houses do nothing to restore livelihoods**
- **In urban resettlement, long term security of tenure is the real factor** in housing improvement; a good housing strategy is based on giving affected people security of tenure and access to credit
- **Under-funding resettlement projects is common**, particularly for livelihood restoration activities; build all costs into budgets
- **Corrective actions more costly** than doing it right first time

The absence of physical displacement impacts does not necessarily mean that the land acquisition process will be straightforward.

Economic displacement impacts are often the more difficult to address and leaving residents very close to facilities rather than resettle can cause a range of ongoing impacts

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## SOME FINAL THOUGHTS

- ✓ **Land acquisition planning takes time**....usually years and must commence early in the project cycle (e.g. pre-feasibility, feasibility)
- ✓ **Urban resettlement is highly variable** and sensitive to land costs
- ✓ **Government should always be involved** but companies can also play a lead role; tripartite committees are always recommended
- ✓ **Resettlement should be guided by resettlement specialists** including local/national specialists
- ✓ **Seek independent review** of resettlement planning and implementation to ensure relevant standards are being met
- ✓ A willingness to **adapt when things are not working as intended** is crucial

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## THANK YOU!



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## **SESSION 3: CASE STUDY AND INTERACTIVE SESSION**

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