




SEMINAR
Good Practice Social
Considerations in Myanmar

26-27 July, 2017

**Session 3
Resettlement &
Income
Restoration**

NIPPON KOEI CO., LTD.
REEMAN CONSULTING **Social
Clarity**



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Session 3 - Objectives

- A brief recap on key good practice land acquisition and resettlement [as most participants have seen the more detailed presentation before]
- Explore livelihood restoration planning further using examples and a small group activity
- Discuss monitoring and evaluation and good practice considerations including how to determine when resettlement is “complete”

Question & Answer Session – Part 1

1. Each person to come “post it” 1-2 questions or discussion points they would like to discuss on land acquisition & resettlement
2. Use the “post it notes” provided
3. Can be anonymous
4. We will answer these questions before the end

Key Terms – A Quick Recap

Key Term	Definition
Involuntary Resettlement	Physical and/or economic displacement that affected persons or communities do not have the right to refuse – i.e. can resort to lawful expropriation
Physical Displacement:	Loss of homes/shelter resulting in relocation to other sites
Economic Displacement	Loss of land and/or other assets, restrictions of access to commonly held natural resources, that leads to loss of income or other sources of livelihood
Resettlement Action Plan	Plan describing how resettlement is planned and implemented incl. impacts, mitigation, consultation, process and procedures
Livelihood Restoration Plan	Plan describing all impacts to livelihood, restrictions to land use providing a detailed description for compensation and livelihood restoration
Government-led Resettlement	Resettlement undertaken by a Government agency on behalf of a project / Sponsor
Security of Tenure	Resettled individuals or communities resettled to a site that they can legally occupy and are protected from the risk of eviction
Host Communities	The communities that will receive those who are resettled
Cut-off Date	The date of completion of the census survey and asset inventory represents the cut-off date which determines persons eligible for resettlement & compensation

International Standards on Land Acquisition & Resettlement



THE WORLD BANK
IBRD • IDA

OP 4.12, Involuntary Resettlement



IFC
International
Finance
Corporation
WORLD BANK GROUP

Performance Standard #5, Land
Acquisition and Involuntary
Resettlement



JICA

JICA Guidelines for Environmental and
Social Considerations [*refers to OP4.12*]



ADB

Safeguard Requirement 2, Involuntary
Resettlement



EQUATOR
PRINCIPLES

Equator Principles III for Financial
Institutions [*follows IFC PS#5*]

When and Why Do Standards Apply?

- Physical and economic displacement
- 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 areas
- Standards don't apply to 'voluntary' transactions, BUT, what does "willing buyer-willing seller" mean?
[Beware of applying "willing buyer-willing seller"]
- Myanmar EIA Procedure 2015 requires World Bank/Asian Development Bank Safeguards to be applied (para. 7)

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National versus International Requirements

- 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, companies, lenders, others
- Involve experts and advisors including legal advisors

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

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General Objectives



- 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

“Not Net Harm” / “No Worse Off”

Key Risks

For Governments & Companies

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

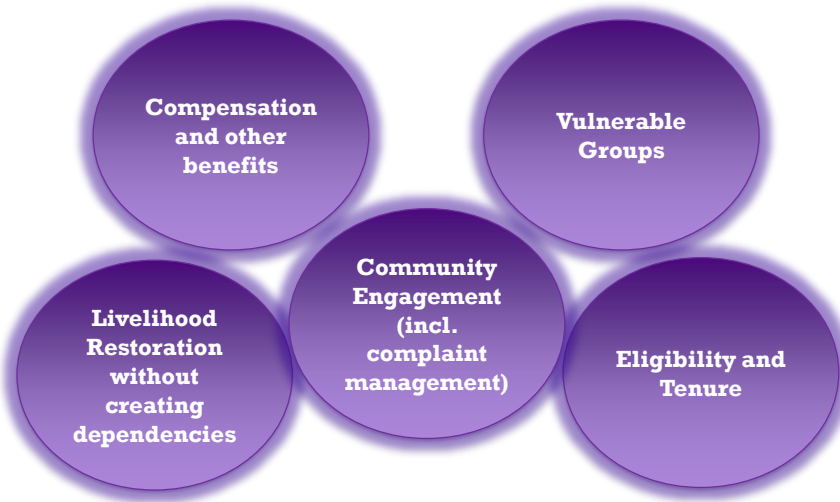
Special attention to vulnerable groups - e.g., women, elderly, refugees and internally displaced person

For Affected Persons

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



Key Issues and Challenges Related to Involuntary



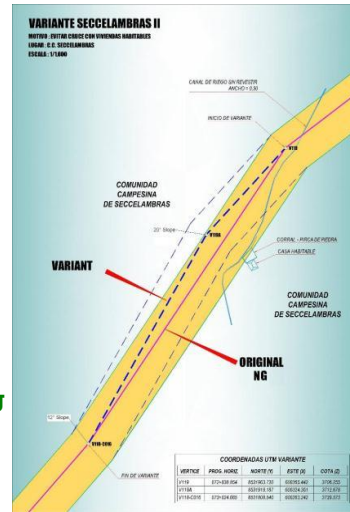
Avoiding & Minimizing Displacement

Project Design

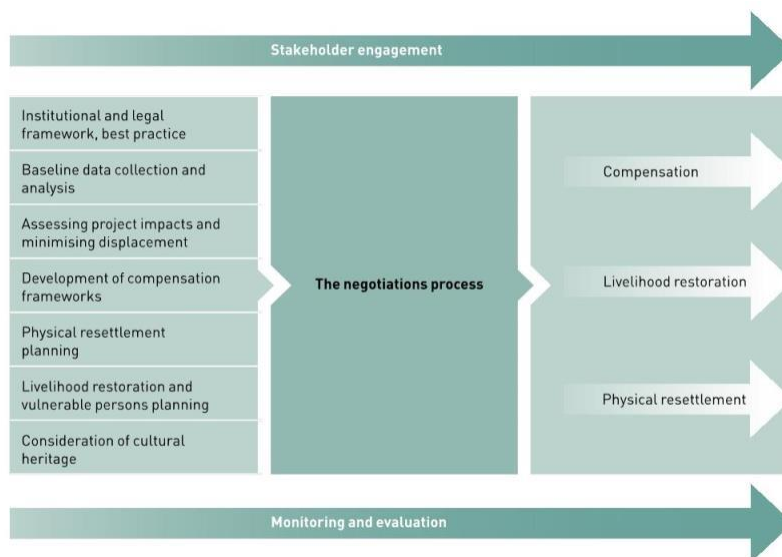
- Anticipate, avoid & minimize displacement
- Much can be achieved by alternative project design
- Determine potential cost for compensation & livelihood restoration



ROW Re-Routing



The Resettlement Process



Source: Reddy, Smyth and Steyn (2015) Land Access and Resettlement

Resettlement Planning and Implementation – Key Steps

Resettlement Planning

- Census, asset inventory, valuation, tenure, eligibility
- Consultation & negotiations
- Establishing cut-off date



Resettlement Implementation

- Replace and/or compensate
- Assist with livelihood restoration
- Monitor and evaluate
- Consultation and grievance mechanism
- Completion audit

Example: Understanding Land Legacy Issues in 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.

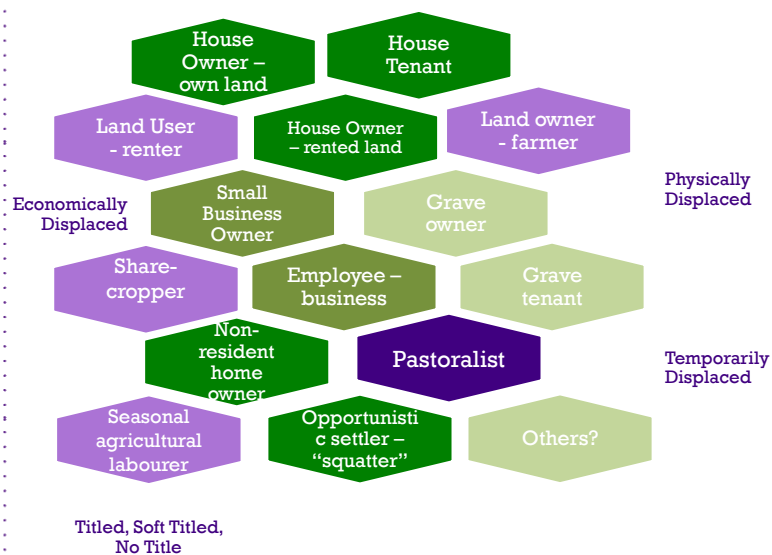
Land Tenure & Eligibility

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).

Land Tenure & Eligibility

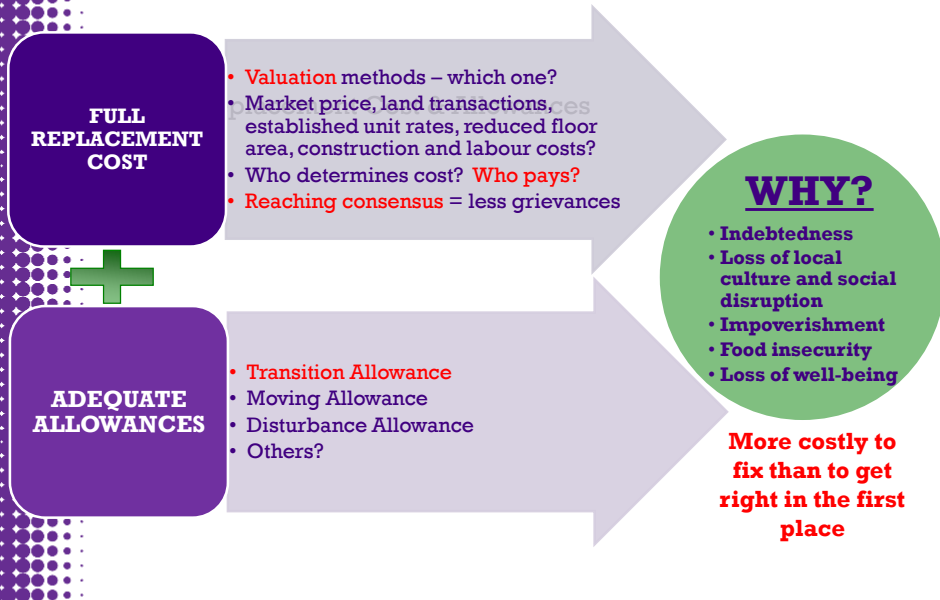


Eligibility Criteria – What is it?

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) INDIVIDUAL	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 Asset, Right, Interest	Customary land owner whether resident or non-resident (includes “transhumant farmers”) INDIVIDUAL	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 -
	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

Full Replacement Cost



Some Key Reminders on Livelihood Restoration

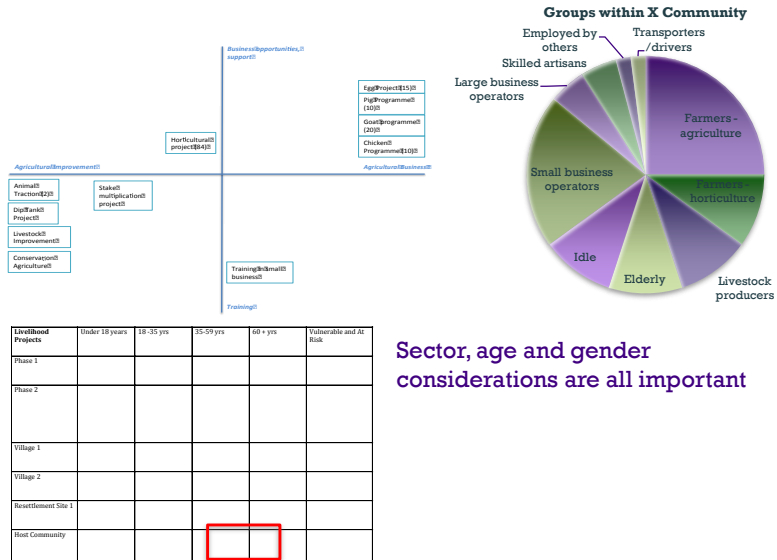
- Improve or at least restore livelihoods
- Challenging; particularly for agriculture- or fishing- based economies
- Should include viable alternatives
- Experience shows that it is usually very difficult to 'change' livelihoods
- Is there a history of success or failure of the proposed models?
- Are 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

Training Alone is Usually Not Enough

Key Livelihood Tools / Models



Mapping Livelihood Opportunities



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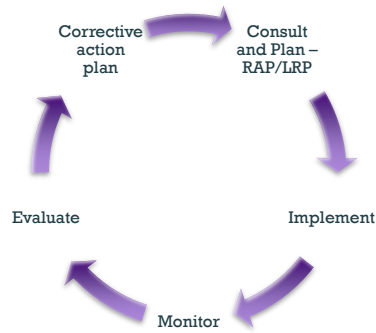
Question & Answer Session – Part 2

1. Let's look at the "post it notes" and see what questions we still have not answered
2. Group discussion

Now let's discuss monitoring & evaluation

- Internal monitoring
- External monitoring
- Outcome evaluation
- Completion audit

- But firstly, what are you seeking to monitor and evaluate?



When to Monitor

- From the beginning, but for different things at different times
- Internal monitoring:
 - Social and demographic indicators which can be compared against baseline data (education, health, etc) at a community level
 - Complaints and grievances
 - Data collected on vulnerable groups
 - Sampling of households to assess their specific situations using direct and proxy indicators
- External monitoring:
 - Generally only appropriate after communities have had a chance to settle in to their "new normal"

When to Evaluate

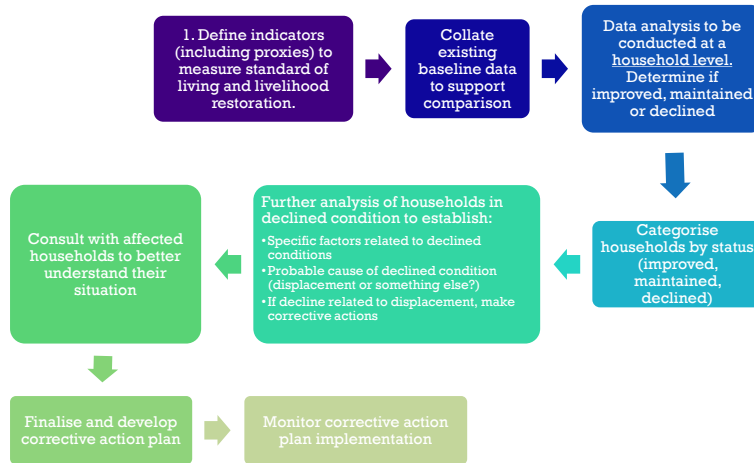
- Monitoring without evaluation is like “no salt in the curry”
- Data should be evaluated, with findings fed back in to programme design (for livelihood restoration) and additional mitigation measures as needed (for physical displacement)
- What is the point of evaluation if there is no funds/will/resources to make modifications?



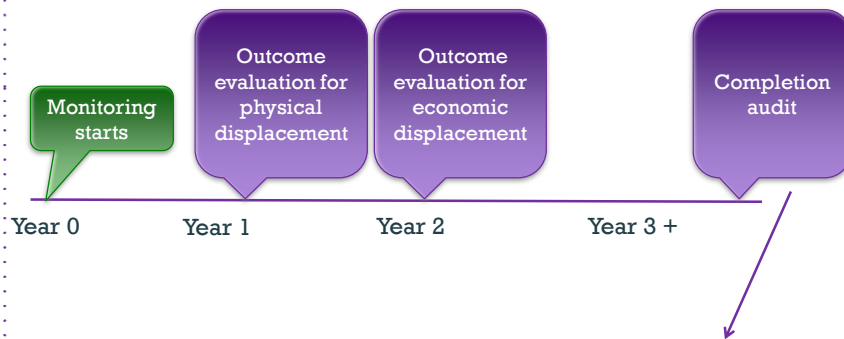
Outcome Evaluation

- Up to several times throughout the course of resettlement process, depending on the scale / complexity
- Outcome evaluation and completion audit are not the same
- Outcome evaluation will inform and may occur as part of a completion audit, but it is something that should be led by the project, not by an external auditor
- Very unlikely that the first outcome evaluation will result in a 100% success assessment – expect corrective action items to be identified which need to be addressed
- Do outcome evaluations have to be done by external parties?

How To Do An Outcome Evaluation



The Timeline



Purpose of a completion audit

- Assessment of whether RAP commitments have been met
- Review of outcome evaluation data to determine whether households have improved standard of living and restored livelihoods

When is Resettlement Complete?

- When everyone has a new home?
- When everyone has received compensation?
- When all the RAP commitments have been met (sports hall built etc)?
- When every household has an improved standard of living?
- When every household has restored their livelihood?
- When all corrective actions have been completed?

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**
- **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

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