

Draft

Government of Pakistan
Ministry of Environment, Local Government & Rural
Development
(Pakistan Environmental Protection Agency)

National Resettlement Policy

March 2002

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DEFINITIONS

Following definitions should be adopted for the purpose of implementing National Resettlement Policy:

- a) **“Affected Person (AP)”** - Includes:-
- (1) Any person or household adversely affected by acquisition of assets or change in use of land due to a project.
 - (2) Any vulnerable and affected person including women, destitute, artisans, tribal communities, squatters, and those with usufruct rights, poverty groups depending for livelihood upon the community in the project area and all those persons who may be exploited by the stronger or privileged persons located within the project area, and
 - (3) Any other person who may prove and establish his/her right as an affected person to the satisfaction of the Director General Projects.
- b) **"Compensation"** includes cash payment, deferred payment, a bond, an insurance policy, stipend, payment in kind, rendition of services, grant of privileges and disturbance money, entitlement to special treatment by Government and Semi Government Departments, grant of alternative land, grant of business, trade and commercial facilities.
- c) **“Cut-off-date”** shall mean the date in the Official Gazette declaring institution of the project, which shall conform to the date of commencement of census in the specified area.
- d) **“Director General Projects (DGP)”** means Director General Resettlement of the Ministry of Environment or in his absence any other officer holding the post of an Additional Secretary designated by the Secretary of the Ministry as Director General Projects and so notified in the Official Gazette
- e) **“Environment and Social Development Officer (ESDO)”** means an officer designated as such by the Director General Projects for a particular or more projects by the Ministry of Environment, Local Government and Rural Development, for ensuring compliance of the National Resettlement Policy, Ordinance and Guidelines.
- f) **“Eminent Domain”** means a regulatory measure to be/being exercised by the Government to obtain land, under the Land Acquisition Act 1894 or the Resettlement Ordinance.
- g) **"Entitlement"** means the sum total of compensation and other assistance assessed according to the status of each individual belonging to the project area or related therewith or dependant thereon. The entitlements should be in accordance with the Resettlement Policy.
- h) **"General Measures for Resettlement"** mean and include general measures as against specific measures for determination of different categories and status of affected persons in the project area.

- i) **“Host community”** means the inhabitants of the new area or locality, wherein affected persons are allotted land or otherwise proposed to be resettled.
- j) **“Household”** - People residing under one roof, using the same hearth and operating as a single economic unit.
- k) **“Income Restoration”** includes reestablishing income sources and livelihood of the affected persons according to their status and all compensatory measures contained in the National Resettlement Policy but does not include compensation for the acquired assets.
- l) **“Involuntary Resettlement”** - Any resettlement, which does not involve willingness of the persons being adversely affected, but are forced through an instrument of law.
- m) **“Land Acquisition”** means the process whereby a person is compelled by a public agency to alienate all or part of the land a person owns or possesses, to the ownership and possession of that agency, for public purpose in return for a compensation.
- n) **“Market Value”** - The value of asset determined by market transaction of similar assets and finally arrived at after negotiations with the stakeholders, and it includes transaction costs and without the depreciation and deductions for salvaged building material.
- o) **“Project”** means the Project as defined in Pakistan Environment Protection Act 1997, and includes any Government or Semi-Government Plan to set up an industry, housing scheme, dam, tunnel, excavation work, or a major road, railway line, canal, waterway, culvert, aerodrome, port or any defence installation resulting in acquiring of land or other assets with or without involuntary displacement of affected persons of the project area.
- p) **“Project Area”** means the area specified by the Resettlement Project Officer in the Official Notification and includes the areas within administrative limits of the Federal or Provincial Government.
- q) **“Project Implementation and Resettlement of Affected Persons Ordinance”** means an ordinance promulgated by the President of Islamic Republic of Pakistan for the enactment of Resettlement Policy, and henceforth to be called the **Resettlement Ordinance**, including the rules and regulations to be framed therefore.
- r) **“Rehabilitation”** means assistance provided to project affected persons seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement the payment of compensation for acquired assets, in order to achieve full restoration of living standards and quality of life.
- s) **“Relocation”** means moving of monuments, shrines, educational institutions, playgrounds, pastures, a village ‘Shamlat’, etc and rebuilding the commensurate housing, assets, productive land and public infrastructure etc in another location.

- t) **"Replacement Cost"** means and include an amount needed to replace an asset at current market value including depreciation and overhead expenses of the transaction as follows:-
- (1) Agricultural land based on its productive potential.
 - (2) Residential land based on market value (of properties with similar location attributes).
 - (3) Houses and other structures, including boundary walls, built up areas, other structures and fixtures thereto, crops, trees and other commodities based on current market value, sufficient to build a house or any structure, without any deduction on account of depreciation or salvageable materials and labour cost or overheads for any transaction whatsoever connected therewith.
 - (4) Trees, crops, land, etc. on current market value; and
 - (5) Other production assets like shops and commercial assets based on market value of similar location attribute i.e. premium etc.
- u) **"Resettlement"** means all measures taken to mitigate any and all adverse impacts, resulting due to execution of a Project, on the livelihood of the project affected persons, their property, and includes compensation, relocation and rehabilitation.
- v) **"Resettlement Effect"** - Loss of physical and non-physical assets, including homes, communities, productive land, income-earning assets and sources, resources, cultural sites, social structures, networks/ties, cultural identity and mutual help mechanisms.
- w) **"Resettlement Project Officer (RPO)"** means the Officer nominated by a Ministry, Division, Department, Corporation or a Government Agency under the Federal or Provincial Government, responsible for execution of the project invoking involuntarily resettlement.
- x) **"Social Preparation"** is a process of consultation with affected people undertaken before the key resettlement decisions are made, to build their capacity to deal with the resettlement affects.
- y) **"Squatters"** are persons who occupy/possess an asset without legal title.
- z) **"Stakeholders"** include the affected persons and communities, proponents, private and public businesses, NGOs, host communities and EPA, etc.
- aa) **"Usufruct"** - The right to use and profit from a land belonging to others or to a larger entity, e.g. a tribe, community or collective.
- bb) **"Vulnerable Affected Persons"** are the marginalized affectees or those distinct people who might face the risk of marginalization and suffer disproportionality from resettlement affects, including the women, children, destitute persons, tribal communities, squatters, those with usufruct rights, and landless groups.

1 INTRODUCTION

In Pakistan, a number of laws give and protect the proprietary rights. Also, laws have been promulgated at different occasions for purposes like urban and rural development, and for establishment of the authorities to implement their programmes that include acquisition of private properties for development.

The Land Acquisition Act, 1894 (LAA) has been the most commonly used law for acquisition of land and other properties for development projects. Although it lays down detailed procedures for the acquisition of private properties for public purposes and their compensation, the LAA or any other law of the land, does not cover resettlement and rehabilitation of persons in a manner perceived today.

In the absence of a resettlement policy, for development purposes and for those who are adversely affected, the LAA 1894 has been the *de facto* policy governing resettlement of, and compensation to the project affected persons. Its provisions do not take into account the changed social, cultural, economic and environmental landscape in which they operate. The Act is scale neutral and does not differentiate between projects that have different gestation periods. Whereas, the compensation packages for projects differ with the source of funding. The budgetary priorities of federal and provincial governments tend to curtail provision of required funds thus delaying timely payments of compensation and thereby delaying implementation of resettlement projects.

From operational point of view, the LAA is a provincial law, and each province has its own version and interpretation of this law, mostly procedural in nature. These differences lead to different dispensations in compensation and resettlement packages for the affectees of projects. Provincial governments have also evolved mechanisms for calculation and payment of compensation, suited to their specific needs and socio-cultural contexts. The procedures so far adopted for compensation, grievance redress, appeal periods, interest rate calculations, etc. do not aggregate to a resettlement policy. Recourse is often taken to *ad hoc* arrangements, agreements and understandings for resettlement in difficult situations.

The experience of development during last Century that led to massive human suffering and dislocation in the name of development has confirmed that people have to be at the centre of all development processes. To achieve long-term social benefits in development projects, the people must be consulted, compensated for their losses, and assisted in rebuilding their lost assets and livelihoods to enjoy at least the same standard of living as they had before the project. Very often, affected people are poor and vulnerable and, therefore, unable to either stand up to bureaucratic and political pressure or to absorb adverse impacts on their lives. They need significant help to restart normal lives and re-establish their livelihoods. Mere payment of cash compensation under the LAA is not enough to restore livelihood and living standards.

National Resettlement Policy has, therefore, been formulated to not only cover the affected persons (APs) in existing systems but also to ensure an equitable and uniform treatment of resettlement issues all over Pakistan. This Policy will apply to all development projects involving adverse social impacts, including land acquisition, loss of assets, income, business etc. It has addressed to those areas, which are not looked after in LAA and will be applicable wherever the people, families or communities are affected by any public sector or private development project, even when there is no displacement. The Policy also aims to compensate for the loss of income to those who suffer due to loss of communal property including common assets, productive assets, structures, other fixed assets, income and employment, loss of community networks and services, pasture, water rights, public infrastructure like mosques, shrines, schools, graveyards etc.

The Policy is supplemented with Guidelines for planning and implementation of resettlement, which form an integral part of Policy. Also, the Government has tabled an enabling law entitled "Project Implementation and Resettlement of Affected Persons Ordinance" (henceforth to be called "Resettlement Ordinance"), for enactment by the provincial and local governments, after incorporating the local requirements.

The Ordinance although being a new law, shall not supercede other laws of Pakistan in regard to the land acquisition and resettlement issues, and shall be supplementary to the LAA as well as the other laws.

2 LEGAL CONTEXT OF POLICY

The acquisition of private properties for public purposes including development projects in Pakistan is governed by the Land Acquisition Act 1894. It comprises 55 Sections pertaining to area notification and surveys, acquisition, compensation and apportionment, awards and disputes resolution, penalties and exemptions.

Considering the problems experienced in application of LAA in the context of executing various principles of compensation and resettlement, and to cover the expanded nature of rehabilitation needs and sensibilities as embodied in this Policy, the following short-comings in the LAA 1894 have been addressed in the Resettlement Ordinance.

- i) **Section 3(b) relating to Persons Interested:** The LAA does not recognise any adverse effect on APs for purposes of compensation. The APs cannot claim compensation as "**persons interested**", because as per the Section 3(b), an "interested person" is a person claiming an interest in compensation to be made on account of the acquisition of land and a person shall be deemed to be interested in land if he is interested in an easement affecting the land. It does not cover the categories of "**affected persons**" for compensation purposes.

- ii) **Sections 5(a) and 24 relating to Compensation and Objections:** In determining compensation, the Act leaves discretion in the hand of decision-making authority, which is contrary to the interests of APs including “preference of their informed choice”. The LAA only allows payment of compensation valued on the date of the notification and not on the value at the time of actual acquisition.
- iii) **Sections 6-10 relating to Acquisition, Valuation, Entitlements and Compensation:** These are inconsistent to meet resettlement principles and requirements of foreign donors and international agencies, emphasizing on community involvement and consultation, taking into account adverse socio-cultural losses; and rehabilitation of vulnerable affected groups. To ensure compliance of resettlement principles, the mechanism for making valuation and applying various measures to ensure its fairness, has to be there, based on the principle of compensating the APs at replacement cost, and rehabilitation of the lost incomes and livelihoods up to the pre-project level.
- iv) **Section 11 relating to Persons Entitled to Compensation:** The award should mention the compensation for “persons in knowledge or believed to be interested in the land”, and the Collector can make payment of the compensation to the “persons interested” entitled thereto. This does not cater for the “affected persons”.
- v) **Sections 16 and 17 pertaining to Land Acquired:** These do not differentiate between lands acquired for developmental or non-developmental purposes; and also between two types of land acquisition: that which causes involuntary displacement and that which does not.
- vi) **Section 28 relating to Valuation of Compound Interest:** For determining compensation values and interests/premium for land acquisition, the Land Valuation Committees (LVCs) are necessary but recommendations made by the LVCs are not binding on the Collector, as these Committees have no legal basis under the Act. In order to facilitate the APs to decide about agreeable entitlements, the role of LVCs needs to be strengthened.

2.1 Project Implementation and Resettlement of APs Ordinance

The Policy, cognizance of legal issues involved in resettlement and to safeguard the interests of persons/groups involuntarily resettled, has enacted a Project Implementation and Resettlement of Affected Persons Ordinance. This Ordinance shall establish that the resettlement of involuntary displaced persons be done as a matter of right and not by way of charity or any such sentiment. The “affected persons” shall be accepted as special groups who in the supreme interest of the country have accepted/undergone involuntary displacement. The areas to be addressed under the Ordinance will include the following:

- i) Essential provision is being made in the Ordinance for appointment of a Federal Director General Projects in Pakistan Environmental Protection Agency and the Provincial Director General Projects in all Environmental Protection Agencies, to exercise the resettlement powers.
- ii) Proper valuation of the interest and assets of the APs to ensure compensation at replacement cost.
- iii) The Ordinance shall have provisions for undertaking necessary mitigation and rehabilitation measures for resettling of all the APs.
- iv) The Ordinance shall adequately deal with the complaints and grievances of the APs as well as their prompt redressal, through the involvement of NGOs and other Stakeholders.
- v) The Ordinance shall support proper and prompt execution of the following:-
 - a) Acquisition of land for the project.
 - b) Methods of valuation.
 - c) Compensation both for "persons interested" under the LAA and "affected persons" under the Ordinance.
 - d) Modes of payment for compensation.
 - e) Ensuring that the APs are not dislocated, until the payment of entire compensation has been made. Accordingly time for relocation of APs to be finalized.
 - f) Special preferential treatment to the APs in Government offices, courts, schools and colleges, throughout Pakistan, including the shelter facilities to single women, widows, destitute, etc.
 - g) Training of severally affected APs for employment on the project itself and outside also, in all disciplines of the project.
 - h) Institution of Jahez fund (dowry money) for the destitute, poor, orphan girls. and
 - i) any other appropriate mean in consultation with the affected persons.
- vi) The Ordinance will incorporate following provisions, if not provided for in any other Law of Pakistan, and deemed necessary by Federal and Provincial Governments:
 - a) Binding the Federal/Provincials Governments to allocate land for a project by Law, so that they would not be able to withdraw/cancel such allocation; and
 - b) Appointment of a High Court Judge or a Special Court to listen to disputes regarding any excess by Government agency and settle the case within a given time. A Supreme Court Bench for exclusive hearing of appeal, if any, is also earmarked in the Ordinance.

2.2 Other Laws

There have been continued adaptations of the LAA, 1894 for specific purposes under different laws like the Telegraph Act 1885, Railway Act 1890, Electricity Act 1910, West Punjab Thal Development Act 1949, Punjab Soil Reclamation Act 1952, Karachi Development Authority Order 1957, Capital Development Authority Order 1960, Lahore Development Authority Act 1976, Hyderabad Development Authority Act 1979, Punjab Development of Cities Act 1977 and Baluchistan Acquisition of Land (Housing and Development Schemes) Act 1974. These laws primarily deal with the land acquisition when required for specific uses of services laying, urban development and tailored to meet the requirements of respective sector. The aspects of resettlement are either limited or non-existent. The Policy aims that wherever the activities of resettling, compensation and rehabilitation are envisaged under these laws, the resettlement principles of present Policy should be followed by the respective sponsor/department. If felt necessary, necessary amendments in these laws, in-line with Resettlement Ordinance shall be incorporated.

3 POLICY OBJECTIVES

The Policy objectives are relevant to other policies and laws of the Government of Pakistan, including the following:

- i) Avoid or minimize adverse social impacts in a project wherever possible and where adverse impacts cannot be avoided, the mitigation measures and resettlement activities should be conceived and executed as development programs and the affected persons be provided opportunity to share the project benefits.
- ii) Project Affected Persons (APs) be provided with sufficient compensation and assistance for lost assets, that will assist them to improve or at least restore their living standards, income earning or production capacity to the pre-project levels.
- iii) Provide a development opportunity to all vulnerable groups (including poverty groups, women headed households, refugees and those without security of tenure/usufruct rights, etc.). The vulnerable population should receive special assistance to bring them at least to a minimum living standard at par with the pre-project level.
- iv) All population adversely affected by the project, should be eligible for sharing the social and economic benefits, envisaged after completion of the project.

4 PRINCIPLES OF POLICY

The Policy is based on the following principles, whereas the Guidelines will explain all resettlement issues at operational and procedural levels.

- i) To minimise involuntary resettlement, the proponents should consider alternate planning and design standards, and finalize an option with minimum adverse impacts.

- ii) Involuntary resettlement should be conceived and executed as a part of the project and full cost of resettlement and compensation be included in the project costs and benefits.
- iii) Key stakeholders (including affected communities and APs) are fully consulted regarding the project's design, implementation and operation and all activities are carried out through a participatory process.
- iv) All APs residing in, working, doing business, or cultivating land, or having rights over resources within the project area as on the date of the census surveys are entitled to compensation for their lost assets, incomes, jobs and businesses at replacement cost, at the cut-off-date notified in the Official Gazette.
- v) APs losing their incomes, jobs and employment, should get additional development assistance that enables them to improve their incomes to maintain their standard of living to pre-project level.
- vi) APs losing all of their productive assets (farmland, house or business), or in case of partial loss when the remaining assets are not viable for continued use, will be entitled for full compensation for the entire affected assets at replacement cost.
- vii) APs affected by partial impact on their assets i.e. suffering partial loss of land or structures while the remaining assets remain viable for continued use, and where the livelihood is not land-based, the compensation for affected assets would be paid in cash.
- viii) Affected population should be informed fully and consulted in a timely manner, in order to enable them to make the informed decisions on resettlement and compensation options.
- ix) Existing social and cultural institutions of affected communities and their host communities should be supported and integrated.
- x) Absence of a formal legal title to land by some affected person should not be a bar to qualify for compensation of his/her lost assets (structure, houses, trees, etc.), business and incomes, including rehabilitation assistance measures.
- xi) Special provisions should be made for the vulnerable groups in a project, over and above their entitlements for compensation and other assistance to improve their living standards to minimum socially acceptable level.
- xii) Where in a project the cultural minorities or indigenous peoples (tribal communities) are affected, the social and economic benefits they receive be in harmony with their cultural preferences and be decided in consultation with affected communities.

- xiii) Any acquisition of, or restriction on access to resources owned or managed by the APs as a common property will be mitigated by arrangements ensuring access of those APs to equivalent resources on a continuing basis.
- xiv) The affected persons losing land of all types, shall be given first choice to opt for “land-for-land” compensation, wherever possible, and preferably in the same region. All such APs will be provided land with secured tenure status and without any additional cost, taxes and surcharges, at the time of transfer, alongwith previous level of community services and access to resources.
- xv) Project proponents shall resolve maximum possible claims and unresolved issues related to the tenure status and ownership of land and other assets, prior to initiating any land acquisition activity. However, just for this reason, the scheduled commencement of project work should not be delayed.
- xvi) The usufruct rights of affected persons shall be protected.
- xvii) Resettlement programs will have adequate institutional set-ups to ensure effective design, planning, consultation and implementation of compensation, resettlement and rehabilitation measures, supervision and monitoring of the resettlement and rehabilitation measures.
- xviii) A clear mechanism of grievance redress should form part of resettlement and rehabilitation process.
- xix) Resettlement transition period be minimized and the acquisition of assets, compensation, resettlement and rehabilitation activities (except where long-term rehabilitation measures such as vocational training are recommended) be completed prior to the initiation of construction work.
- xx) In resettlement and compensation, the gender biases should not deny to the women their due entitlements. Affected women will have equal access to all income restoration programs. In addition to receiving the compensation, the women be eligible for financial credit for starting own businesses, etc. and to restore their income and livelihoods.

5 TRANSPARENCY AND ACCOUNTABILITY

The Policy will ensure full transparency and accountability in all resettlement activities. The key to both will be the community participation and involvement of affected persons right from the project inception to completion of all resettlement activities, and subject to the satisfaction of the communities concerned. Resettlement Action Plan shall provide for appropriate accountability mechanism, for ensuring due transparency, so that the affected persons can have accurate information about their rights and entitlements. Similarly, the methodology for grievance redress and the institutional arrangement required shall also be shared widely with the affected population.

6 COMPENSATION

All development projects including resettlement component shall take into account the compensation aspect and following principles would be incorporated in the Resettlement Action Plans.

- i) Affected people would be resettled in such a way that their economic and social rehabilitation would be generally as favorable as it would have been in the absence of the project. The people affected would be informed fully and consulted upon rehabilitation and compensation options.
- ii) The compensation amount that would be established for negotiation with all the occupants and owners of assets located in a proposed project area in order to arrive at final compensation, shall be based at replacement cost as of the date of agreement.
- iii) The project proponents will not begin the land and acquisition process, just after the approval of the compensation by the Collector and/or the entitlements by DGP and the APs agreeing to the mode of payment. The acquisition of land/assets for implementation of project shall be commenced, after the project proponents have made full payment of the compensatory allowance besides the admissible/entitled compensations. Where the relocation is necessary, the displacement of APs will only be carried out after the resettlement is complete.
- iv) In projects where large number of people are affected due to loss of land and/or other fixed assets, and where negotiated settlement on compensation is difficult to achieve, the compensation rates would be based on market rates as determined for similar assets in adjoining areas by the Land Collector, under the provisions of LAA 1894, including "land for land" compensation for intangible assets. The APs will be informed of the entitlements and proposed/applicable rates in the public meetings. Actual compensation payment will be made during the project implementation stage.
- v) In case of any complaint on the compensation amount determined on the basis of the replacement cost, an Appeal Consideration i.e. Grievance Redress Committee will be set up to review the compensation amount. The compensation amount then determined by the Committee, shall be final.
- vi) Regarding the entitlement to compensation, the project proponent should ensure that Resettlement Action Plan will cater for all the project-affected persons, and that the absence of a formal legal title to land should not be a bar to the compensation of affected assets of APs. The Ordinance would provide for the availability to all APs of due compensation based on replacement cost

- vii) Resettlement Action Plan (RP) to be prepared within the legal and policy framework, will address the issue of possible social impacts on the APs, in terms of loss of community assets and resources, private assets, incomes and business. Accordingly, the RP will quantify the impacts; specify the entitlement based on types of impacts and tenure status of different categories of all APs; the compensation budget; implementation plan and work schedule.
- viii) The RP shall also ensure compensation to all vulnerable groups including poverty groups, women headed households, refugees, non-titled land users i.e. indigenous peoples, local tribes and nomadic population with usufruct rights without security of tenure, refugees, squatters and the minorities. The compensation methodology shall be finalised with the participation and consent of these groups, to enable them to share the social and economic benefits of project, besides minimizing adverse effects on them.

6.1 Basis of Resettlement Compensation

The compensation for all affected persons in a project, would be worked out on the basis of following entitlements, forming part of the Resettlement Action Plan and as per the category of impacts, to be decided at the stage of resettlement planning.

- i) Replacement Value of the acquired land at the cut-off-date of the project's notification.
- ii) Damages sustained by the affected persons by reason of taking of any standing crops or trees, which may be on the land at the time of the Collector's taking possession thereof.
- iii) Other damages (if any) sustained by the APs at the time of the Collector's taking possession of the land, by reason of severing such land from his/her other land, or by reason of the acquisition injuriously affecting other property, movable or immovable, in any other manner, or the APs earning and/or other benefits including direct domestic consumption.
- iv) If, in consequence to acquisition of the land, the affected person is compelled to change his residence or place of business, the reasonable expenses incidental to such change.
- v) Damages (if any) resulting from diminution of profits of land between the time of publication of the cut-off-date or declaration under the LAA, and the time of the Collector's taking possession of the land acquired.
- vi) For ensuring an equitable and fair approach toward the affected person, the Resettlement Ordinance requires that all compensation and rehabilitation benefits should be given to the APs prior to commencement of any physical activity on ground. About the compensation in forms other than cash, such as land for land etc., the project proponent would follow the Resettlement Action Plan developed in agreement with the APs, separately for each project.

- vii) The other forms of rehabilitation assistance to be given to the affected business, trades, local privileges etc., could include a host of other measures to help restore the incomes and standards of living of APs.

7 REHABILITATION

Rehabilitation shall be considered an essential component of resettlement. It aims to assist APs who are severely affected due to loss of their productive assets, business, jobs or other income sources. The severely affected persons are those, whose productive assets and/or income are likely to be affected by more than 20% of their level, as existing on the cut-off-date. The severely affected APs are entitled to rehabilitation assistance over and above their entitlements for compensation of lost assets, as determined under the LAA. The project sponsors shall take into account the links between relocation and economic rehabilitation activities, and accordingly the project scope should include resettling such APs productively on the land, as soon as possible. The project should enable the APs to share in the immediate benefits created by that very project, which has caused their displacement, like availability of regular jobs, etc.

7.1 Income Restoration

Major activity in rehabilitation is the income restoration programme, aiming to develop certain measures for those APs, who are disadvantaged in terms of income generation and employment. The key steps to be followed in income restoration programmes include the following:-

- i) Analysis of existing economic activities and patterns of severely affected APs to assess their needs.
- ii) Identification of alternate income restoration programmes, both for the individuals and groups, based on market and financial feasibilities in consultation with the beneficiaries, and their implementation.
- iii) Trial testing of selected multiple income generating projects with severely affected people, alongwith necessary training and skills enhancement.
- iv) Establishment of institutional supervision and budgetary support mechanism, by involving NGOs, CBOs, Women's groups etc.
- v) Development of product marketing for effective income generation, within and outside relocation site, and based on the following short and long-term strategies.

7.1.1 Short-term Strategies

Short-term income restoration strategies are for immediate assistance during relocation. These would include the following:

- i) Grants for Pucca house construction and relocation subsistence allowances paid for full duration of the period of disruption/re-establishment.

- ii) Free transport and costs of removal and re-establishment for relocation.
- iii) Adhoc relief provided in the form of agricultural income by permitting the APs to continue growing crops on the acquired land until its development.
- iv) Temporary employment in civil construction activities, arranged for severely affected APs, either at the project, or at resettlement sites.
- v) Special rehabilitation assistance, including the payment of fixed monthly transaction allowance, offered by the proponents to the genuine APs like the aged, disabled and indigenous people and the women, until completion of the relocation process.

7.1.2 Long-term Strategies

These will aim to enable and improve the APs standards of living. Both the land-based and non-land-based economic activities will be generated to provide a sustained source of income over a longer time-period. These would include the following:

- i) Project-sponsored programmes like regular employment, training and providing various inputs for income raising.
- ii) Subsidized inputs for agricultural and livestock production arranged by the proponents, for the first two or three years, or until the desired income level are restored.
- iii) Establishing linkages to the national socio-economic uplift and employment generation programmes in the project area.
- iv) Initiatives by the NGOs and DFIs like rural credit or micro-enterprises, etc.

8 RELOCATION

Resettlement activities require relocation of some APs or the entire project affected community, with the purpose to recreate living conditions at new site/s. Efforts should be made to reduce or minimize the relocation as much as possible, by weighing alternative options for main project i.e. by changing the route of infrastructure like road/pipeline which is causing the relocation. To foster socio-cultural interaction among the relocated APs and the host community at new resettlement site, it is necessary that the project execution agency and some NGO/s should arrange their participation at various development stages. Depending upon the scale of relocation involved, all the options will be considered and different relocation strategies would be reviewed by the project proponents, keeping in view the socio-cultural and religious profiles of both the displaced persons and host communities. It shall also be necessary to develop the relocation sites alongwith essential utilities, before any relocation activity takes place. The relocation sites should preferably within the same region.

9 INDIGENOUS PEOPLES

The Policy recognises that the indigenous peoples, including the “native original settled population”, “tribal clans”, “minority communities” and the “refugees”, who have no formal representation and lack legal recognition, shall not be kept outside the main stream of resettlement activities of any development project. Wherein the project, indigenous peoples are affected, the social surveys and census works will be done to know their distinctive features, for determining the feasible and acceptable resettlement measures for them. The RP will ensure full consultation, participation and consent of these people, and that the social and economic benefits they receive are in harmony with their cultural preferences. The objectives should aim (a) to provide full consultation and participation with indigenous peoples; and (b) to avoid or minimize potentially adverse effects of such projects on them. The proponents may prepare and implement separate Indigenous Peoples Resettlement Plans, within the parameters of RP.

If indigenous peoples are affected, their basic information as part of the social assessment including the inventory (i.e. census, socio-economic data and affected assets), will be collected as on the notified cut-off-date, from a series of group meetings of affected peoples. If the indigenous people support the project and the adverse impacts are minimal, the resettlement measures will be developed in consultation with community elders and local NGO. Where the traditional lands of indigenous peoples have been bought by the State and where it is inappropriate to convert “traditional rights” into those of “legal ownership”, alternate arrangements would be made to grant long-term, renewable rights of custodianship and their use to the indigenous peoples.

In projects which affect the indigenous communities, the proponents will ensure that the strategy for addressing the issues of such peoples is based on their “informed participation”. Mechanisms would be adopted for participation of the community leaders in decision-making throughout project planning, implementation and evaluation stages. Where a project is located within the “ancestral domain” of any community, a consent of the affected community would be secured, to ensure that their rights are not violated and that they are compensated for the acceptable use of any part of their domain. The NGO can also act as partner in such development. For meaningful consultation with and participation of the indigenous people, the:

- i) information dissemination should be in the local language;
- ii) community leaders and NGO representative (knowledgeable in indigenous peoples’ history and traditions), should always be present in all discussions with indigenous peoples; and
- iii) all the meetings and decisions will be properly documented and shared with the concerned people’s groups, especially those who live within the zone of influence of project.

10 INSTITUTIONAL FRAMWORK

The compliance of Land Acquisition Act 1894 is exercised by Provincial Governments through respective Revenue Departments and Land Collectors. The resettlement as a consequence of development activity is not included in the list of provincial subjects. Resettlement, therefore, is a concurrent subject and both the Federal and Provincial Governments can formulate Resettlement Policy. Wherever the need for resettlement results from any inter-provincial project, the Federal Government would be the appropriate authority for co-ordination and developing a package of entitlements, agreed to by concerned local administrations.

Present institutional arrangements are not conducive for undertaking effective resettlement operations. There are two types of resettlement institutions i.e. government agencies and the private/voluntary organisations like NGOs. In case of public sector projects, both the sponsoring ministries/departments and Environmental Protection Agencies will be responsible for resettlement policy implementation, in association with international agencies and local governments. Where considered necessary, the Resettlement Offices will be established at municipal or district level to regulate resettlement activities.

For private sponsored projects, the NGOs, CBOs and neighbourhood/village organisations should play key role in planning and implementation of resettlement activities. Whereas, the project proponents (both public and private) shall have responsibility for preparing and implementing the Resettlement Action Plans and arranging budgetary allocation and disbursement of compensation and rehabilitation funds, through appropriate mechanism.

10.1 Implementation of Resettlement Policy

The subject of Resettlement Policy and its enforcement has been assigned to Federal Ministry of Environment, Local Government and Rural Development. The Ministry shall immediately appoint a Director General Projects, by delegating to the Director General Pakistan Environmental Protection Agency, the additional duties of resettlement planning overseeing, monitoring and evaluation in projects, as defined in the Pakistan Environmental Protection Ordinance (PEPO).

10.1.1 Director General Projects (DGP)

Federal Director General Projects (DGP) shall be empowered under the Resettlement Ordinance to ensure the compliance of Resettlement Policy, rules and regulations to be framed thereunder and take in hand all measures for the preparation and implementation of Resettlement Action Plans by the proponents in respect of all projects falling within the purview of PEPO, and in-line with the Implementation Guidelines.

In each province, a Provincial Director General Projects will be appointed by assigning similar duties to the respective Director General Provincial Environmental Protection Agency.

Notwithstanding the LAA 1894's provisions and duties of the Land Collectors, the DGPs shall exercise their powers as admissible under the Resettlement Ordinance, i.e. to oversee the resettlement planning and implementation work of other agencies responsible for resettlement activities, as well as to monitor and regulate resettlement operations right from the project inception stage.

10.1.2 Environment and Social Development Officer (ESDO)

An Environment and Social Development Officer shall be appointed in each Environmental Protection Agency, who shall carry out his/her duties under the direction of respective Director General Projects, and as per both the "Resettlement Policy" and "Environment Policy" of Pakistan.

10.1.3 Social Units

To strengthen the regulatory and supervisory functions of the DGP, the "Social Units" will be established in each Environmental Protection Agency, headed by the ESDO and equipped with necessary technical and administrative staff. The Units will perform the following duties:

- i) Review of all projects as defined in the PEPO to check that their scope has been formulated in line with the objectives and framework of Resettlement Policy.
- ii) Liase with the project executing agency, local administrations and the foreign agencies for ensuring compliance of Resettlement Policy's objectives and principles.
- iii) Assist the proponents in finalising their projects for submission to the Planning and Development Division/Departments, for seeking approvals from the PDWP/CDWP/ECNEC.
- iv) Assist the executing agencies in arranging internal and external monitoring and evaluation of resettlement projects.
- v) Co-ordinate the activities of resettlement among the NGOs/CBOs; the APs and other key Stakeholders; the host community and project proponents, at different stages of project development.
- vi) Suggest improvement in the Resettlement Policy, implementation Guidelines and Procedures, as deemed necessary; and
- vii) Establish and operate a Resettlement Databank to disseminate information, when required.

10.2 Role of Executing Agencies

Each project executing agency shall make necessary arrangements within their own institutional set-up, to effectively deal with the issues related to Resettlement Policy's implementation and monitoring. They would identify

resettlements components in their project's scope and arrange conduction of social surveys; APs census; technical and financial feasibilities; mobilize financial resources, and negotiate with the financiers/donors and concerned agencies. All proponents shall develop the Resettlement Action Plan for each project, including detailed scope and costs of all land acquisition and resettlement operations i.e. compensations, rehabilitation and income restoration/relocation, alongwith the implementation schedules.

Based on the recommended Resettlement Action Plan, the sponsors in consultation with the concerned federal ministry or provincial line department(s) and project funding agencies including foreign donors, shall finalise the Planning Commission's PC-I* /PC-II[♦] Form for all projects. The PC-I/PC-II would be submitted to the incharge Ministry/Department, to forward to the respective P&D Department for submission and clearance by the Provincial Development Working Party (PDWP). In case of projects costing above Rs. 200 million, it will be forwarded to Federal Planning and Development Division for seeking formal approval from Central Development Working Party (CDWP) and Executive Committee of National Economic Council (ECNEC).

The costs of resettlement planning and development have to be to be reckoned as essential part and parcel of the main project. All the costs and budgetary inputs required in connection with implementing approved resettlement activities shall be specifically catered for in the scope and cost estimates of main project. The proponents shall also take up such budgetary requests with the Finance Ministry/Departments and donors/financiers, for the availability of required funds to implement resettlement works as scheduled.

The project's expenditure would also include the full cost of land required for both the project and APs relocation sites. The land acquisition should be completed before the commencement of the physical work. The funds required for resettlement compensation and rehabilitation, would be fully arrabnged by the project proponent.

The proponents shall regularly conduct the internal monitoring and evaluation besides the audits of project, in association with the NGOs/CBOs, and keep informed the DGP, relevant line agencies and local Administration about project implementation status.

* PC-I is the basic Form prepared by the Federal Planning Commission, on which all the development projects/schemes are drawn up with detailed information and costs breakups for pre-investment appraisal along with the implementation schedules and factual data required for analysis of economic, financial and social benefits. The PC-I has to be supported with feasibility study, financial analysis, survey data and investigations results.

♦ PC-II Form is required to be filled in for conducting surveys and feasibility studies in respect of large projects, with the purpose to arrive at full justification for undertaking the project, before large resources are tied up with the project besides obtaining commitments from the project funding organizations.

10.2.1 Resettlement Project Officer (RPO)

Resettlement Ordinance has mandated it for all the Federal Ministry/Divisions, Provincial Departments and Agencies, who intend to implement a project involving resettlement, to immediately appoint a Resettlement Project Officer to look after the compliance of Resettlement Policy, by the project proponent. The RPO shall liaise both with the executing agency and the respective DGP. The RPO will also be responsible for assessment and payment of the compensation. In this connection, the RPO may seek assistance of the Collector. The PRO may also recommend additional rehabilitation benefits etc. for the genuine APs.

10.3 Role of Collector

The Policy establishes that the Collector shall continue exercising all the duties and powers as vested to him/her under the LAA 1894, in so far as the acquisition of land for projects involving resettlement is concerned and not withstanding the duties and powers of the Director General Projects. The Collectors will also assist the RPOs in the implementation of Resettlement Policy, wherever needed.

10.4 Role of NGOs/CBOs

To enhance the community participation and APs consultation, it is necessary to involve representatives of various stakeholders – particularly the APs and CBOs/NGOs involved in project decision making at various stages. Both the NGOs and CBOs, can foster the APs participation and skills development in income restoration programmes. They can operate training programmes for the APs in new income generating activities and promote community management of common property resources like forests, grazing lands, etc.

It shall also be necessary for project executing agency to involve the NGOs/CBOs working in project area, as important stakeholder in all stages of resettlement planning, implementation and monitoring operations. The proponent may formally engage these NGOs/CBOs, against agreed remuneration to assist to perform certain roles and responsibilities, as assigned to them under the Resettlement Policy.

10.5 Role of Local Municipal/Village Body

For seeking formal consent from concerned area's Administration, the proponent shall consult the local municipal or elected village body or district government, These institutions can be involved in project planning, implementation and monitoring, as admissible under the approved Resettlement Action Plan.

11 DISPUTE RESOLUTION

Despite best efforts to arrive at fair rewards in a project involving involuntary resettlement, there shall always be few dissatisfied APs. The project proponents should make efforts at project level to firstly resolve through negotiation the day to day grievances. The negotiations would preferably be arranged at project site among the complainants, the APs Stakeholders, project NGO/CBO and Resettlement Project Officer for the resolution of the grievance in minimum possible time.

11.1 Grievance Resolution Committee (GRC)

In case the dispute is not resolved at local level, the matter through submission of a formal reference from the project proponent will be placed before a Grievance Resolution Committee (GRC), to be set-up at district level by the Provincial Government/Line Department. The GRC chaired by the Director General Projects or his authorized representative shall comprise of authorized representatives from the project executing agency/project manager; the complainant's representative/s; and the NGO of APs Stakeholders.

The Committee in the process of reviewing the complaint may call the concerned Land Collector in order to arrive at an amicable decision. In case of continuing differences and notwithstanding the provisions of Land Acquisition Act, the GRC can take a decision regarding entitlement and compensation based on the replacement cost. The decision of the GRC, shall be deemed as final. The proceedings and the decisions taken during negotiations and GRC meetings shall be formally minuted for future reference and presentation in the Court, if necessary.

All expenses incurred in arranging grievance negotiations and meetings of GRC as well as logistics required, shall be arranged by the project-executing agency/proponent.

11.2 Right of Complainant

The aggrieved AP, if not satisfied with the decision of GRC, has the right to refer his/her petition to the Court of Law, as per provisions of the Resettlement Ordinance.

12 MONITORING AND EVALUATION (M&E)

Monitoring and Evaluation Committees headed by the respective DGP, shall be established, drawing representatives from the concerned EPA; the project proponents and the project NGO/CBO, for supervising the monitoring and evaluation of resettlement components of the project. All M&E activities (i.e. internal and external), shall be undertaken as per advice of the Committee.

12.1 Internal M & E

Internal Monitoring and Evaluation is the responsibility of project proponents and has to be arranged on regular basis (preferably bi-annually). The M & E reports will be submitted to the sponsoring Government Departments and concerned M & E Committee/DGP for scrutiny and clearance. These reports are required to verify the base-line information of all APs on a particular date, updated valuation of assets lost or damaged, and the provisions of compensation, resettlement and other rehabilitation entitlements; and also that the Resettlement Action Plan is being implemented as designed and approved and that the funds required for implementation are being timely provided by the project authority; and such funds have been utilized in accordance with the provisions of the RP, etc. At the close of financial year, the proponent shall also submit Annual Financial Audit, based on last two bi-annual M & E Reports, to the concerned quarters.

12.2 External M & E

External M&E would be done on periodic basis, for projects with significant adverse social impacts including displacement of large number of households and productive lands. For this purpose, an external independent agency such as the competent NGO or academic/research institution or private consultants can be engaged.

13 PUBLIC PARTICIPATION AND CONSULTATION

In all projects involving resettlement, and prior to the preparation of Resettlement Action Plans, the project affected persons will be informed of the project objectives, likely impacts and essential provisions of Resettlement Policy through the following activities:

- i) Information campaigns using media, posters, or information leaflets,
- ii) Holding public meetings,
- iii) Arranging interviews with the APs and their Stakeholders Groups,
- iv) Formation of focus groups involving key stakeholders, like local leaders, women, the poor, etc.
- v) Setting up various committees for planning, implementation and monitoring purposes,
- vi) Involvement of the APs in grievance redress process, and
- vii) introduction of a social preparation phase, etc.

In order to discuss and seek opinion/suggestion from the APs, their representatives shall be formally invited to participate in various meetings regarding resettlement issues as convened by the District and Provincial Administrations.

13.1 Public Information

The APs will be publicly informed by the project proponents about the details of resettlement activities as included and to be implemented as a component of a development project, or as an independent sub-project. Such information shall be made public and to be formally provided to each household settled in affected area, for checking and inviting their opinion/concurrence, and will include the following:

- i) Likely impacts (good and adverse).
- ii) Cut-off-date for purpose of declaring entitlements to compensation and other assistance.
- iii) Entitlements and eligibility criteria.
- iv) Mode of compensation payments.
- v) Options for resettlement and rehabilitation assistance available.
- vi) Project implementation schedule.
- vii) Complaints and grievance redress mechanisms, and
- viii) Name/contacts address of concerned officers/offices.

The project NGO/CBO shall assist the proponent in determining various steps and stages in information sharing and community consultation, in order to avail the project benefits as well as to solicit public reactions and suggestions leading to a more acceptable resettlement project, endorsed both by the affected community in particular and, the public in general. The public participation may range from informal meetings with the affected communities to issuing the press releases/leaflets, inviting from the public their comments on the project and various options proposed for resettlement planning and subsequent operations.

14 REPORTING AND DOCUMENTATION

To determine relevant social issues and to assess likely impacts, it shall be mandatory to conduct Initial Social Assessment (ISA) at the identification stage of all major development projects. The ISA should be followed by detailed field investigation and surveys including census, inventory of affected assets and socio-economic baseline surveys. Accordingly, the appropriate documentation and data-collection and tabulation have to be done by the project sponsors. Based on the information collected at the various development stages, and assessment of the scale and degree of impact of the project (in terms of extent of land acquisition, other assets involved and the number of persons affected), the decision can be taken by the project management, for subsequent requirements of M & E reports, surveys and additional data collection etc. However, in case of resettlement, subsequent to the Policy and Ordinance, the most important reference and reporting documents are the Resettlement Action Plan and Abbreviated Resettlement Plan.

15. RESETTLEMENT ACTION PLAN (RP)

In case the impact of the project is severe such that more than 200 people (40-50 families) are displaced by the Project, its component or sub-project, a comprehensive Resettlement Action Plan (RP) for each component or sub-project will be prepared in accordance with the provisions of this Resettlement Policy. The RP will be prepared and submitted by the project sponsors to the concerned DGP for review and approval.

For the larger projects, Resettlement Action Plan shall inform the results of “social impact assessments” and provide information, including the following:-

- (i) description of the project;
- (ii) potential impacts and actions taken to avoid or minimize adverse impacts;
- (iii) main objectives of the resettlement plan;
- (iv) the basic census, socio-economic data and inventory of affected assets;
- (v) information on vulnerable groups for whom special provisions, in accordance with the “Indigenous People Resettlement Plan”, may be necessary;

- (vi) eligibility criteria, compensation entitlements and the procedures proposed to assess compensation;
- (vii) description of resettlement measures and the types of development assistance proposed;
- (viii) location and area of the replacement agricultural, residential and/or business land to be provided, if that be the case;
- (ix) socio-economic information about the host community, if applicable;
- (x) legal and institutional framework;
- (xi) community participation and consultation framework and grievance redress mechanism;
- (xii) internal and external monitoring procedures;
- (xiii) a detailed budget and source of funding for various compensation and rehabilitation measures; and
- (xiv) the implementation schedule.

15.1 Abbreviated Resettlement Plan (ARP)

In case the impact of the project is marginal or minor, and such that less than 200 persons (about 40-50 families) are affected and/or displaced, or where the impacts are minor, although more than 200 persons may be affected, an 'Abbreviated Resettlement Action Plan can be prepared by the sponsors and got approved. The ARP will be used for consultation and negotiation regarding compensation and other options, with the APs. The APR, mostly prepared for indigenous communities, will include the following:

- i) description of the project, sub-project or component;
- ii) the basic census and inventory of affected assets;
- iii) eligibility criteria, entitlement to compensation and other resettlement assistance;
- iv) consultation with affected persons about acceptable alternatives;
- v) institutional responsibility for implementation;
- vi) a detailed budget and source of funding for various compensation and rehabilitation measures; and
- vii) the implementation schedule.

Where considered appropriate, the "Resettlement Action Plan" and "Abbreviated RP" can be prepared as a consolidated document.

15.2 Implementation of RP and ARP

The Resettlement Policy and Ordinance require that the acquisition of assets, resettlement and rehabilitation activities will only commence after the "Resettlement Action Plan", and "Abbreviated Resettlement Plan" are approved (in the form of PC-I/ PC-II), followed by issuance of the administrative and financial sanctions by the Incharge Ministry/Division/Department; and also that all the bonafied APs have been paid in full the determined compensations, alongwith declared rehabilitation benefits.