

**WCD Thematic Review
Social Issues I.3**

Displacement, Resettlement, Rehabilitation, Reparation, and Development

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The WCD Knowledge Base

This report is one component of the World Commission on Dams knowledge base from which the WCD drew to finalize its report “Dams and Development-A New Framework for Decision Making”. The knowledge base consists of seven case studies, two country studies, one briefing paper, seventeen thematic reviews of five sectors, a cross check survey of 125 dams, four regional consultations and nearly 1000 topic-related submissions. All the reports listed below, are available on CD-ROM or can be downloaded from www.dams.org

Case Studies (Focal Dams)

- Grand Coulee Dam, Columbia River Basin, USA
- Tarbela Dam, Indus River Basin, Pakistan
- Aslantas Dam, Ceyhan River Basin, Turkey
- Kariba Dam, Zambezi River, Zambia/Zimbabwe
- Tucurui Dam, Tocantins River, Brazil
- Pak Mun Dam, Mun-Mekong River Basin, Thailand
- Glomma and Laagen Basin, Norway
- *Pilot Study of the Gariep and Van der Kloof dams- Orange River South Africa*

Country Studies

- India
- China

Briefing Paper

- Russia and NIS countries

Thematic Reviews

- TR I.1: Social Impact of Large Dams: Equity and Distributional Issues
- TR I.2: Dams, Indigenous People and Vulnerable Ethnic Minorities
- TR I.3: Displacement, Resettlement, Rehabilitation, Reparation and Development
-
- TR II.1: Dams, Ecosystem Functions and Environmental Restoration
- TR II.1: Dams, Ecosystem Functions and Environmental Restoration
- TR II.2: Dams and Global Change
- TR III.1: Economic, Financial and Distributional Analysis
- TR III.2: International Trends in Project Financing
- TR IV.1: Electricity Supply and Demand Management Options
- TR IV.2: Irrigation Options
- TR IV.3: Water Supply Options
- TR IV.4: Flood Control and Management Options
- TR IV.5: Operation, Monitoring and Decommissioning of Dams
-
- TR V.1: Planning Approaches
- TR V.2: Environmental and Social Assessment for Large Dams
- TR V.3: River Basins – Institutional Frameworks and Management Options
- TR V.4: Regulation, Compliance and Implementation
- TR V.5: Participation, Negotiation and Conflict Management: Large Dam Projects
- **Regional Consultations – Hanoi, Colombo, Sao Paulo and Cairo**
- **Cross-check Survey of 125 dams**

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- ABB
- ADB - Asian Development Bank
- AID - Assistance for India's Development
- Atlas Copco
- Australia - AusAID
- Berne Declaration
- British Dam Society
- Canada - CIDA
- Carnegie Foundation
- Coyne et Bellier
- C.S. Mott Foundation
- Denmark - Ministry of Foreign Affairs
- EDF - Electricité de France
- Engevix
- ENRON International
- Finland - Ministry of Foreign Affairs
- Germany - BMZ: Federal Ministry for Economic Co-operation
- Goldman Environmental Foundation
- GTZ - Deutsche Gesellschaft für Technische Zusammenarbeit
- Halcrow Water
- Harza Engineering
- Hydro Quebec
- Novib
- David and Lucille Packard Foundation
- Paul Rizzo and Associates
- People's Republic of China
- Rockefeller Brothers Foundation
- Skanska
- SNC Lavalin
- South Africa - Ministry of Water Affairs and Forestry
- Statkraft
- Sweden - Sida
- IADB - Inter-American Development Bank
- Ireland - Ministry of Foreign Affairs
- IUCN - The World Conservation Union
- Japan - Ministry of Foreign Affairs
- KfW - Kreditanstalt für Wiederaufbau
- Lahmeyer International
- Lotek Engineering
- Manitoba Hydro
- National Wildlife Federation, USA
- Norplan
- Norway - Ministry of Foreign Affairs
- Switzerland - SDC
- The Netherlands - Ministry of Foreign Affairs
- The World Bank
- Tractebel Engineering
- United Kingdom - DFID
- UNEP - United Nations Environment Programme
- United Nations Foundation
- USA Bureau of Reclamation
- Voith Siemens
- Worley International
- WWF International

Executive summary

Displacement or the involuntary and forced relocation of people has come to be acknowledged as among the most significant negative impacts of large water resources development projects such as dams. It is estimated that nearly 60 million people have been displaced worldwide due to the reservoirs created by large dams (McCully, P. 1996). A World Bank review of 192 projects worldwide for the period 1986 and 1993 estimated that 4 million people were displaced annually by the 300 large dams (on an average) that entered into construction every year. All these figures are at best only careful estimations and certainly do not include the hundreds of thousands and millions who may have been displaced due to several others aspects of the projects such as canals, powerhouses, associated compensatory measures such as bio-reserves, etc.

Displacement and resettlement is however more than a question of sheer numbers (or the lack thereof), though this is one very critical issue in itself. There are several issues involved, such as human rights, governance and accountability, participation and self-determination in development, the complexities of resettlement goals, options and strategies, and relevant legal and policy instruments. These are but some of the important issues that are considered in this Thematic Review¹.

The objectives of this Thematic Review were to review recent practices relating to displacement, resettlement, rehabilitation, and development of people negatively affected by the construction of dams, in order::

- (1) to locate the global experiences in dam-induced displacement and understand the socio-political context of displacement and resettlement; to assess how legal and regulatory instruments facilitating displacement and involuntary resettlement have performed in safeguarding the rights of affected people; to elaborate the constraints to a successful resettlement programmed in development mode;
- (2) to draw from these experiences the essential principles of good practices that would constitute a 'successful' displacement, resettlement, rehabilitation and development program; to suggest a framework that would facilitate a process of negotiation between State and the displaced people; to suggest legal instruments and remedial action to ensure accountability on part of governments and facilitating agencies for accomplishing negotiated resettlement goals.

This paper attempts to synthesise the experiences and learning emerging from all of the above processes in the light of the aforementioned objectives. A sincere attempt has been made to account for the rich and diverse range of experiences and perspectives that are contained in the submissions (made during the consultations and otherwise) as well as the country/regional papers and the global review paper. At the same time the comments and responses of various stakeholders to the global review paper have also enriched this synthesis.

Invariably this paper leans heavily on case studies and illustrative examples from the submissions and country papers. There might well be several different views one can take of each of the examples or cases referred to in the paper, but the prime objective is to focus on the lessons they hold for us, not to evaluate them either as successes or as failures.

The objectives of this Thematic Review were to review recent practices relating to displacement, resettlement, rehabilitation, and development of people negatively affected by the construction of dams, in order to locate² the global experiences in dam-induced displacement and understand the socio-political context of displacement and resettlement. Further, the assessment focuses on how legal and regulatory instruments facilitating displacement and involuntary resettlement have performed in safeguarding the rights of affected people. This review then identifies the essential principles of good

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practices that would constitute a 'successful' displacement, resettlement, rehabilitation, and development programme. A framework to facilitate a process of negotiation between State and the displaced people and legal instruments and remedial action necessary to ensure accountability on part of governments and facilitating agencies for accomplishing negotiated resettlement goals is presented.

The following are some of the key findings which emerge from the paper.

Generally, displacement as a result of acquisition is legally sanctioned, while there is no legal framework that governs the process of displacement itself: the land acquisition law protects the sanctity of what causes displacement (ie, the dam) but not the displaced. In the absence of legal safeguards to ensure accountability on the part of the State, resettlement and rehabilitation (R&R) entitlements promised often by executive order have rarely been implemented in their entirety covering all affected people.

For the dams funded by multilateral development institutions, the nature and extent of compliance of 'mutually' agreed criteria and guidelines have been mixed. Frequently, monitoring missions were either inconsistent in their appraisal of compliance standards or accepted undue delays and deviations.

A theme common in almost all countries is that funds for R&R programme were inadequate. Underfinancing or outright abandonment have been the most common problems in most R&R programmes. There is evidence to show that organisations with legislative sanction provided with adequate funds and human resources have done well in implementing a well-defined and clearly operationalised resettlement and rehabilitation programmes.

The concept of programming resettlement as development programme mode is gaining currency though practice is limited. 'Good practices' in this respect are those that (i) focus on means of livelihood rather than on assets; (ii) assume an inclusive relationship between people and assets; and (iii) admit of a negotiated definition of 'just' compensation. The record indicates that in those cases in which compensation packages were negotiated with PAPs and other stakeholders, the process has resulted in better outcomes for the resettlement process as a whole. Even when, for whatever reason, the negotiated form of compensation proves not to be the most appropriate or effective option, PAPs tend to feel more satisfied, as a result of the negotiation process, as attested by the Zimapan resettlement programme in Mexico.

There is an inverse relationship between scale of displacement and extent of achieving successful resettlement outcomes even in countries with best policy, institutional capacity and political commitment to do proper resettlement. There are a few good examples of minimising displacement.

Generally, participation of the affected people has been superficial or treated as unimportant by those responsible for the project. Real participation implies the capacity to influence or even modify decisions. Good practices from Brazil, Canada, and other countries which offer significant learning value for the WCD have emerged from the case studies and submissions to the WCD.

In several countries, the indigenous and tribal peoples displaced by large dams seem to have experienced higher levels of landlessness, unemployment, indebtedness, and hunger. The studies have also documented the adverse impact of displacement on women and children. Only situations where loss of land and access to natural resources were replaced with sustainable resources women had opportunities to recover their social and economic worth and respect.[This sentence needs revision.]

Some of the specific dominant themes emerging from displacement literature are:

- the displaced and affected people rarely received complete and authentic information on the dam project, the nature and extent of displacement and other negative impacts, and R&R provisions;

- absence of baseline surveys and inability to determine number of people displaced and affected: the displaced and affected people normally did not have any role in generation of baseline information, development of resettlement plans, or their implementation and monitoring;
- traumatic forced and delayed relocation; denial of development opportunity for years, and often decades, due to long displacement process;
- problems (related to infrastructure, relationship with host communities, etc) in resettlement sites;
- loss of livelihood of people living downstream not properly assessed and compensated.

The paper concludes that a ‘successful’ resettlement with development is a fundamental commitment and responsibility of the State. No development project can result in complete alienation of the rights, customary and legal, of people through payment of a one-time compensation or facilitated relocation. On the contrary, the process must result in the creation of new rights that will render people direct beneficiaries of the development project. Just as displacement is not an inevitable consequence of infrastructure development, resettlement need not necessarily result in impoverishment. Central to positive resettlement and rehabilitation will be the empowering of people, particularly the economically and socially marginalised as a result of both the process and outcomes of resettlement with development.

Notes

¹ This paper does not treat two important issues, that of indigenous people and women in displacement comprehensively. The reason for this is that these are specific subjects of other thematic reviews.

² Experiences therefore are at the heart of this exercise. The WCD sought to bring together experiences from around the world through:

- regional consultations in South and South East Asia, Latin America, and Africa in addition to NGO Consultations in Europe and elsewhere;
- submissions on DRRRD from various stakeholders concerned;
- country reports from Argentina, China, India, Mexico and a report on the African experience and

This paper attempts to synthesize the experiences and learning emerging from all of the above processes in the light of the aforementioned objectives.

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List of Acronyms

Acronym	Organisation
AAA	American Anthropological Association
CFE	<i>Comision Federal de Electricidad</i>
CfHR	Committee for Human Rights
CIC	Consultation-Information Centres
CRAB	<i>Comissao Regional dos Atingidos por Barragens</i>
DNOCS	National Department for Works Against Droughts
DRRRD	Displacement, Resettlement, Rehabilitation, Reparation & Development
EBY	Yacyreta Bi-national Entity
EIA	Environmental Impact Assessment
IFC	International Finance Corporation
NGO	Non-Government Organisation
PAA	Project Approving Authority
PP	Project Proponent
SOIWDP	Southern Okavango Integrated Water Development Project
VRA	Volta River Authority
WCD	World Commission on Dams
WCN	World Conservation Union

1. Introduction

Displacement or the involuntary and forced relocation of people has come to be acknowledged as among the most significant negative impacts of large water resources development projects such as dams. It is estimated that nearly 40 –80 million people have been displaced worldwide due to the reservoirs created by large dams. A World Bank review of 192 projects worldwide for the period 1986 and 1993 estimated that 4 million people were displaced annually by the average of 300 large dams that entered into construction every year. In India alone it is estimated that some 21 million to 42 million people have been displaced by dams and reservoirs (India Country Study 2000). In China alone by the late 1980s some 10.2 million people were officially recognised as "reservoir resettlers" Unofficial estimates by Chinese scholars suggest that the actual number is much higher (China Report 1999). All these figures are at best only careful estimations and include mostly only those whose homes and/or lands were flooded by reservoirs: the millions more are likely to have been displaced due to other aspects of dam projects such as canals, powerhouses, and associated compensatory measures such as nature reserves.

The World Bank review referred to above found that the 192 projects it assessed displaced 625,000 more people than was originally estimated. In fact it is well established now that underestimation of figures is the norm rather than the exception (China Report 1999, Scudder T. 1997, McCully, P. 1996). There is without doubt sufficient ground to find a "painful irony, and possible design, in the fact that there are no reliable official statistics of the numbers of people displaced..." (India Report 1999:4).

Displacement, resettlement, and rehabilitation are however more than a question of sheer numbers (or the lack thereof). Other critical issues involved include human rights, governance and accountability, participation and self-determination in development, the complexities of resettlement goals, options and strategies, and relevant legal and policy instruments. These are but some of the important issues considered in this Thematic Review³.

2. Objectives and Methodology of the Study

The objectives of this Thematic Review were to review recent practices relating to displacement, resettlement, rehabilitation, and development of people negatively affected by the construction of dams, in order:

- (1) to locate the global experiences in dam induced displacement and understand the socio-political context of displacement and resettlement; to assess how legal and regulatory instruments facilitating displacement and involuntary resettlement have performed in safeguarding the rights of affected people; to elaborate the constraints to a successful resettlement programmed in development mode;
- (2) to draw from these experiences the essential principles of good practices that would constitute a 'successful' displacement, resettlement, rehabilitation, and development programme; to suggest a framework that would facilitate a process of negotiation between State and the displaced people; to suggest legal instruments and remedial action to ensure accountability on part of governments and facilitating agencies for accomplishing negotiated resettlement goals.

Experiences therefore are at the heart of this exercise. The World Commission on Dams (WCD) sought to bring together experiences from around the world through:

- regional consultations in South and South East Asia, Latin America and Africa in addition to Non-Government Organisation (NGO) Consultations in Europe and elsewhere;
- submissions on displacement, resettlement, rehabilitation, reparation, and development (DRRRD) from various stakeholders concerned;
- country reports from Argentina, China, India, Mexico and a report on the African experience, and
- a review paper on DRRRD (Bartolome et al 1999).

This paper attempts to synthesise the experiences and learning emerging from all of the above processes in the light of the aforementioned objectives.

A sincere attempt has been made to account for the rich and diverse range of experiences and perspectives that are contained in the submissions (made during the consultations and otherwise) as well as the country/regional papers and the global review paper. At the same time the comments and responses of various stakeholders to the global review paper have also enriched this synthesis.

In keeping with the spirit of the Commission as well as responses from stakeholders, this synthesis paper has encapsulated within it several experiences and issues that make up both the context and the substantive elements of displacement and resettlement options/strategies. These include exploration of larger issues such as the role of international finance and human rights on the one hand, to exploration of specific cases of participatory resettlement and alternative institutional frameworks on the other. The concern, while being inclusive, has not been the number or the relative 'strength' of submissions, but the issues, concerns and most important of all, the "voices" that they represent. Therefore, there are some issues that are explored in great detail, while others, particularly those that will be the subject matter of other thematic reviews, have been reflected to the extent that they have a bearing on issues relating to DRRRD. All these taken together also account for the length of the paper, which hopefully, is balanced by the diversity of experiences and the richness of detail.

Invariably this paper leans heavily on case studies and illustrative examples from the submissions and country papers. The spirit in which they are presented is not one of judgement but one which, it is hoped, will simply enable learning. There might well be several different views one can take of each of the examples or cases referred to in the paper but the prime objective is to focus on the lessons they hold for us, not to evaluate them either as successes or as failures.

3. Principal Concepts and Key Issues in Practice

A review of submissions and country papers along with other literature on the subject allows for the identification of several dominant themes relating to the debate and practice in displacement and resettlement and rehabilitation. This section describes some of the findings of the review with respect to the principal concepts and the key issues in practice that have shaped the experience of displacement and resettlement. This section is largely drawn from the submissions, the country papers and the global review paper (Bartolome et al 1999).

3.1 Displacement

- Displacement is seen as the result of a model of development that enforces certain technical and economic choices without giving any serious consideration to those options that would involve the least social and environmental costs.
- Most displacement has been involuntary. There has been very little meaningful participation of affected people in the planning and implementation of the dam project, including the resettlement and rehabilitation aspects. The displaced and other affected people have often been the last to receive any meaningful information on the dam project. What information they have received has typically been limited and provided very late in the planning and implementation of mitigation measures.
- There have been instances of the submergence of land and other property, and of displacement without prior and sufficient warning of the impending filling of the reservoir. The displacement literature bears testimony to traumatic forced and delayed relocation, and to the denial of development opportunity for years and often decades due to a long and uncoordinated displacement and resettlement process.
- The numbers of both directly and indirectly affected people have frequently been underestimated, and there has been an inadequate understanding of the exact nature and extent of the negative effects involved.

The State and other project proponents, largely viewing displacement from the standpoint of its causes, consistently maintain that displacement is justified in the larger national interest. It is argued that while some displacement may be inevitable in large development projects, the long term good these projects will bring merits the sacrifice of a few in favour of the larger good.

This notion of displacement as “sacrifice” has influenced thinking on displacement considerably. It has stripped displacement of its political content, ie the fact that displacement involves the loss of people’s rights to land and resources. This has also led to a perception of resettlement and rehabilitation as a “reward” for the sacrifice rather than as a basic right or entitlement.

Those who view displacement from the point of view of its outcomes would in effect say that though some level of displacement may be inevitable its negative consequences are not. It is acknowledged that displacement causes severe social, economic, and environmental stresses that translate themselves into physiological, psychological, socio-cultural, economic, and ecological damage. At the same time it is maintained that by expanding resettlement objectives beyond merely aiming to improve the standards of living of the people, it would be possible to offset these disabilities. Thus moving towards such a just resettlement and rehabilitation is the focus of this school of thought. As a result displacement is largely viewed from the perspective of resettlement and rehabilitation and its attendant complexities. The concern of this school of thought is with effective rehabilitation, which it maintains can “manage”

displacement. So much so that very often displacement and resettlement are used interchangeably in this context, typically as involuntary resettlement in the case of the World Bank, for example.

The meaning of displacement has come to be more or less taken for granted, particularly in most academic literature. It is very important to understand that displacement is a multidimensional phenomenon of which physical relocation is only one of the most significant outcomes. The question of displacement is very often reduced to one of effective relocation. At best the displaced are viewed as a group of people who are in need of rehabilitation, not empowerment, for there is no recognition of their disenfranchisement.

The displaced people's movements have challenged this view of displacement with physical relocation at its centre and instead has as its core the historical experience of millions of displaced people (see SOC 060, 085, 157, 161).

This understanding of displacement highlights (i) the alienation of the individual and community legal and customary rights and dislocation of the social and economic organisation, and (ii) the politics of legal and policy instruments that sanctions such disenfranchisement. The focus is thus on the experience as well as the structures of displacement (see also Part II, Annex 2 of India Report 1999) [What does this refer to? See editor's report]

In this context displacement refers not only to those who are forced to physically relocate in order to make way for the project and its related aspects but also includes those who are displaced from their resource base and livelihoods. It is commonly experienced through the loss of land and the disruption of social and economic relationships (Bartolome et al 1999).

This paper will approach displacement from this broader and inclusive point of view. However, throughout this paper "negatively affected people" is used in order to avoid excluding the host population as well as downstream settlers, since both these groups are also affected to varying degrees by the construction of a dam.

3.2 Compensation

- Compensation has largely been understood to refer to specific measures intended to make good the losses suffered by people displaced and/or negatively affected by the dam. Compensation usually takes the form of a one-off payment, either in cash or kind and is principally about awards to negatively affected persons (Bartolome et al 1999).
- The losses incurred by people affected by the creation of infrastructure such as project offices and township, canals, transmission lines, and other activities are not usually properly accounted for and so these losses have not been adequately compensated. Similarly, the impact of the dam on the livelihoods of the downstream population and on people losing lands and livelihoods due to land acquired for compensatory afforestation has not been properly assessed and compensated.
- Compensation is most often awarded only to persons in possession of undisputed legal title. Tenants, sharecroppers, wage-labourers, artisans and encroachers are rarely considered eligible for compensation, whereas they are paradoxically the most vulnerable and in need of support.
- Community assets and common resources like grazing grounds and forests, which again may be critical for the livelihood of the poorest, are not compensated for under the acquisition process.
- The limited provisions in law to challenge the rate of compensation are, in practice, inaccessible to the negatively affected persons, because they may not be aware of the legal nuances or else cannot

afford the expensive remedy of courts. Even those that are able to access courts fritter away a substantial proportion of the gains that they achieve in legal costs.

- Many studies have recorded how cash compensation is depleted by negatively affected persons in short periods, by fraud, for repayment of old debts, in liquor and conspicuous consumption. A lifetime of livelihood security or shelter is squandered in months, sometimes weeks, condemning displaced persons to assured and irrevocable destitution.

Compensation has primarily addressed the loss of assets and property and not rights. The basis of compensation has thus been (i) legal ownership and (ii) individual claim. The general practice is to pay compensation for lost fixed assets like agricultural land at the prevailing market rate, calculated as an average of registered sales prices of land of similar quality and location in the recent past. It is value in exchange rather than value of replacement that is the basis of compensation.

To consider a typical example, the Fact-finding Committee on the Srisailam Project (SOC 159) found that the replacement value of one acre of dry land was around Rs.5000, and for one acre of wet land Rs.13800. The compensation actually paid was only Rs.932 and Rs.2,332 respectively. In this way, the amount paid as compensation was five times less than the amount that would be required by the negatively affected persons to purchase agricultural land of equivalent quantity and quality.

Compensation on basis of replacement value still restricts it to individually “owned” property; the totality of rights that are violated are not compensated (SOC 163). The most critical of these are:

- the customary and usufructuary rights of people to natural resources that are vital to livelihood and food security;
- the loss of the common property resources which constitute a valuable shared productive base of the community.

This highlights the need for compensation to be relocated in a framework of restitution of rights, both community and individual, beyond even replacement value.

3.3 Resettlement and Rehabilitation

Resettlement programmes have predominantly focussed on the process of physical relocation rather than on the economic and social development of the displaced and other negatively affected people. This has severely eroded the development effectiveness of resettlement and rehabilitation programmes and heightened the impoverishment risk of the resettlers. According to Cernea (1998) risks to adversely affected people are not a component of conventional project analysis. The key economic risks to affected people are from the loss of livelihood and income sources such as arable land, common property resources such as forests, grazing land, ground and surface water, fisheries, etc and changed access to and control of productive resources. The loss of economic power with the breakdown of complex livelihood systems results in temporary or permanent, often irreversible, decline in living standards leading to marginalisation. Higher risks and uncertainties are introduced when diversified livelihood sources are lost. Loss of livelihood and disruption of agricultural activity can adversely affect household food security, leading to under-nourishment. Higher incidence of diseases associated with deteriorating water quality can result in increased morbidity and mortality. High mortality rates, immediately after involuntary resettlement in Kariba and High Aswan dams, are cases in point. As Cernea notes (1998), forced displacement tears apart the existing social fabric, leading to socio-cultural disarticulation.

- Most projects have long planning horizons and the actual physical relocation comes a long time after the initial notifications. The interim period is one full of uncertainties and enormous psycho-

social anxieties for the to-be-relocated communities. Numerous examples exist of communities being subjected to multiple displacement by successive development projects

- The costs of the resettlement programme have invariably been underestimated and under-financed. It is often the case that it is always the resettlement and rehabilitation budget that is reduced whenever the project runs into financial problems.
- Institutional weaknesses, marked by confusions between various departments and the lack of capacity as well as continuity, have been major problems in ensuring effective resettlement.
- In the absence of policy and legal instruments and an effective mechanism to monitor compliance, even well-structured institutions with trained staff have failed in consistent implementation of effective resettlement.
- Generally, participation of the affected people has been superficial or treated as unimportant by those responsible for the project. More often they have been manipulated, co-opted, or directly excluded.
- Evidence suggests that for a vast majority of the indigenous/tribal peoples displaced by big projects the experience has been extremely negative in cultural, economic, and health terms. The outcomes have included assetlessness, unemployment, debt-bondage, hunger, and cultural disintegration. For both indigenous and non-indigenous communities studies, show that displacement has disproportionately impacted on women and children.
- Resettlement sites are invariably selected without reference to availability of livelihood opportunities, or the preferences of displaced persons themselves. Sometimes even temporary shelters are unavailable, and the first few months in the new site are spent in the monsoon rains under the open sky. House-sites are often much smaller than those in which the resettled people lived in the village, and temporary structures where they exist are made of tin or other inappropriate material and design.
- The question of livelihoods is a major issue in resettlement and rehabilitation policy. There is a reluctance on the part of governments and lending agencies to adopt and make operational policies requiring that the loss of agricultural land be compensated with alternative land, especially in the face of increasing pressure on land and the limited availability of arable land as well as its high price. This is despite the fact that most non-land-for-land programmes have failed to foster successful self-employment and other non-land-based livelihood strategies, especially in the critical areas of employment, skills, and capacity building.
- Forced relocation usually results in people being transplanted from a social ecology in which they were primary actors to one in which they are aliens; they are not only very vulnerable but also end up in most cases as an underclass in their new socio-cultural milieu.
- Communities of displaced people are invariably fragmented and randomly atomised, tearing asunder kinship and social networks and traditional support systems. Communities and often even large families are broken up and resettled over a wide area. The outcomes are psychological pathologies and alcoholism etc, common among displaced populations. It has been documented that this greatly enhanced psychological and psycho-social stress caused by involuntary resettlement heightens morbidity and immorality.
- The special vulnerabilities and specific needs of indigenous and tribal peoples have been inadequately addressed.

- Resettlement sites have been under-prepared in terms of basic amenities and essential infrastructure such as health, schooling, and credit.
- Generally, displacement as result of acquisition is legally sanctioned while, with few exceptions, there is no legal framework that governs the process of displacement itself.
- The existence of nation-wide norms and legally approved resettlement and rehabilitation policy has played a role in improving outcomes for affected people. However, in the absence of these, the role of multilateral development institutions has assumed significance. In the 1980s, the World Bank played a significant role in influencing the development of resettlement and rehabilitation policies or institutional framework to manage displacement and resettlement.
- Both in the case of national laws and international agency policies, there has been a wide gap between the laws and policies and their actual implementation. Cases include the Sardar Sarovar Project where apparently progressive state government and World Bank policies have failed to prevent widespread impoverishment and suffering among displaced people, and the Three Gorges Project in China where a national resettlement law has not prevented numerous problems from emerging.

In many cases the focus of resettlement programmes is simply to get people to move “out of the way” to the resettlement sites as quickly and smoothly as possible. A number of submissions and cases in the WCD’s review highlighted the exercise of intimidation, violence, and even murder to compel communities to move (see the discussion under Human Rights). Once people are relocated or even shifted out the resettlement programme usually fizzles out or loses momentum, with the displaced people now at their most vulnerable. The resettled people are most vulnerable to be forgotten once the physical relocation is complete, a waning of interest sometimes referred to as ““developer’s fatigue” (Argentina Report 1999).

Forced relocation disrupts, or even destroys, social organization of production, networks of relationships, allocation of resources, and an entire complex of rights, individual and communal. These cannot be restored by the mere provision of alternative land and housing.

Once it becomes known that people are to be relocated, a process of deferred investment sets in on the part of those to be resettled, as well as of outside sources, such as government and entrepreneurs. People in areas from which resettlement is to take place thus become poorer, even before they are moved. Resettlement in the absence of active development initiatives is thus likely to become impoverishment - the opposite of what it is intended to be.

Resettlement of displaced people is thus a process that is acknowledged as entailing several risks. As discussed above, Cernea identifies the risks as landlessness, joblessness, homelessness, marginalisation, increased morbidity and mortality, food insecurity, loss of access to common property and services, and social disarticulation (1998: 43-44). These risks render resettlement inherently problematic, and indeed impoverishment and disempowerment have been the rule than the exception with respect to resettled people around the world

Simply restoring the status quo ante in terms of material assets will thus leave people worse off than before. Therefore the main objective of a resettlement programme must be to improve the standard of living and not just restoration of pre-relocation standards of living. While the restoration of pre-relocation standards is still echoed in several resettlement programmes there is enough evidence to indicate that this goal is limited and inadequate (Scudder, T. 1997).

3.4 Rehabilitation and Development

Rehabilitation can be envisioned as a process that would reverse the risks of resettlement. Cernea suggests a risk and reconstruction model of rehabilitation that would be marked by a series of transitions from:

- landlessness to land-based resettlement;
- joblessness to re-employment;
- food insecurity to safe nutrition;
- homelessness to house reconstruction;
- increased morbidity and mortality to improved health and well being, and
- social disarticulation and deprivation of common property resources to community reconstruction and social inclusion (Cernea M.M. 1998:47).

“Rehabilitation is only possible where development takes place. Thus resettlement must be planned as an integral part of the comprehensive development project” (Jain, L.C. 2000). In this sense rehabilitation is really an outcome of resettlement that is conceived not as physical relocation or mere restoration of incomes but as development. This brings us to the question of development in the context of resettlement and rehabilitation.

One useful way of understanding development in the context of resettlement and rehabilitation of negatively affected people is, “in terms of the real freedoms that the citizens enjoy, to pursue the objectives they have reason to value, and in this sense the expansion of human capability can be, broadly, seen as the central feature of the process of development” (Dreze J. & Sen A. 1996:10)⁴.

A resettlement programme in order to qualify as development must therefore centre around: (i) enhancement of capabilities; and (ii) the expansion of social opportunities by addressing the social and personal constraints that restrict peoples choices. This would mean that resettlement with development entails questions of resources and rights that would affect the quality of life of the people.

“The success of development programmes cannot be judged merely in terms of their effects on incomes and outputs, and must, at a basic level, focus on the lives that people can lead” (ibid:13). This would mean (i) tangible benefits like lower morbidity and mortality, an increasing level of education, increasing incomes through opportunities for employment and livelihood; and (ii) empowering the displaced people through building capacities by their participation in the entire decision-making process of the development project and resettlement.

We will once again return to the issue when we discuss the question of what constitutes the fundamentals of a “successful” developmental resettlement programme. One overarching issue is the need to move from a context where “forced evictions” or “involuntary resettlement” is assumed to be the norm, to one where displacement becomes voluntary and takes place on the basis of negotiated agreements between developers and affected people.

4. The Institutional and Political Context of Displacement and Resettlement

4.1 Land Acquisition: Law and Policy

In India the Land Acquisition Act lays down that among the factors that are not to prevail with any court of law is "any disinclination of the person interested to part with the land" (Ramanathan: 44 in SOC 163). There is no need for the State/Owner to demonstrate to the people to be displaced that the project is indeed in the public interest. The same is the case with the Ghanaian State Lands Act of 1962 and its subsequent amendments that provided for the acquisition of land in the national interest (Africa Report 1999). The Public Interest Appropriation Law was used in Argentina to acquire land with just monetary compensation and no provisions for resettlement or development (Argentina Report 1999). The notion of eminent domain, still very much entrenched, has put public purpose beyond public debate and even judicial appeal. Land acquisition is more than just an administrative process of transferring ownership. Underlying it is a discourse⁵ built around the principle of eminent domain, assuming the inherent superiority of the state in determining the public interest.

The guidelines and norms used by international funding and development agencies to govern the processes of resettlement have played a crucial role in addressing issues of compensation in land acquisition. However, despite national (also provincial/regional) policies, and even legislation governing the process of resettlement that has been developed over the past decade, the power of the State's interpretation of public purpose continues to maintain its sanctity. In spite of the largely progressive changes, "any disinclination of the person interested (the potentially displaced) to part with land" is not accepted. This continues despite being contradictory to other laws and policies.

Articles 231 and 232 of the Brazilian Constitution explicitly acknowledge the rights of indigenous people over their lands and resources. The constitution also recognizes them as "legitimate parties in the defence of their rights and interests" (Rodrigues J. & Macuxi E.P. 1999). This has, however, not prevented forced acquisition, and people are forced to defend their rights rather than the State/Owner being forced to demonstrate its right. The conflict between national goals of equity and the more instrumental goals of a specific project is best apparent in the case of the Pangué Dam in Chile. The indigenous Pehuenche people and other civil society institutions opposed acquisition under the Constitution, the Indigenous Peoples Law of 1993 and the Environment Law 1994 as they were not convinced of the public interest but also of the ability to mitigate all negative impacts on people and the environment. The government, however, invoked the Electrical Services Law of 1982 (decreed during the Pinochet dictatorship) to privatise the Pehuenche lands and facilitate acquisition (Gabb C.O. 1999). Similarly, in India the Land Acquisition Act contravenes the letter and spirit of the Panchayat Extension to Scheduled Areas Act 1998 that gives the tribal people in these areas the right over their lands and natural resources (for a detailed discussion of the same see the India Report 1999).

It is clear that the process of land acquisition is inextricably linked to the process of governance itself. There is a strong case to move away from acquisition without consent to a process that is more in keeping with democratic rights based on a participatory demonstration of public purpose and a negotiated acceptance of the social costs and benefits.

4.2 International Finance and Role of the World Bank

The role of international institutions such as the World Bank has been a major theme in several of the submissions received by the World Commission on Dams (SOC 031, 041, 043, 072, 133, 157, 161 and other presentations in the Regional Consultations and Hearings).

The major international agencies that have financed the building of dams worldwide include:

This is a working paper prepared for the World Commission on Dams as part of its information-gathering activity. The views, conclusions, and recommendations in the working paper are not to be taken to represent the views of the Commission.

- multilateral development banks such as the World Bank Group, Asian Development Bank, Inter-American Development Bank;
- bilateral aid agencies, prominent among which are CIDA (Canada), SIDA/BITS (Sweden), USAID (United States), JICA/OECF (Japan), DfID/CDC (United Kingdom) and NORAD (Norway), the former USSR;
- UN agencies such as the UNDP, and
- export credit agencies such as the Exim Bank (United States) and Jexim (Japan).

Of the above the World Bank Group has perhaps been the most influential funder of dams across the world. By 1994 it is estimated that the World Bank had disbursed nearly US\$58 billion dollars in dam-related loans and supported the construction of nearly 600 dams around the world (Colajacombio, J. 2000). Another reason for the importance of the World Bank Group is that one of its members, the International Finance Corporation (IFC), is "the largest multilateral source of loan and equity financing for private sector projects in the developing world" (IFC 1999). Since its founding in 1956, IFC has committed more than \$21.2 billion in financing for its own account and has arranged \$15 billion in syndications and underwriting for 1 852 companies in 129 developing countries⁶.

International institutional donors have not only funded dams across the world but have also developed series of policies, guidelines, and norms to govern how to deal with a range of social, environmental, and economic issues of dams. In this sense the role of the World Bank has been very critical. The World Bank has drawn up several operational directives (now in the process of being reviewed) that include mandatory policies, operational guidelines, and Bank procedures to deal with issues pertaining to resettlement such as baseline surveys, compensation, relocation, income restoration, and other related aspects. At the same other critical areas like environment and indigenous people have also been the subjects of other operational policies. This has largely been a response to the increasing pressure of the non-government and peoples' organisations from around the world, particularly in the 1980s, who "put the spotlight on the failures of past resettlement practices and made resettlement a salient issue" (World Bank Report 1998).

At the same time the global experience has largely been that with few exceptions - such as China - national governments in the developing world have preferred to follow suit rather than lead the way as far as policy or legislative interventions in the area of development-induced displacement. (China Report 1999, Africa Report 1999, India Report 1999). In this sense the World Bank, especially as a public institution that is a subject of international focus, has played a substantial role in "leading the way" among international agencies in evolving policy initiatives to mitigate the impacts of displacement. "The increasing intervention of international banks (such as the World Bank and the Inter-American Development Bank) led to the adoption--reluctantly in many cases--of the resettlement and compensation policies developed by these institutions" (Argentina Report 1999: 2-3).

While the World Bank has not been found wanting in drawing up policies and guidelines, one of the major criticisms it faces is its failure to enforce them satisfactorily. "The Bank has consistently failed to implement and enforce its own policy on forced resettlement, first established in 1980" (Manibeli Declaration 1994, McCully P. 1996, AAA 1998). This has also been the subject of several internal reviews within the World Bank, most notably in 1992, and 1996. The recent review of selected projects by the Operations Evaluation Department in 1998, while noting some positive developments on issues such as compensation, social infrastructure and income restoration, sums up the Bank's Performance as follows:

The scorecard is not as good as OED had anticipated. Projects appraised in the mid-1980s still suffered from underdeveloped resettlement components. The Bank played a less prominent role than expected, both in strengthening components during appraisal and in monitoring them in the first few years of implementation. The Bank's expanding team of sociologists and resettlement experts were still advising from the sidelines in some important cases. The best news is a distinctive trend toward

improved planning, including preparation of Resettlement Action Plans, in the early 1990s. But this shift came too late to influence the design of resettlement components of projects in the study, so more active Bank intervention only amounted to a salvage operation at Itaparica, Karnataka Krishna, and Kedung Ombo. Nevertheless, all signs indicate that performance across the portfolio has been better than during the previous decade, at least in the planning phase. (World Bank Report 1998).

The criticisms of the World Bank are, however, not just limited to the question of enforcement of its policies, but cover several other critical issues. One of the most significant is the lack of transparency and peoples' participation in the decision-making processes of projects (AIDA, Sao Paulo 1999). Another major criticism has also been the silence of the World Bank on borrower country practices regarding displacement and forced resettlement, particularly with respect to issues of accountability and human rights (Chen C.; Gabb, C.O. Sao Paulo 1999). There have even been calls for a moratorium on the World Bank's funding of dams and a suspension of investments in new projects till the present controversies are resolved (SOC 060; Colajacombó, J. Bratislava 2000). For its part the Bank has responded by adopting new operational policies and directions, such as the Public Information Disclosure Policy, and in some specific cases with Independent Reviews and Evaluations (SSP in India). The establishment in 1993 of a high-powered Inspection Panel, with guarantees of independence and autonomy and reporting directly to the Board, was another significant development. However, recent policy developments in the Bank show a disturbing trend of shifting some formerly mandatory requirements to advisory "best practice" status.

It is clear that the priorities and agendas of international financial institutions such as the World Bank have played a major role in shaping not just the debate on the issue of displacement but also the very experience of displacement for millions of people across the world. In conclusion it is perhaps appropriate to note the point made in one of the Submissions (SOC 161: 1483): "It is clear from the experience with other World Bank funded projects that the degree of its capacity to enforce its policy is linked to the nature of the regime in power, the strength of the economic and political interests behind the regime, the nature of the countervailing pressure of organisations of affected people as well as the Bank's own structural incapacities".

4.2.1 Privatisation and the Market

This is another critical issue that forms an important theme of several submissions on displacement and resettlement received by the WCD (Mexico Report 1999, SOC 025, 041, 047, 053, 060, 072 and other presentations).

"The growing privatisation of formerly public sector activities, in energy, water and large infrastructure projects, begs for a new planning model for resettlement, rehabilitation, and reparation. This is true in Mexico and elsewhere. Those individuals and communities affected by these projects, large and small, require a regulatory and accountability framework that is presently non-existent" (Mexico Report 1999: 6).

The growing presence of private capital in large development and infrastructure projects is of direct relevance to issues of displacement and resettlement. The most significant questions centre on the relationship between private capital, public interest, and social (and environmental) costs. It is feared that the increasing privatisation may undermine the institutional and political advances with respect to peoples participation in governance that have been made in recent years, particularly in areas like Latin America that have only recently witnessed the expansion of democratic political processes (Vainer C. 1999).

The conflicts between private capital and public interest are well illustrated in the case of the Maheshwar Hydroelectric Project, the first large hydropower project in India. In this case the private

developer has refused to accept full responsibility for resettlement on the grounds that it is the responsibility of the State government (SOC 025, 157). An investigation by a German NGO, Urgewald, in 1999 revealed that the private developer's cost-benefit analysis was based on erroneous data (poor villages, unirrigated lands, little infrastructure). Besides questioning the economic viability of the project, the report also documents the underestimation in the extent of submergence and displacement and the lack of resources for adequate compensation and resettlement (Urgewald 1999). The case of the Maheshwar project also throws up the painful reality of the failure of public institutions and mechanisms to consistently safeguard citizens' rights. In the absence of strong public institutions and effective mechanisms to protect the rights and interests particularly of the poor, privatisation and a free-play of markets will probably serve the interests of profits rather than the public interest.

The controversy between generating greater profits and the social costs of dams is perhaps most graphic in the case of the proposed Lower Churchill Hydroelectric Project in Labrador and Quebec (SOC 047). The projects are to be constructed by Hydro Quebec, one of the largest power utilities in the world. The project if constructed will completely flood and submerge the most important territory and habitations of the Innu indigenous people who have lived in these areas for nearly 2000 years (SOC 047). While the project is expected to generate around 1000 MW and 2200 MW for the provinces of Newfoundland and Quebec respectively, the latter (Quebec) has no need for the power and actually plans to sell the power in the neighbouring United States' newly deregulated north-eastern markets. "For Hydro Quebec, the Lower Churchill is part of a plan for a massive increase in electricity generation for markets outside of the province, boosting profits from \$760 million in 1997 to an estimated \$1.9 billion in 2002" (Canadian Geographic, Nov/Dec 1998: 63 in SOC 047).

4.3 Human Rights and Transparency

A large number of dam projects around the world have met with stiff resistance and opposition, particularly from people who stand to be negatively affected them. "The existing legal framework on natural resources...confers totalitarian powers on the State, leaving the public no option but to oppose it in totality. There is no scope in the existing legal framework for people's participation in debating the merits of the project or in creating alternatives, which is the fundamental right of people in any democracy" (SOC 049). Time and again there have been violations of human rights and the use of force rather than open negotiation to quell protest.

Perhaps one of the earliest tragedies is the fatal shooting by colonial police of eight Gwembe-tonga people who resisted displacement for the Kariba Dam in (present day) Zambia in 1958 (Syankusule, D.S. Cairo 1999). In fact for thousands of people displacement has essentially been through official coercion:

- through misinformation or threats and intimidation;
- using the police and in some cases even the military; or
- simply letting the reservoir fill, forcing people to leave their homes.

Various submissions from Sri Lanka, Colombia, Mexico, India, China, Panama, Brazil, Slovakia, Turkey, and Indonesia all refer to instances of the use of illegitimate means to force people to move.

In the last few years intellectuals and indigenous leaders attempting to win improved compensation and mitigation measures for the people affected by the Urrá dam in Colombia have been murdered while other supporters have been exiled (SOC 041; Ek, G. 2000). In India too, dam opponents have been targets of violence arbitrary arrests, illegal detentions and assaults on activists, the ransacking and looting of the offices and property of the peoples' organisations, and the use of excessive force in dealing with peaceful demonstrations has been a part of the government's response to the opposition (SOC 019, 157; India Report 1999).

Corruption is another malaise that has dogged resettlement programmes, as usual at the expense of the displaced people. To consider just one example: "According to National Audit Office...officials had embezzled 323 million yuan from funds earmarked for resettlement in the Three Gorges Area" (China Report 1999: 32). Without a doubt every case of misappropriation would inevitably eat into the already insufficient funds for resettlement, further weakening the programme. Corruption is of course widespread, the most recent controversy being over the Lesotho Highlands Project, and this simply highlights the need for transparency and people's involvement in every aspect of the resettlement programme.

4.3.1 Chixoy, Guatemala (Chen, Sao Paulo 1999)

One of the worst cases of violations of human rights has been the case of Chixoy dam in Guatemala. The Chixoy dam, funded by the World Bank, Inter-American Development Bank, and the Italian government was built in an area inhabited by the indigenous Maya Achi. The campaign of terror against the Maya Achi people of Rio Negro village began after they refused to move to the cramped houses and poor land at the resettlement site provided by the Guatemalan power utility INDE. Prior to the completion of the dam and the filling of the reservoir nearly 400 people from Rio Negro, most of them women and children, were killed by the armed police and military.

The issue remained largely unknown by the outside world until a 1996 investigation by Witness for Peace. The investigation established that some 376 people from the village of Rio Negro -- around 1 in 10 of those to be resettled in the dam submergence zone -- were massacred between 1980 and 1982. The Witness for Peace report states that "the Rio Negro victims died because they blocked the 'progress' of the Chixoy Project" (1996). Many villagers believe INDE encouraged the violence so that their officials could pocket compensation payments due to the villagers (Witness for Peace 1996)⁷.

4.3.2 Panguel and Ralco, Chile (Gabb, C.O. Sao Paulo, 1999)

In 1990 the Government of Chile approved plans for a series of six hydroelectric projects on the Bio-Bio River by ENDESA, a private energy corporation. In 1993 work began on the first of the six planned projects with loans from the IFC (the private sector funding arm of the World Bank). The Government proceeded with the project despite opposition from Pehuenche indigenous people (who were to be directly affected by the project) as well as other social and environmental groups in Chile.

Though the project progressed protests continued to grow. The IFC suppressed and censored two independent evaluation reports, the first submitted by Dr. Theodore Downing in May 1996, and the second submitted by Dr. Jay Hair in 1997 (who had been appointed by the World Bank President). The two reports had documented the serious shortcomings and failures on the part of ENDESA and IFC as well as the Pehuen Foundation. The IFC not only suppressed the reports, but also (in violation of the contract with Downing) refused to disclose it in full to the Pehuenche. The Committee for Human Rights (CfHR) of the American Anthropological Association (AAA) conducted an investigation into the affair following a complaint by Downing and submitted its report in 1998 (AAA 1998).

The AAA Committee Report, prepared after extensive review and talks with IFC officials, states that the IFC "withheld Downing's report because of the political volatility of the information and findings in it. The report contained evidence of extensive, unmitigated damage resulting from Pehuenche community lands, multiple confirmed threats of involuntary relocation, practices by the Pehuen Foundation that constitute a dramatic assault on the customs and cultural traditions of the Pehuenches, and action to cover up vital information that would permit the discussion of alternatives to lessen the present cultural, economic, and environmental damage" (AAA 1998: 10).

The AAA Committee also found that the suppression of the two reports was vital in ENDESA succeeding in getting a clearance from the Government for the construction of the Ralco dam, the second of the Bio-Bio projects. In fact Downing was granted permission to make his report public only

after the public review period for the Ralco project had expired. In March 1997, ENDESA refinanced its loan through the Dresdner Bank of Germany, thus effectively removing the Bio-Bio project from IFC's purview (AAA 1998).

"The conflict between economic privatisation, human rights and social, cultural and environmental values has become an increasingly pervasive feature of the contemporary world..." (AAA 1998:21). The AAA report, while arguing the need for greater accountability of "projects" to the people who would be affected and the need for transparency, also underlines the urgent need to effectively strengthen public mechanisms in order to protect the rights and interests of project-affected people.

5. Towards a ‘Successful’ Resettlement with Development: Learning from Experience

“Positive resettlement and rehabilitation is not merely, or even principally, a matter of efficient planning and implementation. There is a power element inherent in some people having the legal, administrative and military means to oblige other people to move. It is usually the less powerful and less well-off who are resettled and they are very often further prejudiced by the difficulties and complexities of the resettlement and rehabilitation process” (Bartolome et al. 1999).

The global experience of displacement and resettlement offers overwhelming evidence that for resettlement to be a positive experience it has to be an integral part of a new approach to planning and implementing development projects such as dams. For resettlement to be a development experience, the process will not only have to deal with the complexities and risks of resettlement itself but also effectively engage with the whole range of political and institutional factors of those risks, ie the “power element” inherent in the experience of displacement.

This section is an attempt to bring together experiences in displacement and resettlement from around the world (drawing from the submissions/presentations to the WCD and the Country Reports) that hold significant lessons in terms of conceptualising and making operational resettlement as development. Needless to say this entire exercise is built around a series of case studies⁸ from which we will attempt to distil the “lessons” ie principles and components of a successful resettlement experience.

5.1 Establishing Public Purpose and Minimising Displacement

As examined in the Section IIA, most resettlement continues to be involuntary and forced. Legal and policy instruments still continue to be dominated by notions of displacement as “sacrifice” in the interests of larger public purpose. The definition of public purpose is at best elusive and the process of determining it is often arbitrary, usually non-participatory, and based on criteria which are never clearly defined. As a result huge social and environmental costs have often been “written off” in the name of public purpose. It has been used not only as a justification but also to exclude the displaced people (who actually bear the social costs) from the process of determining the acceptability of these costs and effectively from the very process of deciding to build the dam. In this sense forced displacement and relocation not only runs against the grain of participatory development and democracy but is also contrary to the spirit of public purpose.

The review shows that displacement is very often the result of projects that have enforced certain technical and economic choices. The economic and technical optimisation of dam projects has often been at the cost of externalising social and environmental costs from analysis of benefits, a trend that is only recently changing, slowly but in significant ways. In practice, there is a tendency to greatly exaggerate the expected benefits of any project, whereas social and human costs are severely downsized and presented as manageable or simply ignored. The last option is of course becoming increasingly difficult in the face of popular protest as well as pressure from financing agencies. Hundreds of dams around the world have become the focus of controversy and popular resistance owing to a “questionable” costs and benefits accounting.

The Southern Okavango Integrated Water Development Project (SOIWDP) in Botswana is a case in point (?, Cairo 1999). The SOIWDP involved a 45km channelling of the Boro River and the construction of three dams including a pipeline. The project however met with stiff resistance from the local communities as well as conservation organisations who feared for the sustainability of the delta and also questioned the claimed benefits of the project. The national government in response commissioned an independent review of the project through the World Conservation Union (IUCN).

The review concluded that the negative impacts far outweighed the benefits and the Government of Botswana withdrew the project, despite having spent nearly £11 million on it.

The decision to have an independent review of the project by an unbiased organisation such as the IUCN was a very significant step in acknowledging the concerns of the local communities as well as other civil society organisations regarding the costs and benefits of the project. Far from begging any question on the sovereign nature of the Government in Botswana, the commissioning of an independent review by an international NGO “actually demonstrates the commitment to the principles of democracy” (OLG, Cairo 1999).

The estimation of social and environmental impacts and their costs has often been a bone of contention between project proponents and the people who are to be negatively affected. The process is compounded by the complex nature of the problems of quantifying and accounting for social and environmental “costs”. A distinct but related reason has been the exclusion of the negatively affected people from the process of assessing impacts and costs, whereas they are in the best position to actually define these costs. The process is rarely participatory, as a result of which the assessment of impacts and costs sponsored by project proponents is often under suspicion, almost inevitable given the history of “marginalising” such costs and the strength of engineering biases.

“As such, the process of demonstrating the ‘public purpose’ of the project should be conveyed through the early documentation process, namely the EA and the project feasibility study, documents that are integral to hydroelectric and large dam projects. Once the site of the dam and the purpose of the project are determined and defined by parameters of engineering, cost, scheduling and the analysis of social and environmental impacts, the ability...to significantly change the features of the project are reduced, flexibility on these matters is sacrificed” (US Ex-Im Bank 1999). This highlights the importance of determining public purpose and assessing social impacts and costs in a participatory and transparent manner as they can potentially influence the fundamental features of the project to minimise displacement and social and environmental costs. The process of establishing public purpose and the objective of minimising displacement therefore actually serve each other, but in practice they continue to be isolated.

Minimising displacement and other social and environmental costs is becoming increasingly significant, considering the experience of displacement and the complexities and risks of resettlement. Frequently this objective can be achieved through non-fundamental modifications in the project (such as decreasing the height of the dam wall) and through a careful trade-off between the technical optimisation of the project and the minimisation of its social costs. In other cases a more fundamental redesign or abandonment of the project may be necessary.

Recent examples where projects have been redesigned to reduce displacement numbers include the cases of Saguling (Indonesia) and Shuikou (China). In the case of Saguling, the lowering of the dam height by five metres reduced the extent of displacement by half, while in the case of Shuikou, protective works around towns and the area at the top of the reservoir also reduced displacement significantly (Scudder, T. 1997). In both these cases the World Bank played a crucial role in prompting design changes.

Thus the role of other stakeholders, particularly funding agencies, could also prove critical in reducing displacement. In fact all international development financing agencies must commit to a serious exploration of options and alternatives that will reduce environmental and social costs.

While stressing the importance of a participatory process, it is important that the negatively affected people are enabled to participate in a meaningful way. Apart from legal and policy provisions such as public hearings (which we will consider later) the people who may be affected need also to be enabled in terms of the skill and resources to inform themselves better. A possible resolution of this question is

provided in the case of the Great Whale component of the James Bay Project in Canada. In this case the project proponent, Hydro Quebec, provided funds to the Grand Council of the Cree (the affected indigenous peoples organisation) to enable them to commission their own studies of the impacts of the project (Scudder, T. 1997).

5.1.1 Basic Principles

“I think that if the government tells the people they have to resettle, then the government has to prove to those people that resettlement is development and will make their lives better... This situation now, it is not development. Development is supposed to make people better off, not destroy our lives” – Mrs. Lamduan Saelathong of Don Sawaan village displaced by the Pak Mun dam in Thailand (SOC 133).

It is only fair and just that any process such as displacement that can drastically affect the rights of people, particularly those with respect to lands and livelihoods of vulnerable communities, must be biased in their favor. The objective is not to deny the legitimacy of the State or supra-local interests that national and regional development represents, but rather to prevent abuse. At present, since the onus of “disproving” public purpose and the estimation of costs and benefits is on the negatively affected people, they are on the defensive in the face of the merest intention of the State or any executive action to take over their lands and livelihoods. In the interest of democratic and participatory rights this situation has to be reversed to ensure that “development decisions” are not pre-determined by force of law or administrative dictat, but are the result of a participatory process. The State/project proponent must demonstrate that the project is the option with the least social cost, and through collective negotiations ensure the acceptance of affected people that any (potential) resettlement will actually result in development, ie an improvement in the quality of life of the (negatively affected) people, failing which they have a right to refuse to be displaced.

To qualify as public purpose, any development project must ensure that: (i) the costs and benefits are distributed in accordance with the principles of equity; (ii) the assessment of impoverishment risk associated with the project is made; and (iii) the negative impacts of the project are kept to a minimum. In keeping with these fundamental principles of participatory development and democracy, there is a need to move away from forced displacement towards a process of voluntary displacement on the basis of collectively negotiated agreements between developers and affected people.

Prior to the commencement of any process of acquiring land for the construction of a dam (or any related aspects) the State or the project proponent, with its vast resources, must bear the burden of proving the public purpose of the project through:

1. A social cost benefit analysis that will consider the following⁹:
 - What will be the overall social and ecological impacts of the project? What will be the “costs” of these impacts for the lives of the various sections of people and the environment?
 - How the project will alter the existing distribution, use, access, and control over the natural resources in question? Whom would such a change favour and at whose costs? And will they be in keeping with the principles of equity and distributive justice? In other words, who will benefit and how?
2. An impoverishment risk analysis:

Following from (1), the purpose of impoverishment risk assessment would be to determine the magnitude of risk associated with dams or other alternatives for vulnerable groups, covering a range of people from upstream and downstream communities. The assessment could be structured around the elements of risk assessment: landlessness, loss of access to common property, joblessness, marginalisation, loss of access to social services, homelessness, food insecurity, increased morbidity and mortality, and social disarticulation (Cernea M.M. 2000).[not listed]

3. Exploring ways of reducing the extent of displacement and minimise impoverishment risks for the vulnerable groups. Is the project the least social cost alternative in the context of sustainable and equitable development and the various options available to meet the specific needs and objectives?

The risk analysis and the establishment of the project as the least displacing alternative must be an exercise that is both justiciable and participatory in the widest sense¹⁰ (the next section considers strategies to enable such participation, including legal and policy options).

- It must involve all sections of the community that stand to be negatively affected, through local consultations with the negatively affected people, including all traditional/customary social organisations, the basic units of local governments and other statutory and non-statutory citizens' bodies.
- During the process of consultations, special attention must be paid to the "voices" of the marginalised groups in the community, most specifically women and indigenous people.
- Voluntary and peoples' organisations as well as other competent civil society institutions must also be involved in the process.

In keeping with the fundamental principles of participatory development and democracy there is a need to move away from forced relocation and displacement to a voluntary, participatory, and collectively negotiated process which respects peoples rights .

The decision to build a dam must rest on the nature and extent of risks of the project to the people who may be negatively affected and the nature and extent of the benefits they expect to derive from it. Risk analysis can serve as a procedure that can be used to look at options to dams, options becoming more important as the magnitude of risk for dam-affected people increases. During the options assessment process, a participatory assessment is needed of the full range of people that could be negatively affected by a dam (as well as other options), such as resettlement site hosts and downstream communities.

5.2 People's Participation in the early stages of the Project: Some Enabling Legal and Policy Options

The people who may be negatively affected by the project are in effect contributing to the value of the project through their acceptance of the costs and benefits of the project. Their participation in the decision- making process is thus a matter of right rather than process.

The review shows that more often than not the negatively affected people first learn about a dam and related projects when the procedures for land acquisition are initiated. By this time most of the crucial decisions regarding the various aspects of the project have already been made. There is in reality very little scope for meaningful participation other than in negotiating for better resettlement benefits, leaving the negatively affected people in a position of weakness.

This highlights the significance of participation by such people in the early stages of the project prior to the commencement of land acquisition and physical work, when they can wield significant influence on all aspects of the project that can potentially influence them.

5.2.1 Public Hearings and Reviews

Public Hearings and Reviews are perhaps the most widely used strategies to enable people to participate in the decision-making process. In Brazil and Nepal (just to take two illustrations) the mode of public

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review of project impacts through public hearings has been successful to some extent. The role of NGOs and people's organisations and their national and international networks has, however, been critical in ensuring what success these instruments have had. The Arun III project in Nepal is a case in point. International pressure as well as strong movement within Nepal was critical in the project being subjected to a thorough open review, as well as being examined by the World Bank's Inspection Panel (SOC 031, 049).

While public hearings are an important innovation (at least as far as their institutionalisation is concerned) there is long way to go before they really become the participatory and empowering tool that they can be. The timing and context of the hearing with respect to the project is crucial. To recollect what has been said earlier: "Once the site of the dam and the purpose of the project are determined and defined by parameters of engineering, cost, scheduling and the analysis of social and environmental impacts, the ability of the information gathering process through public hearings to significantly change the features of the project are reduced, flexibility on these matters is sacrificed" (US Ex-Im Bank 1999). Public Hearings need to be held at a stage in the project when there is the possibility to effect changes in the fundamentals of the project.

In Nepal the government has also introduced a screening and ranking procedure for hydro projects. This procedure allows projects to be ranked according to their desirability, not just in terms of techno-economic considerations, but also in terms of social and environmental impacts (SOC 031).

The Sri Lankan procedures also offer some interesting alternatives. The Project Proponent (PP) first submits an Environmental Impact Assessment (EIA) to the Project Approving Agency (PAA). This is then open for 30 days of public commenting. Once the PAA receives the public comments, the project is evaluated by a Technical Evaluation Committee (TEC) appointed by the PAA; the fate of the project is decided on the basis of its recommendations. In case of rejection the PP may appeal to the Secretary of the Ministry of Environment who will have to have a public hearing before taking a decision (SOC 029)¹¹.

Independent Public Review is another useful strategy that has been adopted. The case of the SOIWD in Botswana where the Government ordered an independent review by the IUCN has been examined in the previous section. The World Bank too has resorted to this, most notably in the case of the Sardar Sarovar project in India, which ultimately led to its withdrawal from the project. Independent Reviews are most effective when they are conducted by organisations / people who enjoy a relatively high degree of credibility from all stakeholders and when the methodology of the review is participatory and transparent. The key issue however is the degree of enforceability of the Review's findings. In this sense Independent Reviews are effective only when all parties are legally bound to submit to the findings.

The basic precondition for any of these measures to be effective is the presence of transparency. Despite the progressive changes in Nepal, information on projects is still hard to come by. As one of the submissions on trans - Himalayan dams puts it: "Facts and figures on the dam project are difficult to put together. Enquiries are generally met with a stony silence. None of the project offices in New Delhi or Kathmandu is forthcoming with the Detailed Project Report, Human costs, Environmental Impact Assessment and mitigation measures" (SOC 049).

5.2.2 Social Impact Assessment

Environmental impact assessment reports have now been incorporated into the policies of several countries such as Nepal, Brazil, Chile, South Africa, and India. The environmental impact assessment has more or less come to be accepted as a norm, with the social impact component being "built in". As a result it is often not given the kind of importance that it merits. There is a strong case for having a

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distinct social impact assessment of every project. An important outcome would be a basis for impoverishment risk assessment for vulnerable groups, emerging from detailed socio-economic, demographic and epidemiological base-line information, and planning a process to reverse it.

A social impact assessment process should be built on three elements:

- a detailed assessment of the socio-economic conditions of the people who may be negatively affected (Cernea's risk assessment model can be useful);
- a detailed study of the impacts in terms of the extent of displacement, the loss of livelihoods, the second-order impacts as a result of submergence, construction, mitigation measures, downstream impacts, and host communities;
- a detailed plan to mitigate these impacts and an assessment of the costs of such measures.

It is essential to generate key indicators based on the social impact assessment in order to facilitate monitoring. Most essential of all is that impact assessments should be transparent and participatory and done with the full knowledge and consent of the communities being assessed.

5.2.3 Right to information

The right of populations that may be affected by any proposed project, and all other concerned citizens or groups, to challenge claims regarding the necessity of displacement and the public purpose of any project, is critically dependent on the right to access information. The right to information about development projects must be legally guaranteed to all people.

In the context of big dams, this would entail full access to all aspects of the project, including:

- the assessment of all costs and expected benefits; the assessment of the range of technical and locational options;
- reasons for selecting one alternative from the constellation of options;
- full details of communities and areas to be affected and the precise nature of impacts.

It is not enough that all this information is made available in public places, including in the local administrative headquarters of all affected areas. An endeavour must also be made to demystify this information and make it easily available to people in an idiom they will understand. The project proponent would have to take responsibility for this.

5.2.3.1 Options and Strategies

Information Centres

The Environment Impact Assessment Act (EIA Act) of 1994 in Slovakia, for instance, provided for the establishment of Consultation-Information Centres (CIC) to allow for greater information flow and communication with the negatively affected communities. This is in principle a very positive idea, but one which has been taken over by the project proponents according to their own agendas. The State-funded CICs became conduits for the project proponents to pacify public protest through misinformation and manipulation of opinion (SOC053).

“These centres systematically monitored and assessed the attitude of affected citizens towards the project, together with their needs and demands, and so provided progressive reports and recommendations to the investor (eg what manner of communication to use with the affected communities; which promises would have the greatest effect in altering their attitudes; the timely calling of public meetings, etc.)” (SOC 053: 4). The CICs have tended to project the “greater social need of the project with no information provided on alternatives”.

Despite the reported criticisms, the idea of information centres is of some value, especially where information is so hard to come by. The problems that have arisen as in the case of Slovakia might be remedied to an extent by locating the information in several locations. These could include the offices of local voluntary organisations, co-operatives, and other significant public and private institutions. This would perhaps provide some protection against misinformation and manipulation.

‘Act-Keeper’

There is great merit in the suggestion from Sweden (a country where following a long and intense debate a moratorium has been declared on dam building) that in every negatively affected community a local person should be engaged as an “act keeper” of documents related to the project as well as relevant laws and policies that would enable the community to “watch, understand, defend and assess their losses, costs and rights” (Lovgren, L. 2000). The Project proponent, while underwriting the costs of the exercise of preparing the documents in an appropriate form and language and distributing it, should not have any role in assigning the actual “act-keeper” or in suggesting the termination of such services.

A “conceptually sound SIA, constructed with greater participation and involvement of the affected people would generate a greater capacity to explore ways of minimising displacement, to ensure cultural and ecological compatibility, to maintain community integrity and viability, and to maximise returns from new investments arising out of project implementation” (Bartolome et al. 1999: 22).

5.2.3.2 Basic Principles

The issue of peoples’ participation in the early stages of the project is both complex and imperative. Some of practices examined above point to a possible resolution of this issue. There is little doubt that ensuring real participation means a lengthier period of negotiation and even conflict. However “the zero- conflict models frequently adopted by planners assume unrealistically that wolves and sheep may have common interests and the same capacity to lobby for these. The answer, we believe, is to encourage the self-organisation of the powerless and accept that conflict may be a part of the process of negotiating a solution” (Argentina Report 1999: 32).

This process, if effectively carried through, could ensure the empowerment of people who may be negatively affected in the decision-making process, especially with regard to the project’s impacts, to possible alternatives as well as to the sharing of benefits. It could also effectively end all future controversies regarding the public purpose of the project, the nature of costs and benefits, etc. These are controversies which today dog hundred of projects around the world, slowing them down and in some cases even resulting in their abandonment, at huge cost to all stakeholders. Therefore a longer process of negotiation, contrary to fears, may actually ensure a smoother and faster implementation of the project.

People have to participate in the decision-making process not as “negatively project-affected” but as primary actors who contribute to the socio-economic value of the project through their acceptance of its costs and benefits.

Real participation implies “agency”, ie the capacity to impact on decisions.

The cost of a lengthier negotiating stage may repay itself in a swifter implementation and in better (more just) results

5.3 Affected People as Beneficiaries

The review shows that the majority of the people who have been displaced and negatively affected are poor and vulnerable. Moreover, for the vast majority of these people, resettlement has been an impoverishing and disempowering experience. That dams intended as development projects have left millions of people around the world poorer and more insecure is a painful contradiction.

What does it mean to be a project beneficiary? Scudder (1999: page?) answers comprehensively:

“a). It means that the balance between compensation (mitigation issues) and development favours development and that development considerations take precedence over physical removal to new housing, over compensation for resources lost and over provision of such infrastructure as roads and social services. It is not that less emphasis should be paid to physical removal and compensation but that more emphasis should be paid to development

b). It also means incorporating host communities as project beneficiaries so that they do not become worse off than those resettled among them. An unfortunate cost that frequently accompanies resettlement is conflict between resettlers and hosts over arable land, such common property resources as grazing and wood, and over political leadership. Incorporating the host population within the resettlement programme becomes both a means of raising their living standards and of decreasing the risk of host-relocatee conflict over land and other natural resources, jobs, social services, etc”.

Examples of such opportunities might include:

- fishing rights on reservoirs;
- lands in the command area;
- rights to draw-down lands;
- equity sharing;
- revenue sharing;
- part ownership;
- share in the power generated;
- eventual ownership of tourist facilities;
- preference in maintenance of feeder roads and other rural infrastructure;
- custodianship over wildlife and other natural resources, as illustrated by Zimbabwe’s CAMPFIRE programme that includes Kariba resettlers, and Mozambique’s Tchuma Tchato that includes Cahora Bassa resettlers;
- custodianship over common property resources that are designated as biosphere or other types of reserves following removal.

5.3.1 Enabling People to be Beneficiaries: Options and Strategies

Lands in the Command Area

Interestingly the idea is an old one, stretching in India as far back as 1902. When plans were drawn up for the Nira Canal System in western India, a detailed exchange of holdings in the command was worked out that could allow for the displaced to be resettled in the area, but this fell victim to the political clout of the command area (India Report 1999).

The National Working Group on Displacement in India in 1998 envisaged that “it could be made statutory obligation for the state to acquire up to 50 per cent of land in excess of 2 standard hectares of each landholder benefiting from the new command...One standard hectare means one hectare of irrigated agricultural land capable of yielding two crops in a year...Consolidation of holdings would have to undertaken, in such a way as to ensure that displaced persons from the village are allotted land in close proximity” (India Report 1999:40).

Allotting land in the command areas is the most definitive way of sharing the benefits of the project with the displaced persons. From the point of view of equity, there is every reason to argue that if the benefits of the command are not being shared with the displaced people, then the very objective of development and public purpose begs questioning.

One of the ways of attaining equity would be through institutionalised land reform, making available land in the project command that would serve the goals of redistribution and resolve the dilemma of land for land compensation. Several irrigation projects in India, particularly in Maharashtra and Madhya Pradesh, attempted to gain land in the command area for rehabilitation using various land reform measures (Land Ceiling Act, Maharashtra Resettlement Act 1976, Madhya Pradesh Resettlement Policy 1986) with limited success. Some of the projects that have acquired land in the command area for rehabilitation under Maharashtra Resettlement Act are: Kukdi, Dhimbhe, Minik Doha, Vadaj, Yedgaon, Jayakwadi, and Dhom.

While a policy of acquiring land in the irrigation command area to resettle people uprooted by a dam project is a progressive step in policy-making, in practice – for example in the case of Jayakwadi project in Maharashtra mentioned above – there may be huge problems in actual implementation of this policy. In the Jayakwadi case, more than 80% of the reservoir-affected population has not got land in the command area. Often the affected people are not in a position to assert their rights and the policy is not backed with adequate legal provisions. Conflicts have occurred between the affected people and the host communities. The Madhya Pradesh state policy to resettle people in the command area has not to date been applied in any of the dams in the state. Without proper implementation, progressive policy provisions are unlikely to make any positive difference in the lives of affected people.

Equity sharing and Part-Ownership

Some sociologists argue that the affected people have a right to be compensated with equity shares so that they receive a share of the returns from the project that has taken their homes and lands (Mexico Report 1999). This approach seeks to emphasise the point that the negatively affected people are actually investees and as they have contributed a factor of production, namely the land for storing the waters/building the canals etc, they are entitled to a share in the returns on the investment. However, some fundamental objections have been raised to this approach. One is that it makes the well-being of the affected people dependent on the economic performance of the project and the stock market in general. The general lack of private sector interest in dam projects suggests that even experienced investors do not regard dams as profitable investments. In the case of the Bakun dam in Sarawak, Malaysia, the state government intended to give affected communities shares in the project consortium as compensation for their traditional lands. Before this happened, however, the poor economics of this project and the 1997 Asian economic crisis combined to force the consortium to cancel its initial public offering. Had the IPO occurred earlier, the affected people would likely have lost much of the value of their compensation when the 1997 crash in the Asian stock market occurred. Granting affected people a percentage of revenues, rather than equity, would reduce their vulnerability to volatile markets, but would still ensure their dependence on project performance and make them vulnerable to factors such as delays in project commissioning and electricity prices.

Equity sharing mechanisms in hydropower projects as applied by Hydro Quebec can be illustrated by the case of the Pesamit Agreement (1999) signed between Hydro Quebec and the relatively poor

indigenous community of Betsiamites through the Band Council of the Montagnais. According to the agreement the community of Betsiamite may invest up to 17.5% of the total construction cost of partial river -diversion. In return the community can benefit from equivalent revenues from energy generated. Hydro Quebec will buy the power from Betsiamites over a 50 year period under an agreed price formula. Hydro Quebec has also entered into agreements with concerned Regional Municipalities towards establishing a joint-partnership company for river-diversion projects (Submission by Hydro Quebec, Annex 7/TR1.1).

Benefit sharing through a limited partnership company is illustrated by the Minashtuk project in Canada where the Band Council of the Montagnais of Lac Saint-Jean is the majority shareholder with a 50.1% share; Hydro Quebec owns the rest (49.9%) of the shares. Minashtuk is the first project developed by Hydr-Innu. Besides guaranteeing a share in profits, it allows the Montagnais a role in project design and in the long-term reinvest the profits in a manner that contributes to the economic development of their community (Submission by Hydro Quebec, Annex 7/TR1.1).

If the equity share option is to be an effective means of promoting development, than the primary precondition is the participation of the negatively affected people in determining the extent of the share. The economy of the negatively affected community is an another determinant: a more diversified and monetised economy may indeed allow for individual shares. On the other hand, in the case of a relatively less diversified economy it would be imperative to also equip and educate the people in making the best use of the benefits of an equity share agreement. A possible option is also to guarantee an equity share to the local governments, villages, and towns of the negatively affected people. In China the Reservoir Maintenance Fund created under the Reservoir Resettlement Law of 1981 offers an alternative option. Under the law the hydropower stations are required to allocate 0.001 yuan per kilowatt to the Maintenance Fund that is ploughed into development programmes for the resettled people (China Report 1999).

In Japan the Act on Special Measures on Reservoir Area Development provides various measures for people affected by dam projects and development of area around the dam through the Fund for Reservoir Area Development. Since its enactment in 1974, the Act has enabled the implementation of more than 80 Reservoir Area Development projects. For an illustration on financing, see Annex I (Water Resources Development Public Corporation, Japan).

Royalties

One form of revenue-sharing mechanism could be through the redistribution of part of the revenue to local or regional state authorities in the form of royalties tied to power generation or water charges. This could be defined in legislation or through an agreement between the developer and the State authority. For instance in Brazil, the constitution of 1988 and Law 8001 of 1990 requires 45% of royalties from hydropower projects to be paid to municipalities which have lost land to the dam. Revenue flow from the Itaipu project to sixteen local municipalities who had lost area to the project, amounts to US \$ 70 million per year (Submission by Hydro Quebec in Annex 7/TR 1.1).

Similarly, in Colombia under the National Law 99 promulgated in 1993, all new power generation plants of more than 10 MW capacity must transfer part of project revenues to local watershed agencies and concerned municipalities. Decree 1933, promulgated in 1994, specifies that 3% of project revenues should be transferred to municipalities bordering the project site and located on the watershed upstream (Submission by Hydro Quebec in Annex 7/TR 1.1).

The effectiveness of such transfers is dependent on the political and institutional capacity of the municipal governments and local population to utilize the resources appropriately.

Benefits from Controlled Releases

The importance of incorporating the widest understanding of the people affected as beneficiaries is particularly evident from the submissions and literature that discusses the use of controlled releases to encourage flood-plain irrigation, cultivation of draw-down areas and reservoir fisheries. This, as the cases presented below show, can ensure direct benefits to the affected people around the reservoir, but also to downstream residents as well as possible downstream resettlers. In fact, designing dams to allow for controlled releases can open up several options of extending to the negatively affected people an opportunity to become beneficiaries, particularly through a combination of artificial flood-plain agriculture, fisheries and draw-down cultivation¹². The key to ensuring that negatively affected people actually benefit from these opportunities will lie in ensuring that they have a say in project operations – where reservoir releases are controlled by power companies, for example, the tendency will be for the project to operate to maximise power revenues rather than, for example, downstream fisheries.

Controlled releases can play an important role in the case of downstream fisheries. In the case of Chaora Bassa dam on the Zambezi River, fisheries ecologists have estimated that lowering dry season flows and increasing wet season flows would enhance the breeding of prawns to the extent that there would be an increase in fisheries revenue downstream to the extent of \$10 - \$30 million per annum within two years (SOC 099).

Reservoir Fisheries

This is another area, which can bring substantial benefits to people who may be negatively affected by the project. This must be considered in the context of the fact that the people living by the river would more often than not have been fishing for generations in the river in any case. Therefore the construction of the dam cannot simply mean that they lose their customary and sometimes legal rights to fishing. The dam would mean a significant alteration of the hydro-dynamics of the river, especially in terms of low season flows, and will have a negative impact on the fish breeding and spawning.

The Kariba lake fisheries project has some interesting lessons to offer in how negatively affected people can actually share the benefits of a project. To begin with immigrants (non-affected people) were not allowed to fish in the reservoir for a period of five years. During this period the affected people were provided with training and basic equipment as well as credit to purchase boats and gear. Within the first four years the affected people were benefiting from annual yields of up to 3 000 tons with positive effects on employment, incomes, and agriculture as well (Scudder, T. 1997; Syankusule, D.S. 1999).

In the case of Bargi, the first major dam on the river Narmada, the affected people had to wage a long and bitter struggle to win the rights to fish in the reservoir. In keeping with the general practice in India, the fishing rights in the reservoir were auctioned off to private contracts for fixed terms, reducing the traditional fisherfolk (who were already forcibly displaced) to the status of paid fish-workers. Finally, however, in 1996 the State Government granted the fishing co-operative formed by the displaced people the rights to fish in the reservoir. Despite inconsistent co-operation from the government the people's fishing co-operative has been a huge success and has provided significant relief to its members (SOC 157; India Report 1999).

Draw-down Cultivation

All reservoirs usually have draw-down areas that can allow for very productive recessionary cultivation. In fact the larger reservoirs tend to have a large acreage that can be brought under cultivation or used as pasture when the waters recede following releases or low flows. However, Scudder notes that the values in recessionary cultivation and grazing have been underestimated. "Draw-down cultivation at Lake Kariba, for example, has provided the most important single source of food for thousands of people during the serious drought years since the early 1980s. Drawdown areas around Ghana's Lake Volta provide an important source of vegetables, while residents in the Kainji Lake basin reap and sell

drawdown fodder. In none of these cases, however, were dams designed to expedite controlled downstream flows. If they had been, the benefits to lakeside communities, as well as to downstream residents, would be significantly increased” (1997: 60).

Flood Plain Irrigation¹³

The cessation of the natural floods caused by the Manantali Dam in Mali seriously disrupted the flood-plain agriculture that has been the mainstay of thousands of people in the middle valley of the Senegal River, with drastic consequences for people’s livelihoods (SOC 094). Research conducted over several years, based on a careful analysis of the river flows and the downstream agriculture, has established that artificial floods from the Manantali dam would allow for flood recession agriculture downstream that would offer a better return on capital than irrigated farming. The artificial flood would increase production and provide more income and work for the people affected downstream. Although it has been established that there is little incompatibility between the goals of hydropower and flood releases, the state agencies responsible for managing Manantali and downstream irrigation have proved extremely resistant to releasing water for peasants downstream (SOC 094). The World Bank, which is funding the Manantali Energy Project, has agreed to make provision for artificial floods but it is not yet known if the dam operators will release the necessary amounts of water at the necessary times. Research in the Zambezi basin has also shown that controlled floods would improve soil fertility and reduce salinity and also substantially strengthen the flood recession agriculture (SOC 099).

5.3.2 Basic Principles

The dismantling of the organisation of production and the loss of access to natural resources and livelihoods has rarely been restored through resettlement and compensation. This leaves most of the resettled people vulnerable to poverty and distress. On the one hand the forced and involuntary nature of displacement has left them with no option but to take the risks of resettlement. On the other hand the narrow definition of compensation and rehabilitation has left them with little insurance or strength to face these risks.

Displacement and resettlement also results in a painful and traumatic experience of socio-cultural uprootment. Communal and social bonds are broken and cultural ties altered drastically. This often leads to a profound sense of loss and loneliness that can manifest itself in several psychological pathologies. These are beyond compensation of any sort and only add to the risks as well as the “value of the sacrifice” of the people.

The fact that the greatest risks of the project are borne by the people is strong reason for them to be entitled to a share in the benefits generated by the project. The people negatively affected by the project have to be counted as beneficiaries “not because they are ‘affected’ but because they have invested in the project. Any dam project does not merely need capital but also, to say the least, land to store the waters on! Investment of land comes from the...communities while the valley as a whole, both upstream and downstream, shares its waters for the project” (Patkar M. 1999). It is vital that affected people agree to whatever “benefits” they are proposed to receive.

No development project can result in complete alienation of the rights, customary and legal, of people through payment of a one-time compensation. On the contrary the process must result in the creation of new rights that will enable people to share directly in the benefits of the development project.

Access to new development opportunities is necessary if resettlers and hosts are to become project beneficiaries. It is not enough to merely provide new opportunities; people must be enabled to access

them. There is sufficient evidence, however, showing that, in the absence of adequate capacity-building measures, a “degree of protection for opportunity access is necessary, at least initially. Otherwise, more experienced and better capitalised immigrants will end up the main beneficiaries, bearing in mind that project affected people tend to be poor in assets to start with” (Scudder 1999:page?). Therefore the process would have to include not just the creation of development opportunities but the respect of rights that would secure and protect the interests of the negatively affected people.

5.4 The Resettlement Plan: Principles and Key Operational Elements

5.4.1 Goals of Resettlement

As already indicated, worldwide experience of the resettlement component demonstrates that unless the resettlement and rehabilitation component is based on collective negotiations with the affected people and planned and implemented as a development project, rather than as an attempt to restore pre-project income and living standards, the large majority will be further impoverished following removal. Resettlement cannot be reduced to the physical removal of relocatees or to the reproduction of their pre-project living conditions.

Forced displacement is such a distressful and potentially destructive experience that it requires affirmative action if its deleterious consequences are to be mitigated.

Resettlement must aim to improve the quality of life of the people by raising living standards beyond the pre-project levels.

Resettlement must be planned and implemented as a development project over a minimum of two generations and include not only protective measures, but also the provision of new rights, resources and strategies.

The resettlement as a development programme should aim for;

"a) A sustainable improvement, both in terms of objective indices as well as of subjective criteria employed by the relocatees themselves, of the quality of life of the majority of relocatees, and particularly of the poor and the marginalised.

b) A cumulative and lasting empowerment of relocatees, resulting from their effective participation in the decision-making process relating to the development project (and particularly to those parts of it which relate to its resettlement component), and manifesting itself in a greater degree of control over their day to day affairs. Successful resettlement thus embodies both processual elements relating to the fruits of genuine participation, as well as more concrete outcomes" (Bartolome et al. 1999: 13).

5.4.2 Baseline and Benchmark Studies

One of the most critical problems that the review brings to light is the absence of comprehensive baseline studies enumerating the precise numbers of people who may be negatively affected and also providing a comprehensive picture of their socioeconomic organisation and standards of living. Very often the studies are incomplete in nature or are outdated, resulting in an underestimation of the number of people who may be negatively affected by the project.

If there is no clear idea of the categories and numbers of potentially negatively affected people, there can be no clear idea of the costs involved, and accordingly no way of making a decision on the least displacing option or the implication of choosing an option (Bartolome et al. 1999:11-12).

Sound baseline studies are also important to allow for the development of indicators that will allow for assessing the impacts of the resettlement programme on the social and economic aspects of resettled communities and their standards of living. The continuous assessment of impoverishment risks to the negatively affected people would require a participatory monitoring mechanism based on a set of indicators agreed by the affected communities.

An understanding of the number of people likely to be affected by any intervention and their social, economic, and demographic characteristics would be essential for the options assessment process, and once an option has been identified, in arriving at the most suitable development option for the affected people.

Socioeconomic benchmark surveys and baseline studies of the entire population that may be negatively affected must be completed and publicly reviewed prior to planning resettlement. The studies must identify and delineate the various categories of affected people and the losses and risks they face. The studies should also account for existing deprivations as well as vulnerabilities arising from deferred investment etc. Indicators of living standards must also be developed in order that post-relocation monitoring is possible. The results and methodology of the surveys must be publicly verified through the public hearings and peer reviews.

5.4.3 Information about the resettlement and rehabilitation provisions and policy

The State/project proponent would be obliged to disseminate information through the use of appropriate local media. This would have to include:

- full details of land proposed to be acquired along with plot numbers and other details;
- full details of land expected to be affected by the project but which is not being acquired;
- full details including plot numbers of land-for-land and resettlement sites;
- full time-table with details on phasing of resettlement and rehabilitation;
- criteria for eligibility for benefits under the resettlement programme;
- details of the proposed compensation and processes of assessment for award of compensation;
- details of the draft resettlement policy with reference to the financial and institutional arrangements thereof;
- details of specific components of the resettlement and development programme, such as provision of basic amenities at resettlement sites, irrigation and credit facilities, employment generation, capacity building, etc;
- full details of social impacts, including on the host community in the area of resettlement.

The resettlement programme and policy must be finalised only after public debate and consultation with the affected people (India Report 1999).

5.4.4 Phasing of Physical Relocation

The phasing of physical relocation has been by and large been dictated by the construction schedules of projects and dominated by a *paripassu* or incremental approach. This has often led to relocation in most undesirable and even violent contexts. It is very common to hear of cases like the Karnataka Krishna project (India), where a large number of people had the harrowing experience of having to be relocated by helicopters and boats in an emergency fashion.

While all the energies of the project are directed towards construction, the resettlement programme has tended to lag way behind, leading to a situation in which a large number of people have to be relocated in a short time (eg. the Yacyreta case, Argentina Report 2000)

Physical relocation should be planned according to careful schedules, driven not by construction requirements and threat of submergence but the needs and best interests of the affected and host populations. The relocation of people must be facilitated so as to minimise the trauma and risks of relocation. Accountability mechanisms are required whereby construction can be halted in the case that negotiated agreements on resettlement, rehabilitation, and other types of compensation and mitigation are not being respected.

5.4.4.1 Options and Strategies

- All information regarding where the land required for the resettlement is located, how it would be obtained, and according to which time-schedule, must be presented in the resettlement plan as part of the project report. Only such a detailed advance plan would enable the affected populations, state governments, funding institutions, and the people at large, to assess whether rehabilitation as suggested is feasible and acceptable.
- The physical relocation of people must be completed at least a year before submergence or before the final possession of acquired land by the project proponent.
- All the land required for the resettlement must be acquired at least one year before the scheduled physical relocation. This will allow the sites to be adequately prepared for the resettlement.
- It should be ensured that the families to be relocated get all their dues, such as compensation money towards land acquisition, rehabilitation assistance, etc, from project authorities before actual relocation takes place.

5.4.5 Defining Eligibility for Benefits of Resettlement and Development Programme for Negatively Affected Persons

The World Bank definition is comprehensive:

“Displaced persons in the following two groups are entitled to compensation for loss of land or other assets taken for project purposes:

- those who have formal legal rights to land or other assets (including customary and traditional rights recognised under the laws of the country); and
- those who do not have formal legal rights to land or other assets at the time of commencement of the census, or at the time of delineation and effective public disclosure of the area affected by the project, whichever is earlier, but have a claim to such legal rights – provided that such claims become recognised under the laws of the country through a process identified in the resettlement plan. Such rights could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, etc. The absence of legal title to land or other assets is not, in itself, a bar to compensation for lost assets or other resettlement assistance” (World Bank Report 1998).
- “A third group of displaced persons—those who are occupying land in violation of the land administration laws of the country and who do not fall within the category described in (b) above—are not entitled to compensation for loss of land under this policy. However, if such persons have uninterrupted possession of the land for at least one year prior to the commencement of the census, they are entitled to resettlement assistance in lieu of compensation for land. All displaced persons occupying the land on the date the census begins are entitled to compensation for loss of assets other than land, in particular structures and crops” (World Bank Report 1998).

There is however a strong case to expand the meaning of the negatively project-affected persons. “In most cases, resettlement agencies and governments have considered only directly affected people to be eligible for compensation and rehabilitation. Dams also 'indirectly' affect a number of other categories of people. A large number of indirectly affected people do not receive recognition in national policies” (Bartolome et al. 1999).

Eligibility criteria of the resettlement and development policy need to be broad-based and inclusive, to be able to address the widespread impact of the diverse aspects of a dam project upstream and downstream, as well as host communities and those negatively affected by compensatory and mitigation measures.

Indirectly affected people should include the following:

- people in the area of the dam who are not displaced but whose lands, houses, and access to resources and social networks are negatively affected by the dam. They may lose some or most of their arable or grazing land, or access to common property resources, or may be cut off from members of their community who have had to move. The groups that continue to live in such resource-depleted areas suffer serious social, health, and economic hardships. Some houses, hamlets, and even communities may be rendered unviable by, for example, becoming encircled by water on all sides.
- host communities, which have to receive the incoming relocatees, and whose members suffer a loss of resources, space, and autonomy, without having had any say in the matter.
- people downstream from the dam, who practice flood irrigation and whose livelihood has become jeopardised by the new flood regime operated by the dam administration. This includes small and marginal farmers and fisher-folk downstream of major reservoirs.
- agricultural labourers, artisans, petty traders, and groups providing a variety of services, such as barbers, midwives, scavengers, and the like, whose means of livelihood have been lost with the dispersal of the community.
- persons dependent on public resources for their livelihood, such as riverine cultivators, fisher folk, cattle-rearers, collectors of minor forest produce, occupants of forest or common lands in the directly affected areas.
- host populations should be included in “the improved social services and economic development opportunities intended for the resettlers. While such an approach will increase the financial costs of resettlement in the short run, in the long run it will enhance the possibility of multiplier effects as well as reduce the intensity of conflict. Unfortunately, such incorporation of the host population with resettlement programmes is rare” (Scudder T. 1997:43).
- in the process of considering the benefits of the resettlement programme special attention must be paid to women-headed households as well as single adult women and widows.

5.4.6 Compensation

Compensation has to go beyond market value of land and assets. The basis of compensation must not be value in exchange but the totality of the rights that are extinguished or negatively affected by the project. This has two implications:

- the compensation of assets like houses and wells on the basis of their replacement, and

- the compensation for the customary and legal rights of use that will be compromised by the project.

Compensation must include customary and legal rights and the future value that the land may generate for the community as a whole. To this end not only individuals but also whole communities are eligible for compensation, ie not just monetary value but alternative resource bases for the loss of common property resources, submergence of forests, etc. In other words, the basic principle must be rights for rights, just like land for land.

There should be transparent and justiciable mechanisms to calculate the replacement value of all assets, and the date for calculation should not be the date of original notification, but instead the date on which the compensation is actually disbursed.

Cash compensation must be minimal, excepting where it is a preferred option of the people. All assets must be replaced and the cash component must be in the name of the oldest male and female member or the male and female heads of household.

People who are to be relocated must be fully compensated before physical relocation from land, house, or livelihood is executed. The resettlement plan must provide for full disbursement of compensation a year prior to any physical dislocation. If the relocation is delayed then there must be a provision to pay interest on the compensation that is made in order to account for inflation and other escalations in cost of replacement.

All negatively affected persons must have the right to obtain land for land compensation. This should also apply to those vulnerable groups who were dependent on agriculture but did not originally own lands – food-gatherers, landless labourers, sharecroppers, tenants, artisans, nomads, etc (India Report 1999).

5.4.7 Resettlement options and strategies

5.4.7.1 Land for Land

Most of the areas where there is a thrust on dam building in Asia, Africa, or Latin America are areas with a significant number or a majority of people who are dependent on land for livelihood as well as food security. The very fact that irrigation is one of the most important objectives of dams is evidence of the importance of land-based livelihoods. A number of submissions to the WCD address this very important issue of negatively affected people having the right to alternate land of viable size and productivity, particularly in the command areas of irrigation projects.

In the face of increasing pressure on land and the limited availability as well as high prices of arable land, there is an increasing reluctance to adopt the land for land strategy. There is however little doubt that land continues to be an all-important sustainable resource for millions of people and thus is an option that must be available to communities that are dependent on land-based livelihood and production systems. The World Bank's policy also stresses the importance of extending the land for land option to the negatively affected people. One of the fundamental measures to increase land availability would be through land reform and redistribution. The issue of land for land is a particularly important option in the case of indigenous people as well as women, for whom land is often the only sustainable resource base. In the case of indigenous people, land is often such an integral part of the culture that separation from it can be traumatic. These communities would need special attention as far as land-based resettlement is concerned, including

- resettlement as a community;

- resettlement as close as possible to the original habitat;
- special measures to support agriculture;
- protection against land alienation and land grabbing;
- access to forest, grazing lands, and other specific land-related needs such as common property needs for community activities;
- provision of land for every major adult member and spouse and minor children as a family unit.

Women have often been discriminated against in the provision of land in resettlement. The lack of clear titles in their name has been a major problem. All land and other related assets that are part of the resettlement must be in the joint name of the male and female heads of the family. Similarly widows and adult single women must also be given the option of land-based resettlement in order to provide them with a sustainable resource. Womenheaded households must also receive additional support for land based resettlement.

Legalising customary land tenures is an important measure for preventing alienation and consolidating rights. In Uganda land rights under customary tenure have been legalised under Land Act no.16 of 1998. The Land Act also seeks to set a legal framework for gender equity in access to and rights over land. Article 237 vested land titles directly to Ugandan citizens and limited the control of the Land Commission. The primary objective of the establishment of the Land Fund under the 1998 Land Act is to assist people to gain land titles. The mechanisms of implementation are being considered. Compensation for loss of customary land would now require replacement of land as against merely compensating for standing agricultural crops. (Rew. Alan, Fischer.E & Pandey.B: 2000) The effectiveness of the new legislation remains to be determined, especially since it does not repeal the 1965 Land Acquisition Act.

5.4.7.2 Non-Land Based Options

While land is an important source of both livelihood and food security for millions, it is increasingly becoming clear that there is a need to diversify the productive and livelihood base to other activities. Moreover the increasing pressure on land and increasing costs of agriculture, coupled with the rapid expansion of economic activities, call for resettlement and development programmes to actively facilitate the building of capacities of negatively affected people so that they can take advantage of new economic opportunities.

In the case of dams the possibilities of negatively affected people benefiting from being granted fishing rights has already been observed. Most resettlement programmes have not laid much emphasis on the creation of non-land-based economic avenues. One significant exception is the resettlement and development plan adopted in the Xiaolangdi project in China.

In order to protect the livelihood of 180 000 resettlers displaced by the dam, China developed and irrigated 11 110 hectares of new land, relocated 252 small industries and mines, and established 84 new industries with 20 500 new jobs. A separate World Bank credit facility was created, distinct from other dam projects and loans, to ensure a high level of attention, staff input, and budgetary resources. However, it remains to be seen how China is dealing in practice with the resettlement of the majority of the people being displaced by Xiaolangdi, in particular because independent researchers and reporters have not had access to the resettlement areas (China Report 1999).

The Chinese plan clearly underlines the importance of an integrated strategy that combines land and non-land-based activities in order to protect and ensure livelihoods. Resettlement plans must focus on building skills of negatively affected people through (i) substantial investments in imparting training in new relevant skills that are in demand in the regional and local economy; (ii) enhancement of the skills that people possess; and (iii) special measures to facilitate such capacity building amongst women. This would also call for resettlement plans to develop linkages between the other sectors of the economy and

the negatively affected people, in other words underlining the importance of incorporating the overall development of the affected economy within the resettlement programme.

A more fundamental aspect that has received considerably less attention in resettlement plans is the emphasis on literacy and schooling of the negatively affected people. Education, apart from being of intrinsic importance, is also one of the most important means of building capabilities to access social and economic opportunities. Resettlement plans must focus on education as a basic right of the negatively affected people and ensure free basic schooling for all children of the negatively affected people with a special focus on girl children.

5.4.8 People's participation in resettlement: Community managed resettlement

5.4.8.1 *The Itá Project in Brazil (SOC 063 and 085)*

The Itá dam was a hydroelectric project of ELETROSUL, a publicly owned power generation utility of southern Brazil. ELETROSUL was privatised while construction of Itá was ongoing (causing numerous problems relating to lack of clarity over the accountability of the private company for compensation agreements negotiated with the company while in state ownership. In response to the 1979 announcement of ELETROSUL's plans to build a series of dams in the Uruguay river basin in the States of Santa Catarina and Rio Grande do Sul, the communities that were to be affected responded by beginning a process of political organisation, facilitated by rural unions, church activists, and sections of the academic community, to protect their interests. They organised themselves into the Comissão Regional dos Atingidos por Barragens (CRAB) (Regional Committee of People Affected by Dams) (SOC 085).

The Itá Dam was to result in the displacement of 4000 families. CRAB organised strong resistance to the project in the face of a resettlement policy that they did not find acceptable. This led to a process of long and hard negotiations that in 1987 resulted in CRAB signing a "landmark accord with ELECTROSUL, which met the movement's demands of just compensation in cash or land before the dam was built" (SOC 085).

The 1987 agreement was very significant as it expanded the term "atingidos" (affected people) to include squatters, renters, sharecroppers, even landowners' adult children, and not just those displaced people who had legal titles. Under the agreement the displaced people were to be offered three options:

- land of equivalent quality and value in the immediate area or in one of three southern states;
- cash compensation (indemnification);
- extension of resettlement benefits to landless atingidos, including adult children.

Following the agreement CRAB closely monitored the resettlement programme. It soon became clear that if the gap between the policy and practice has to be bridged, than CRAB would have to participate in the actual management of the resettlement programme. After experiencing two "conventional resettlements", the community (through CRAB) sought to play a more active role in the process. This included the identification, purchase, and preparation of land, construction of houses, farm buildings, and community buildings and access roads. Critical to this process was the fact that the community (through CRAB) actually began to have a direct role in the financial management of the resettlement programme. The results of the community-managed resettlement soon stood out in stark contrast to the officially controlled resettlement in its financial, social, and political benefits (SOC 063).

As an example the two processes of resettlement, one community managed and the other under official control, are contrasted in specific details in the case of Mangueirinha and Marmeleiro resettlement sites, as reported in a Submission (SOC 063), also presented in the WCD's Regional Consultation in Sao Paulo, Brazil, in August 1999.

1. Size of the houses

Conventional resettlement (ELETROSUL's plans)

54sq.m. with 2 bedrooms, a kitchen, bathroom, and laundry area, for families of up to 5 members and children of the same sex;

63sq.m. with 3 bedrooms, a kitchen, bathroom, and laundry area, for families of up to 7 members and children of different sex;

72sq.m. with 3 or 4 bedrooms, a kitchen, bathroom, and laundry area, for families of up to 8 or more members.

Community-Managed Resettlement plan

81sq.m. with 3 bedrooms, kitchen, bathroom, and laundry area, for families of up to 5 members and children of the same or different sex;

108sq.m. with 4 bedrooms, kitchen, bathroom, and laundry area, for families of up to 7 members or more.

2. Size of the farm buildings

ELETROSUL's provision: 96sq.m.

Community managed resettlement provision: 150sq.m.

3. Total costs of resettlement per family (1995 field data)

Officially managed conventional resettlement cost: US\$ 93,750 per family.

Community managed resettlement cost: US\$ 47,920 per family

It was not easy however. "Organisational difficulties, lack of experience, and the need for technical advice, were all problems that were overcome as the collective working praxis took place. Difficulties encountered were also helpful in the learning process as the resettled families were forced to confront the laws of the market" (SOC 063:54).

There are very good reasons that warrant the exploration of the Ita case in such specific details. The most obvious is that it is precisely some of the above factors, such as the size and nature of the houses, the area of the warehouses and so on, that actually determine the quality of everyday life for the resettled people.

5.4.8.2 Basic Principles

The question is not one of community participation but community control and "ownership" of the resettlement programme with the most "responsible" facilitation and support of the project proponent and the State and its agencies.

1. There is little doubt that the "success" of resettlement is critically dependent upon the extent to which it can account for the most localised and specific needs of the displaced communities.
2. It is easy to lay this down in policy but there is only way to actually realise it in practice: the resettlement programme must be designed and managed by the community with the full support and complete participation of the project proponent and public authorities. This includes financial and

technical support; in particular project developers must recognise and respect the legitimacy of affected people's organisations.

3. There is a tendency for resettlement programmes to be built on very individualistic notions with the collective or community strength often being associated with resistance and obstacles to smooth and effective resettlement. Nothing could be farther from reality: the more the resettlement programme is community and collective centred, the greater the chances of it succeeding. In reality, resistance itself stems from a process that is individualistic and excludes the community from the project.
4. Project proponents and public agencies tend to be suspicious of, and in many cases actively discourage the emergence of, a strong indigenous organisation from within communities that are to be negatively affected. There is a tendency rather to encourage established civil society institutions and organisations, usually external to the community, to facilitate the process. The Itá case effectively demonstrates that strong community-based organisations can actually ensure an effective process of resettlement
5. Communities more often than not know what they need and can make best use of opportunities that will allow them to satisfy their needs. Given the space and support to articulate their needs and expand their options, communities are capable of making the most efficient and cost-effective choices among resettlement strategies and options.

5.5 Institutional Frameworks

The best of resettlement and development plans will collapse if they are not backed up by strong and appropriate institutional arrangements. Institutional aspects here are largely considered in terms of the actual context in which resettlement and development projects have been implemented.

The implementation capacity of the responsible state and parastatal agencies, the private sector, and agencies and organisations of project-affected people are critical factors in the realisation of successful resettlement and development programmes.

The institutional arrangements that have been adopted to execute projects have been diverse and varied. Inextricably linked to this have been several institutional characteristics that have either facilitated or constrained the unfolding of resettlement as development. Any discussion of institutional issues is incomplete without actually looking at real experiences. A few cases are discussed to highlight the important issues involved.

5.5.1 Institutional Capacity

A most common institutional mode has been the execution of the project under a public entity with additional responsibility to co-ordinate resettlement. The Zimapan and Aguamilpa dams in Mexico could be taken as typical examples (Nahmad, Sao Paulo 1999).

Zimapan and Aguamilpa were to be executed by the Comision Federal de Electricidad (CFE). The resettlement programme was also under the co-ordination of the CFE. "Resettlement is socio-economic development and the CFE is not a socio-economic development agency". In the absence of federal laws and policy guidelines on resettlement, the CFE plans for resettlement were quite poor, with incomplete appraisals, poor socio-economic data, no public participation, and no definite plans for development. CFE approached resettlement basically from the point of view of construction, not as a development issue, and indeed was not equipped to do so.

The fact that CFE saw itself as being responsible only for effective physical relocation but not post-relocation issues brought it into conflict with agencies which were concerned with issues of development and post-relocation issues. In the case of the Zimapan and Aguamilpa projects, both of

which involved displacement of relatively small populations, development organisations and the World Bank (the funders) encouraged internal reorganisation within the CFE to facilitate a better resettlement experience. People with relevant training and experience in the field of development and resettlement were needed within the CFE to enhance its capacity to handle resettlement. The CFE with external support also supported a series of training programmes for the staff involved in the planning, designing, construction, and legal departments of the project; these involved local government representatives as well as the community (ibid: 34). The World Bank also appointed the National Indian Institute to monitor the progress of resettlement work *in situ* with on site field teams. Even though the INI reports were not public, a “respected Mexican anthropologist” periodically negotiated with the CFE officials concerning the improvements that were required in the resettlement programme. “This process managed to keep the participatory objectives in focus and operational among field personnel” (Mexico Report 1999:4). The constant support of external agencies and an internal reorganisation of the CFE, coupled with the fact that the extent of displacement was less than 4 000 people, contributed to rendering the resettlement programme substantial, even though there were several problems.

The dangers of leaving resettlement to entities that may be ill-equipped to carry it out is clearly reflected in the case of the Yacyreta project, a bi-national one involving Argentina and Paraguay (Argentina Report 1999). The Yacyreta Bi-national Entity (EBY) was set up to execute the project. The EBY assigned the responsibility for resettlement to the Department of Complementary Works. To begin with this department “had only five professionals, clearly inadequate for managing the resettlement of approximately 50 000 persons. Under pressure from the World Bank, the EBY agreed to recruit 50 additional professionals for resettlement issues, recruit an ‘internationally renown’ consultant to co-ordinate the process and also have several training programmes for its staff on resettlement and environment aspects. EBY also agreed to establish a national level forum of NGOs to monitor the progress of the project but resisted the idea of a hiring an institution from a third country to evaluate the resettlement programme. The attempts of the EBY in implementing these recommendations have been ‘slow and half-hearted’ (ibid:24).

The EBY’s resettlement and rehabilitation plan was largely the result of pressure from the World Bank which was in turn under pressure from NGOs in Paraguay and internationally. “As a matter of fact most of EBY’s authorities regarded these requirements as undue and arbitrary ones” (ibid:26). At the same time the Bank has not been “consistent in its pressures and demands”. As a result after nearly 20 years of the project little more 30% of people have been relocated with the reservoir already partially filled. While the large majority of people are yet to be resettled, nearly 70%, the EBY is considering filling the reservoir “in a year or two” (ibid:25).

5.5.2 Institutional Continuity

At Akasombo the resettlement was the responsibility of the Volta River Authority (VRA). There was considerable confusion between the VRA (a national level body) and the Ministry of Social Welfare, “which had legal responsibility for the rehabilitation of displaced people” (Africa Report 1999:19). The VRA however was defacto responsible for the process and eventually did end up assuming resettlement responsibilities that strictly speaking were “outside of its brief” (Diaw and Schmidt-Kallert 1990: 88 cited in ibid:19). “It was thus financially and administratively overstretched, and did not have the time to recruit and train staff for all the resettlement tasks, with the result that ‘the resettlement organisational machinery lacked unity of purpose and cohesion’ (Kalitsi, in Chambers 1970:39 cited in ibid:19). The VRA accordingly sought to get government departments to take over as many of the resettlement tasks as possible, leaving “the administration of young and fragile settlements under an already overwhelmed and financially hungry establishment” (Obosu-Mensah 1999:56), with a predictable decline in services” (Africa Report 1999:19). The VRA did, however, improve its performance in the case of the Kpong project, having learnt from experience. The VRA experience highlights the importance of institutional arrangements that allow for continuity and learning from experience.

The resettlement organisation in Kom Ombo (Aswan High Dam) in Egypt is a study in contrast. To begin with Egypt established the Aswan High Dam Ministry, and even though specific tasks of the resettlement work were the responsibility of the different departments, the office of the Governor of Aswan Province assumed the overall responsibility and the co-ordinating function. This minimised the possibility of some task being missed out or becoming invisible by default as each department had its own clear responsibility with a strong central supervision from the Governor's office. Moreover since the project was actually integrated into the overall development programme of Aswan province there was a better integration of line department functions as well as a minimal need to recruit new staff. The additional burden that fell on the existing staff was compensated by salary increments with the central co-ordination ensuring better delivery (Africa Report 1999).

5.5.3 Other Institutional Options and Strategies:

A. China

China has one of the largest "resettlement bureaucracies" in the world. Changes in the reservoir resettlement policy over the past two decades in China have led to a decentralisation of responsibility from the central government to the provincial, prefectural, municipal, and county offices across the country. The resettlement offices at the local levels are responsible for drawing up specific plans, allocating new land, approving compensation rates, and supervising infrastructure construction. The bulk of the detailed and specific administrative work is the responsibility of the county, township, and village resettlement offices, the lowest three tiers of the administrative system. The resettlement machinery is also responsible for the training of local officials in areas such as policy and legal stipulations, financial management, arbitration skills, and post-relocation monitoring among others (China Report 1999)¹⁴. It should be noted that the main complaint of people affected by the Three Gorges Project is corruption among local resettlement officials which has deprived resettlers of large amounts of funds for which they are eligible.

B. A Participatory Institutional Framework

The Castanhao dam in Ceara, Brazil

The Castanhao dam in Ceara, Brazil (SOC 059), is a multi-purpose project that apart from irrigation, power generation and flood control also aims to facilitate inter-basin water transfers between the rivers San Fransisco and Jaguaribe. The reservoir will displace some 11 000 rural and urban people. The project met with stiff resistance from the people who were to be displaced, especially since they had seen the failure of resettlement in an earlier project upstream of the river.

In 1995 the Governor of the province created a Multi-Participatory Working Group of the Castanhao Dam. The Group was to be a forum for (i) community participation in the planning and construction of Castanhao; (ii) resolving disputes relating to resettlement and compensation; (iii) rendering transparent the actions of the government with respect to construction and resettlement; and (iv) facilitating free information exchange and greater co-ordination among the various public agencies involved in the project and the community (SOC 059).

The Working Group consists of 19 members. Each of the four affected municipalities has three representatives, with the Mayors being ex-officio representatives. The State government has four seats in the Working Group (taken by the public agencies involved in the project) while the Legislative Assembly of the State has one seat. The remaining two representatives are from the National Department for Works Against Droughts (DNOCS), which is responsible for the construction of Castanhao.

The Working Group has been noted to work well in providing a non-confrontational participatory alternative to the adversarial bargaining that has been characteristic of other resettlement projects in Brazil and elsewhere. The Group functions in a democratic manner. It meets once a month to discuss new developments and revisit outstanding issues. Decisions are made by taking a vote and are binding upon the state and federal agencies. Since the community representatives are in a majority (12 out of 19) the inherent dominance of government agencies is balanced. (SOC 059:2)¹⁵.

5.5.4 Basic Principles

One of the biggest and most serious institutional failures has been the singular absence of preserving the experience of resettlement and carrying the lessons from the failings and successes of one project to the next. Given the lack of an appropriate institutional framework, the “skills and experience gained on one project are not usually transferable to another. Each country’s resettlement operation has to begin *de novo*, to build up experience by making the same predictable mistakes” (Africa Report 1999:19).

Every project however has a specific social and political context to it. It is near impossible, especially in large countries, to expect that an overarching institutional and organisational set-up will effectively take care of the whole complex of issues associated with each case of developmental resettlement. In general, however, the examples of such specific, inclusive, and participatory frameworks are hard to come by, but as evidenced by the cases discussed they are also not totally non-existent, and as such offer some important lessons in terms of the possible options for such “positive institutional frameworks”.

It is important to evolve an appropriate institutional framework at the national level to facilitate resettlement with development. This will also allow experience and learning from every resettlement project to be consolidated and lessons to be applied effectively, resulting in better resettlement practices.

It is imperative that the institutional and organisational set-up of each project should take account of the social and political context in which it is located and the participation of all the negatively affected people. The extent to which project-specific institutional arrangements allow for the participation of negatively affected people is critical to the efficacy of any resettlement programme.

- The training and capacity building of all organisations involved in resettlement is critical to the development effectiveness of the programme.
- The planning and execution of resettlement is most efficient when it is integrated into the development functions of the different State and public agencies.
- All relevant agencies must be involved in the resettlement and development programme from the very outset. The Working Group model also points to one possible manner in which the critical but common institutional failure of lack of co-ordination between the project authority, the agency that

co-ordinates the resettlement, and the relevant agencies of the provisional/regional and central governments can be addressed.

- Successful resettlement requires the capacity to transform experience into policy and actions. Despite the growing experience gathered on resettlement all over the world, there is an unfortunate tendency to ignore its lessons.
- Projects must be designed so as to allow learning from experience, and the enhancement of what might be called “implementation capital”, ie the knowledge and skills of the relevant agencies (Bartolome et al. 1999).
- Effective grievance redress and feed-back mechanisms must be designed in order to allow for an ongoing transfer between experience and action.

5.6 Financing and Budgeting Resettlement

The efficacy of a resettlement programme hinges upon the financial resources available to implement it. With most projects it has been found that funds tend to dry up once the relocation is effected and that leaves the resettled and other negatively affected people extremely vulnerable. Resettlement projects are often under-financed, particularly because the emphasis does not extend beyond physical relocation to the social and economic development of the resettled communities.

China’s Xiaolangdi project marks a major departure from the usual pattern of financing resettlement. It has the highest resettlement budget per person of any project. With the support of the World Bank, a separate credit facility has been created to ensure sufficient financial and human resources to facilitate resettlement. While the outcomes are yet to be determined, there is no doubt that adequate financial resources have allowed for the drawing up of a comprehensive development plan involving both agriculture and industry for the resettled people (China Report 1999).

The Itaipu Binacional, the bi-national entity of Brazil and Paraguay, that owns and operates the Itaipu Hydroelectric power plant, pays a royalty of US \$13 million per month to each of the partner countries. In Brazil, about 38% of that amount is distributed by the Federal Government among the municipalities, in proportion to the areas of their respective territories that have been submerged, for investing in local economic development (Filho, A.V. 1999).

Financing resettlement and development need to be seen as investments for the future, rather than being viewed as burdens of cost. An appropriately financed resettlement programme would in the long run reduce the additional burden of finding resources to overcome the disabilities that are bound to set in with poor resettlement.

In order to ensure resources over the long run for the process of development of the resettled communities, a share of the returns from the project may be set aside for this purpose. The share should be according to a previously agreed formula that is part of a legally binding agreement between the project entity and the people.

One of the main reasons for the financial bottlenecks has been inappropriate budgeting, typically characterised by the absence of clearly spelt out costs with respect to every individual component of the resettlement plan. The lack of attention in budgeting every detail of the resettlement plan often leads to situations of shortages affecting the process crucially. The global review paper (Bartolome et al. 1999), drawing from the World Bank’s policy, addresses some of the important issues:

- *The resettlement component should be budgeted for separately from the rest of the project, so that its allocation will not be compromised by other components of the project. The project budget should delineate the detailed cost of individual resettlement components. It should clearly outline costs under resettlement, rehabilitation, compensation, administration and loss of regional, national and public assets.*

- *Preparation and appraisal resources should be made available for developing resettlement with development programmes. There should be adequate resources available for the supervision and monitoring of the resettlement programme in the early stages of the project.*
- *To prevent implementation delays, there should be an early and adequate assessment of the negatively affected population and timely disbursement of agreed upon funds (through the process of negotiated settlement with the affected community), to the resettlement organisers, and to the affected people.*
- *The allocation of responsibility to different agencies, for meeting the negotiated and agreed resettlement costs, should be clearly defined. Financing should be sought from domestic as well as bilateral and multilateral sources rather than relegating the responsibility of financing the above aspect to any single agency like the state. This is to ensure that the state does not compromise on promises made to compensate people.*
- *All projects should internalise the full cost of resettlement and rehabilitation in the development mode within total project costs. Assessment and incorporation of accurate resettlement (with development) costs within the overall project cost is of critical significance for the economic feasibility of an alternative versus the comparative advantages of a different option.*
[page?]

5.6.1 Basic Principles

Resettlement as development cost must be determined through a participatory process and must be:

- *fully internalised within the project costs;*
- *budgeted separately with each individual component clearly delineated, so as not to be compromised.*

A portion of the revenue from the project must be allocated (on the basis of a mutually agreed formula) from hydropower production or water use taxation or other periodic contribution to an organisation of the resettled people or their local government for planning and facilitating participatory development.

5.7 Law and Policy

5.7.1 Legislation on Displacement and Resettlement

Legislation in China

China's Reservoir Resettlement Law was promulgated in 1981. The following year the Law of Land Acquisition in State Capital Construction was amended to institutionalise consultation of negatively affected people and significantly raise compensation rates for land and clarify issues regarding land titles; it also stipulated the protection of incomes and assets of displaced people. Changes were also brought about in the policies of the Ministries of Electric Power and Water Resources aimed at addressing issues of compensating lost assets at replacement costs and the restoration of the incomes and needs of ethnic minorities (China Report 1999). The lack of legal remedies available to resettled people in China and the difficulties of holding government officials accountable seriously weaken the actual results of the policy.

The series of legislative and policy changes led to the promotion of China's "developmental resettlement policy" ('kaifaxing yimin zhengche'). The policy moves away from relocation centred on monetary compensation and focuses instead on the integration of the resettlement plans and the overall social and economic development of the region. The policy seeks to "guarantee the creation of a viable economic base" through a combination of strategies involving industrial jobs, low-interest bank loans, and training classes for farmers to grow cash crops or acquire other relevant skills to participate in the economy of the region (China Report 1999). An important component of the policy is that approval of funds for construction is "made contingent upon plans made by project administrators and local governments to utilise part of the resettlement investment to improve economic conditions in reservoir areas or at resettlement sites elsewhere" (China Report 1999).

Displacement as a result of acquisition is legally sanctioned but there is no legal framework in the majority of countries that governs the process of displacement and resettlement itself. The process must be governed by law and cannot be left to executive control and thus vulnerable to being dictated by administrative expediency, as has been the case in the past.

If all the fundamentals of a successful resettlement with development are to be translated into practice, then it is imperative that certain basic rights and processes are inscribed into the statute books. The law should set the standards for policy to follow. This would (i) guarantee the basic inviolability of rights and processes; and (ii) allow for any violation or aberrations in policy to be remedied through a legal process. Most importantly, as is clear from the survey of global experience, there are several imbalances in priorities leading to inequities, something that can be addressed effectively only by law and not by policy (SOC 163).

In the light of the fact that redress of these imbalances and inequities is necessary to ensure a successful resettlement with development, it becomes imperative to articulate non-derogative rights and the democratic process in law. Some of the most important rights and processes that need to be articulated in law are delineated below:

- Ensure that the responsibility lies with the project proponent/State for demonstrating public purpose and that the project in question is the best alternative.
- Define and establish the right of people who may be negatively affected to collective negotiations which determine the "acceptability" of the (social) costs vis-a-vis the benefits that are anticipated, thus qualifying it for public purpose.
- Establish the right of people to a share in the benefits of the project.
- Establish the right to information as basic and non-derogative.
- Define and distinguish displacement, compensation, relocation, and resettlement with development.
- Establish people's right to collectively negotiate the process of designing, planning, implementing, and monitoring the resettlement process.
- Define the commitment to a resettlement with development in contractual terms with mechanisms to enforce the accountability of the State/project proponent to specific commitments.

5.7.2 Increasing Accountability: Fundamentals of a Resettlement with Development Policy

The mere existence of resettlement and rehabilitation policies, whether at the level of the external financier or the state, is not a sufficient safeguard for ensuring implementation. This is evident from the number of lacunae in the existing practices and available channels for ensuring accountability.

Some countries around the world have developed resettlement and rehabilitation policy or guidelines mostly under the requirements conditioned by the multilateral institutions. But in most cases, policies and guidelines applicable for dams funded by multilateral institutions are not generally applicable to dam projects funded through internal resources.

On numerous occasions the multilateral institutions such as the World Bank have themselves failed to ensure borrower compliance with criteria and guidelines pertaining to various social and environmental aspects.

Given the absence of legal safeguards to ensure accountability on the part of the State, resettlement and rehabilitation entitlements promised by policy or executive order have rarely been implemented in this entirety covering all affected people.

(Bartolome et al. 1999:21).

Accountability is most effectively enforced not by institutions and law, both of whose fallibility is beyond all control of the negatively affected people, but when there are in-built mechanisms that allow for maximum space for people to participate. This will transfer a substantial amount of control to the people rather than rest it with the “outside” in law and policy. It is essential to build accountability into the procedural aspects of the resettlement plan, in order to ensure that maximum accountability is ensured “in design”.

The following are some fundamentals of a resettlement with development policy:

- The definition of resettlement and rehabilitation needs to be expanded to incorporate elements of developmental resettlement, as enunciated in this paper. Further this definition must be in the nature of a legal and enforceable obligation on project authorities towards those negatively affected by the project in various ways, including host populations.
- The content of the rehabilitation package must be negotiated with all categories of the negatively affected populations, not only in the village community or the Local Government but also separately with collectives of each vulnerable category among them, like women, the landless, artisans, and the indigenous people. They must be informed about their options and rights pertaining to displacement and resettlement. They need to be provided with, consulted on, and offered choices among technically and economically feasible resettlement alternatives, including the alternative of non-displacement.
- The negatively affected people should have the right to collectively negotiate design, planning, implementation, and monitoring and evaluation of the resettlement policy.
- Project authorities find it easier to deal with atomised families rather than communities. There must be a shift towards consultation, consent and agreement with collectives, especially of vulnerable groups. This will not only help preserve and build upon community support structures during resettlement, but also strengthen the community in dealing with problems with the programme.
- The practice of appointing independent monitoring and evaluation has to become a common practice. This needs to be institutionalised with the reports of these agencies being accessible immediately to the negatively affected community. In this sense the practices of some funding agencies that restrict the access of monitoring and evaluation reports to the project proponent need to be suitably reviewed.
- The criteria and guidelines of international and national development funding agencies must also include measures to enforce accountability of the project proponent and other organisations involved in the resettlement process.

5.7.3 Other Options and Strategies

Resettlement Covenant

“Government, project authorities and other project developers must take responsibility and enter into binding enforceable contracts for compensation and resettlement programmes. These contracts must be properly negotiated and agreed upon with affected communities” (Maphalala B. 1999). This is a policy measure that has become increasingly necessary in the light of frequent violations of promises made by project proponents and the State to displaced people. Before land acquisition proceedings are initiated, a legal covenant has to be mandatory between the negatively affected people (individually or collectively) and the project authorities, the State (if the project proponent is not the State itself), and the primary funders of the project. The agreement must cover all aspects of the resettlement and development plan.

The agreement should be one wherein the “obligations of the developer (and its agents) are explicitly spelt out vis-a-vis the affected households in a contractual framework, with accountability and considerations defined” (Acres International 1999). The idea of such a binding covenant would certainly go a long way in protecting the entitlements of the resettled people. At the same time the efficacy of such a covenant would hinge on the participatory and transparent nature of the process by which it is drawn-up. The process must be overseen by a competent authority committed to the protection of the entitlements of the negatively affected people.

Resettlement Clearance

It is long overdue that a parallel process be put into position for the “Resettlement Clearance” of such large projects along the lines of an Environmental Clearance, common in several countries. This will ensure that detailed resettlement and development planning is integrated into the overall planning of the project, and that affected populations are extensively informed and consulted. The Resettlement Clearance must also be staggered, ie it must be issued in several stages so that an effective check can be kept on the quality of the resettlement programme. The Clearance must tie the release of funds for other aspects of the project with the performance in resettlement.

Resettlement Authority

The ideas of a Resettlement Clearance and a Contractual Framework also beg the question of a competent authority to issue and oversee the same. There is little doubt that there is a pressing need for participatory institutional mechanisms to enforce the accountability of the State or any other agency to specific policy commitments. There must be a multi-sectoral statutory body at the regional/national level to act as an Ombudsperson and oversee the entire process of negotiation and deal with violations of law and policy.

Such an authority must necessarily be committed to protecting the entitlements of the people who may be negatively affected. It must be composed of independent members from relevant fields of experience and expertise and have the trust of affected communities. This body must incorporate diverse competencies within it, including affected community organisations, and must be empowered to act decisively in advising and assisting the negatively affected people in different ways, including:

- reviewing project reports and assessment of options and alternatives;
- reviewing the cost and benefit analysis as well as the impact assessment reports;
- monitoring the entire process of consultation and people’s participation in the early stages of the project;
- reviewing the process of negotiation whereby the people will receive a share in the benefits of the project, including the Resettlement Covenant and the Clearance;
- reviewing the Resettlement Plan including its strategies and options for development, institutional arrangements, financing, and budgeting as well as monitoring and evaluation.

5.8 Reparation and Restitution for Past Losses

We have been forced to move against our will without knowing when or where we would be going, and without a way for our concerns or objections to be heard. We have not been treated with dignity, nor with respect for our customs, our ancestors or our children. We have shouldered the burden of large dams, but we have enjoyed very few of the benefits. In short, large dams have been devastating to many of our communities.

(Maphalala, B. 1999)

The entire process, of which this review is but a single element, is testimony to the suffering endured by millions of people around the world displaced and otherwise negatively affected by the construction of dams. Millions of them live in poverty and misery and are worse off for their “sacrifice”. For many of them any reparation may be a generation or even two generations too late. That however cannot give us license to look ahead to better results, leaving behind “millions of broken lives”. Indeed “it is not enough to ‘learn from the past’. The errors of the past must be acknowledged and responsibility for them must be assumed. Nor is it sufficient to recognise and assume responsibility for past errors. It is also necessary to repair damages, or provide indemnification for them” (SOC 060).

China was perhaps the first country to attempt to systematically address the problems faced by the reservoir resettled people, beginning with new policy and institutional initiatives in the early 80s. In 1986 China’s Ministry of Water Resources and Electric Power launched a 1 900 million yuan rehabilitation programme aimed at improving living conditions of some 5 million reservoir resettled people across 46 resettlement areas in the country. Despite this, a 1994 World Bank report cited the Chinese government as saying that some 46% of the country’s reservoir resettlers “were at great risk” (Jing, J. 1999:4).

In 1994 the Congress of the United States of America upheld the claims for damages and reparation made in 1951 to a confederation of Indian People who had lost homes, lands, and salmon runs to the Grand Coulee Dam in the Colombia basin in the 1940s. A total of \$ 54 million were made as reparations, apart from an annual payment of \$ 15.25 million, as long as the Dam continued to produce electricity (McCully, P. 1996:72).

Making reparations to displaced people requires considerable political will, not just from national and regional governments, but also from international development and infrastructure financing agencies as well as governments of the industrialised countries. It is hard to see how the massive human costs of the projects they have financed will be mitigated if they do not commit to underwriting some of the costs. “An international fund may need to be created, with liberal contributions from governments of both the global north and south, and international funding institutions” (India Report 1999:46). Having being impoverished in the name of development, it is only just that the needs of people displaced by development projects are given priority in the provision of resources. While the financial requirements would be significant, it is important to consider this an “investment” in long-term social and economic development - a basic right of vulnerable communities, and one which can only increase in the long run.

The need for an independent institution that will consider the issues of losses suffered and the outstanding claims has also been echoed in submissions made to the WCD (SOC 060; Maphalala, B. 1999). The entire process of assessing the extent of unmitigated resettlement issues would also require an intensive research exercise to trace the displaced people who were not rehabilitated. The nature and extent of reparation would have to be determined through participatory assessment and negotiation, as defined by this exercise, with the negatively affected people. Possible options include granting rights to reservoir fisheries and draw-down lands as well as a share of the total revenue generated so far by the concerned project, to finance the reparation and development.

“The absence of pre-project or baseline information regarding the standard of living of the affected population should not be a deterrent in the determination of what constitutes just reparation. The principle of rehabilitation in development mode requires that reparation to the negatively affected people measure up to the major benefits generated by the project” (Bartolome et al. 1999). While the measure of the major benefits generated by the project along with the impoverishment suffered by the resettled people could serve as a useful yardstick for the extent of reparation, the special vulnerabilities of indigenous people and marginalised sections would have to be accounted for separately.

There is no doubt that the issue of reparations is both complicated and costly. But then so is building dams. There is no need to make a case for reparations: it is more a question of “how” than “why”.

6. Outline of a Framework for Negotiation between the State and the Negatively Affected People

6.1 Resettlement with Development: Revisiting the Basic Principles

1. In keeping with the fundamental principles of participatory development and democracy, there is a need to move away from forced relocation and displacement to a voluntary and collectively negotiated process which recognises and respects people's rights while keeping social costs to a minimum.
2. The decision to build a dam must rest on the acceptability of the social and ecological costs of the project to the people who may be negatively affected and the nature and extent of the benefits they expect to derive from it.
3. People have to participate in the decision-making process not as "negatively project-affected" but as primary actors who contribute to the socioeconomic value of the project through their acceptance of its costs and benefits.
4. Real participation implies "agency", ie the capacity to influence decisions. The cost of a lengthier negotiating stage may repay in a swifter implementation and in better (more just) results
5. No development project can result in complete alienation of the rights, customary and legal, of people through payment of a one-time compensation. On the contrary, the process must result in the creation of new rights that will enable people to share directly in the benefits of the development project.
6. Resettlement must aim to improve the quality of life of the people by raising living standards beyond the pre-project levels. Resettlement must be planned and implemented as a development project over a minimum of two generations and include not only protective measures, but also the provision of new rights, resources, and strategies of development.
7. Socioeconomic benchmark surveys and baseline studies of the entire population that may be negatively affected must be completed and publicly reviewed prior to planning resettlement.
8. Physical relocation should be planned according to careful schedules, driven not by construction requirements and threat of submergence but the needs and best interests of the affected and host populations. The relocation of people must be facilitated so as to minimise the trauma and risks of relocation.
9. Eligibility criteria of the resettlement and development policy need to be broad-based and inclusive, to be able to address the widespread impact of the diverse aspects of a dam project upstream and downstream, as well as the impact on host communities and those negatively affected by compensatory and mitigation measures.
10. Compensation must include customary and legal rights and the future value that the land may generate for the community as a whole. To this end not only individuals but also whole communities are eligible for compensation; this should include not just monetary value but alternative resource bases for the loss of common property resources, submergence of forests, etc. In other words the basic principle must be rights for rights, just like land for land.

11. The question is not one of community participation but community control and “ownership” of the resettlement programme, with the most “responsible” facilitation and support of the project proponent and the State and its agencies.
12. It is important to evolve an appropriate institutional framework at the national level to facilitate resettlement with development. This will also allow experience and learning from every resettlement project to be consolidated and lessons to be applied effectively, resulting in better resettlement practices.
13. It is imperative that the institutional and organisational set-up of each project takes into account the social and political context in which it is located and the participation of all the negatively affected people. The extent to which project-specific institutional arrangements allow for the participation of negatively affected people is critical to the efficacy of any resettlement programme.
14. Resettlement as development costs must be determined through a participatory process and must be:
 - fully internalised within the project costs, and
 - budgeted separately with each individual component clearly delineated, so as not to be compromised.
15. A portion of the revenue from the project must be allocated (on the basis of a mutually agreed formula) from hydropower production or water use taxation or other periodic contribution to an organisation of the resettled people or their local government for planning and facilitating long term participatory development.
16. Displacement as a result of acquisition is legally sanctioned but there is no legal framework in the majority of countries that governs the process of displacement and resettlement itself. The process must be governed by law and cannot be left to executive control and vulnerable to administrative expediency, as has been the case in the past.
17. In the light of the fact that redress of existing imbalances and inequities is necessary to ensure a successful resettlement with development it becomes imperative to articulate non-derogable rights and the democratic process in law.
18. Accountability is most effectively enforced not by institutions and law, the fallibility of which are beyond all control of the negatively affected people, but when there are in-built mechanisms that allow maximum space for people to participate. This will transfer a substantial amount of control to the people rather than rest it with the “outside” in law and policy. It is essential to build accountability into the processual aspects of the resettlement plan, in order to ensure that maximum accountability is ensured “in design”.

6.2 Outline of a Framework for Negotiation between the State and the Negatively Affected People

“Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override” (John Rawls, quoted in Ramanathan:45, in SOC 163).

Displacement needs to be located in the broader perspective of the tensions between the local versus the supra-local interests. These tensions will perhaps only intensify with processes such as globalization. The answer, however, is not displacement but dialogue, a process of evolving consensus which should be open, transparent, and informed, in the context of democratic rights and values.

Development projects such as large dams represent supra-local interests that can conflict with some local interests, but need not exclude them altogether. The development effectiveness and public purpose of each project has to be established not by force of law but through a democratic, ie transparent and participatory, process of assessing needs and options/alternatives in the context of larger development goals.

The basic issue is that affected people, as citizens, have the right to participate in the process of development in general and more specifically in the process of decision-making with respect to a project that could have a major adverse impact on their lives.

People who may be negatively affected have to have a decisive role, protected by law, in determining the acceptability of social costs vis-à-vis the benefits of the project. The development effectiveness of any project must include by definition the protection of entitlements of the negatively affected people.

The rights of people to land, water, forests, etc are not absolute. The State has the mandate to call for re-negotiation of these rights. However until the State demonstrates to the people who may be negatively affected, through a transparent and participatory process, that accepting an altered set of rights, ie resettlement, will be to their benefit, they have a right to refuse resettlement.

A “successful” resettlement with development is a fundamental commitment and responsibility of the State.

No development project can result in complete alienation of the rights, customary and legal, of people through payment of a one-time compensation or facilitated relocation. On the contrary the process must result in the creation of new rights that will render people direct beneficiaries of the development project.

Just as displacement is not an inevitable consequence of infrastructure development, resettlement need not necessarily result in impoverishment. Central to positive resettlement and rehabilitation will be the empowering of people, particularly the economically and socially marginalised, as a result of both the process and outcomes of resettlement with development.

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US Ex-Im Bank: Comments from Export Import Bank of the US on TR 1.3 DRRRD.

Acres International: Comments from Acres International on TR 1.3 DRRRD

World Bank: Comments on the Draft TR1.3 DRRRD

Other Sources

AAA- American Anthropological Association; Committee for Human Rights: The Pehuenche, the World Bank Group and ENDESA S.A., March 1998.

Cernea, Michael M: Impoverishment or Social Justice? A Model for Planning Resettlement in Mathur, H.M. and Marsden, David (ed.) Development Projects and Impoverishment Risks, 1998.

Dreze, Jean and Sen, Amartya: India Economic Development and Social Opportunity, OUP, New Delhi, 1996.

McCully, Patrick: Silenced Rivers, the Ecology and Politics of Large Dams, Zed Books, London and New Jersey, 1996.

Scudder, Thayer: Social Impacts of Large Dams in Large Dams; Learning from the Past, Looking at the Future, IUCN/WB, Gland, 1997.

Scudder, Thayer: Note on Resettlement Principles 1999.

Urgewald: The Maheshwar Dam in India, Heffa Schucking, Urgewald, 1999.

Witness for Peace: A People Dammed, Witness For Peace, Washington, 1996.

World Bank: OED, Report 17538, 1998.

Endnotes

³ This paper does not treat two important issues, that of indigenous people and women in displacement comprehensively. The reason being that these are specific subjects of other thematic reviews.

⁴ The sense in which “capability” is used here essentially refers to the “range of options a person has in deciding what kind of a life to lead” (ibid:11). Poverty, therefore, in reality, means a lack of real opportunities to choose another way of living, due to a combination of constraints, personal and social.

⁵ Acquisition effectively reduces the rights of individuals and communities to property (that which is individually “owned” and has a value in exchange) and the maximum value that it can bestow on it is the market value. In the process it sanctions the claim that the land and all rights and privileges that go with it has been “legitimately sold” to the State and the people are not entitled a share in the benefits that the project will derive from their lands.

⁶ Source: IFC web-site

⁷ The World Bank, which had lent \$72 million for Chixoy Dam in 1978 and gave a second loan of \$45 million in 1985, launched an investigation following the report. "What happened is not questioned," said James Wolfensohn, the Bank President in a letter after completion of the Bank investigation to Witness for Peace and International Rivers Network (IRN). "In 1982, women and children from Rio Negro were brutally murdered by civil patrols from a neighbouring village. Why they were murdered is less certain. Some people attributed the deaths to counter-insurgency efforts, others to the fact that the people of Rio Negro were politically organised, and some to the fact they were opposed to resettlement. Others saw a confluence between these forces." Source: <http://www.irn.org>.

⁸ These case studies are of varying length and detail. All of them are from the submissions/presentations made to the WCD and obviously differ in terms of their treatment of the issues. More often than not any gaps or lack of details in the case studies are a result of insufficient information or analysis within the submissions.

⁹ See the recommendations of the Working Group on Displacement in the India Report 1999.

¹⁰ Any such process is bound to bring to the surface disagreements and even disputes, perhaps even amongst the negatively affected community itself. While it would be difficult to lay down specific criteria in this regard, it is clear that they would have to be resolved in the light of the interests of the most disadvantaged. Moreover this entire process would require a new framework in law and policy for negotiation between the people and the state/project proponent, something we will consider later.

¹¹ The same procedure however seems to have been violated in the Upper Kotmale Project (SOC 028). The project, though initially rejected, was approved by the Secretary of the national Government without the mandatory public hearing.

¹² It must, however, be understood that controlled releases are subject to several complex issues, especially those relating to the technical (design and construction, flows, etc) and environmental aspects, including the hydrodynamics of the river basin. Moreover operational as well as policy matters that must be dealt with also include the possible trade-offs with power generation or the demands of the irrigation command (Baba 1999; SOC 094 and Scudder, T. 1997). In this light it is fit to say that what follows is an examination of the possibilities of some ways in which controlled releases can open avenues to bring greater benefits of the project to the negatively affected people, particularly in downstream areas.

¹³ Floods are an integral part of a river's life-cycle and have for millenia played a crucial role not only in sustaining the communities of river basin through the rich silt they spread out, but also in resuscitating vital grasslands for animals and enriching coastal mangroves. The most significant aspect of the natural floods as far as human communities are concerned is of course the natural floods that deposit fertile alluvial soil across the basin, sustaining livelihood of millions of people in the downstream areas.

¹⁴ Considering that the number of people displaced in China by dams is in excess of 10 million, there is every reason to merit the establishment of a huge administrative infrastructure to deal with resettlement. On the contrary, in India, which has a dam-displaced population numbering anywhere between 20 to 30 million, there is no administrative infrastructure dedicated to resettlement induced by displacement. The confusion between project authorities, the ministries of State and Central Government such as Agriculture, Social Justice, and Empowerment regarding the extent of responsibilities in the process of developmental resettlement of displaced people continues. The absence of a national policy for developmental resettlement only exacerbates the situation even further, leading to continued failures in resettlement (India Report 1999).

¹⁵ The Multi-Participatory Working Group in Castanhao is still the subject of research (SOC 059). The brief exploration above does not cast much light on the actual implementation of the resettlement programme and the specificities of the Working Group. These include how the members were chosen, the actual roles and functioning of the members of the Group, and how the Working Group actually dealt with specific aspects of the resettlement. That being said, there is no doubt that the Working Group of Castanhao certainly offers a very good lesson in terms of the principles of creating a participatory institutional structure for a project. The Working group model also points to one possible manner in which the critical but common institutional failure of the lack of co-ordination between the project authority, the agency that co-ordinates the resettlement, and the relevant agencies of the provisional/regional and central governments can be addressed.

Appendix I: List of Contributing Papers

Note: materials from these contributing papers were incorporated directly into the text and annexes or provided necessary background information for the authors of the thematic.

Writer	Contributing Paper
Bartolome, Leopoldo & Danklmaier Christine	The Experience with Dams and Resettlement in Argentina
de Wet, Chris	The Experience with Dams and Resettlement in Africa
Jun Jing, Jun	Displacement, Resettlement, Rehabilitation, Repatriation and Development - China Report
Nagraj, Vijay, Hemadre, Ravi & Mander, Harsh.	The Experience with Dams and Resettlement in India
Scott Robinson, Scott	Displacement, Resettlement, Rehabilitation, Reparation and Development, The Mexico Case

Appendix II: List of Submissions

Author	Serial #	Title
Samad, S	SOC 032	Dams Caused Environmental Refugees of Ethnic Minorities
Sunil Tankha	SOC 059	Participatory planning and implementation for involuntary relocation and resettlement: lessons from Ceara
MAB	SOC 060	Reparations and Indemnification for Losses Suffered by Dam-Affected Populations
World Bank - Operations Evaluation Department, World Bank	SOC 149	Recent Experiences with Involuntary Resettlement. Brazil - Itaparica
Celio Berman	SOC 063	Community-managed resettlement: Ita Dam, Brazil
Adima Aranha Silva Conceicao	SOC 066	The construction of Porto Primavera Dam in Parana River: Socio-cultural impacts in resettlement of indigenous group Ofaye
Franklin Daniel Rothman	SOC 085	From Local to Global: The Anti-dam Movement in Southern Brazil, 1979-1992
Jose Porfirio Fontenelle de Carvalho	SOC 062	Electronorte's experience with indigenous people
Clugston, M	SOC 047	Power Struggle
Claudio Gonzalez- Parra	SOC 072	Indigenous people and mega-projects: the example of Pehenches en el Alto Bio Bio, Chile
World Bank	SOC 154	Recent Experiences with Involuntary Resettlement. China - Shuikou (and Yantan)
Mueller- Plantenberg, C	SOC 04	Battle against Urra Dam of Rio Sinu, Colombia
Jaroslava Colajacomo	SOC 073	The Chixoy dam case
Dharmadhikary, S	SOC 024	Large Dams of Gujarat: Failed Promises and Trauma of Displacement

This is a working paper prepared for the World Commission on Dams as part of its information-gathering activity. The views, conclusions, and recommendations in the working paper are not to be taken to represent the views of the Commission.

Dharmadhikary, S	SOC 025	Large Dams - Destruction not Development: The Experience of the Dams in the Narmada Valley in India (with the exception of Sardar Sarovar)
Pawan Rana	SOC 049	Need for a rational Water Management Policy for the Himalayan River Basins
	SOC 157	River and Life. Peoples' Struggle in the Narmada Valley
Smitu Kothari	SOC 161	Whose Nation? The Displaced as Victims of Development
Lata Pratibha Madhukar	SOC 162	Mental Health Consequences of Displacement and Resettlement
Sinha, R	SOC 009	The Bargi Experience: "Lessons Learnt" The Hard Way
Ind report of Lokayan. UN University Project on "Conflict over Natural Resources."	SOC 159	Sri Sailam: The Shadow grows longer. Condition of the Sri Sailam Dam evictees after three years.
NBA	SOC 163	A comment on Draft Rehabilitation Policy
World Bank, OE Department, The World Bank	SOC 150	Recent Experiences with Involuntary Resettlement. India - Upper Krishna (Karnataka and Maharashtra)
Narmada Bachao Andolan	SOC 019	Narmada Valley: Issues Regarding Large Dams
Barajas, Ismael Aguilar	SOC 070	Interregional Transfer of Water in Northeastern Mexico: The dispute over El Cochilo
Rich Beilfuss	SOC 099	Can This River be Saved? Rethinking Cahora Bassa Could Make a Difference for Dam - Battered Zambezi
Pena, Elias Diaz	SOC 077	Yacyreta hydroelectric project: the struggle for participation
Adams, Adrian	SOC 094	A Grassroots view of Senegal River Development Agencies: OMVS, SAED
Havlicek, Roman	SOC 053	Destruction of Rural Communities as an Inseparable Part of the Construction of Large Dams in Slovakia
Karunawathie, AR	SOC 029	Social Impacts of the Samanlawewa Project

Withanage, H	SOC 028	Upper Kotmale Hydropower Project – Another Disaster in Dam History
Yildiz, Kerim	SOC 104	The Ilisu Turkey Dam: Resettlement and Human Rights
Avogrado, Carlos	SOC 076	Relocation of the City of Federation by the Binational Hydropower Salto Grande project
Aviva Imhof, IRN	SOC 133	The Struggle of the Pak Mun River. The World Bank's Involvement in the Pak Mun Dam, Thailand
World Bank, Washington	SOC 152	Operational Directive 4.20: Indigenous Peoples
World Bank	SOC 151	Operational Directive 4.3: Involuntary Resettlement
David Syantami Syankusule & Bazak Zakeyo Lungu	SOC 119	Impacts of the Construction of Lake Kariba on Gwembe Tonga People

Appendix III: Comments Received

The WCD is committed to an open and consultative process. To broaden the scope for participation and input from interested groups and stakeholders, the Commission invited specialists, centres of excellence and WCD Forum members to prepare comments on the thematic drafts. Comments were received throughout the progression of the thematic review. The comments were incorporated to the extent possible into subsequent drafts of the thematic. However, to provide readers with a complete record, all comments received are included in an annex to the report.

Every comment has been read carefully. Some are informed individual perspectives on which the WCD cannot mediate. For example, there are some comments that seek the endorsement of the WCD, and the WCD's mandate is neither to adjudicate nor to mediate on specific dams or disputes. Others may go beyond the scope of the individual thematic review.

The comments are separated into Appendix sections relating to the specific draft that they refer to. Section numbers referred to in individual commentaries will have changed in the final version of the report.

I: Comments on Draft of (April 2000)

a) Patrick McCully	International Rivers Network
b) Tomoo Inoue	Japan Engineering Section

a) Comments by Tomoo Inoue (May 2000)

It is my pleasure to submit my comments on the Thematic Review: 1.3 Displacement, Resettlement, Rehabilitation and Development. My review was based on the paper which was sent, with your permission, by Mr. Minoru Kuriki who was in the WCD Secretariat.

I appreciated very much that you organised the Conference on Social Impacts through the Internet. And I have found the final draft of TR 1.3 is well organised and informative in general. However, I would be grateful if I could add some comments on the part on the page 29 which describes an institutional framework for reservoir area development in Japan as below, because there are a few short-spoken mistakes. First, the Funds for Reservoir Area Development are regionally or locally co-ordinated and rather independent of the actions under the framework of the Act on Special Measures for the Reservoir Areas Development. Second, this kind of institutional frameworks are NOT provided by the Water Resources Development Public Corporation, as you are referring to. Therefore, It would be highly appreciated if you could consider my comments when you synthesise the knowledge-base in the WCD.

Thank you very much for your attention.

Japan Dam Engineering Centre

Comments

In Japan, the Act on Special Measures for the Reservoir Areas Development has been regarded as an institutional framework in achieving social acceptability of a dam project. The Act, which was enacted in 1974, provides various measures for the people who are affected by a dam project and for the development of a reservoir area. Conventional measures in Japan provide compensation to the people who are enforced to relocate by a dam project. According to the Standard Regulations on Compensation for Losses by the Acquisition of Land for Public Purposes, the dam developer and local landowners

conduct negotiations regarding compensation for income from land and the relocation of buildings. The Act, on the other hand, calls for a Reservoir Area Development Plan that is needed to improve social infrastructure in the reservoir area where basic conditions will be substantially altered by the construction of the dam and to improve the environment by preventing the contamination of the dam reservoir. The money to cover the implementation of the special measures is provided by local governments, subsidised by the central government and, in some cases, partly borne by the downstream beneficiaries to some extent. Efforts are made to have residents upstream and downstream benefit equally from the dam projects.

The main reason why some dam projects under this institutional framework was successful has been early involvement of potentially affected people in the planning process and co-operative actions among project developers, potentially affected people and local governments. Owing to this early involvement and co-operative actions, the conflicts related to the adverse impacts of the project have been dealt with smoothly. The most important part of the planning of an improvement project is a concept for a project focussed on the future development of the region. According to this concept, the Act has resulted in successful implementation in 39 dams with 8,500 ha of submerged areas and 3,100 relocated houses. Since the enforcement of the Act, these kinds of dam projects have been effectively implemented. In addition, in Japan more than 50 dams with 14,000 ha of submerged areas and 5,800 relocated houses are designated under the provision of the Act.

The enactment of the Act did not always bring an end to vigorous demands for carefully planned measures to reconstruct the lives of individuals, that is the most important issue for those relocated by dam reservoirs. And the need for regional improvement has been revealed at dams that do not meet the conditions stipulated by the Act. So in 1976, the Fund for Reservoir Area Development system was established. The Funds supported mainly by local governments have been established in both the reservoir areas and the places where beneficiaries live, to assist with reconstruction and revitalisation in reservoir areas. A number of projects have been implemented by using such funds. Activities in the Fund are stipulated in the document of endowment, which is decided by the fund board. These consist primarily of measures to rebuild the lives of people (e.g. interest payment subsidies for alternative land and funds for counselling services), subsidies for local revitalisation projects (e.g. construction and improvement of roads and basic production facilities), and exchanges through recreational activities between upstream and downstream communities. These activities are aimed at supplementing the measures for reservoir areas in accordance with the Act, by carrying out more detailed action, and apply to dams that do not meet the requirements for funds under the Act. The Fund has been established in 25 principal river systems.

With reference to my paper presented at the WCD Regional Consultation for East and South-East Asia which was held in Hanoi last February, entitled 'Institutional Frameworks for Social Acceptability of Dam Projects in Japan'.

b) Comments by P. McCully (May 27, 2000)

This paper provides a very good overview of the issue and a strong effort has been made to incorporate material from submissions. There are however some weaknesses in the paper. In general terms these are:

- there is a need to stress that any future resettlement must be voluntary. "Involuntary resettlement" is no longer acceptable if people's rights are to be respected as the paper advocates. "Involuntary" or "forced" resettlement can never be done in a way which ensures the justice and dignity of the affected people. The right to collective negotiations and the need for communities to be able to hold developers accountable for negotiated agreements also need to be stressed.
- weak language in places which understates the failure of resettlement policies and practice (and is often contradicted by more forthright statements elsewhere);

- a failure to discuss explicitly the issue of scale, ie the decreased likelihood of successful resettlement as numbers of displaced increases.

The paper contains a number of typos and spelling mistakes and would benefit from a copy editor. The paper also requires an executive summary. A glossary with a definition of the terms Displacement, Resettlement etc. should be provided.

Sophia Woodman from Human Rights in China has already submitted perceptive and important comments on the depiction of Chinese resettlement in this paper. I agree with Woodman's comments and have not revisited this topic.

SPECIFIC COMMENTS:

Chapter 3:

This chapter needs a section on reparations.

- 3.2** bullet 2: *Losses*: 'Often' should be replaced with 'Rarely has'
 bullet 3 *Compensation*: 'usually not' should be replaced with 'rarely'

3.3 The use of Cernea's discourse of 'impoverishment risk' is problematic. The record shows that for people faced with displacement, impoverishment is not just a 'risk' which might happen if resettlement is not done with care, but a virtual certainty. It will continue to be a virtual certainty while developers have the right to force people off their lands (even if the developers have "consulted" with the people before evicting them).

- bullet 2: *Costs*: 'tend to be' should be replaced with 'have invariably been'
- bullet 6: *Outcomes*: needs edited to make sense
- bullet 7: *Sites*: 'often' should be replaced with 'invariably'
- bullet 8: *Livelihoods*: should note not just 'reluctance to adopt' land-for-land but also attempt by WB, to scrap this existing policy requirement.
- bullet 11: *Indigenous*: multiple displacement is not a problem only for indigenous/tribal people as implied. An explanation of multiple displacement should be given.
- bullet 14: *Resettlement and Rehabilitation policy*: it should be noted that the main factor driving improved policies has not been the WB, but anti-dam movements (this is recognised on p.15).
- bullet 15: *compliance*: extent of compliance with guidelines should not be characterised as 'mixed' - it has been unacceptably poor, a fact admitted even in WB reviews (and noted later on p.16).

p.11: "exercise of force and even violence" should read "exercise of violence and even murder"

Chapter 4:

4.1 The last paragraph requires an addition on the issue of how to make the state/developers accountable for fulfilling their negotiated responsibilities and how fair negotiations can be assured under conditions of huge power imbalances between developers and communities (as noted on p.21).

4.2: 'could serve the interests of profits' should be changed to 'will likely serve the interests of profits'

Chapter 5:

5.1.1 This section should stress that any future resettlement must be voluntary. "Involuntary resettlement" is no longer acceptable if people's rights are to be respected as the paper advocates.

"Involuntary" or "forced" resettlement can never be done in a way which ensures the justice and dignity of the affected people.

At the end of the second paragraph "refuse to be resettled" should be reworded "refuse to be displaced". The existing wording implies that people can be evicted without rights and are only able to refuse whatever resettlement package is offered to them.

5.2.2 The concept of 'Joint SIAs' conducted by both affected communities and developers should be explained. The example noted earlier of the funds provided to the Cree to review the James Bay project documents is also relevant here.

5.2.3.2 It is doubtful if "self-organisation" of affected communities can be externally encouraged. This is especially problematic if the developers become the encouragers - there will then be a push to encourage organisations which are compliant with the developers interests. A better wording would be "to recognise the organisation of the powerless".

It should be noted that longer negotiation processes may facilitate project implementation, they may also lead to projects not being implemented. Developers need to accept that this may occur.

Box on p.29: "the capacity to influence and even modify decisions" is surely tautological. A better wording would be "the capacity to change decisions".

5.3.1: The concept of equity shares for negatively people is a highly dangerous one and should be dropped from this paper. It is not an appropriate vehicle for making affected people project beneficiaries. The reasons include:

- if share values or dividends fall, the value of the compensation to affected people falls, although the degree to which they experienced harm from the project remains the same. The fate of affected communities should not be tied to the gyrations of share markets;
- making affected people become shareholders is in effect a form of coercion against community organising - any mobilisations or legal actions which delay the project or increase its costs may harm the share price or dividend payments and therefore the compensation to the affected people;
- it makes affected people dependent on project performance for their compensation. If, as is usual with dam projects, there are cost overruns and predicted outputs are less than predicted the affected communities will suffer through a loss in share value and dividends;
- most dam projects are still built by the public sector and do not belong to listed companies.

The use of the Pehuen Foundation as a precedent for such an equity sharing arrangement only discredits such arrangements. As is noted earlier in the paper the Pehuen Foundation has been party to abuses of the human rights of the people it is supposedly 'helping'.

A more sensible form of benefit-sharing would be to guarantee affected communities a certain percentage of project revenues (and not profits). Communities would be protected from poor project performance by guaranteed minimum payments.

If the Japanese Act is to be cited as a precedent there should be an accompanying analyses of what the results of the Act have been. I find the chart on financing under this Act in Annex 1 to be incomprehensible.

Benefits from Controlled Releases

This section should be merged with the later one on Floodplain Irrigation. It is vital to note here that releases of beneficial downstream flows will be dependent on political will and participatory monitoring and compliance mechanisms which can force project operators to fulfil any operational commitments

made (see Adams' contribution to Thematic Review I.1). The damage to farmers on the Senegal River from apparently deliberately mistimed releases from Manantali Dam should be noted.

Reservoir Fisheries

This section should note the decline in reservoir productivity after first filling. The statement "could well have a negative impact on the fish breeding and spawning" should be changed to read "would likely have a . . ." (see eg Thematic Review II.1).

The example of Cahora Bassa is misleading. It should be clearly stated that the potential improvement in fishery production is from the extremely low post-dam levels, and does not represent an improvement from pre-dam productivity.

The Kariba example is also misleading [CK]

Draw-Down Cultivation

The need for participatory monitoring and compliance mechanisms which can assure that the reservoir is drawn down as agreed should be noted here.

5.3.2 This section needs to revisit the issue of voluntary versus involuntary resettlement, including the right of people to refuse to be negatively impacted and compensated as "project beneficiaries" as proposed by developers. The issues of accountability for complying with negotiated agreements, and the need to compensate for power imbalances in negotiations should also be reiterated.

5.4.1 The first sentence implies that if resettlement is planned as a development project, a majority of resettled people will be better off. This assumption is contradicted by evidence elsewhere in the paper explaining the failure of resettlement plans, no matter how good they look on paper. The key issue for successful resettlement is not the intentions of the plans, but whether affected people have the political power and legal rights to collective negotiations on equal terms with developers, freely give or withhold their consent to the project and the resettlement terms, and then hold the developers accountable to any agreements made.

5.4.2 It should be noted that the proposed monitoring mechanism should include representatives of the affected communities.

5.4.4 The box should mention the need for enforcement mechanisms to ensure that construction does not proceed ahead of progress on resettlement.

5.4.5 The third bullet point needs to be edited (see the 2nd sentence).

5.4.8.1 This section needs editing. The reference to "warehouses" should be "agricultural buildings". This section and 5.4.8.2 should also refer to the ongoing conflicts at Ita over compensation measures (see eg World Rivers Review, Dec 1999).

5.5.1 "quite poor" in the second para should be changed to "poor". Some editing is required of the sentence at the end of the 3rd para.

The statement that EBY's resettlement plan was the result of WB pressure is a half-truth at best. The main sources of pressure, of course, were the affected people and NGOs who pressured EBY both directly and via the WB.

5.6 The payments of royalties by Itaipu to local municipalities are wrongly characterised as payments for resettlement.

The discussion of under budgeting of resettlement should also mention the systematic underestimation of resettlement numbers.

5.7.1 The first two bullets on p.50 require editing.

5.7.2 It is unclear whether the first 4 paragraphs are all part of the same quote. The second bullet point should explain that the affected people should be informed about the alternative of no resettlement. The fourth para should be strengthened - the issue of collective negotiations is essential.

5.7.3 Collective negotiations and covenants should be stressed here and given precedence over individual negotiations.

The Resettlement Authority should include representatives from affected communities.

5.8 I presume that this section will be expanded once the commissioned paper on reparations is complete. One comment in this section is that the account of Grand Coulee should be expanded with material from the WCD case study. The case study on Kariba could also provide useful information here. In the 6th paragraphs, "displaced people who were not resettled" should be changed to "displaced people who were not rehabilitated".

6.1 The 'Basic Principles' need to stress the need to end involuntary resettlement and make future resettlement voluntary. The right to collective negotiations should also be stressed. Some of the principles should be edited to reflect comments made above.

The issue of funds being provided to affected communities to enable their participation in reviewing project studies is an extremely important one and should be noted here.

6.2 The comment above on the "right to refuse displacement" as opposed to refuse resettlement also applies here.

II: Comments on Draft of (November 1999)

a) Egré, Dominique	Hydro Quebec, Montreal, Canada
b) Joseph Milewski	Hydro Quebec, Montreal, Canada
c) Martin ter Woort	Independent Consultant, Canada
d) Sam Pillai	Acres International, Canada
e) Christopher McDowell	CAPSTRANS, University of Wollongong, Australia
f) Anthony Oliver-Smith	University of Florida, US
g) Maninder Gill	The World Bank, Washington D.C
h) James A. Mahoney and Popi Artavanis,	Export Import Bank of the U.S

a) Comments by Dominique Egre, 10th January 2000

Following Joseph Milewski's December 17 email on the draft paper on displacement, resettlement, rehabilitation, reparation and development, you will find below, as promised, more detailed comments. They integrate those of Jean-Étienne Klimpt, Pierre Senécal and myself.

As Joseph already mentioned in his email, it is a challenge to write such a concise report on such a vast

topic! The achievement is impressive. The authors should also be congratulated for the clarity and accessible language. On a more critical note, you will find below, first general comments and then specific comments:

General Comments

1) The report rightly insists on compensation, just and equitable, on participation and on legal guarantees. It also rightly supports "resettlement with development" policies. However, it could be more specific on best practices and methods regarding development programmes, how self-empowerment may be promoted, how can rehabilitation succeed and long-term dependence be avoided (e.g. in Element 3).

2) Other important issues such as urban planning, architectural design or quality of life should not be disregarded either; it is probably true that too much emphasis has been given in the past to these types of issues; but they are nonetheless real and the balance has shifted too much away from these issues in recent years.

3) The review could refer more specifically to the problems which are typical of resettlement programs carried out in the context of hydroelectric projects; they would be more useful for field-oriented interventions than could have been hoped for.

4) At face value, the summary of the follow-ups or ex post studies of resettlement projects seems too simplistic; past resettlement programs are too often presented as total disasters (India) or complete successes (China); one would suspect, in a number of projects, that a fuller range of situations and impacts generally prevail; if a proportion of the relocatees indeed turn out as significantly affected, another portion may also emerge as much less impacted and more receptive towards changes; however, the authors should not necessarily be blamed for this lack of balance, which seems so pervasive in the literature of the past 15 years.

5) Eligibility to resettlement programs is defined much too broadly (this is also a problem with the latest version of the new resettlement guidelines of the WB); according to this definition, even a farmer or aboriginal hunter who loses a marginal portion of his resource base would be included in the definition of displaced persons; some limit should be drawn between people who are actually resettled - or forced to resettle because of a severe resource loss - and other project affected persons who are also affected but who are not forced to relocate; defining more precisely where this limit lies is also necessary for a clear delineation between resettlement planning and the definition of mitigation and compensation measures in EIA/SIA studies.

Specific Comments

Page 5, section 2, paragraph no.1: saying that "displacement...occurs when development projects are conceived without any serious consideration is given to those options that would involve the least social and environmental costs, or minimum displacement" is going a bit too far or sounds demagogic; it implies that any displacement is automatically the result of inconsiderate or careless planning; resettlement can become unavoidable even when every effort has been made to avoid it, as recommended in the draft paper.

Page 5, section 2, paragraph no. 2: the same could be said of the phrase "the displaced...have often been the last to receive any meaningful information"; unless this assertion can be proven, it seems at first glance to be a simplistic and biased overgeneralization.

Page 6, section 2, paragraph 6: Contrary to the assertion of the draft report, "the special vulnerabilities and specific needs of indigenous/tribal peoples" have been adequately addressed in a number of

projects.

Page 7, section 3, 1.1, first paragraph: including among the displaced all those (b) who "...without having to move...are affected through loss of land...and disruption of social relationships" is simply excessive; this would mean that virtually every affected person should be considered as "displaced", which does not make much sense; some boundary should be established between the impacts which should be considered as specific to resettlement and those specific to social impacts in general; for obvious reasons, many people who only lose a marginal portion of their resource base should not be considered as displaced; the word "displaced" should be restricted to affected persons who are physically relocated or who would lose so much land or resources that they would be forced to move. Specific mitigation and compensation measures, other than those included in the resettlement plan, should be developed to address impacts on these affected persons.

Page 7, section 3, 1.1, third sub-point ("in addition to people physically displaced by the reservoir and dam structure..."): same comment.

Page 8, section 3,1.1, last paragraph: once again, some cautionary wording is needed here - unless proven, the assertion seems to be somewhat biased and overgeneralized.

Page 8, section 2.1, first paragraph: the second phrase ("part of a political discourse") is once again very ideological; the implication is that any displacement, for any reason, cannot be justified on the basis of collective or public interest; the same could be said of the last sentence of the same paragraph and of the second sentence of the next paragraph.

Page 8, Section 2.1: It would be useful to explain why and how the principle of eminent domain "overrides basic human and livelihood rights enshrined in the constitution" of India.

Page 10, Section 4.1, Paragraph starting with "Despite increasing evidence ...". Contrary to the assertion, pre-project benchmark studies are essential for good resettlement planning, as stated page 18 (Element 3, first point of Tools and Methodology).

Page 10 (section 4.1), third paragraph from the end of section: the authors should be congratulated for mentioning the psychological dimensions of resettlement, which are often overlooked in spite of their critical importance for recovery and rehabilitation; however, references should be given.

Page 11, section 5.1, paragraph starting by "In most cases...": For reasons stated above, virtually all project affected people should not be included among the "displaced". Although it is imperative to properly address impacts on people who are not physically displaced, it does not have to be under a resettlement plan.

Page 14, Element 1, first subpoint: requiring that all the potentially displaced persons come to the conclusion that the project is justified seems to be a bit idealistic and would virtually stop any dam project (or project in general); even if a formal demonstration of public need was made (e.g. for flood control, life-saving purposes), it can be expected that many potentially affected people will strongly object anyway for very understandable reasons; in some contexts and in the end, however, public interest must simply prevail.

Page 15, Element 2, last two subpoints: the relation of these two subpoints to the theme of the element ("minimising displacement") is not very obvious; the same could be said of the first two paragraphs and of the last paragraph of Tools and Methodology.

Page 16, Element 2, Tools and methodology: As mentioned in the WCD draft paper on economic analysis, there are no proven method to internalise social and human costs in a cost-benefit analysis.

Page 16, Element 3: The relation of many points to development aspects is not obvious (e.g., subsections i, ii and iii).

Page 18, Element 3, Tools and Methodology, third subpoint: access to jobs on construction site could also be mentioned.

Page 19, Element 3, Tools, second subpoint from the last ("one of the significant ways..."): the meaning of the second sentence is not obvious and does not seem related to the development aspects.

Page 19, Element 5, third subpoint: what is actually meant by "freeing from judicial closure the process and definition of public purpose"?

Page 20, Element 6, first paragraph: it seems a bit excessive or overgeneralised to say that "social and environmental issues have been relegated to the margins of priority...".

Page 21, Element 6, Paragraph b: It is not feasible nor justifiable to consider that all institutions which participate to project design and implementation be considered "legally accountable for their involvement in, or support, for projects".

Do not hesitate to contact us should you have any question on the above comments.

b) Comments by Josef Milewski, 1st December 1999

It is a challenge to write such a concise report on such a vast topic! The achievement is impressive. We have very few detailed comments to offer, at this stage. One general comment is regarding the 3rd section: "elements fundamental to successful resettlement and rehabilitation" Our feeling is that the focus is often on compensation, just and equitable, on participation and on legal guarantees. It could focus more on how to achieve development, how self-empowerment may be promoted. But then, we don't have ready-made answers ourselves, and we need some extra time to provide specific comments. In early January, we could send specific (page by page) suggestions, if it is still appropriate.

c) Comments by Martin ter Woort, 15th December 1999

Allow me to make a few comments on the Resettlement Paper which you have so kindly provided. Overall, this is a well put together paper that sets out the critical issues quite clearly. The elements of successful resettlement by and large cover the ground. After identifying the "winning conditions" that need to be in place in order to achieve success, the WCD can now move forward to addressing the WHAT and the HOW of putting such conditions in place. I suppose, that will happen early next year.

1. Reference 14. Please change this to:

NRCR 1999. China Resettlement policies and Practices - Review and Recommendations, National Research Center for Resettlement at Hohai University, Nanjing, PRC, 1999.

While this report was funded under a TA of the ADB, it is NOT an ADB document. The reference to the report in section 1.1 should read (NRCR 1999). There may be other references to it.

2. Dispute resolution and grievance procedures. I'm not sure if reference is made to the need to have such procedures in place under element 5 as one of the methods that can protect the rights of the affected persons.
3. On the point of rights, you may recall that when we were involved in the WB Early Review of Resettlement Projects in the early 1990s, that we prepared a rudimentary "Bill of Rights" for affected persons (see summary report). Perhaps this concept should be developed further.
4. As with WB OP4.12, there is no specific definition of "Resettlement" included in the paper. I think the WCD could provide a major service by defining exactly what involuntary resettlement is, and what it is not. In fact, a glossary of internationally acceptable resettlement-related terms is badly needed, as we continue to find a great deal of confusion on this point. For instance, compensation for suffered losses without associated relocation is typically considered to fall under the term resettlement, and in effect constitutes a sort of stationary resettlement. That does not make sense, unless it is clearly understood that the term "resettlement" includes compensation as well as relocation and rehabilitation. It is interesting to note that your paper's title does not include the word compensation; yet it is this activity that is at the heart of taking land and structures from citizens. While in the case of dam and reservoir projects, instances of compensation without associated relocation may constitute a small percentage, this is not the case with transmission lines.
5. Your element 9, planning for flexibility, could be misinterpreted as not being required to plan in detail. I would rename this element: Good planning (i.e. planning based on best practice, or planning based on a number of accepted planning criteria.) The plan needs to be the best a plan can be; this includes an effective monitoring function. The continuous monitoring should indicate if changes are required and the plan implementers should be given the capacity to react to changing conditions. The China examples may not tell the whole story, as I can recount situations in China where a change in direction was made because an initial direction failed badly; one could call that bad planning with subsequent recovery.
6. Finally, I would like to suggest as Element 10 : Contractual Framework. This precondition would require that the obligations of the developer (and its agents) are clearly and explicitly spelled out vis a vis the affected households in a contractual format, with accountability and considerations defined. Resettlement implies a contract and as such a Law of Contracts applies, or where there is no such law, proxies for such a law. This subject would require a bit more discussion, so if there is an interest in including such an element 10, we can perhaps continue this at some future time.

Thank you for giving me the opportunity to read the paper and say a few words.

a) Comments by Sam Pillai, 15th December 1999

Martin ter Woort has passed on to me the thematic paper on resettlement prepared by Bartolome et al. I would like to share with you some insights I have gained working on resettlement in Asia.

1. Top level political commitment is essential to get involuntary resettlement on the government's agenda.
2. Currently there is no resettlement policy on the statute books in ANY country.
3. Largely as a result of prodding by IFIs, a number of countries have adopted project specific policies that go far beyond compensation provisions available in current legislation.

4. Countries generally resist being seen to be responding to IFI's pressure to formulate resettlement policies. It is better to help countries to first draft their own policies and then to work to improve policy gradually.
5. The enactment of resettlement legislation alone is no guarantee that implementation will be improved.
6. Effective stakeholder participation in resettlement calls for levels of empowerment that may not be generally practised in some countries. Thus it becomes difficult to push for it ONLY in the context of resettlement.
7. Most existing land acquisition laws are the basis for compensating PAPs. However, these laws have so many loopholes that people often get a poor deal. For example on the surface "market value" for land appears a reasonable basis on which to compensate. Yet the way "market value" is determined leaves much to be desired. Recorded land transactions are often undervalued to avoid paying taxes, capital gains and/or stamp duties. Thus illiterate rural people have no simple way of airing their grievances and are often at the mercy of officials and middlemen.
8. Rarely is a project executing agency assigned clear responsibility for the success of resettlement. Dispersed responsibility provides an ideal setting for "passing the buck".
9. Social and emotional consequences of resettlement are rarely addressed in projects.
10. Project documents do not spell out in clear terms what specific efforts were made to avoid/minimise resettlement.

I would welcome your comments.

a) **Comments by Christopher McDowell, 13th December 1999**

Thank you for sending me for review a copy of the Social Issues Paper 1.3 on 'Displacement, Resettlement, Rehabilitation, Reparation and Development'.

A general comment, is that the authors have done an excellent job in distilling the current state of knowledge and drawing out the key issues. The recommendations are comprehensive while being within reach. I would only make one specific point to highlight what I see as a gap in the paper.

Corruption and Resettlement Failure

An absent theme which should find a place in Section 2 'Learning from the Past' as well as Section 3 'Elements Fundamental to Resettlement' is the linkage between corruption and resettlement failure. It is a contentious area, and one that has been little researched, but is one that should not be ignored. I understand the focus of the paper is 'best practice' but as the paper proceeds it is clearly concerned also with 'worst practice'.

We have known for many years, and recently it has been widely reported, that corruption in civil engineering project impacts directly and indirectly on project affected people. The more obvious direct impacts could be included in this study.

We know that:

(a) Corruption by local officials in China and elsewhere has resulted in the siphoning off of hundreds of thousands of dollars intended to be used in RESETTLEMENT AND REHABILITATION schemes

associated with dam development. As a result displaced populations do not have the infrastructure or the financial assistance necessary to pursue livelihood strategies essential for re-establishment;

(b) Corruption in the contracting and sub-contracting procedures have resulted in sub-standard constructions. In the Three Gorges project roads and bridges essential for both the projects and the resettlement sites are so shoddily constructed that many are collapsing. Resettled populations are consequently isolated from other population centres, markets and resources, making almost impossible the pursuit of economic strategies essential for re-establishment.

(c) Corruption in bidding for contracts, tender procedures and the granting of contracts increases the overall costs of projects (some estimates by 15-30% on average). The 'corruption levy' has to be found from somewhere and invariably, though evidence is only now being gathered, the budget first targeted for funds diversion is the resettlement and rehabilitation budget. Thus a direct consequence of corruption is the reduction in funds available for RESETTLEMENT AND REHABILITATION.

(d) Obfuscating deals between developers and governments, particularly in Africa, is resulting in irregular resettlement occurring outside legal norms. Irregular resettlement results in increased displacement, minimised protection and knock-on displacement where land for resettlers has been secured by unfair means.

Section 3 should therefore include the necessity for 'transparency and corruption prevention'. I would refer the authors to Michael H Wiehen's paper prepared for the WCD entitled, 'Transparency and Corruption Prevention on Building Large Dams' October 25 1999; and Sudhir Chavda's work on Tanzania; Steyn Laubscher in Cape Town may already have addressed the WCD on this issue.

Transparency International, the Resettlement Project at the University of Wollongong, and FIDIC is developing a proposal to examine these linkages and will be seeking assistance to undertake a research and analysis project.

Good luck with the continuing work,

b) Comments by Anthony Oliver Smith, 21st December 1999

I'm finally through grading papers and exams and can now address the WCD report. I will simply make comments on sections within the report and then give you a summary of sorts. My comments will be somewhat informal in style.

Section 2.1 (shouldn't it be 1.2???) The report states that resettlement under specific circumstances can have positive effects when planned and implemented as a development intervention...as outlined in the paper.

Section 4 details "elements fundamental to successful resettlement and rehabilitation." I think perhaps it might be more effective to include some of the endnoted cases in the text...or at least make them footnotes rather than endnotes...at least mention of cases where such positive outcomes have occurred. I don't think the report is the place for detailed presentation of case study data, but mentioning in the body of the text the cases where positive outcomes have occurred makes for a more powerful document.

Section 2, number 4 on compensation: the complexity of the compensation issue should be addressed. It's not just a question of adequate compensation...which sounds like sufficient compensation...i.e. enough money has not been awarded. It is in some ways the impossibility of appropriate compensation for certain kinds of losses in some cases. In other words, the complexity of compensation seems here to be elided and only sufficiency is suggested as the key issue.

Section 2, number 5. In the discussion of the Chinese resettlement plan, it is unclear as to how the plan provides the opportunity for revisiting the plans and making mid-course corrections.

Section 2 following the numbered items (p.7 in my copy)...the discussion of the Land Acquisition Act...Of what nation? China? India? Also, although it comments on the inadequacy of paying the "market" value of property, in addition to legal safeguards, there should be mention of other means of valorising losses.

Section 3.1 There is no mention of how compensation is arrived at other than through market value. There is no mention of losses of non-market, non-priced resources...such as networks of co-operation, significant religious and ceremonial sites or places, etc. The inadequacy of reducing such losses to monetary forms (as in contingent valuation, etc. as detailed in the economic report) should be highlighted here.

Section 3.1 (p 12. second to last paragraph) Mention is made of evidence of well-defined and operational resettlement and rehabilitation program. Again, I think mention of specific cases with references but no data is lacking here. If you speak of evidence existing, but give no indication of its nature or location, the statement sounds a little hollow.

Section 6.1. To ensure that the social costs to one group ARE not outweighed... In general this section might be appropriate for introducing the idea that big dam projects have a generally inflated or at least unspecified group of beneficiaries (the nation, the region, the economy, the city) and a rather specific group of victims, once it is understood what it means to be affected; that is, once the array of effects (upstream, downstream, marketshed, etc) and those impacted by them are established.

Section 3. "We would define the elements fundamental to successful resettlement and rehabilitation leading to development outcomes..." The evidence to support the contention that these elements work should be more present in the text rather than in the endnotes.

Section 3, element 2 - tools and methodology (p 17 my text). Mention must be made of the need to develop mechanisms or methodologies for establishing meaningful negotiations between cultural/social groups and elites that compensate for the enormous power differential.

Same section: cost-benefit analysis....There is considerable opinion that cost-benefit analysis is part of the problem. That is, it is felt by many that there is no way that social and human costs can be more accurately assessed and internalised in the cost-benefit analysis of the project. In essence, cost-benefit analysis is thought to reduce all losses and costs to a monetary figure that fundamentally distorts the nature of such losses. A recent conference at Yale on the Cost-Benefit Analysis dilemma discussed these issues at length. While certainly the costs in terms of expenditure to build the dam need to be assessed, such a calculation must be only one element in the decision alongside other variables and forms of analysis of a more qualitative nature such as "positional analysis" as well as political dialogue. One of the major objections to cost-benefit analysis as the major measurement in decision-making about dams and other big projects is that it alleges to take the politics out of what is quintessentially a political decision, thus giving the illusion of impartiality, when it is anything but impartial. Thus, I have real problems with a statement that implies that cost-benefit analysis is capable of capturing the full essence of the losses and costs suffered by resettled people. It can't, no matter how many ingenious manoeuvres of contingent valuation, etc. are implemented to assign money values to things to which in local culture assessment in money terms is a morally repugnant act.

In general, I thought that the report did a pretty good job of summarising the major social dimensions of displacement. If anything, I suppose the two most serious issues I have with the report are (1) the lack of discussion of cost-benefit analysis, if only to parallel, complement, and correct some dimensions of the discussion in the economic report; and (2) the need to better present evidence for positive outcomes.

If the elements presented have potential for producing positive outcomes, the message would be much stronger if the cases were outlined or at least mentioned in the text.

c) Comments by James Mahoney and Popi Artavanis, 30th December 1999

Ex-Im Bank appreciates the opportunity to comment on the WCD Thematic Reviews Draft Paper referenced above, and hereby provides the following comments:

The Thematic Review Paper I.3 represents a thorough and comprehensive work that discusses the principles, mechanisms and elements required to translate the displacement of affected populations and their resettlement into a positive economic and social experience that minimises potential negative impacts. However, as useful as the paper may be for the formulation of general policy, implementing its ideas on a project specific-basis may, in a majority of cases, prove difficult or unfeasible for export credit agencies and similar lending institutions.

Ex-Im Bank's experience with the resettlement issue resulting from large dams has been limited to the Three Gorges Dam and Xiaolangdi Dam in China, and a project that is currently under review in Turkey. Support for the Three Gorges was not provided by Ex-Im Bank due to the lack of environmental information that would have included an acceptable resettlement plan. Financial support for Xiaolangdi, on the other hand, was provided as information received about the environment included a satisfactory resettlement plan developed under the auspices of the World Bank. Unfortunately, we are not yet able to disclose information or provide comments on the project in Turkey that is under current review at Ex-Im Bank.

It should be noted that the principal objective of export credit agencies (ECAs) such as Ex-Im Bank is to further bilateral trade and in so doing support jobs through exports. This is in contrast to the multilateral financial institutions such as the IBRD and IFC which have the development of host countries as their principal objectives or missions. As a result, ECAs generally are approached for financing far later than the multilateral institutions in the design and engineering stage of projects such as large dams. By the time ECAs become involved in project reviews, applicable environmental assessments and feasibility studies have already been developed, thereby impeding the ability of ECAs, in many cases, to provide any significant input to the process of determining preferred project alternative or design schemes to mitigate environmental concerns. For that reason, Ex-Im Bank's Environmental Review Procedures focus on the environmental evaluation of how closely a project conforms within the Bank's published Environmental Guidelines with emphasis on mitigative measures proposed to minimise adverse impacts such as the socio-economic impacts resulting from resettlement, especially due to land use changes and demands on host areas. This is not to understate the importance or impact that ECAs can play with respect to their environmental review of projects; rather, it points to the potential limitation these institutions face in the process of contributing to the environmental and social "optimisation" of projects for which their support is requested.

Table 9 of Ex-IM Bank's Environmental Guidelines addresses hydropower dams and water resource projects. These Guidelines, as is the case for all industrial sectors, are less comprehensive in scope than those of the World Bank. Of course, Ex-IM Bank's environmental policy and practice draw from its direct and objective review of foreign projects against its relatively straightforward Guidelines. Since April 1998, Ex-IM Bank has adhered to a policy whereby a project's environmental assessment is made available upon request to outside parties. It strongly encourages, rather than requires, the buyer to engage in a public information disclosure and information exchange process with local groups and NGOs to better define the environmental and socio-economic concerns associated with the project undertaking. Since large dams and reservoir project present significant and often irreversible impacts, consultation with indigenous and other locally affected population and stakeholders becomes especially important.

Our review of Section 2 of the Draft Report, which presents findings and key issues surrounding large dams, finds us in complete agreement with the need to improve baseline surveys and the increased necessity to meaningfully inform the displaced and affected people. However, we find that host country laws can, in fact, impede or contradict this effort. Tension can develop between the sphere of actions of an ECA such as Ex-Im Bank to impose socio-economic and cultural guidelines on a project that takes into account livelihoods of affected or displaced populations and a host country's right to formulate its own legal process with respect to issues such as resettlement. Multilateral institutions, on the other hand, enter early into a project and are freer to engage in host country institutional capacity building that can result in better public consultation and stakeholder involvement in large dam projects.

We noted with interest that out of the six countries that were reviewed as a basis of describing the problems surrounding dams, such as the lack of legal and institutional framework, China was listed as one of the countries with legislation in place concerning resettlement issues and defining obligations and procedures for settling conflicts. Our experience in 1996 with the review of the Three Gorges Dam project, however, pointed to an apparent fragmented and deficient system that lacked accountability and implementation resources. We would like to add that Turkey would have been an interesting country to review given its present explosion in dam and water resource project undertakings, especially with the Greater Anatolia Development Program that involves construction of up to 22 dams.

The principles and elements presented in Section 3 of the Report are all valid and could be more readily achieved if adequately applied in the "ideal" resettlement situation. Again, we feel that multilateral financial institutions are better equipped to push for the institutional capacity building needed to optimise resettlement processes. Also, the principles listed in the report could not be applied uniformly and with equal success to all large dam projects given the differences in each project's geophysical, demographic, historical and political settings as well as the resources, including monetary and time, available for development of such projects.

The "cumulative and lasting empowerment of affected people as a result of continuous participation"... and "greater control of their day to day affairs" appears practically unfeasible for many large projects. To achieve such an objective, empowerment has to be structured around specific stages of the project's development. For instance, at the preliminary stage of the project, a comprehensive environmental assessment (EA) is made available for review and comment. In itself, the EA will incorporate information about the alternatives to the project studied prior to selection or definition of the proposed project, and the alternatives will be evaluated against the various objectives of the project such as irrigation, power generation, navigation or flood control. As such, the process of demonstrating the claim of "public purpose" should be conveyed through the early documentation process, namely the EA and the project feasibility study, documents that are integral to hydroelectric and large dam projects. Once the site of the dam and the purpose of the project are determined and defined by parameters of engineering, cost, scheduling and the analysis of environmental and social impacts, the ability of the information gathering process handled through public hearings to significantly change features of the project is reduced, and flexibility on these matters is sacrificed. At this more definitive stage of the project, the focus of social issues should be on available mitigation measures, such as selecting the most favourable options for land-for-land or compensation methods and other means of responding to the needs of the affected population.

Following our review of Section 3, we offer the following comments on each of the nine elements presented:

Element 1. Participation of affected people in the decision making process.

What is meant by "new initiatives" in people's participation and how did "the verification and consolidation of plans" at each administrative level, benefit the affected population in the Kerala, India case?

We believe that all of the elements addressed in the third bullet are typically included in a comprehensive Environmental Assessment. Emphasis should therefore be placed on the release of the EA to the interested parties and pressure exerted on the governments for transparency.

Element 2. Minimising Displacement.

The trade-off between the technical optimisation and the project's socio-economic impacts would have been discussed in the alternative selection (several small dams versus a large one) of the environmental assessment and the technical feasibility study. We do concur that the key documents and information must be provided to the interested parties; however, your point of "demystification and translation" of the information into local terminology raises the question of how feasible this is and who (sponsors, governments, NGOs or communities) would be responsible for such initiatives, given that costs and time are incurred.

Element 3. Resettlement in development mode.

For the resettlement not "to be reduced to the physical removal and relocation of people and reproduction of their pre-project conditions," countries must develop a sophisticated legal and institutional framework for resettlement and follow a strict implementation of the requirements set by laws. As noted above, such requirements may be outside the sphere of influence of ECAs on host governments, leaving only multilateral institutions, such as World Bank or the UN, with the ability to influence host governments and invest in the capacity building and development mechanisms needed to meet such social objectives.

Element 4. Budgeting for resettlement as development.

It is our experience through the few dam projects analysed by Ex-Im Bank that resettlement costs are budgeted in the early stages of the project and information development process. However, the cost figures are initially approximate and tend to become more definitive and accurate as the project progresses. Moreover, sometimes projects are designed a decade ahead of the implementation and in such cases resettlement parameters always require reassessment.

Element 5. Legal and Institutional Framework.

As noted earlier, formulation of laws is a State's prerogative and the ability of financing institutions to influence the process is limited to suggesting that best management practices be followed. Of course, the ultimate leverage of ECAs is the withholding of financial support for projects that fail to meet that agency's social and environmental guidelines. Such action influences the project only when there is consensus among all ECAs and related lenders on a common approach to this issue. Without ECA consensus, a host country will simply "shop" among ECAs until one is found that is willing to overlook the socio-economic issues and participate in the project.

Element 6. Accountability in the context of displacement

Accountability for deficiency in the implementation policies and guidelines has been noted as a significant problem in the past. However, few avenues to correct these deficiencies are available to financing institutions. Threat of loan default remains one of the most effective tools at our disposal. The problem is often compounded by changes in host country government composition.

Element 7. Hearing from experience

It has been our experience that social impact assessments have received adequate attention in the environmental assessments. Depending on the degree of the social impacts, appropriate monitoring mechanisms are required as part of Ex-Im Bank loan agreements.

Element 8. Restitution for past loss

It is often viewed as outside the scope of an ECA to attempt to mitigate past damages which are not associated with the project at hand as a condition of ECA support.

Element 9. Flexibility in Planning

In assessing a resettlement plan, the flexibility and fairness of the options proposed are evaluated by the financing institutions. However, once an option has been selected and implemented (land-for-land versus compensation), it would be impossible to continue to ensure the efficacy of the chosen option for given individuals. The NGOs and local authorities would be better suited to this task.

d) Comments by Maninder Gill, 30th December 1999

Thank you very much for the opportunity to review the draft chapter titled "Dams, and Displacement", one of the thematic inputs into the work of the World Commission on Dams (WCD). The following paragraphs reflect the comments received from a number of colleagues working on dams-related resettlement issues at the World Bank.

The paper comprehensively summarises the problems and issues associated with reservoir resettlement, and convincingly discusses the unequal power relations that underlie many of the problems associated with the planning and implementation of reservoir resettlement. However, we felt that the paper falls short of making a substantial contribution to the existing knowledge on this important subject, and does not meet the high expectations generated by the WCD exercise. We had expected a draft which would not only describe the problematic aspects of reservoir resettlement, but also document best practice, explore reasons behind the success or failure of resettlement projects and make recommendations on internalising good practice into public policy. The problems with reservoir resettlement are well known and documented - we would like to use the current opportunity to inquire into good practice and study the causal factors promoting successful resettlement in greater detail. In order to accomplish this, the draft chapter needs to cover, in our view, the following aspects of reservoir resettlement:

- What are the spatial and temporal variations in the worldwide record of reservoir resettlement planning and implementation? Is performance linked to the size of the project and associated resettlement. In what ways has implementation improved over the years?
- *What are the common underlying causes of unsuccessful resettlement? What are the factors that inhibit adequate prevention of these causes? Is it possible to predict potentially unsuccessful resettlement early and address it?*
- *What are some of the good examples of successful resettlement? What are their key features? What are the legal, institutional, operational and fiscal aspects of resettlement planning and implementation that result in successful resettlement? How can these good practices be replicated? (Though Section 3 of the draft chapter discusses some of the above aspects, the discussion does not seem to be based on a concrete review of current good practice. Parts of the discussion come across as idealistic recommendations, without a discussion of the mechanisms that could help achieve them.)*

- *Based on a review of current experience, what are the mechanisms for introducing the desired legal, policy and institutional changes among national governments and other key stakeholders in dam building such as private corporations.*
- *What role, if any, have the international (multi-lateral and bi-lateral) development institutions played in promoting better resettlement? What are the positive aspects of their contribution; what are the negative aspects? How can they play a more effective role in establishing, disseminating and promoting good practice on resettlement?*

Given that the paper is based on real experience with resettlement and makes recommendations based on a review of current practice, it would have been helpful to provide a few examples of projects that have adopted a combination of the "elements fundamental to successful resettlement and rehabilitation" (Section 3) to obtain positive results. In the absence of real life cases and examples, the discussion often appears to be over-prescriptive and seems to raise the bar too high, on some of the issues, for anyone to realistically meet the standards. For example, while the paper, in Section 3, calls for better legal and institutional frameworks and increased accountability of concerned institutions, it does not build on any good practice in this regard and offers no advice on practical mechanisms and arrangements to bring this about. Real life examples would not only help guide the process of bringing about desirable improvements, but would also convince readers that what is being proposed is implementable and feasible.

The paper also does not establish a hierarchy of factors that contribute to shortcomings in resettlement. While nine issues are listed and discussed, there is no clear focus on areas that are in most urgent need of improvement, nor is there a discussion of the mechanisms to bring about the desired changes.

The paper proposes a much stronger decision making role for the affected people and their representatives in selecting dam projects and challenges the rights of sovereign states to exercise eminent domain especially in situations where dams and associated resettlement are not acceptable to those adversely affected. In doing so, however, the paper seems to discount the sovereign framework within which development decisions are usually made and implemented. The paper characterises eminent domain as "a part of a political discourse legitimised by principles of imperialistic origin", rather than recognising it as an important attribute of the nation-state. It is not able to adequately distinguish between the established need for better participation of all stakeholders, and the practicability of transfer of decision making rights to affected communities. The authors stretch the point when they claim that the principle of eminent domain overrules basic human and livelihood rights enshrined in the Indian Constitution. In our opinion, the hierarchy of norms clearly suggests that a principle of general application cannot override a constitutional provision.

The section on Compensation and Reparation, (Section 3.1) oversimplifies the issue of payment of compensation. Good resettlement plans provide for full recognition of escalation in property values between the time of the initial surveys and the date of actual transfer of possession. The framework of compensation where tenants, sharecroppers, wage labourers and encroachers are not accorded recognition is not considered adequate in contexts involving international development agencies, though it may continue to exist in some locally funded resettlement programs even now. The discussion regarding limited provision in law to challenge compensation rates and the lack of access of illiterate persons to redressal mechanisms is caricaturistic, and repeats the problems well documented two decades ago. It does not take the resettlement discussion forward towards innovative mechanisms and safeguards that have helped alleviate these problems.

The section on Resettlement and Rehabilitation (Section 4.1) seems to be a continuation of the section on "Problems to be overcome in the Future" and does not discuss approaches internalised as standard practice that help avoid many of the problems listed in this section. We would have expected this section to go into the variety of resettlement and rehabilitation strategies, both traditional and

innovative, adopted in different projects and countries and discuss the circumstances and conditions that promote their success. The authors, instead, have chosen to continue discussing the hopelessness of resettlement situations in this section, without offering any hope of avoiding problems through better preparation, implementation and monitoring of resettlement programs.

The characterisation of land acquisition laws as instruments to protect the sanctity of what causes displacement but not of the displaced is simplistic and misleading. Land acquisition laws have, as one of their fundamental objectives, the need to protect the rights of those affected by it. The perverse results of land taking laws in some countries are usually a result of faulty interpretation and implementation, rather than a gap in policy provisions. Similarly, while the legal framework for displacement may not be formalised at the national level, sectoral, regional and provincial regulations to address displacement are in effect in many countries.

We do not see a conflict between the objective of the World Bank's operational directive on resettlement and Michael Cernea's arguments regarding the need to prevent risks of impoverishment and to improve livelihoods of resettlers. The Bank's policy requires provision of assistance to affected people to enable them to improve their standards of living, or at least to restore them to levels that exist prior to the project. The bottom line of "restoration" helps determine whether the resettlement program has minimally succeeded or not and provides a framework that helps prevent impoverishment even in cases where the resettlers are not able to substantially improve their incomes and standards of living.

A few more specific comments are summarised below:

Section 2 does not fully discuss temporary and indirect impacts. Impacts related to seasonal rise in "backwaters" during the flood season, and impacts on communities whose socio-economic life is linked to that of the resettlers are not adequately discussed in the chapter. The paper should discuss resettlement design standards and make recommendations regarding adequacy of "once in twenty five years" flood that most resettlement programs are planned to mitigate.

Point 6 combines two important points, one relating to the specific needs of indigenous / tribal groups required to resettle, and the other concerned with provision of basic amenities and services at the resettlement sites. The first point is extremely important and deserves a more detailed treatment.

The point about the replicability of Chinese reservoir resettlement laws should be presented with clear description of the aspects of the law that are found to be replicable. The communal ownership of land in China enables rehabilitation options that may not be easy to replicate in countries with individual ownership of land.

Section 5.1, "Defining Project Affected Persons" quotes the definition of displaced persons from an earlier, confidential draft of the World Bank's draft OP 4.12 on Involuntary Resettlement. To the list of categories of project affected persons described in the section, those affected temporarily during high flood season should be added.

Section 6.1, "Project Beneficiaries", offers useful forms of assistance that should be provided to resettlers to make them project beneficiaries. The section should describe in greater detail how attention to these issues has helped convert resettlement into a development opportunity and also provide some examples of projects where some of these elements have been incorporated into design and implementation.

We would welcome an opportunity to review a revised draft of this important paper and look forward to providing further inputs into the discussion.