

A COMMUNITY GUIDE TO THE ADB INVOLUNTARY RESETTLEMENT SAFEGUARDS

*An action resource for people affected by projects
funded by the Asian Development Bank*



A publication of Bridges Across Borders Cambodia



Copyright © 2011 by Bridges Across Borders Cambodia. All rights reserved.

A Community Guide to the ADB Involuntary Resettlement Safeguards

First edition: May 2011

We encourage others to copy, reproduce or adapt to meet local needs any or all parts of this book, provided that the parts reproduced are attributed to the original publication and are distributed not-for-profit. Any organization or person who wishes to copy, reproduce, or adapt any or all parts of this book for commercial purposes must obtain permission from the publisher.

Before beginning any translation or adaptation of this book or its contents, please contact the publisher for suggestions, for updates on the information it contains, and to avoid duplication of efforts. Please send the publisher a copy of any materials in which text from this book has been used.

Bridges Across Borders Cambodia
#261AB, Street 371
Boeung Tum Pun, Khan Mean Chey
Phnom Penh, Cambodia
Email: office@babcbodia.org
Web: www.babcbodia.org

Financial support provided by:



THE MCKNIGHT FOUNDATION



ACKNOWLEDGEMENTS

A Community Guide to the ADB Involuntary Resettlement Safeguards was researched, written and field tested in 2010. The project was supported by Oxfam Australia, McKnight Foundation, Norwegian People's Aid (NPA) and Open Society Institute (OSI). To each of our funding partners, we are deeply thankful for your support and for enabling this project to become a reality.

AUTHOR

Natalie Bugalski

EDITOR

David Pred

REVIEW TEAM

Sao Sotheary
Eang Vuthy
Bun Makara
Chan Vichet
Natalie Bugalski
Jocelyn Medallo

FIELD TESTING

Sao Sotheary
Eang Vuthy
Bun Makara
Chan Vichet
A Sisah
Sia Phearum
Ee Sarom
Neup Ly

ILLUSTRATIONS

Illustrations for this publication were provided by Our Books
(<http://www.siewphewyeung.org.kh>)

Soeun Klo (Coordinator)
Moeu Diyaravuth
Chan Ny
Tek Tevinn
Chan Pisey
Moeu Diyaravuth (Graphic Assistance)

COVER DESIGN

Chan Vichet

TRANSLATION

Sek Sokha
Eang Vuthy

CONTENTS

INTRODUCTION	I
THE ASIAN DEVELOPMENT BANK	1
1. WHAT IS THE ADB?	1
2. WHAT TYPES OF PROJECTS DOES THE ADB SUPPORT?	2
3. THE ADB IN CAMBODIA.....	3
THE IMPACTS OF ADB PROJECTS	5
1. ADB PROJECTS AND ITS MISSION	5
2. THE CREATION OF SAFEGUARD POLICIES	7
3. WHY IS IT IMPORTANT TO KNOW ABOUT SAFEGUARD POLICIES?.....	8
THE INVOLUNTARY RESETTLEMENT SAFEGUARD POLICY	9
1. ADB PROJECTS AND DISPLACEMENT	9
2. INVOLUNTARY RESETTLEMENT SAFEGUARDS.....	10
3. WHAT TYPES OF DISPLACEMENT ARE COVERED?	10
4. AVOIDING DISPLACEMENT	12
INVOLUNTARY RESETTLEMENT AND YOUR ENTITLEMENTS	13
1. PEOPLE SHOULD NOT BE MADE WORSE OFF	13
2. DIFFERENT ENTITLEMENTS FOR OWNERS, POSSESSORS AND UNLAWFUL OCCUPIERS	14
3. REPLACEMENTS OR CASH COMPENSATION?	15
4. WHAT AMOUNT OF COMPENSATION SHOULD PEOPLE GET?.....	17
5. WHAT SHOULD PEOPLE GET IF THEY ARE RESETTLED?	18
6. NEGOTIATING WITH THE GOVERNMENT	19
7. WHAT SHOULD PEOPLE GET IF THEY LOSE ACCESS TO THEIR BUSINESS, JOBS OR OTHER FORMS OF LIVELIHOOD?	19
8. LIVELIHOOD SUPPORT	22
9. SHARING BENEFITS FROM THE PROJECT	23

INFORMATION AND CONSULTATION	25
1. THE GOVERNMENT’S DUTY TO INFORM AND CONSULT PEOPLE	25
2. WHAT INFORMATION MUST BE MADE AVAILABLE?	26
3. INFORMATION MUST BE ACCESSIBLE	28
4. CHECKING THE INFORMATION IN A RESETTLEMENT PLAN	28
5. WHAT IS MEANINGFUL CONSULTATION?	30
6. WHO MUST BE CONSULTED?	31
7. WHEN MUST THE GOVERNMENT CONSULT PEOPLE?	31
HOLDING THE GOVERNMENT AND THE ADB ACCOUNTABLE	33
1. SAFEGUARD POLICIES ARE NOT ALWAYS RESPECTED	33
2. MAKING THE GOVERNMENT AND THE ADB ACCOUNTABLE.....	34
3. MONITORING THE PROJECT	35
4. DEALING WITH PROBLEMS LOCALLY	37
5. USING THE ADB ACCOUNTABILITY MECHANISM	41
6. OTHER FORMS OF ADVOCACY.....	46
GLOSSARY	51
CONTACTS	55

INTRODUCTION

The Asian Development Bank (ADB) works with governments around the region to develop infrastructure, draft laws and policies and build technical capacity of public servants. The ADB's stated mission is to reduce poverty and improve quality of lives. However, over 100,000 people in Asia are adversely affected by projects financed by the ADB each year. Displacement from homes, land and livelihoods to make way for a "development project" is one of the most common adverse impacts on local communities.

Many people around the world have become poorer and suffer severe hardship as a result of displacement. Instead of benefiting from development, these people lose out and their lives are made worse off because of ADB-funded projects, despite the Bank's stated mission. Frequently, local communities are not given an opportunity to participate in the decisions about whether the development project takes place and how they will be affected.

In recognition of these problems, the ADB updated its Involuntary Resettlement Safeguard Policy in 2009. The key aims of this policy are to avoid and minimize displacement and to ensure that no one is made worse off as a result of a project funded by the ADB.

This guide seeks to make this policy understandable and accessible to Cambodians who are affected by ADB-funded projects. It also seeks to impart the skills necessary to become a community monitor of these projects. The guide explains Cambodian local grievance processes, the ADB Accountability Mechanism and discusses the use of other forms of advocacy so that local communities can use this information to defend their rights and hold the ADB and the Government accountable.

THE ASIAN DEVELOPMENT BANK

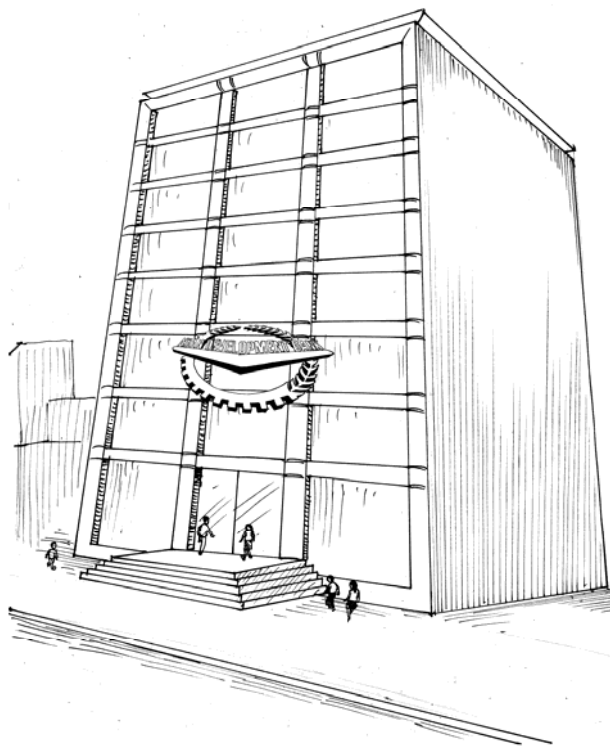
OUTCOMES

After completion of this module, participants will:

1. Understand what the Asian Development Bank (ADB) is and its mission.
2. Know the sorts of projects that the ADB funds.
3. Understand that the ADB influences the way Cambodia develops.

1. WHAT IS THE ADB?

The Asian Development Bank (ADB) is an international organization that was established in 1966 and is now made up of 67 member countries. Cambodia is a member of the ADB. The ADB's stated mission is "to reduce poverty and improve the quality of life in developing countries in Asia." Its main office is in Manila, Philippines and it also has offices in countries in which it works. The ADB works in Cambodia and has an office in Phnom Penh.



ADB headquarters

The ADB works in countries by providing money to governments for different types of projects. The ADB also provides information, advice and technical assistance to governments.

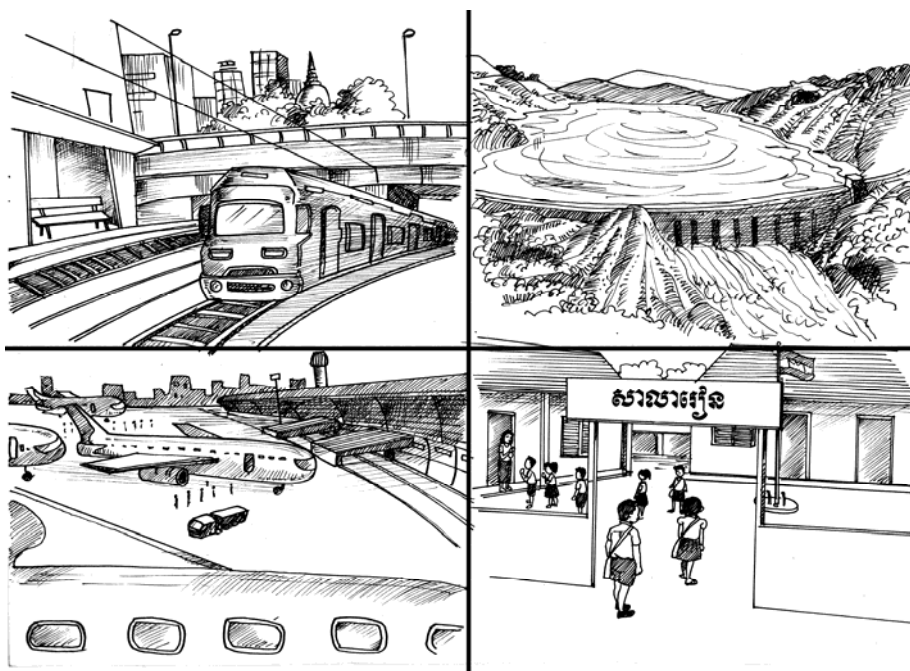
The ADB provides money to governments through **loans** and **grants**. When the ADB loans money, the government is required to pay back the money with **interest**. Interest is usually very low for loans made to poor countries. When the ADB gives the government a grant, the government does not have to pay the money back.

The ADB also provides funds to private businesses and civil society groups for certain projects.

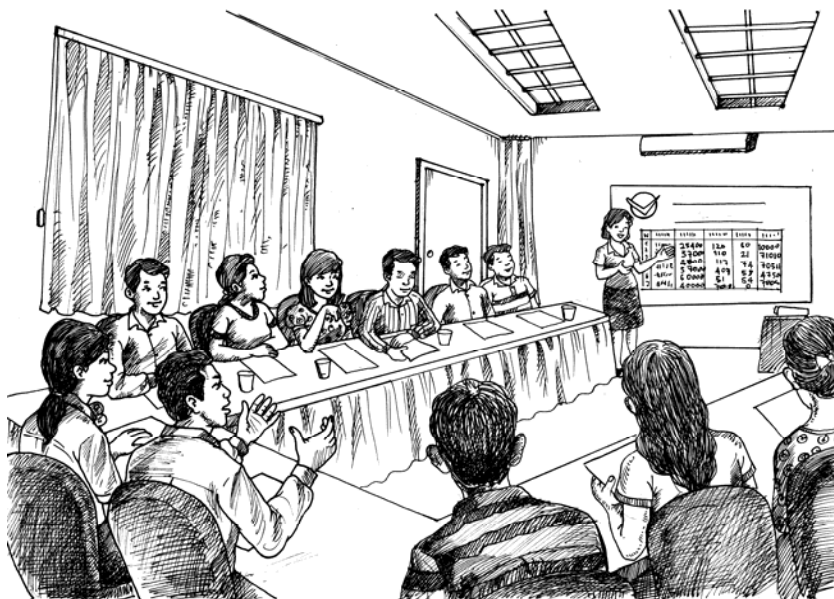
2. WHAT TYPES OF PROJECTS DOES THE ADB SUPPORT?

The ADB provides funds or assistance for many different types of projects that are supposed to be aimed at reducing poverty and improving the quality of life.

For example, the ADB supports infrastructure projects, such as building and fixing roads, railways, airports, power plants, hydropower dams, schools, health facilities, irrigation and water and sanitation facilities.



The ADB also provides **technical assistance** and advice to governments. For example, the ADB might provide technical assistance by helping the government to design and implement projects, training government employees, doing research and collecting information, or helping to write policies and laws. For example, in Cambodia, the ADB was involved in writing the 2001 Land Law.



3. THE ADB IN CAMBODIA

In Cambodia, some of the projects that the ADB has been involved in are:

- Building and repairing major roads in rural areas.
- Building and repairing power plants and distribution lines.
- Building and upgrading schools in rural areas.
- Building and repairing water pipes and outlets.
- Encouraging private business and investment in agriculture.
- Repairing the railway line from Poipet through Phnom Penh to Sihanoukville.

These projects have had both positive and negative impacts, which will be discussed more in the next section.

Because the ADB gives or loans the government a lot of money each year¹ and also provides information, technical assistance and advice to government ministries, it has influence on the way that the country develops. Many civil society groups have raised concerns about the type of development the ADB promotes and whether it is the poor that benefit the most from its projects and activities. This is why Cambodian people should have an opportunity to participate in the decisions about projects and other activities that the ADB is involved in.



¹ For example, in 2009, the ADB committed \$100 million to Cambodia.



THE IMPACTS OF ADB PROJECTS

OUTCOMES

After completion of this module, participants will:

1. Understand that ADB projects have positive and negative impacts.
2. Understand that ADB projects that make people's quality of life worse do not help to achieve the ADB's mission.
3. Understand that safeguard policies were created because of concerns about the negative impacts of ADB projects.
4. Know what safeguard policies are and their purpose.
5. Understand why it is important to know about safeguard policies.

1. ADB PROJECTS AND ITS MISSION

The ADB's stated mission is "to reduce poverty and improve the quality of life in developing countries in Asia." All projects that the ADB funds should help to achieve its mission. This means that before the ADB agrees to fund a dam, road, railway or any other project, it should make sure that the project will improve peoples' quality of life.

However, many projects that the ADB supports have both positive and negative impacts on people and the environment. This is especially true for major infrastructure projects.

CASE STUDY: HIGHWAY ONE, CAMBODIA

In 1998, the ADB agreed to loan \$40 million to the Cambodian Government to build and repair a road between Phnom Penh and the Cambodia-Vietnam border, known as Highway One.

The ADB stated that the positive impacts of the Highway One project would be the following:

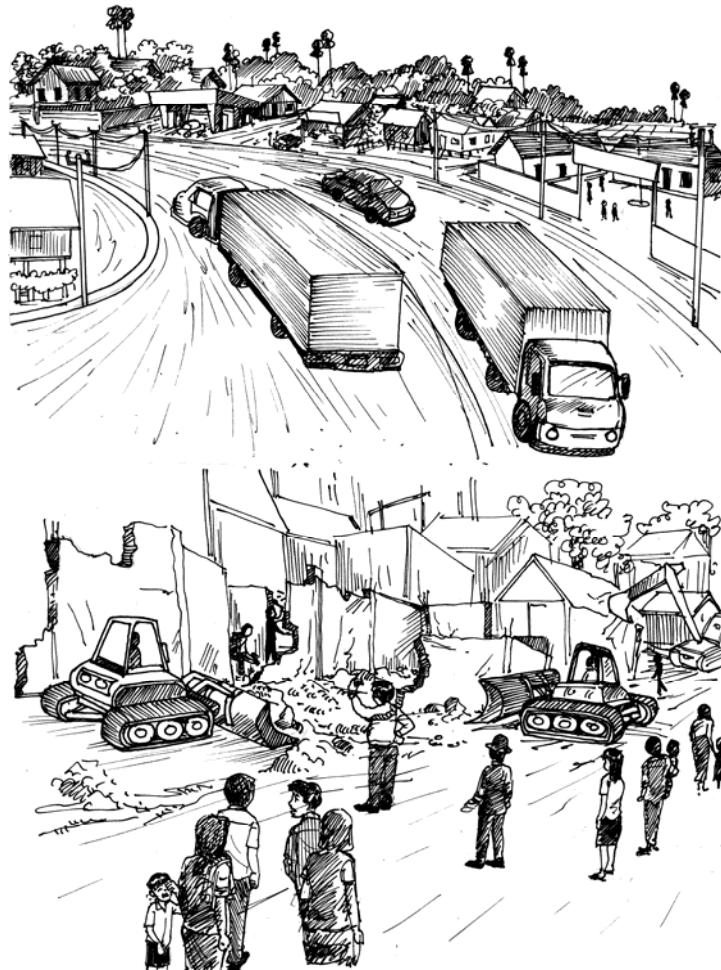
- Economic cooperation between Cambodia and Vietnam would increase.
- It would be easier, cheaper and faster for people to travel along the highway between Phnom Penh and Vietnam.
- Goods will be delivered faster and at a lower cost within Cambodia and to and from Vietnam.
- Road safety for local communities would be improved.
- New businesses can be established along the highway because there will be more customers from the increased traffic.²

² ADB, Report and Recommendation of the President to the Board of Directors on Proposed Loans to the Kingdom of Cambodia and to the Socialist Republic of Vietnam for the Greater Mekong Subregion: Phnom Penh to Ho Chi Minh City Highway Project, November 1998.

However, the Highway One project also displaced around 6,000 Cambodian villagers living along the road because their land was needed for the highway. People were not compensated fairly for homes and farming land that they lost. As a result the project caused the following problems:


- People became homeless and landless.
- People's livelihoods were disrupted because they were displaced from their land.
- People had to borrow money at high-interest rates to be able to survive and then had very high debts that they could not pay back.³

These negative impacts of the Highway One project meant that people were made poorer and their quality of life was made worse because of an ADB project. The result of the project for these people was the exact opposite of ADB's mission.



ADB-funded projects have both positive and negative impacts. A new highway can improve a country's transport but can also displace people.

³ Mekong Watch Japan, "Cambodia: Highway One," available at <http://mekongwatch.org/english/country/cambodia/HighwayOne/index.html>

In order to follow its mission properly, the ADB should not fund projects that will increase poverty or hardship for people or worsen their quality of life. Even if only a few people will be harmed by a project, the ADB should not fund it unless there is a very good plan to avoid the harm. 

2. THE CREATION OF SAFEGUARD POLICIES

During the 1980s and 1990s, many civil society groups publically criticized the ADB about the negative impacts of its projects. These groups argued that development projects should not harm people or the environment and that projects should be planned so that everyone can share the benefits, not just a small few.



In 1995, the ADB created **safeguard policies**. These were updated in 2009. Safeguard policies are rules that the ADB and the government must respect when they agree to work on a project together. These rules are aimed at preventing negative impacts on people and the environment from ADB projects. They are also aimed at making sure that people who will be affected by an ADB project will have access to information and be properly consulted.

WHO IS RESPONSIBLE FOR FOLLOWING THE ADB SAFEGUARD POLICIES?

The ADB policies apply whenever the ADB is providing funds for a project in any country, including Cambodia. Both the Government and the ADB must respect the ADB safeguard policies when they plan and implement the project.

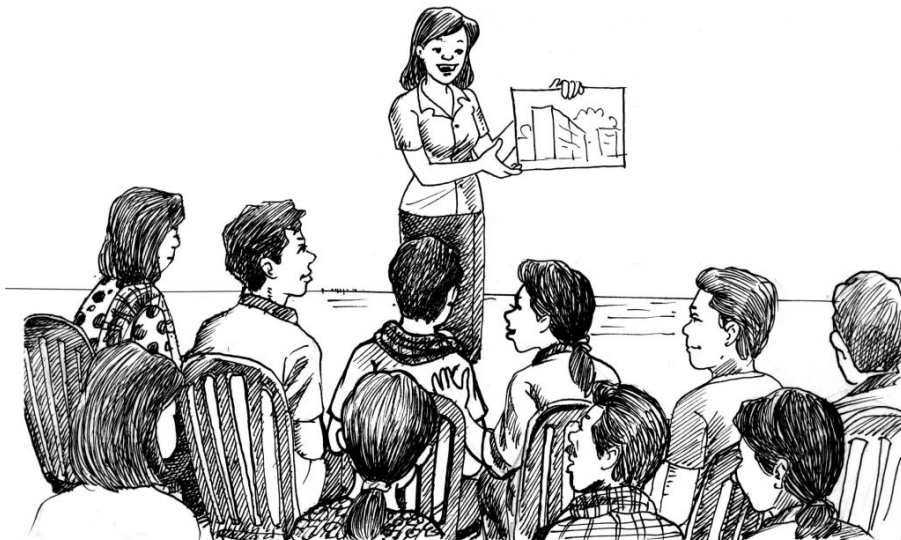
When the Government signs an agreement with the ADB for a loan or grant to fund a project, the Government also agrees to follow the ADB safeguard policies.

- It is the Government's responsibility to fulfill the requirements in the policies.
- It is the ADB's responsibility to supervise and make sure the Government follows the policies properly.

3. WHY IS IT IMPORTANT TO KNOW ABOUT SAFEGUARD POLICIES?

The purpose of safeguard policies is to protect the environment and people who are affected by ADB projects from being harmed. However, there are many examples of projects in which the ADB and governments do not respect the safeguard policies. People are still displaced and not properly resettled and compensated, and their quality of life is made worse.

This is why it is important for people to know about ADB safeguard policies and what they say. If people who might be affected by an ADB project know what the safeguard policies say, they can monitor the planning and implementation of the project and whether the rules are respected. If the policy is not followed properly, there are things people can do to demand that their rights under the policy are respected. The things people can do are discussed in later sections.



THE INVOLUNTARY RESETTLEMENT SAFEGUARD POLICY

OUTCOMES

After completion of this module, participants will:

1. Know that forced displacement is a common negative impact of ADB projects.
2. Know the meaning of “involuntary resettlement.”
3. Know what the Involuntary Resettlement Safeguard Policy is.
4. Know the different types of displacement covered by the policy.
5. Know who is protected by the policy.
6. Know that, according to the policy, displacement should be avoided and minimized.

1. ADB PROJECTS AND DISPLACEMENT

Displacement is one of the most common and worst impacts of ADB projects. In many cases, people are evicted from their homes and land to make way for a “development project.” Many people around the world have become poorer due to displacement. This is because, in addition to losing their homes, they lose access to the land and resources they depend on for their food and livelihoods.

When people are displaced from urban areas and are forced to move far away, they can lose access to their places of work. In rural areas, displacement can lead to lost resources including forests, rivers and farmland. They might also lose access to services including community centers, schools or health clinics. Displacement often leads to the breakdown of communities and social and support networks.



2. INVOLUNTARY RESETTLEMENT SAFEGUARDS

In the 1990s, the ADB decided that it was necessary to create a policy for all ADB-funded projects in order to avoid and minimize the harms of displacement. This policy was adopted in 1995 and was updated in 2009. The ADB calls this its **Involuntary Resettlement Safeguard Policy**.

WHAT IS “INVOLUNTARY RESETTLEMENT”?

“**Involuntary Resettlement**” is any situation where the Government takes land, or restricts access to land, that people live or work on, or use for their livelihoods, and where the people who will be displaced do not have the right to refuse.

3. WHAT TYPES OF DISPLACEMENT ARE COVERED?

The policy aims to protect people who will be displaced by an ADB-funded project from their:

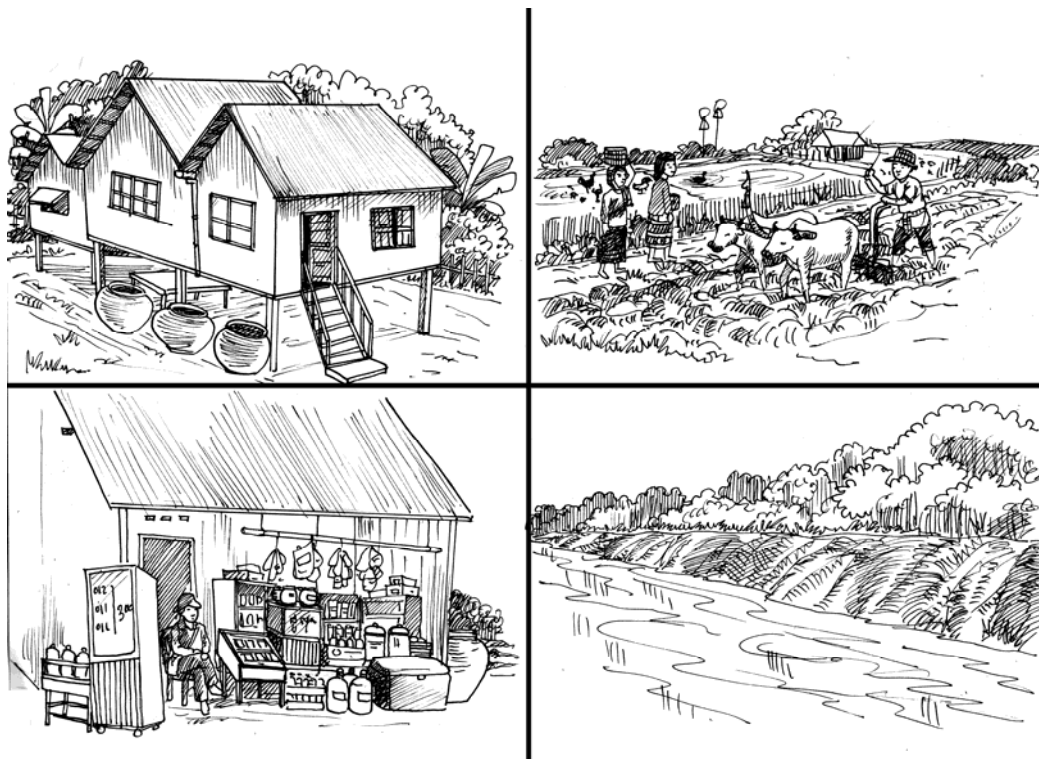
- Homes;
- Land;
- Jobs; or
- Other resources that they rely upon for their livelihoods.

This displacement can happen because:

- Land is taken by the Government for a project; or
- The Government restricts people from using or accessing land because of a project.

The policy protects people when they will lose land or access to land:

- Forever; or
- For a limited time, such as for six months or a year.



People displaced from their home, land, jobs or resources they use for livelihoods because of an ADB-funded project are protected by the safeguard policy.

WHO IS PROTECTED BY THE INVOLUNTARY RESETTLEMENT SAFEGUARD POLICY?

The policy protects people who have to move away from their home and land that they live on because of an ADB-funded project. For example, it protects a family that has to move from their home because the Government plans to build a bridge using funds from the ADB at the location of their house.

The policy protects people who will lose access to their land, business or anything else that they use for their livelihoods. For example, it protects a farmer who will lose access to his farming land because it is needed to extend a railway line. It also protects a family who will lose access to a forest that they use to collect food or things to sell.

The policy also protects someone who will lose access to her job because of a project. For example, it protects a fruit seller who will no longer be able to sell fruit from her stall because the land will be used for a new government building.

All these types of people are protected if they have to move away from their land, or if their access to and use of the land is being restricted by the project.

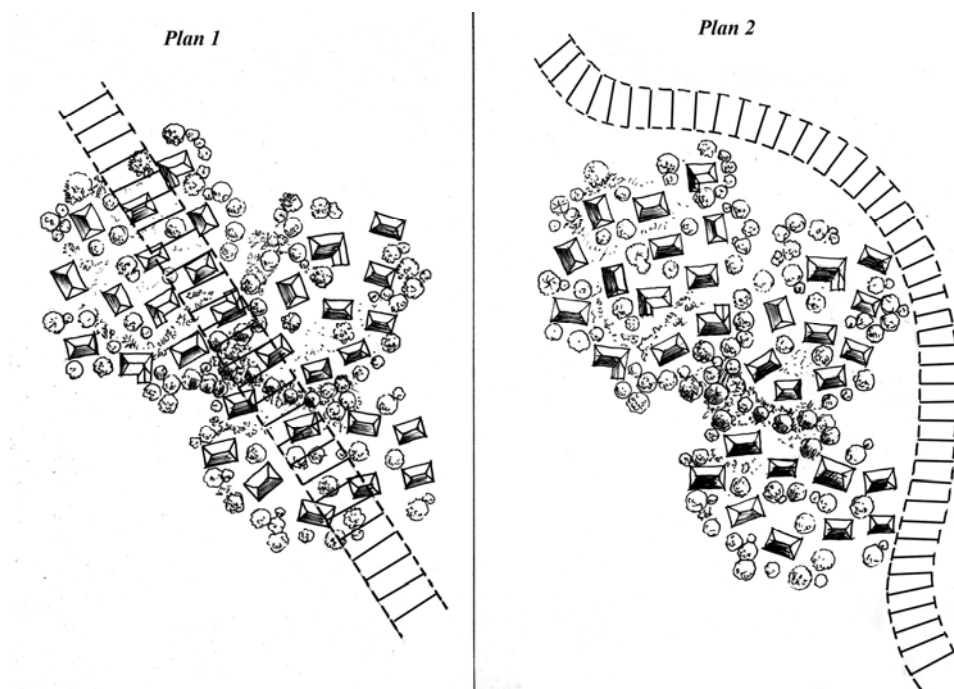
4. AVOIDING DISPLACEMENT

The first aim of the Involuntary Resettlement Safeguard Policy is to avoid displacement. The policy says that for any ADB-funded project:

- Displacement should be avoided wherever possible.
- Displacement should be minimized.

That means that, when the Government plans the project, it has a duty to think about how to make displacement as small as possible. If there will be some displacement, the Government should make sure that as few people as possible will be displaced and that the impacts from displacement are as low as possible.

The Government and the ADB should ask people for their ideas about how to avoid displacement. They should consider ideas such as using less land for the project or finding a different spot or route for the project where there are no houses, farms or other important natural resources.



The Government and the ADB should use the second plan because it avoids or minimizes displacement.

If a project will cause a lot of displacement that will result in many problems for people, the Government and the ADB should consider canceling the project altogether.

It is important for people to give their opinions about how to avoid and minimize displacement very early on when the project is being considered. Once the project is approved by the ADB and the Government, it becomes more difficult to stop it, or to influence the project design so that it avoids the negative impacts of displacement.



INVOLUNTARY RESETTLEMENT AND YOUR ENTITLEMENTS

OUTCOMES

After completion of this module, participants will:

1. Understand the aim of the Involuntary Resettlement Safeguard Policy.
2. Know that there are different entitlements for owners, possessors and unlawful occupiers.
3. Know how to calculate cash compensation entitlements.
4. Know what people should get if they are resettled.
5. Know what people should get if they lose access to livelihood sources.

1. PEOPLE SHOULD NOT BE MADE WORSE OFF

Although the Government has a duty to try to avoid displacement, ADB-funded projects still often cause displacement. The aim of the Involuntary Resettlement Safeguard Policy is to protect people who will be displaced by an ADB-funded project from being made worse off. In fact, the aim of the policy is to improve or at least restore people's livelihoods. For poor and vulnerable people who are displaced, the aim is to make their standard of living *better* than before they were displaced.



YOU SHOULD NOT BE MADE POORER BY AN ADB-FUNDED PROJECT

The Involuntary Resettlement Safeguard Policy says that people should not be made worse-off by a project funded by the ADB. This means life should not get harder and your family should not be made poorer because you are affected by the project. In fact, if your family is poor, the Government should help you to have a better standard of living. Your entitlements under the policy are aimed at achieving this.

The policy sets out what people who are displaced from their homes or land, or people who lose access to jobs, businesses and resources, must get so that they are not made worse off.

2. DIFFERENT ENTITLEMENTS FOR OWNERS, POSSESSORS AND UNLAWFUL OCCUPIERS

People who have **titles** to their land or who can apply for title because they have **possession rights** have different entitlements than people who are occupying land but do not have title or possession rights.

OWNERS, POSSESSORS AND UNLAWFUL OCCUPIERS

Under Cambodian law, there is a difference between owners, legal possessors and unlawful occupiers of land.

- **Owners** are people who have had their land officially entered in the **land register** and have legal title to that land. Ownership is the strongest right anyone can have over land. It allows the owner to use their land in any way they want, as long as they do not break any laws.
- **Legal possessors** are people who settled on land before August 30, 2001 (when the Land Law was passed), or bought or inherited their land from someone who settled there before that date. The land must not be State public property or belong to anyone else. Their possession must also meet a few conditions: their occupation must have been peaceful and honest; they must have occupied the land continuously and it must be clear that they were the occupier of that land; their possession of the land must also be publically known.⁴ Legal possessors have possession rights, which are similar to ownership rights. They are also eligible for title under the Land Law.⁵
- People who settled on land after August 2001, or settled on land that was State public land or belonged to someone else, are not legal possessors and are not eligible for title. According to the Land Law, they are unlawful occupiers. These people have different rights under Cambodian Law and also under the ADB safeguard policy. These rights are explained below.

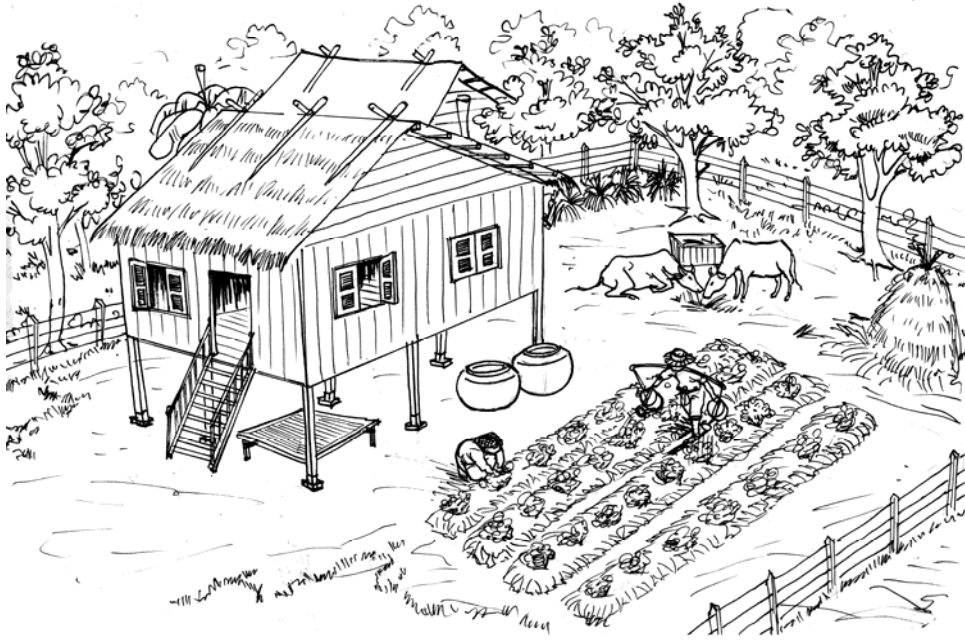
Owners and possessors of land are entitled to get replacement land *or* cash compensation for the land that will be taken away from them. People who do not have title or possession rights are not entitled to this.

However, everyone is entitled to be compensated for housing and other structures that they will lose. Everyone is also entitled to be compensated for other improvements they have made to the land, such as for crops that they have grown or irrigation systems they have built.

People should be able to choose whether they would prefer to get cash compensation or replacements for the things that will lose.

⁴ Land Law 2001, Articles 30 & 38.

⁵ Land Law 2001, Article 30.



Even if this family does not own or legally possess this land, they are entitled to compensation for the housing and other structures as well as the crops and irrigation system.

People should always get replacements or compensation *before* they are displaced.



If people are not entitled to get compensation for their land, for example, because they are unlawful occupiers of State land, then the Government must provide them with resettlement land and access to housing before they are displaced so they are not made homeless. Resettlement will be discussed in the following section.

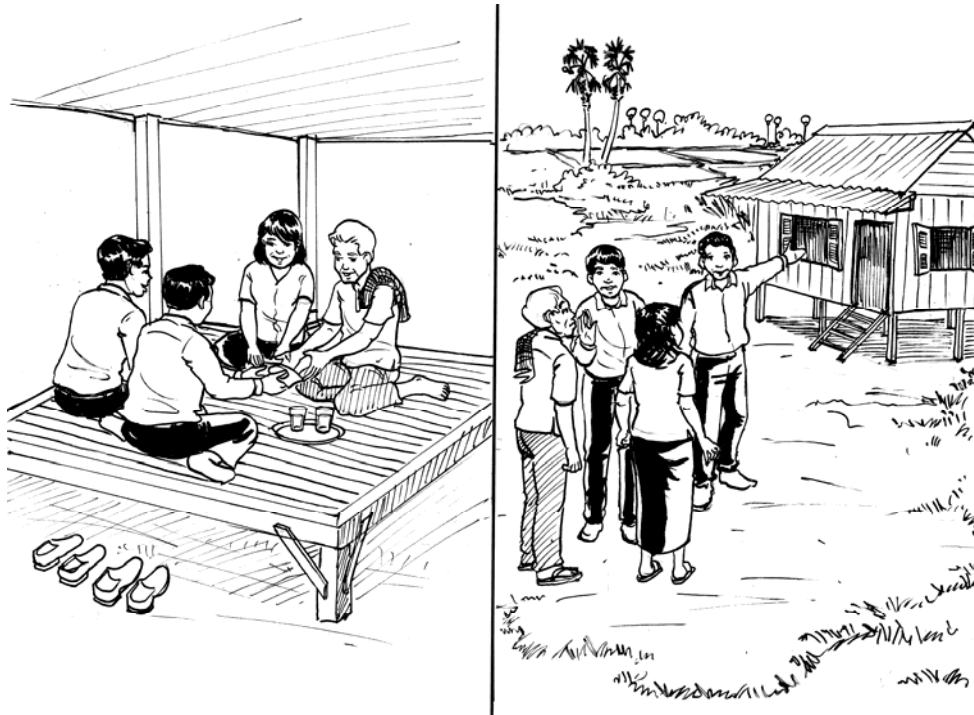
3. REPLACEMENTS OR CASH COMPENSATION?

People who have title or possession rights to their land are entitled to get either:

- “adequate and appropriate” replacement land, housing and any other structures that they have on their land, or
- the amount of money that they need to buy another plot of land, house and other structures that would be about the same as what they lost.

The Involuntary Resettlement Safeguards Policy says that people who use land for their livelihoods, such as farmers, should be given adequate alternative land and housing rather than being compensated with money. The land should be at least of the same quality and value as the land taken away. The Government could use State land for this or could buy private land to use for this purpose.

However, if people prefer to get cash, or there is genuinely no land available, the Government should give them money instead. If cash compensation is given to affected people for land and other lost assets, the Government must also provide support to restore their livelihoods after they move.



The government needs the land that this family owns for an ADB-funded project. They are entitled to either cash compensation or replacement land and housing.

LAND OR MONEY?

If people who have to move from their land are offered good quality land in a good location, it is usually a better idea to choose the replacement land rather than cash compensation. This is because people without land often use up their cash quickly, by renting a house and land and spending it on other things, and might then be left with no land and no money.

Owning good quality land in a good location is a much better way for people to make sure that they can continue to support themselves and their families in the future.

4. WHAT AMOUNT OF COMPENSATION SHOULD PEOPLE GET?

When people are compensated with money for land, housing or other things that they own, the Government must make sure that they get the amount of money they need to fully replace the land or things that they will lose or were damaged.

For example, if someone will lose their land and house and it would cost \$20,000 to buy a new plot of land and house nearby that is similar in size and quality, then they should get \$20,000 in compensation. If it would also cost them \$2,000 to move and pay fees to get a title or any other costs, they should also get that money. The Government would need to make sure that they get \$22,000 so that they can completely replace what they lost, without having to pay anything themselves.

If a portion of a family's house will have to be demolished to make way for the project, but the family is able to continue living there, the Government must pay them the value of the structures that they will lose.



*People should get compensation **before** they are displaced.*

5. WHAT SHOULD PEOPLE GET IF THEY ARE RESETTLED?

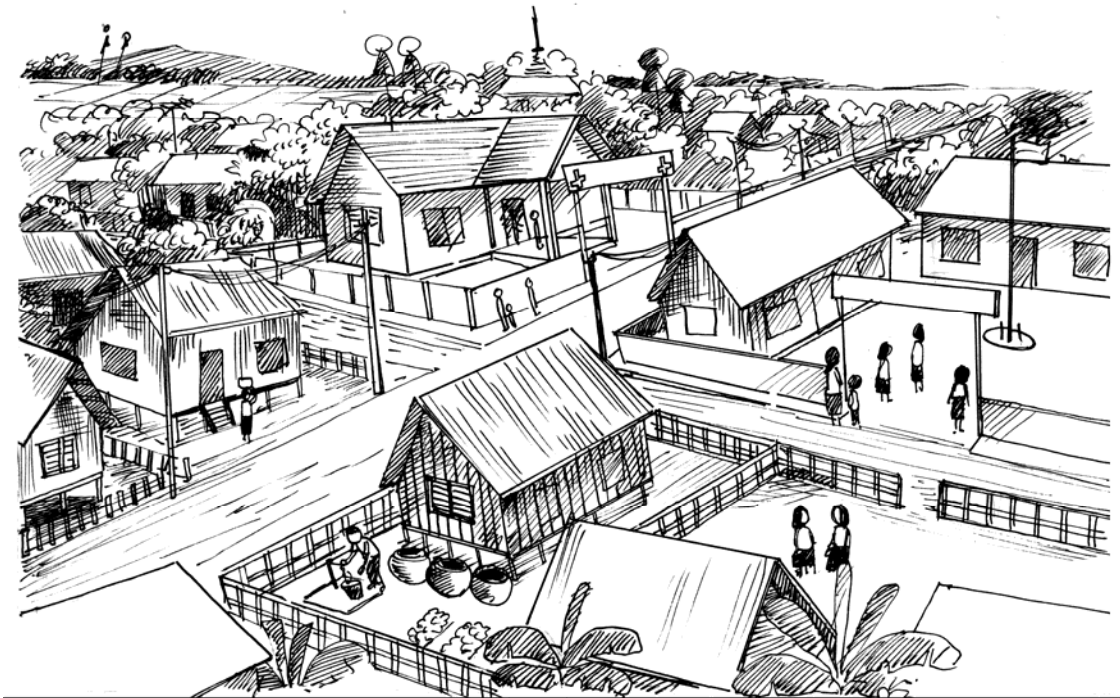
If people are not entitled to get compensation for their land, for example, because they are occupiers of State land, then the Government must provide them with resettlement land before they are displaced. They should also receive cash or other types of support to help them move.

The Government must make sure that people who are relocated have **security of tenure** at the **resettlement site**. This means that the Government must give them a legal guarantee that they will not be forcibly evicted from their new homes.

The Government must ensure that people have better houses at the resettlement site than their old houses.

The resettlement site should not be very far away so that people who move there cannot make a living or access the services and facilities that they need, such as schools and hospitals. The Government must make sure that people at the site have access to **livelihood opportunities**, necessary infrastructure and services, such as water, sanitation, electricity and waste disposal.

The resettlement site should have proper housing and services, and everything that people need to live *before* people are moved there.



6. NEGOTIATING WITH THE GOVERNMENT

The Involuntary Resettlement Safeguard Policy says that the Government should try to negotiate with people about what they get for their land, housing or other things that they will lose because of the project. Negotiations must be fair, and no one should be pressured to accept something that they do not want.

No one should agree to something in a negotiation that they are not happy to accept. People should be aware of what their entitlements to compensation and resettlement are under the ADB policy. They should only agree to something through a negotiation if they think it is *better than their entitlements under the policy*.

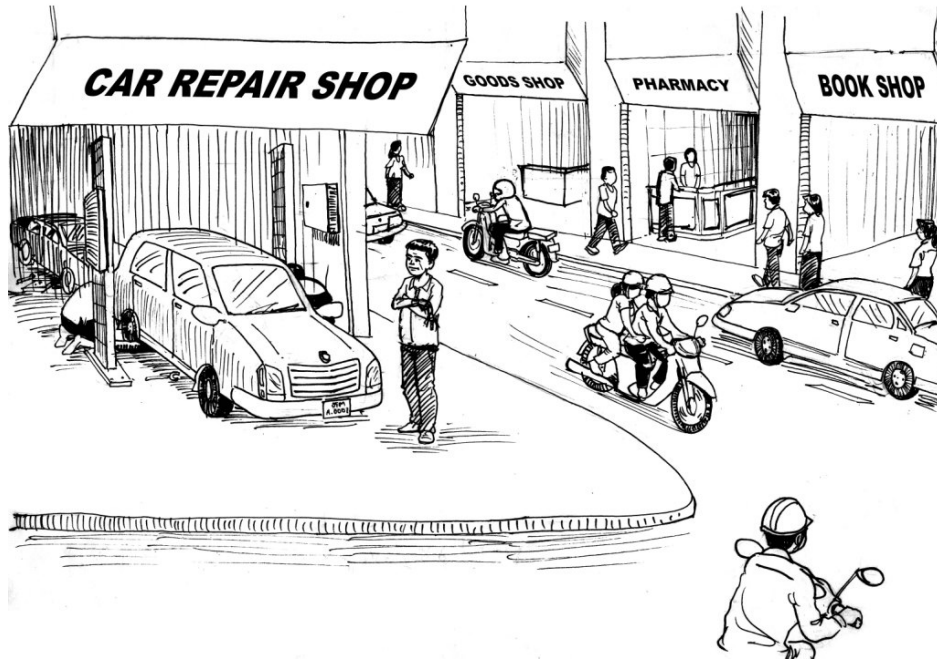
7. WHAT SHOULD PEOPLE GET IF THEY LOSE ACCESS TO THEIR BUSINESS, JOBS OR OTHER FORMS OF LIVELIHOOD?

When people are displaced from, or lose access to, their businesses, jobs or other resources that they use for their livelihoods, they lose the income that they would usually earn. They might also lose access to things that they need to survive, such as food sources. The policy requires the Government to compensate and provide support to people who lose their income or livelihood source so that they are able to restart their business or find new ways to earn a living. Until people are able to restore their incomes and livelihoods, the Government must compensate them for any income and other livelihood losses.

7.1. BUSINESS OWNERS

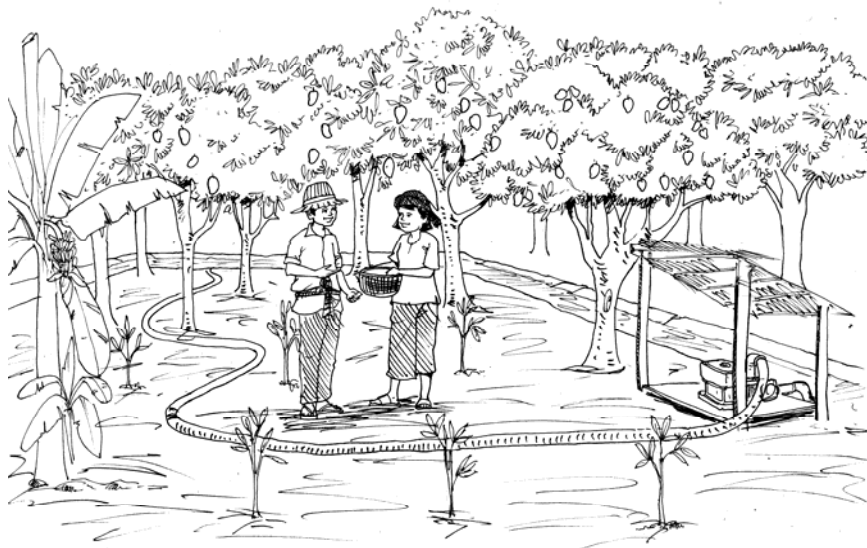
If a business owner can no longer run their business because land is taken or they are displaced because of an ADB-funded project, the Government must pay compensation for any income lost. Business owners in this situation should be paid the amount of income they would usually earn over the period of time that they cannot run their business or earn income.

If someone's shop, stall or other structure or equipment that they use for their business will be destroyed or lost because of the project, they should also get the amount of money they need to move and rebuild their business at a new place.



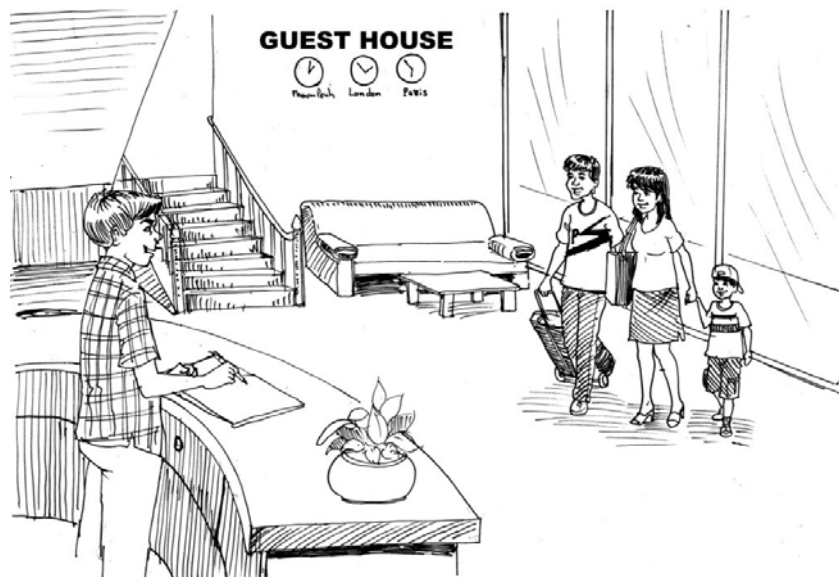
When business owners have titles or possession rights over the land that their business is on, they should also get replacement land or cash compensation. Replacement land must be of equal or greater value as the old land. The amount of cash compensation should be enough to buy alternative land of the same value.

If people have a business on land that they do not have title or possession rights to, they will not get compensation for the land itself. However, if they have built things on the land, grown crops or improved the land in other ways, such as by building irrigation infrastructure, they should get compensated for these things. They should get the amount of money it would cost to replace the things that they have built or grown.



7.2. JOBS AND OTHER FORMS OF LIVELIHOOD

If people can no longer continue their jobs or are cut off from other forms of livelihood, the Government must compensate them. The compensation is the amount of money that equals what is lost. For example, if someone loses their job and will not be able to earn money for six months, the Government should give them the amount of money that they would usually earn for six months.



If someone loses access to a forest where they usually find food, or a river where they usually catch fish to sell or eat, they should be compensated so that they can continue to eat and feed their families until they have found a new way to support themselves.

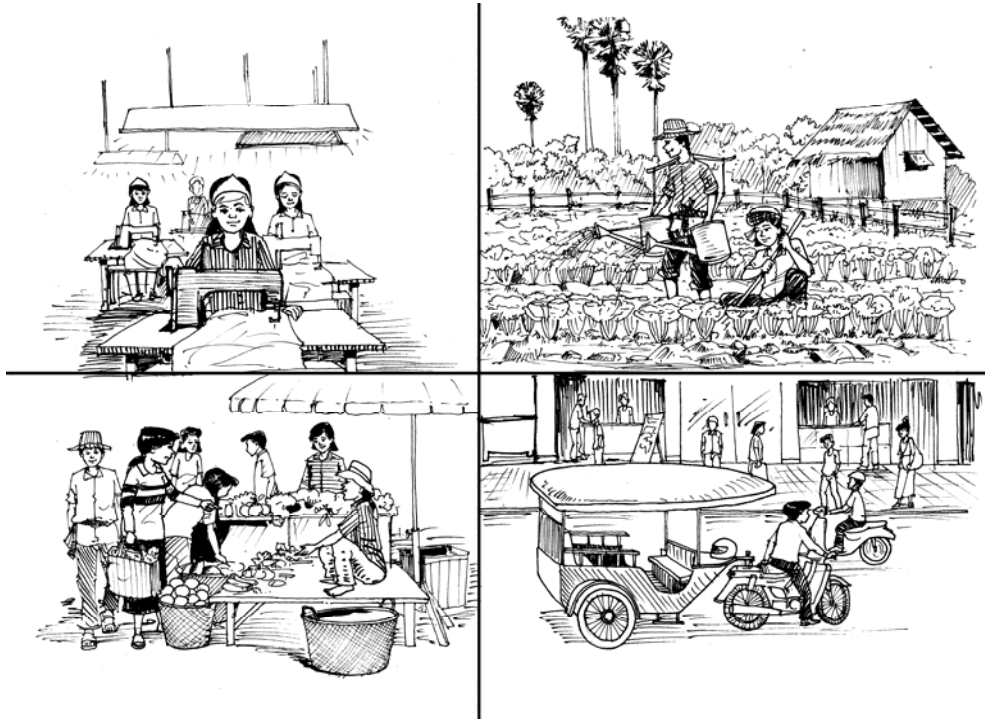


8. LIVELIHOOD SUPPORT

When people are displaced from, or lose access to, their business, jobs or other livelihood sources because of an ADB-funded project, the Government must provide support so that people's income levels and living standards are restored. This means that people should be supported so that their income and standard of living are the same or better than before they were displaced by the project.

Livelihood support means helping people so that they can find ways to earn a living and provide themselves and their families with everything they need to live, such as food, water, housing, healthcare and education. To do this, people must have access to jobs, farmland, markets, or access to other resources they need to start small businesses. They must also have an opportunity to develop the skills that they need to be successful.

For vulnerable people, such as those who are very poor, the Government must provide special support so that they can improve their incomes and livelihoods.



Livelihood support could mean helping someone start or improve their own business by providing training in the skills that they need or helping them access resources. For example, it could mean providing someone with training to improve their farming skills or helping them to buy better seeds, fertilizer or machinery. The ADB policy says that support could include things like **access to credit**, training or job opportunities.



Here, people are being trained to be tailors.

Having access to credit means being able to borrow money. People often need access to credit so that they can improve their own housing, buy seeds to grow crops, or start small businesses. Making sure people have access to credit means that they can borrow money that they can afford to pay back in the future, including interest. Interest rates should be low enough so that paying all the money back does not make the family poorer.

For people whose livelihood is based on land, such as farmers, an important way for the Government to restore their livelihood is to help them access alternative land. Whenever alternative land is offered, it should be good quality and in a suitable location. For example, if an affected family earns their livelihood from growing rice, the Government could give them access to alternative land that is suitable for rice farming close to the place where they live.

9. SHARING BENEFITS FROM THE PROJECT

The ADB policy also encourages the Government to find ways for people who are displaced by an ADB-funded project to benefit from the project itself.

For example, people who will be displaced could be offered jobs that are created by the project. If the aim of a project is to build or improve irrigation infrastructure, people who will be displaced could be moved to other land nearby that is benefitting from the improved irrigation. If a dam is being built to generate electricity, people who are being displaced for the dam could be given access to the electricity at a low cost at their new homes.



INFORMATION AND CONSULTATION

OUTCOMES


After completion of this module, participants will:

1. Know that the Government must inform and consult people.
2. Know what information must be made available by the Government and the ADB.
3. Understand that the information must be accessible to people who will be affected.
4. Know what information in the resettlement plan they should check.
5. Understand what meaningful consultation involves.
6. Know who must be consulted.
7. Know when the Government must consult people.

1. THE GOVERNMENT'S DUTY TO INFORM AND CONSULT PEOPLE

People who will be displaced by an ADB-funded project have the right to be informed about the project, how they will be affected and their entitlements and options. The Involuntary Resettlement Safeguard Policy says that the Government must *inform* people about these things and must make certain important information and documents available to people.

The policy also says that the Government must give *options* to people who will be displaced and *consult* them about their choices for resettlement and compensation.

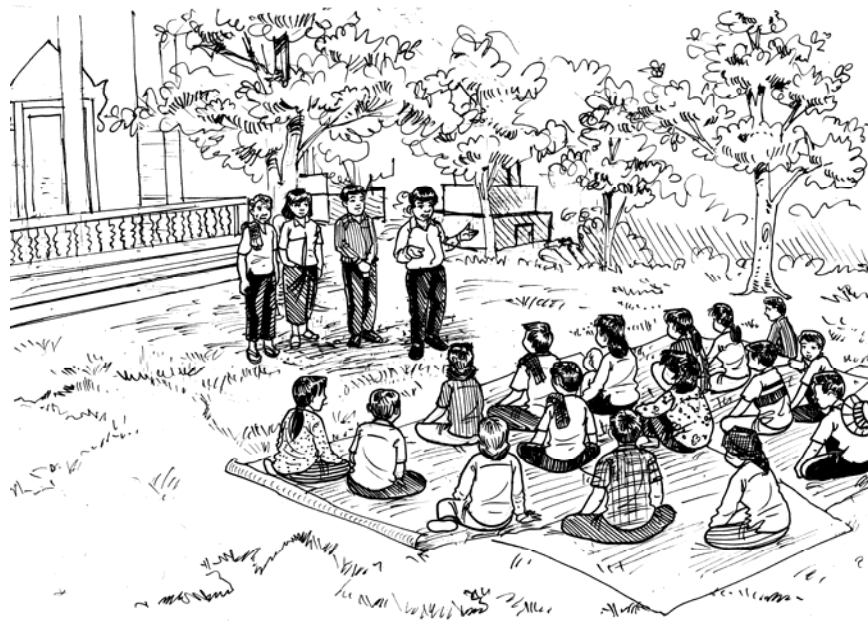
This means that people have a right to make informed choices about the support and assistance that will best help them continue or improve their livelihoods and living standards. 

GETTING INFORMED AND ACTIVELY PARTICIPATING IN CONSULTATIONS

You have the right to be informed and consulted about how you will be affected by a project and your entitlements and options. The Government must inform and consult you.

It is very important to demand access to information so that you understand your entitlements and options. It is also very important to actively participate in consultations about your options for resettlement and compensation.

Doing these things can help you get the support and assistance that you need to improve, or at least maintain, your livelihoods and living standards so that you are not harmed by displacement.



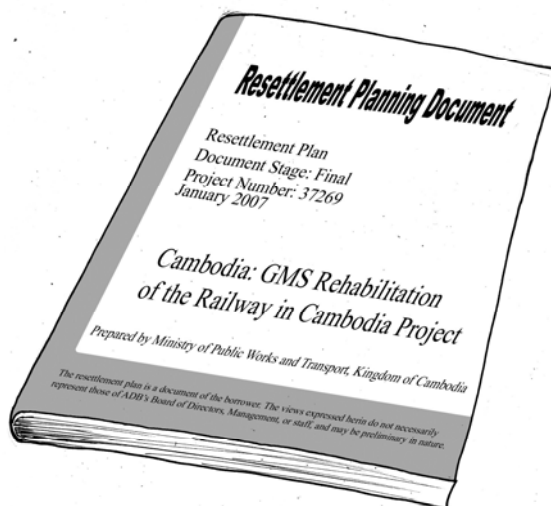
If the Government does not make particular information available or does not consult people meaningfully, this is a violation of the ADB policy. The things you can do to make the Government and the ADB accountable if they do not respect the policy are discussed in later sections.

2. WHAT INFORMATION MUST BE MADE AVAILABLE?

The Government must make sure that people who will be displaced by a project know that they will be affected and are informed about and understand what they are entitled to and what their options are for compensation and resettlement.

The Government must prepare a **resettlement plan** for any ADB-funded project that will cause displacement. The **Inter-Ministerial Resettlement Committee (IRC)** is responsible for preparing and implementing resettlement plans for ADB-funded projects in Cambodia. The purpose of a resettlement plan is to explain the details of how the Government will make sure that people who will be displaced by the project will get the things that they are entitled to under the ADB policy.





The IRC must make the resettlement plan available to the public and especially to people who will be affected by the project. Both a draft and final resettlement plan must be made available. The difference between a draft and final resettlement plan is discussed in section 6.

The resettlement plan contains very important information so it is important for communities that will be affected by a project to understand what it says. The IRC has a duty to make sure that people who are affected are informed about what the resettlement plan says. If the IRC has not given you a copy of the resettlement plan and explained what it says, you have the right to demand that they do.

WHAT INFORMATION IS IN A RESETTLEMENT PLAN?

A resettlement plan sets out important information about:

- The project;
- The land that will be needed for the project, including maps;
- The displacement it will cause;
- Who will be displaced by the project and what the impact on their lives will be;
- How the Government will make sure that people are informed and consulted;
- What people, who will be displaced, are entitled to;
- Options for relocation and resettlement sites; and
- Livelihood support and assistance programs.

All of this information must be made available to the public and especially to people who will be affected by the project.

The IRC also has a duty to report to the ADB about the implementation of the resettlement plan and it must make these reports available to the public.

3. INFORMATION MUST BE ACCESSIBLE

A resettlement plan can be a complex document and quite difficult to read and understand. Many people who are affected by an ADB-funded project may not be able to understand what the resettlement plan says and how it affects them.

The IRC has a duty to make the information in the resettlement plan **accessible** to people who will be affected by the project. This means that the information must be explained in a way that people can understand and in a language that they can speak.

It will not usually be enough to just hand out copies of the resettlement plan, especially if people cannot read. The IRC must make sure people understand the information by doing things such as organizing community events to explain and discuss the plan, using illustrations, photographs, videos or organizing visits to potential resettlement sites.

If there are individuals or groups that speak a different language, such as indigenous groups, the Government must make sure that the information is explained to them in a language and form that is suitable for them.



4. CHECKING THE INFORMATION IN A RESETTLEMENT PLAN

It is important to check that you are happy with the information in the resettlement plan. It is also important to check that it respects the Involuntary Resettlement Safeguard Policy.

This means that you should find out whether you have been identified as someone who will be displaced by the project and are included in the resettlement plan for the project.

You should also check that the entitlements that you will get under the resettlement plan meet the standards in the safeguards.

WHAT INFORMATION SHOULD YOU CHECK IN A RESETTLEMENT PLAN?

It is important to check the following information in a resettlement plan:

- That you will get enough compensation so that you can fully replace what you will lose.
- That, if you will be resettled, you are happy with the location of resettlement sites that are listed in the resettlement plan.
- That, if you are resettled, you will have security of land tenure at the site.
- That the housing and services that will be provided at the resettlement site are adequate.
- That you are happy with the livelihood support that will be offered and you are satisfied that you will not be made worse off.

If you are concerned about any of the information in the resettlement plan, you should raise your concerns with the IRC as soon as possible. Other things you can do if you have concerns with the resettlement plan are discussed in later sections.



5. WHAT IS MEANINGFUL CONSULTATION?

The Government must make sure that affected people and other groups are meaningfully consulted about the project and its impacts. The Government must also meaningfully consult people about compensation, resettlement options and other kinds of support and assistance to make sure people's lives are not made worse by the project.

- Meaningful consultation happens when people are fully informed and they have an opportunity to express their views and have their questions answered. It means that people's concerns are addressed and their ideas are taken into account when decisions are made.
- Meaningful consultation happens when people who will be affected have an opportunity to influence the resettlement plan from early on and the way it is implemented.
- Meaningful consultation happens when people do not feel scared or pressured by government representatives or anyone else and can express their views and ask questions freely.
- Meaningful consultation happens when women's voices are heard and they are active participants in discussions.
- Meaningful consultation happens when vulnerable and disadvantaged groups, such as Indigenous Peoples,⁶ the elderly, children, people who are landless and people without land title, have a special opportunity to have their concerns heard and addressed.



⁶ There are special safeguards for indigenous peoples who will be affected by an ADB project. Indigenous people who may be displaced by an ADB project should find out information about those safeguards.

6. WHO MUST BE CONSULTED?

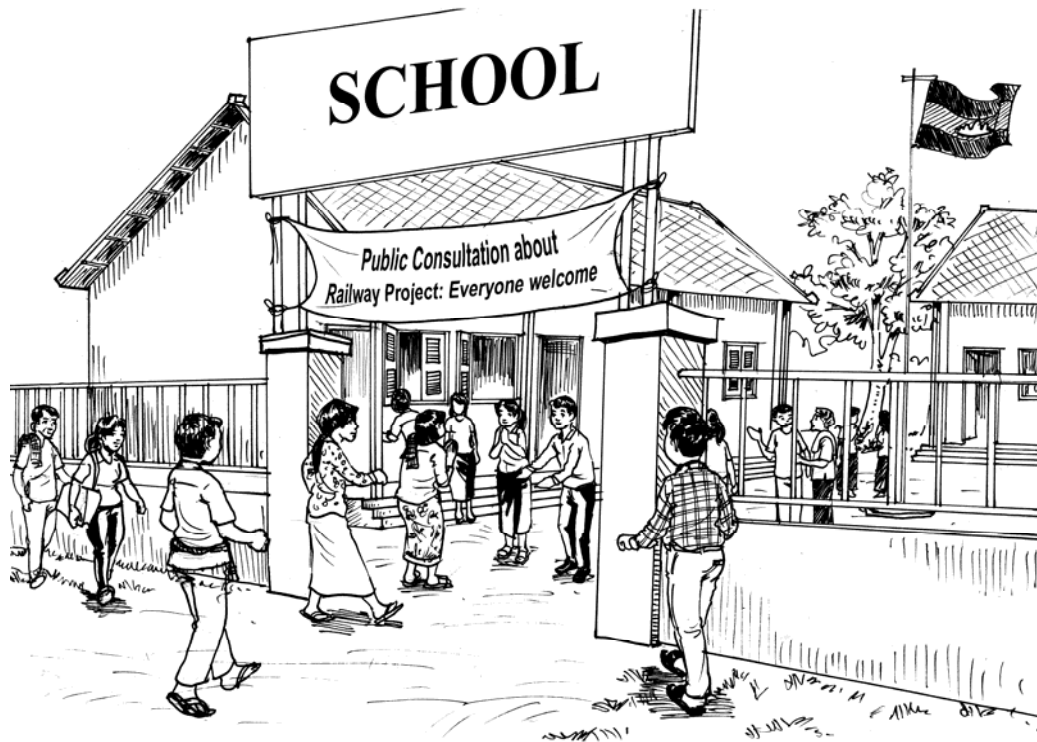
The safeguards say that the Government must consult:

- *People who will be affected by the project.* This means that people who will be displaced from or lose access to their homes, land, businesses, jobs, or other resources they use for livelihoods must be properly consulted. Special attention must be given to women, and to vulnerable and disadvantaged groups, such as Indigenous Peoples, the elderly, children, people who are landless and people without land title, to make sure they have an opportunity to express their views and concerns and have them taken into account.
- *The communities that already live in areas where people will be resettled.* They should be consulted in order to listen to their views and concerns about how they will be affected when new people move to their area. They should also be consulted about how they can benefit from new programs and services in the area, such as livelihood assistance. Involving these communities in the consultations and finding ways for them to share benefits helps to make sure that they will live peacefully with the families that will be resettled in their village.
- *Other communities, networks or NGOs* that are interested and want to contribute to the discussion.

7. WHEN MUST THE GOVERNMENT CONSULT PEOPLE?

Meaningful consultation is an ongoing process that begins early on when the Government and the ADB decide to do a project together.

People, communities, networks and NGOs should firstly be consulted about *the project itself*, including the reasons for the project and how it will be implemented. If people have serious concerns about the negative impacts of a project, such as harm that it will cause to people or the environment, the Government and the ADB should take these views into account in deciding whether or not to continue with the project. It should also consider ideas about how they can implement the project in a way that avoids and minimizes displacement.



If it is decided that the project will continue and if it will cause displacement, the ADB policy says that the Government must consult people about how to make sure people's lives are not made worse off. The Government must take people's ideas, opinions and concerns into account when it designs the *first draft of the resettlement plan*.

After the Government finishes the draft resettlement plan, it must make it available to the public and make sure that affected people understand how it affects them. The Government must then get people's opinions about the draft plan and take these into account in making a *final resettlement plan*.

The Government must give people options for resettlement and consult people about their *choices for resettlement and compensation*. The Government must also consult people to get their views about how the resettlement plan should be implemented.

HOLDING THE GOVERNMENT AND THE ADB ACCOUNTABLE

OUTCOMES

After completion of this module, participants will:

1. Understand that safeguard policies are not always respected.
2. Understand that there are things they can do to make the Government and the ADB accountable.
3. Know how to monitor the project.
4. Know what they can do locally to try to find a solution.
5. Know that they can use ADB accountability processes to try to find a solution.
6. Understand what the ADB accountability processes are.
7. Understand the limitations of ADB accountability processes.
8. Know that they can use other forms of advocacy to try to find a solution and hold the Government and the ADB accountable.

1. SAFEGUARD POLICIES ARE NOT ALWAYS RESPECTED

Although the ADB has policies that should protect people from being harmed by an ADB-funded project, unfortunately sometimes the policies are not properly followed and people are displaced and made worse off.

In some cases, people are not given proper compensation or resettlement even though they are entitled to it. In some cases, they are not supported by good programs and other assistance to ensure that their livelihoods are improved or at least restored.

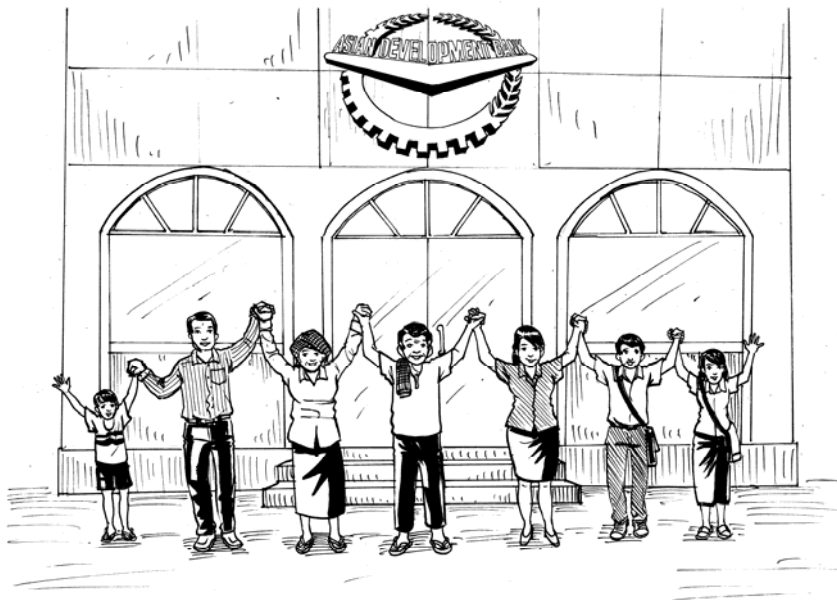
In many cases, people are not informed or consulted meaningfully about the project, its impact and their entitlements and options, even though they have a right to be informed and consulted under the policy. When people who are displaced are not informed and consulted meaningfully, they are often unhappy with the compensation, resettlement and livelihood assistance because their ideas and views about how they can best be supported were not taken into account.



2. MAKING THE GOVERNMENT AND THE ADB ACCOUNTABLE

If the safeguard policies are not respected, there are things you can do to make the Government and the ADB **accountable**. “Being accountable” means that if the Government and the ADB fail to respect the policy, they accept responsibility and find a way to stop people being harmed or repair any harm that has been already been caused. If the project will cause serious harm, being accountable could also mean stopping the project from going ahead unless they can ensure that the policy can be respected.

It is up to you and other people who are affected by the project to work together to hold the Government and the ADB accountable by watching carefully, staying informed, participating in consultations and complaining if you have any problems or concerns.



3. MONITORING THE PROJECT

To make the Government and the ADB accountable, it is very important to keep informed and **monitor** the project to see if the policy is being properly followed.

HOW TO MONITOR THE PROJECT

Monitoring the project involves the following steps:

- Collecting information, talking to people who are affected, participating in consultations and asking questions about the project.
- Carefully watching the things that happen because of the project.
- Thinking about what information is important because it affects you or other people.
- Recording the important information, for example, by writing it down or taking photos.
- Reporting the information at community meetings or to supportive NGOs, so you can all decide what action to take.

It is a good idea to select a few **project monitors** from the communities that are affected. A project monitor is someone who is in charge of taking the steps described above to monitor and report on the project.



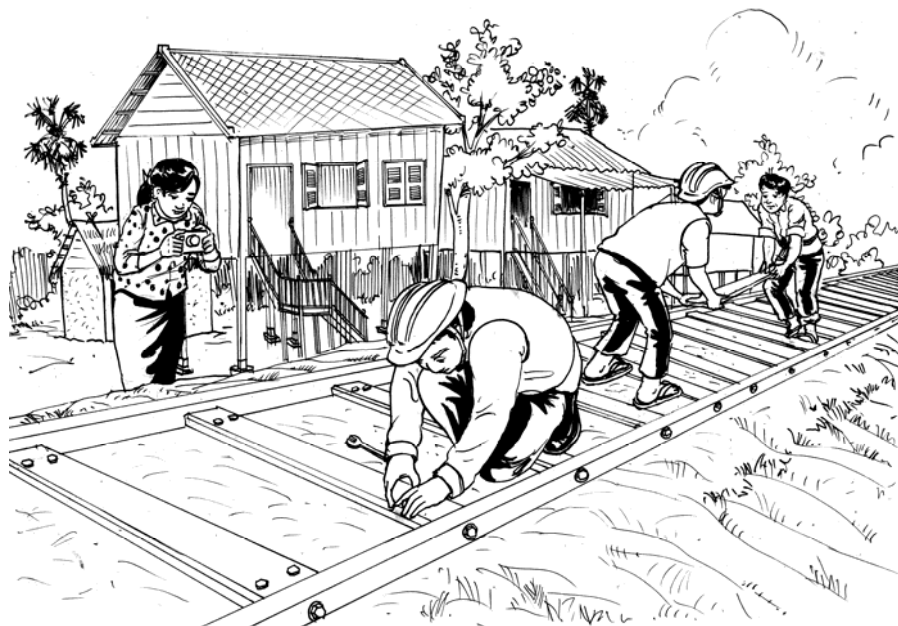
There are four main things that you can monitor to see if the Government and the ADB are respecting the policies:

1. You can monitor to check that the Inter-Ministerial Resettlement Committee (IRC) is giving you all the important *information* in a way that you can understand.
2. You can monitor to see whether the IRC is holding meaningful *consultation* meetings.



3. You can check the resettlement plan to make sure that the *compensation* and *resettlement* options respect the safeguard policy and that there are good plans for *livelihood support* and sharing the project benefits.
4. You can also monitor *the way the resettlement plan is implemented* and check that the IRC is doing things properly and according to the plan.

Using the information that you record from monitoring the project, you and others who are affected by the project can demand that the Government and the ADB are accountable when the safeguard policies are not respected. Some of the actions you can take are discussed in the next sections.



4. DEALING WITH PROBLEMS LOCALLY

4.1. LOCAL GRIEVANCE MECHANISM

The safeguard policy says that the Government must set up a **local grievance mechanism** for any ADB-funded project. This means that a special process must be set up by the IRC so that you can lodge any concerns or problems that you have because of the project. Your concerns must be taken seriously and the Government should try to find a good solution as quickly as possible.



The local complaint process should be easy for people to access and understand. The process should be easy for women to access. It should also be easy to access for any vulnerable and disadvantaged groups or groups that speak a different language.



The resettlement plan must contain information about the local complaint process. The IRC must make sure the people who are affected by the project are informed about the process and how to access it.

**AN EXAMPLE OF A GRIEVANCE MECHANISM:
THE CAMBODIAN RAILWAYS PROJECT**

In 2006, the Cambodian Government released a resettlement plan for an ADB-funded project to repair the railway tracks across the country.

The resettlement plan contains information about the grievance mechanism that was set up for the project. The resettlement plan explains the steps that people can take if they have problems or concerns because of the project. For example, if Vuthy had a concern about the resettlement site he could do the following:

Stage 1: Vuthy can present his complaint to the Village or Commune Resettlement Sub-committee or IRC working group. The Sub-committee must give Vuthy written confirmation of receiving the complaint.

Stage 2: If, after 15 days, the Sub-committee has not responded, or Vuthy is not happy with the response, he can go to the District office.

Stage 3: If, after 15 days, there is still no solution, the District office must take the case to the Provincial Grievance Committee. The Committee must meet with Vuthy and try to find a solution. The Committee has 30 days from receiving the complaint to make a written decision. It must give Vuthy and the Government copies of the written decision.

It is important to write down the problem or concern in a letter and keep a copy. It is also a good idea to give a copy to a supportive NGO. If your complaint is written down, it can be used later as proof that you tried to use the local complaints process if you do not find a solution. You can then use this letter to complain to higher levels of government or to the ADB.

If you cannot read or write, you can ask someone else in the community to help you. You can also contact an NGO to ask for help. Community monitors should be available to help other members in the community prepare and lodge a complaint letter or contact an NGO for help.

AN EXAMPLE OF A COMPLAINT LETTER

To: Commune Resettlement Committee

Cc: Asian Development Bank Cambodia Resident Mission, Phnom Penh

I, Eang Sotheary, am affected by the Railways Project. I am 42 years old and I work as a cook at a restaurant close to my house in Daun Pehn district. I am a widow with two daughters, aged 16 and 17, and one son, aged 10.

I have been told that my family and I will be relocated to a 4 x 16 plot of land in Dangkor district. I am concerned that this site is too far from my job in the city and I will not be able to afford the transportation costs. I am also concerned that my daughters will not be able to continue going to school, because there is no secondary school near the new site.

I think this resettlement will make my family poorer.

I would like the IRC to find a different option for my family so we can continue to live close to our jobs and services in the city.

Respectfully,

[Thumbprint here]

Eang Sotheary

Phnom Penh, 12 March 2010

4.2. THE ADB OFFICE IN CAMBODIA

It is a good idea to send a copy of any letters you send or receive during the local grievance process to the ADB office in Cambodia. If you live in Phnom Penh, you can deliver the letters yourself. If it is difficult for you to send letters to the ADB office, you can ask a supportive NGO to help.

If you have tried to use the local grievance mechanism but your problem has not been solved, it is important to contact the ADB office in Cambodia and explain your problems or concerns. You can ask a supportive NGO to help you send a letter or arrange a meeting with local ADB staff who are working on the project.

You can find the contact details of the ADB office in Cambodia at the back of this book. Some NGOs who may be able to help are also listed.

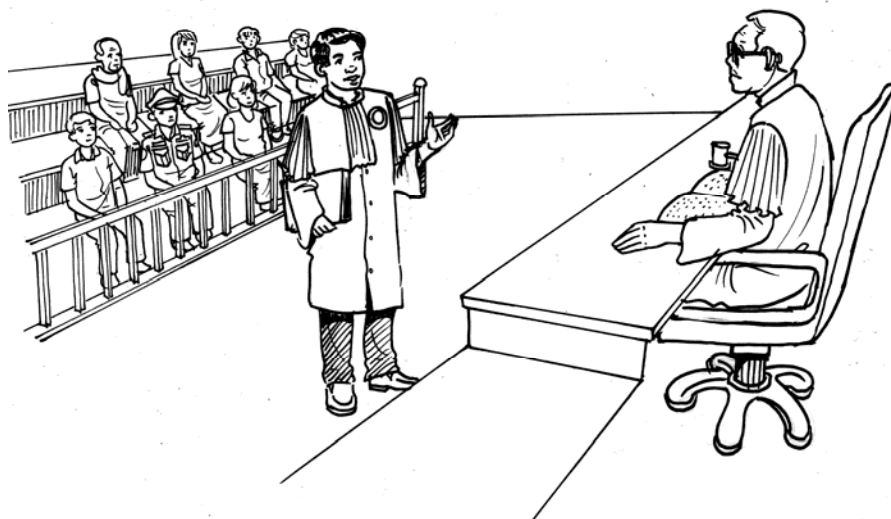
4.3. CAMBODIAN COURTS

If a Cambodian law is violated by the project and you are harmed, you have the right to go to court to try to find a solution and hold the Government accountable.

Some of the laws that could be violated if you are displaced and not compensated properly are:

- The Constitution of the Kingdom of Cambodia
- The Land Law 2001
- The Expropriation Law 2010

If you would like to find more information about whether a law has been violated and whether you can file a complaint to the Cambodian courts, you can contact a lawyer or a legal aid NGO listed in the back of this book.



PROBLEMS WITH USING THE COURTS IN CAMBODIA

It is important to note that many people file cases with the Cambodian courts, and there are not enough judges to deal quickly with all of these cases. This means that it can take a very long time before the court will hear your case and make a decision. Sometimes, judges are also influenced by other factors and do not always make decisions according to the law or what you might think is fair.

Because of this, it is a very good idea to do other things to try to find a solution, such as using the ADB accountability processes. It is also a good idea to use other forms of advocacy, such as talking to the media. ADB accountability processes and other forms of advocacy are discussed in the next sections.

5. USING THE ADB ACCOUNTABILITY MECHANISM

The ADB has its own process for resolving the problems of people who are harmed or think they will be harmed by an ADB-funded project. This process is called the **ADB Accountability Mechanism**. It consists of two phases, which are described below. The offices of the Accountability Mechanism are based at the ADB headquarters in Manila, Philippines.

It is important to try to raise your concerns and problems with IRC and ADB staff locally and try to use the local grievance mechanism for the project before sending a complaint to the ADB Accountability Mechanism. Your complaint will not be accepted by the ADB Accountability Mechanism unless you have first tried to find a solution by contacting the ADB Office in Cambodia.



However, if you do not find a good solution from the Government and ADB staff locally, you can use the ADB Accountability Mechanism to try to solve your problem.

If you would like to send a complaint, you may want to find out more information and get the support of an NGO. The contact details of NGOs that can help you send a complaint and use the ADB Accountability Mechanism are listed in the back of this book.

5.1. CONSULTATION PHASE: THE OFFICE OF THE SPECIAL PROJECT FACILITATOR

The first thing that you can do if you decide to use the ADB Accountability Mechanism is to send a letter to the **Office of the Special Project Facilitator (OSPF)**. This office has been established by the ADB especially to deal with people's concerns about ADB-funded projects. If it receives and accepts a complaint, the OSPF tries to solve the problems by finding out about the situation and then making suggestions for how the problems can be solved.



The OSPF staff investigate the situation after receiving a complaint and views about the SPF's suggestions. This is why it is called the "consultation phase."

If everyone agrees on the solutions, they sign an agreement. It is very important to monitor the implementation of the agreement to make sure that your problem is solved properly. It is also the OSPF's responsibility to monitor the implementation of the agreement.

You can find the contact details of the Office of the Special Project Facilitator at the back of this book.

CASE STUDY: A HIGHWAY IN PAKISTAN

In 2006, the ADB agreed to loan money to the Government of Pakistan to improve a national highway. People who were going to be affected by the project were concerned they would be displaced and that they would not be properly compensated. They sent a complaint letter to OSPF setting out their concerns.

The OSPF listened to the people about their concerns. People were worried about losing their livelihoods if they were displaced by the project. They were afraid that the

compensation would not be paid, or that it would not be paid on time. They had not been informed about how much compensation they would be given. Women were worried that if they were displaced they would have no place to live. Imagining their village surrounded by a four-lane highway, they wondered how their children could reach school safely or how their cattle would be able to cross those busy roads.⁷

The community, the Government and the ADB staff working on the project all agreed that more accessible information should be provided to the community about the project. They also all agreed that the community should be consulted about the resettlement plan before it was finalized.

The OSPF held a joint one-day consultation meeting for the community and the relevant Government officials. At the consultation meeting, it was agreed that the Government would do the following:

- Send the community a list of all the families that would be affected;
- Explain how compensation rates would be calculated;
- Consider people's applications to receive higher compensation rates;
- Give the community a revised resettlement plan; and
- Hold consultations with the community about the revised resettlement plan.

The OSPF stayed in close contact with the community, the Government and the ADB staff working on the project to monitor the agreement. The ADB staff advised and guided the Government in preparing and implementing the resettlement plan. The Government increased the compensation payments to the affected families.

5.2. COMPLIANCE REVIEW

If you do not find a good solution during the consultation phase or you are unhappy with the way the plan is implemented, you might be able to complain to the **Compliance Review Panel (CRP)**. You do not have to wait until the OSPF finishes the consultation phase to send a complaint to the CRP. For example, if you are unhappy with the suggestions made by the OSPF you can decide to stop the consultation phase and send a letter to the CRP instead.

The CRP is different to the SPF because it investigates whether the harm suffered, or that is likely to be suffered, has been caused by a violation of ADB policy.



If the CRP decides that a policy has been violated, it investigates the situation and writes a report with recommendations to ensure that policies are respected. The recommendations could include:

- Making changes to the project.

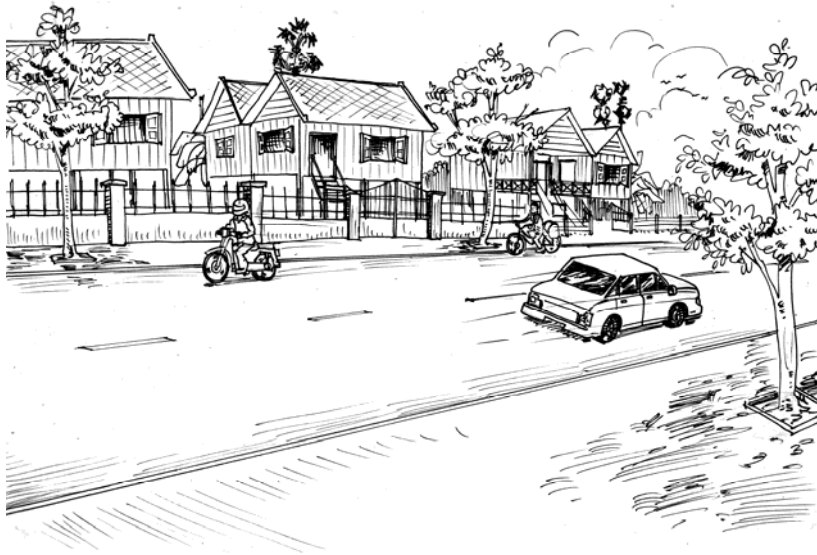
⁷ Adapted excerpt from the Final Report of the Special Project Facilitator on the National Highway Development Sector Investment Program in Pakistan, March 2010.

- Making changes to the resettlement plan.
- Making changes to how the resettlement plan is implemented.
- Giving people better compensation or resettlement options.
- Giving people better support so that their livelihoods and living standards are not made worse by the project.

If there are very bad impacts on people that cannot be avoided, the CRP could even recommend cancelling the project.

You will have an opportunity to explain your ideas and views about the CRP's suggestions. Once the CRP writes its final report, it sends it to the **ADB Board of Directors** for approval. The Board is in charge of making major decisions about the ADB, including approving the recommendations of the CRP. If the plan is approved, and the Government agrees, it is then implemented and must be monitored carefully by the ADB for the next five years.

You can find the contact details of the Compliance Review Panel at the back of this book.



Here the ADB and the government agreed on a solution and better housing was built for the people along the new road

5.3. WEAKNESSES OF THE ADB ACCOUNTABILITY MECHANISM

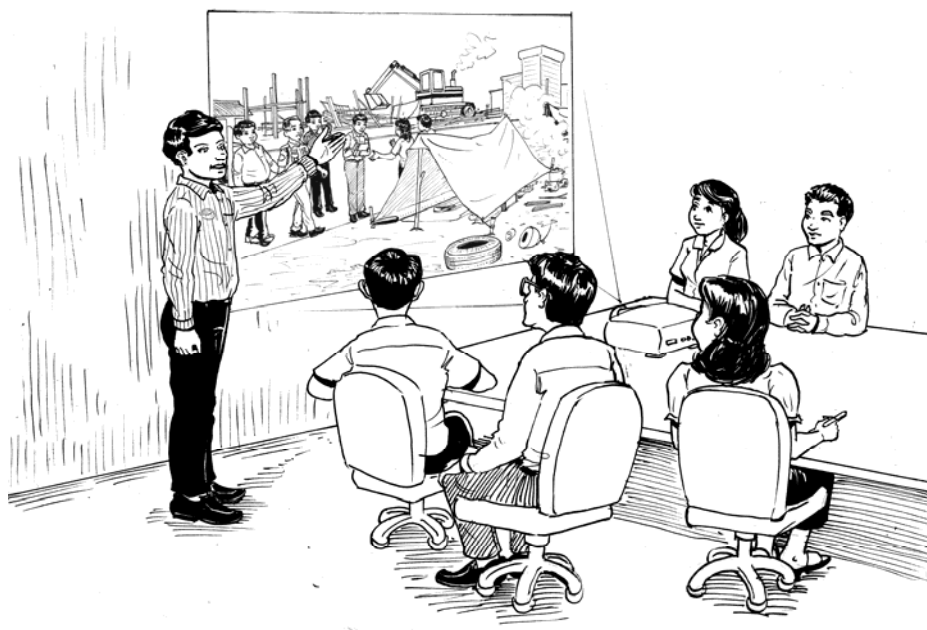
Using the ADB Accountability Mechanism is an important way to try to find a solution to your problem and hold the ADB accountable when the ADB policy has been violated. However, there are some weaknesses of the ADB Accountability Mechanism, and people who complain do not always find a good solution to their problem.

The main reason for this is that the ADB Accountability Mechanism cannot force either the ADB or the Government to do something to fix your problem or repair the harm done. Even if the CRP decides that the ADB policy has been violated and recommends

a good plan to fix the problem, it is possible that the ADB Board will not approve the plan or everything in the plan.

If the Government does not agree with the plan, it is difficult for the ADB to fix the problems caused by the project and find solutions for the harms suffered. It is usually the Government's role to implement the plan in the CRP's report so if the Government refuses to do so, the things that the ADB can do to fix the problems are limited.

The ADB states that it will not fund projects that do not respect its policies or the country's own laws. If the Government does not respect the ADB policy and refuses to fix serious problems or harm suffered because of the project, the ADB should consider withdrawing its funds from the project.




Because of the weaknesses of ADB's Accountability Mechanism, it is important for people to use other forms of advocacy to pressure the Government and the ADB to respect the policy and fix any problems caused by the project. Other forms of advocacy are discussed in the next section.

6. OTHER FORMS OF ADVOCACY

If you decide to use local grievance processes, the courts or the ADB Accountability Mechanism, it is a good idea to also use other forms of advocacy. This is because sometimes the Government and the ADB will not put a lot of effort into solving people's problems unless they are pressured by other forms of advocacy.

Advocacy means delivering a message through words or actions to try to influence the decisions that affect people's lives.

It is a good idea for people who are affected by an ADB-funded project to make decisions together about using other forms of advocacy. If you work together as a community, your message will be stronger and it is more likely that it will be heard by the Government and the ADB. 

You can also get support from local and international NGOs that work with your community and have experience influencing the ADB. You can find the contact details of NGOs that have experience influencing the ADB at the back of this book.

Three forms of advocacy are discussed below. There are many other things that your community could do to get the attention of the Government and the ADB. Be creative!

6.1. USING THE MEDIA

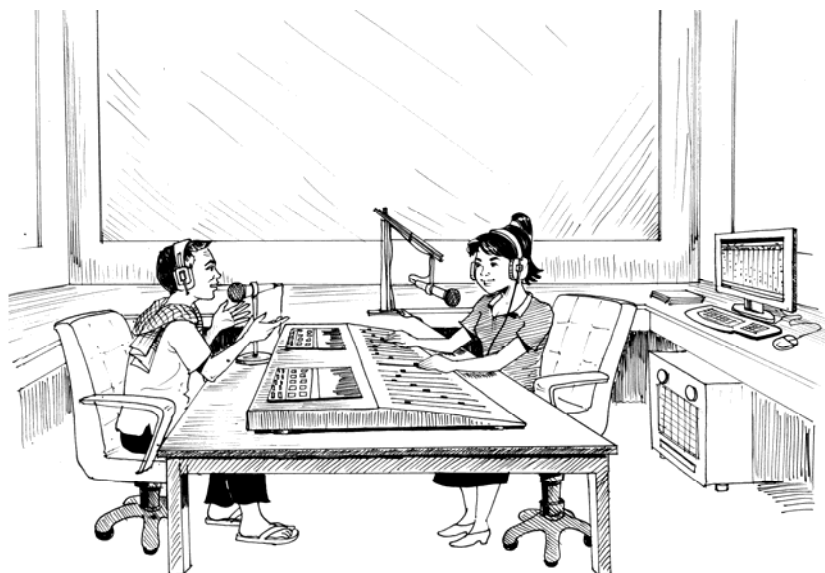
Using different types of media is a very important strategy for telling your story to the public and sending your message to the Government and the ADB.



There are many different types of media. For example, you can contact journalists who work for newspapers, television and radio. It is important to plan carefully before you contact a journalist and first decide what you would like to tell her and what message you want published.

You can also invite a journalist to come to your village. If the journalist comes to your village, you can explain your situation face to face and the journalist will be able to see the situation with her own eyes. If the journalist is from a newspaper, she can also take photos. If the journalist is from a television network, she can film an interview with you and other community members on your land or in your houses.

If you contact a radio station, you might be invited to come to the recording studio for an interview, so you can tell your story to people all around Cambodia.



You can find contact details for The Cambodia Daily, Raksmei Kampuchea and Asia Sery Radio and some international media sources at the back of this book.

TALKING TO THE MEDIA

If you talk to the media about your problem, it is very important that you *tell the truth*. It is even better if you have documentation and evidence to support your statements. For example, if you say that your land is being taken for the ADB-funded project and you are not being paid enough compensation, it is a good idea to give the journalist any documents that you have about the project and the compensation. You can also ask the journalist to visit your village and take photos.

If you make a statement in the media that is false, it can be dangerous because there are criminal penalties for incorrectly saying someone has done something wrong. It is a good idea to find out what the risks of talking to the media are from a legal NGO, listed in the back of this book.

6.2. SENDING A PETITION

Another form of advocacy is to send petitions to the ADB and the Government. A **petition** is a written protest or request signed or thumbprinted by many people demanding change or a solution to a problem.

If you are organizing a petition about an ADB-funded project, the petition could demand that the ADB and the Government do something to solve people's concerns or problems about the project. It might contain specific things that you want the ADB or the Government to do. It might demand that the ADB stop funding the project.

The more thumbprints you have on your petition, the stronger it will be. You can ask people from inside and outside of the community to support and sign or thumbprint the petition.

It is a good idea to send the letter or petition to the ADB office in Cambodia and the President and Board of Directors of the ADB. You can find contact details at the back of this book. You can also send the letter or petition to the IRC or other government officials and even the Prime Minister, if you think it is a good idea.



EXAMPLE PETITION

We are people affected by the Railways Project and respectfully ask the ADB and the IRC to inform and consult us meaningfully about the project and how it will affect us.

We have the right to be informed and consulted about the project.

We also have the right to fair compensation and resettlement according to laws of Cambodia and the ADB Involuntary Resettlement Safeguards Policy.

We ask the ADB and the IRC to consult with all the affected families to reach an agreement on a fair compensation amount.

Phnom Penh, Day.....Month.....Year.....

Petitioners

N ^o	Name	Sex	Age	Village	Thumbprint
1					
2					
3					
4					

6.3. ORGANIZING A DEMONSTRATION

A **demonstration** is a public show of protest against, or in support of, an issue, action or person. Successful demonstrations are peaceful, have a lot of people, and are held at a time and place that will get the attention of people that you want to influence. For example, you could hold a demonstration outside the office of the ADB or the IRC in

Phnom Penh. At demonstrations people often hold posters with writing or pictures that show their message.

There are Cambodian laws about demonstrations that you should find out about before you organize a demonstration to make sure that you understand the risks involved. You can contact a legal NGO listed in the back of this book for information.

ORGANIZING A DEMONSTRATION

When you decide to hold a demonstration, it is important to plan by thinking about the following questions:

- Have you found out about the risks and laws about demonstrating and made sure that the people demonstrating understand the risks?
- What is the purpose and message of your demonstration?
- How will you send your message? For example, will you use posters, banners, a loud speaker, songs, or a combination?
- What will you bring to the demonstration so you can send your message?
- Where and when will the demonstration be held?
- Who will you invite to join the demonstration?
- How will everyone get to the demonstration?
- How will you make sure the demonstration is peaceful?
- Have you informed the authorities, as required by the Law on Peaceful Assembly?

It might also be a good idea to give petitions and letters about the situation to the ADB or the government officials at the same time as the demonstration outside their office. People demonstrating can also invite the media to come and report on their protest.



A peaceful demonstration

GLOSSARY

1. **Access to credit:** Having access to credit means being able to borrow money. People often need access to credit so that they can improve their own housing, buy seeds to grow crops, or start small businesses. Making sure people have access to credit means that they can borrow money that they can afford to pay back in the future, including interest.
2. **Accessible (information):** Information that is explained in a way that people can understand and in a language that they speak.
3. **Accountable:** Being ‘accountable’ means that if someone fails to respect the rules, they accept responsibility and find a way to repair any harm that has been caused.
4. **ADB Accountability Mechanism:** This is the ADB’s own process for resolving the problems of people who are harmed or think they will be harmed by an ADB-funded project. It consists of two phases: the consultation phase by the Office of the Special Project Facilitator (OSPF) and the compliance review phase by the Compliance Review Panel (CRP). The offices of the Accountability Mechanism are based at the ADB headquarters in Manila, Philippines.
5. **ADB Board of Directors:** The Board is made up of people who represent the different member countries of the ADB. The Board is in charge of making major decisions about the ADB, including approving the recommendations of the CRP.
6. **Advocacy:** Delivering a message through words or actions to try to influence the decisions that affect people’s lives.
7. **Asian Development Bank (ADB):** An international organization based in Manila, Philippines that was established in 1966 and is made up of member countries. The ADB’s stated mission is “to reduce poverty and improve the quality of life in developing countries in Asia.” The ADB works in countries by providing money to governments for different types of projects. The ADB also provides information, advice and technical assistance to governments.
8. **Compliance Review Panel (CRP):** The CRP investigates whether there is harm caused or likely to be caused by an ADB project that has resulted from a violation of the ADB safeguards. If it decides that safeguards have been violated, it investigates the situation and writes a report with recommendations to ensure that safeguards are respected.
9. **Demonstration:** A public show of protest against, or in support of, an issue, action or person. Successful demonstrations are peaceful, have a lot of people, and are held at a time and place that will get the attention of people that you want to influence.

10. **Forced displacement:** When people are evicted from their homes and land or lose access to land and resources they depend on for food and livelihoods.
11. **Grants (from the ADB):** Money that the ADB gives a government that the government does not have to pay back.
12. **Inter-Ministerial Resettlement Committee (IRC):** The government authority responsible for preparing and implementing resettlement plans for ADB projects.
13. **Interest (for ADB loans):** The extra money a government has to pay back to the ADB, in addition to the original amount of money that it borrowed. Interest is usually very low for loans given by the ADB to the government of poor countries.
14. **Interest:** Any extra money people have to pay back, in addition to the original amount of money that they borrowed. Interest should be low enough so that paying all the money back does not make the family poorer.
15. **Involuntary Resettlement (according to the ADB Safeguards):** Any situation where someone decides to take land, or restrict access to land, that other people live or work on, or use for their livelihoods, and the people do not have the right to refuse.
16. **Involuntary Resettlement Safeguards:** Rules created by the ADB that must be followed for any ADB project to protect people from the harms of displacement.
17. **Legal possessors:** People who settled on land before August 30, 2001 (when the Land Law was passed), or bought or inherited their land from someone who settled there before that date. Their possession must also meet a few conditions: they must have occupied the land peacefully and honestly; they must also have occupied the land continuously and it must be clear that they were the occupier of that land; their possession of the land must also be publically known.
18. **Legal register:** The official list and description of land plots and owners in Cambodia.
19. **Livelihood opportunities:** People must be able to earn a living and provide themselves and their family with everything they need to live, such as food, water, housing, healthcare and education. To do this, people must have access to jobs, farmland, markets to sell things, or other small businesses.
20. **Livelihood support:** Helping people so that they have opportunities to provide for themselves and their families with everything they need to live. The ADB safeguards say that support could include things like access to credit, training or job opportunities.
21. **Loans (from the ADB):** Money that the ADB gives a government that the government is required to pay back with interest.

- 22. Local grievance mechanism:** A special process must be set up by the Government so that you can lodge any concerns or problems that you have because of an ADB-funded project. Your concerns must be taken seriously and the Government should try to find a good solution as quickly as possible.
- 23. Monitor:** Monitoring the project involves collecting information, participating in consultations and watching the things that happen because of the project. It also involves recording and reporting the important information. The purpose of monitoring an ADB-funded project is to see if the policies and plans are being properly implemented.
- 24. Office of the Special Project Facilitator (SPF):** An office in the ADB established especially to deal with people's concerns. It tries to do this by investigating the situation and then making suggestions for solutions to the problems.
- 25. Owners:** People who have had their land officially registered and have legal title to that land. Ownership is the strongest right anyone can have over land. It allows the owner to use their land in any way they want, as long as they do not break any laws.
- 26. Petition:** A written protest or request signed or thumbprinted by many people demanding change or a solution to a problem.
- 27. Possession rights:** The rights of legal possessors, which are very similar to right of ownership. Legal possessors also have the right to apply for title.
- 28. Project monitors:** Someone who is in charge of monitoring the project (see 'Monitor' above).
- 29. Relocation or resettlement site:** A new place to live for people who are displaced from their homes. Under the ADB Involuntary Resettlement Safeguards, people must have secure tenure over the new land and must be able to live in better houses than their old ones. The government must also make sure that they have access to livelihood opportunities, necessary infrastructure and services, such water, sanitation, electricity and waste disposal.
- 30. Resettlement Plan:** A Resettlement Plan must be prepared by the government for any ADB project that will displace people. A resettlement plan sets out important information about the project: the land that will be needed for the project; the displacement it will cause; who will be displaced by the project and what the impact on their lives will be; how the government will make sure that people are informed and consulted; what people who will be displaced are entitled to; options for relocation and resettlement sites; and livelihood support and assistance programs.

- 31. Safeguard policies:** Safeguard policies are rules that the ADB and the government must respect when they agree to work on a project together. These rules are aimed at preventing negative impacts on people and the environment from ADB projects. They are also aimed at making sure that people who will be affected by an ADB project will have access to information and be meaningfully consulted.
- 32. Secure land tenure:** A legal guarantee that people will not be forced to leave their homes and land (unless it is absolutely necessary and allowed under the law).
- 33. Technical assistance (by the ADB):** Support and advice that the ADB provides to governments. For example, the ADB might provide technical assistance by helping the government to design and implement projects, training government employees, doing research and collecting information, or helping to write policies and laws.
- 34. Title (to land):** An official document that states that a person or people legally own a piece of land.

ASIAN DEVELOPMENT BANK

Asian Development Bank:

Cambodia Resident Mission

29, Suramarit Boulevard

P.O. Box 2436

Sangkat Chaktomuk, Khan Daun Penh

Phnom Penh, Cambodia

Tel: + 855 23 215 805, 215 806, 216417

Fax: + 855 23 215 807

Email: adbcarml@adb.org

Website: www.adb.org/carm

Office Hours: Monday to Friday, 08:00hr - 12:00hr, 13:00hr - 17:00hr

Country Director: Mr. Kamayana

ADB Headquarters

6 ADB Avenue

Mandaluyong City 1550

Metro Manila, Philippines

Tel: + 632 632 4444

Fax: + 632 636 2444

President: Haruhiko Kuroda

ADB ACCOUNTABILITY MECHANISM

Office of the Special Project Facilitator

Robert C. May

Special Project Facilitator, Asian Development Bank

6 ADB Avenue

Mandaluyong City 1550

Metro Manila, Philippines

Tel: (63-2) 632-4825

Fax: (63-2) 636-2490

Email: spf@adb.org

Website: <http://www.adb.org/SPF/default.asp>

* *The organizations listed below do not necessarily support the contents of this publication. Their contact details are provided as a resource to access additional information or assistance.*

Compliance Review Panel

Secretary

Compliance Review Panel, Asian Development Bank

6 ADB Avenue

Mandaluyong City 1550

Metro Manila, Philippines

Tel: + 63 2 632 4149

Fax: +63 2 636 2088

Email: crp@adb.org

Website: www.compliance.adb.org

LOCAL NGOS THAT MAY BE ABLE TO PROVIDE ASSISTANCE

Housing Rights Task Force (HRTF):

Address: c/o CLEC #524, St. 306, Boueng Keng Kang I, Chamkarmon, Phnom Penh

Tel: 023 996 531

Email: cam.hrtf@gmail.com

Website: www.hrtfcambodia.org

Bridges Across Borders Cambodia (BABC):

Address: #261AB, Street 371, Boeung Tum Pun, Khan Mean Chey, Phnom Penh

Tel: 023 220 930

Email: cambodia@babcbombodia.org

Website: www.babcbombodia.org

NGO Forum on Cambodia (Land and Livelihoods Programme):

Address: #9-11 Street 476, Toul Tompong 1, PO. Box 2295, Phnom Penh 3

Tel: 023 214 429, 023 994 063

Email: ngoforum@ngoforum.org.kh

Website: <http://www.ngoforum.org.kh>

Sahmakum Teang Tnaut (STT):

Address: #13C, St. 384, 12309 Phnom Penh

Tel: 023 222 794

Email: info@teangtnaut.org

Website: www.teangtnaut.org

LICADHO (Cambodian League for the Promotion of Defense of Human Rights)

Address: #16, Street 99, Boeung Trabek, Phnom Penh. Mailing address: P.O. Box 499, Phnom Penh. Tel: 023 360 965

Email: contact@licadho-cambodia.org

Website: <http://www.licadho-cambodia.org>

(Call Licadho to find the addresses of provincial offices.)

Community Legal Education Center (CLEC)

Address: #54, Street 306, Boeung Keng Kang I, Khan Chamkarmon, Phnom Penh

Tel: 023 215 590

Email: admin@clec.org.kh

Website: www.clec.org.kh

INTERNATIONAL NGOS THAT HAVE EXPERIENCE INFLUENCING THE ADB**NGO Forum on ADB**

85-A Masikap Extension

Barangay Central, Dilman,

Quezon City, Philippines

Tel: +632 436 1858

Email: secretariat@forum-adb.org

Website: <http://www.forum-adb.org>

Oxfam (Australia)

132 Leicester Street, Carlton,

Victoria 3053, Australia

Tel: +61 (0)3 9289 9444

Fax: +61 (0)3 9347 1983

Web: <http://www.oxfam.org.au>

Mekong Watch

2F Maruko Bldg. 1-20-6 Higashi Ueno, Taito-ku,

Tokyo 110-1-0015, Japan

Tel: +81 3 3832 5043

Email: info@mekongwatch.org

Web: <http://mekongwatch.org/english/index.html>

International Accountability Project (IAP)

221 Pine Street, 5th Floor

San Francisco, CA 94104, USA

Tel: +1 (415) 659 0555

Email: iap@accountabilityproject.org

Web: www.accountabilityproject.org

MEDIA CONTACT DETAILS**ABC Radio Australia**

#13A, Wat Koh (St. 81), Room 5, 1st Floor, Blue Green Office Spaces & Serviced

Apartments, 12211 Phnom Penh, P.O Box 414

Tel: 023 224 640

Apsara TV (11) & Radio FM 97 MHz

#69 St. 360, Phnom Penh

Tel: 023 987 355, Fax: 023 214 302

Email: info@solaris-mg.com

BBC World Service Trust 100 FM (English Language)

#58, Street 306, 12302 Phnom Penh, P.O Box 155

Email: bbc@bbcwst.org.kh

Website: www.bbcworldservicetrust.org

The Cambodia Daily (English Language)

#129 St. 228, Phnom Penh

Tel: 023 426 602, 023 426 490

Email: editor@cambodiadaily.com

Cambodian Television Station Channel 9 (CTV 9) & Radio FM 107 MHz

#18 St. 562, Phnom Penh

Tel: 023 880 847

Email: tv9cambodia@yahoo.com, info@tv9.com.kh

Website: <http://www.tv9.com.kh>

The Phnom Penh Post (English Language)

Post Media Co., Ltd. #888 Building F, 8th Floor, Phnom Penh Center (Corner Sothearos & Sihanouk Blvd.), Sangkat Tonle Bassac, Khan Chamkarmon, Phnom Penh

Tel: 023 214 311, Fax: 023 214 318

Email: newsroom@phnompenhpost.com

Website: <http://www.phnompenhpost.com>

RFI - Radio France International 92 FM

#218, Keo Chea (St. 184), French Cultural Centre, 12211 Phnom Penh,

Tel: 023 721 383, 023 211 194

Rasmei Kampuchea Daily

#474 Preah Monivong, Phnom Penh

Tel: 023 726 655, 023 332 881

Email: rasmei_kampuchea@yahoo.com

RFA - Radio Free Asia

#63E0E1, Street 240, Phnom Penh, P.O Box 816

Tel: 023 982 403

Email: sereyt@pp.rfa.org; khmer@rfa.org

Website: www.rfa.org/khmer

Reuters Limited (Cambodia)

#9, Street 174, 12210 Phnom Penh

Tel: 023 216 977

Email: reuterpph@yahoo.com

VOA - Voice of America

#20C, Street 107, Phnom Penh,

Tel: 092 352 530

Website: www.voacambodia.com

VOD - Voice of Democracy

#14A, Street 392, Sangkat Boeng Keng Kang I, Khan Chamkar Mon,
Phnom Penh

Tel: 023 726 846, 023 726 847

Email: info@vodradio.org

Website: www.vodradio.org

Women's Media Centre of Cambodia Radio FM 102

#30, Street 488, 12307 Phnom Penh, P.O Box 497

Tel: 023 223 597

Email: info@wmc.org.kh

Website: www.wmc-cambodia.org.kh