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Project-induced displacement and resettlement: from impoverishment risks to an opportunity for development?

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ABSTRACT

While the World Bank safeguard policies and International Finance Corporation Performance Standards specify the requirements to be observed when project-induced displacement and resettlement occurs, these international standards are not always followed. Governments often invoke the power of eminent domain and implement expropriation procedures instead of building support for a public or private project by negotiating with project-affected peoples. Evaluations of projects reveal that people are usually made worse off by being resettled. This paper provides a general introduction to the topic of project-induced displacement and resettlement, raising the key issues facing resettlement practice: under what conditions should projects and associated resettlements proceed; what constitutes appropriate compensation; can livelihoods be restored or improved; what is the role of benefit sharing and shared value; and how resettlement practice can be improved. Although there is ongoing improvement in the discourse and practice of project-induced resettlement, being resettled is still likely to be an impoverishment risk and have an emotional toll. Hopefully, however, under the right conditions, resettlement has the potential to be an opportunity for development.

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Introduction

Irrespective of their purpose, and whether initiated by governments or private companies, large-scale development or infrastructure projects typically require land, and sometimes very large tracts of land. This need for land can result in the dislocation of the people living there (i.e. physical displacement). Even in situations where people are not required to physically move, the project may still impact on their livelihoods or income-generating activities, either temporarily or permanently (i.e. economic displacement) (IFC 2002), or cause other environmental and social impacts that make continuing to live there untenable. Unfortunately, too much resettlement practice has only been concerned with providing cash compensation or addressing the need for replacement housing, without giving adequate attention to all the other dimensions of life that are affected by being resettled (Cernea 1999a; Human Rights Watch 2013). Given that 'land is life' for many people (Colchester et al. 2007; Wickeri 2011) and that people everywhere have place attachment (a sense of place) to a varying extent (Vanclay 2008), project land acquisition and the consequent displacement and disruption can cause much hurt and hardship (Reddy et al. 2015; Smyth & Vanclay 2017a). Being resettled, even when it leads to an improvement in material standard of living, can provoke

significant emotional pain and other social impacts (Das & Shukla 2011; Bennett & McDowell 2012).

The process of resettlement is complex – it is multi-dimensional, multi-factor, multi-actor, multi-scalar and multi-level (Mathur 2011a; Reddy et al. 2015). Because of their varying vulnerabilities, capacities, positionings and interests, the people being resettled are affected in differing ways (Oliver-Smith 2010; Vanclay 2012). Some people may benefit from being resettled, or at least from the project triggering the resettlement (e.g. through access to employment or business opportunities). Others may lose things they value and/or cherish dearly (e.g. memories, particular landscapes, sacred sites), for which no amount of remuneration can compensate (Cernea 1997, 2003, 2006, 2007, 2008).

Project-induced resettlement can occur on a massive scale. Sometimes, thousands of people need to be resettled – and occasionally tens of thousands (Cernea 2003; Terminski 2015). Thus, resettlement actions are sometimes considered as being 'projects within projects' (Reddy et al. 2015) and can be megaprojects in their own right (Gellert & Lynch 2003). The cost of the resettlement of 1.13 million people (Wilmsen 2016) for the Three Gorges Dam in China was estimated to be over 100 billion yuan (about 10 billion euro) (Jackson & Sleight 2000). Given their size and cost, and especially because of the severe social impacts they create, whether large or

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small, any resettlement is a 'big deal' and not something to be taken lightly.

Dismissing the negative social impacts of resettlement as being 'acceptable collateral damage' or a 'necessary evil' to achieve national development is inexcusable (Mathur 2011b, 2013; Cernea 2015; Bugalski 2016). Project-affected peoples have various rights, including the basic human rights that are common to all people everywhere. They also have legal rights, which vary across jurisdictions. They may have customary or traditional rights and entitlements in some instances. There are also international standards governing how resettlement should be undertaken, what compensation should be provided, and what outcomes are expected. However, these rights and standards do not guarantee that the harm from resettlement can be avoided. Projects that are in the indisputable public interest may have land acquisition requirements that necessitate resettlement of some people. No matter how effectively this resettlement is undertaken, there is always some amount of harm and hurt (negative social impact), even if only temporary.

From the above comments, some key questions immediately arise:

- when and under what conditions should projects and/or their associated resettlement actions proceed?
- what constitutes appropriate compensation, remediation and restitution for being resettled?
- how effective are the resettlement processes being implemented and how can resettlement practice be improved? and
- what is the business case for developers and funders to ensure that resettlement is done right?

These are indicative of the questions addressed by the papers in this special issue of *Impact Assessment and Project Appraisal*. The purpose of this introductory paper is to set the scene for a discussion of these and related questions by providing a general overview of resettlement practice and the issues that arise in project-induced displacement and resettlement. This paper is intended to raise awareness of the issues associated with resettlement, especially to people in the impact assessment community who may not be fully familiar with resettlement. There is ongoing improvement in the discourse and practice of resettlement. Therefore, although being resettled has been an impoverishment risk and will always carry some harm and hurt, under the right conditions being resettled may have the potential to be an opportunity for development and improved well-being (Cernea 2003, 2007; World Bank 2004; Mathur 2006; Perera 2014).

This introductory paper is written by Prof. Frank Vanclay who, with Prof. Deanna Kemp, is guest editor of this special issue on 'Displacement, resettlement and livelihoods'. Frank was the lead author of the

International Association for Impact Assessment's guidance document on social impact assessment (Vanclay et al. 2015). He is also the academic convenor of professional training courses on land acquisition, resettlement and social sustainability, which are held under the auspices of the summer/winter school programme of the University of Groningen (The Netherlands) in conjunction with the World Bank Group, Community Insights Group and Intersocial Consulting. Many of the insights in this paper derive from discussions with the trainers and participants in these courses. The many readers of draft versions of the paper made important contributions.

Resettlement is a common consequence of different types of projects

Many kinds of projects cause the physical and/or economic displacement of people. Large footprint projects, by definition, have a considerable need for land – including airports, dams, mines, industrial estates, large-scale housing developments, tourism developments, and industrial agriculture and forestry operations. Linear projects – e.g. major roads, bridges, railway lines, pipelines, transmission corridors – also have a need for land. For some linear projects, e.g. pipelines, the small landtake required and their somewhat flexible nature may mean that no households need to be resettled. For other linear projects, typically highways and railway lines, sharp corners are not possible. This technical aspect, together with the wide buffer zones they generally require, mean that many people may need to be relocated. The physical splintering and fragmentation of the landscape and restrictions on access that occur from the construction and operation of a project may mean there is considerable disruption to daily living and to people's livelihoods. In some locations, especially urban areas, even relatively small footprint, local projects (e.g. shopping centres, metro stations) can displace people and/or impact on their livelihoods. Because of their recent rapid expansion and the extent of cumulative impacts they create, renewable energy projects (including wind, solar, geothermal, biomass) have become controversial, particularly when customary title is claimed over the land (Zimmerer 2013).

Projects often occur in rural areas and, because of the lack of available land and other issues, displacement can lead to rural-to-urban migration. Resettlement can also be imposed on urban communities. While urban-to-urban relocation is typical, urban-to-rural resettlement can occur. Resettling people is needed for most urban redevelopment projects, as well as for new or upgraded urban infrastructure. The creation of transport infrastructure – highways, ring roads, bridges, railway and metro lines and stations – can cause considerable displacement of people. The creation of industrial

parks, retail parks, major sporting facilities, and urban parklands (green spaces) can also create resettlement. Some notable resettlements of recent times have been associated with mega sporting events – including the London 2012 Olympic Games (Bender 2008), the South African 2010 World Cup and the Brazilian 2014 World Cup and 2016 Olympic Games (Sánchez & Broudehoux 2013; Butler & Aicher 2015).

Project-induced displacement results in many social and environmental impacts being experienced. The projects themselves create many other impacts for the people who are resettled as well as for those not resettled. Although there are national and international standards relating to land acquisition that should be observed (see below), these are not always followed; and even when they are considered, they do not necessarily ensure positive outcomes for the people being resettled (Cernea 2003; Scudder 2011). Unfortunately, governments often rely on their power of eminent domain and enact expropriation procedures without adequate consultation and compensation rather than build support for the project by negotiating in good faith with the impacted people.

People are resettled for various reasons leading to many terms being used, although all under the umbrella of development-induced displacement and resettlement. Essentially, people are resettled because: they are in the way of something; they need to make way for something; or because they are in harm's way. People may be in the way of an infrastructure project, such as a proposed airport, dam, mine, road or sporting facility (project-induced displacement and resettlement). Dam-induced and mining-induced displacement and resettlement are two sector-specific terms that have emerged. People may need to make way for a change in land use, such as the creation of a national park, biodiversity reserve, conservation region or carbon credit offset scheme (conservation-induced displacement and resettlement). Increasingly, industrial tree plantations and large-scale agricultural projects are consuming land and displacing people (landgrab-induced displacement and resettlement). People may need to preventatively get out of the way of harm, for example from a high risk area for earthquakes or landslides (disaster-induced displacement and resettlement), or they may need to be resettled because of a change in circumstances following a disaster or outbreak of conflict (conflict-induced displacement and resettlement). Sometimes governments decide that certain small communities are no longer viable and public services can no longer be provided, and therefore the residents must be relocated to larger centres. Governments may also determine that the only way to lift certain groups out of poverty is to make radical change to the structural conditions of their existence – in other words to physically relocate them.

Key terms and concepts

There are now many guidelines and standards pertaining to resettlement (e.g. IFC 2012a; EBRD 2016). The World Bank implemented the first international standard on resettlement in 1980 in response to disasters arising from various projects, particularly Brazil's Sobradinho Dam which displaced 70,000 people without any organised process of resettlement (Mathur 2011a). This first standard (Operational Manual Statement 2.33, *Social Issues Associated with Involuntary Resettlement in Bank-Financed Projects*) later became its Operational Policy 4.12 on Involuntary Resettlement, and in 2016 (taking effect in 2018) was transformed into the *Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement*. The World Bank lends money to national governments, and in any situation where World Bank finance is involved in a project, the World Bank standards are required to be applied.

Another key document is the International Finance Corporation (IFC) *Environmental and Social Performance Standards* (IFC 2012a), especially Performance Standard 5 on *Land Acquisition and Involuntary Resettlement* (PS5). The IFC is the private sector lending arm of the World Bank. For any project with some proportion of IFC funding (and no other World Bank funding), the IFC's Performance Standards apply. The IFC standards also apply to projects funded by banks that have signed up to the Equator Principles, the sustainability framework for the global banking industry. The IFC standards are widely accepted by many large consulting firms, corporations and industry bodies as a voluntary standard or benchmark they apply internally or acknowledge will be the standard external stakeholders use to evaluate them. Thus, the IFC Performance Standards are the reference point for many large-scale projects, irrespective of whether they have IFC funding or not. This explains why the IFC definitions are frequently used, including in the discussion below.

Most other international financial institutions – e.g. the African Development Bank, the Asian Development Bank, the Asian Infrastructure Investment Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the Islamic Development Bank and the New Development Bank – and most export credit agencies and development cooperation agencies all have their own standards regarding the social and environmental performance of the projects they fund, including for resettlement. Although there are some differences, there is increasing alignment (Price 2015) and, in general, the same principles apply across all institutions.

Resettlement can be defined as the comprehensive process of planning for and implementing the relocation of people, households and communities from one place

to another for some specific reason, together with all associated activities, including: (a) the provision of compensation for lost assets, resources and inconvenience; and (b) the provision of support for livelihood restoration and enhancement, re-establishment of social networks, and for restoring or improving the social functioning of the community, social activities and essential public services. As a discourse and field of research and practice, 'resettlement' also addresses issues associated with economic displacement, that is when people do not need to be physically moved but their means of making their living (livelihood strategies) are adversely affected by the project's land-take (e.g. loss of access to farming land, fishing grounds, etc.).

The land requirements of projects often necessitate the permanent relocation of people living on the land being acquired. Some projects, however, only require temporary land access and the temporary relocation of people before they can return to their original homes (Flynn & Vergara 2015). However, temporary relocation is also a major undertaking, depending on the number of people affected, and therefore it also benefits from the assistance of experienced resettlement practitioners. In situations of temporary relocation, the extent of compensation and other benefits needs to be commensurate with the overall impact on their livelihoods, not simply a flat fee for the length of time people need to be relocated (Reddy et al. 2015). It should be noted that relocation of people to temporary dwellings before the final replacement housing is ready is widely considered to be poor practice. People should not be moved from their original places of residence until their final houses and all necessary infrastructure and services are in place.

Displacement refers to the experience of the people who are negatively affected by a project. When people's dwellings are directly affected and they can no longer physically live where they were previously living, this is known as 'physical displacement'. When people's livelihoods are negatively affected, whether directly or indirectly, this is called 'economic displacement' (IFC 2012a, 2012b). Ideally, where the potential for physical or economic displacement exists, it should be acknowledged by project developers and, only when all possible project alternatives have been fully considered, a proper process of resettlement and/or compensation should be instigated. Displacement can occur even when there is no planned process of resettlement. In the worst cases, even though it is a violation of human rights (van der Ploeg & Vanclay 2017a), developers have bulldozed people's houses without any resettlement or compensation being provided (du Plessis 2005). Various impacts created by the project – as diverse as pollution and other direct impacts on people through to change processes such as gentrification and local inflation – may make it impossible for people to continue living there and they are thus forced to move (Vanclay 2002). Expansion over the life of

a project (especially in mining) can lead to incremental displacement (Downing 2002; Owen & Kemp 2015; Kemp et al. 2017). People severely affected by a project who are not offered resettlement may have a right to be resettled (United Nations 2007a; van der Ploeg & Vanclay 2017a).

In addition to the land requirements of the primary development, the secondary or ancillary activities associated with a project, or that are triggered by the project, can induce displacement – e.g. the construction and operation of a port, roads, railways and worker accommodation complexes. The population influx created by projects, which is colloquially called the 'honeypot effect', is a major cause of social impacts on pre-existing inhabitants, and can lead to the displacement of the resident population, including the poor and vulnerable groups of people (IFC 2009; Vanclay et al. 2015).

Livelihood refers to all the various means that individuals, families and communities use to make their living (IFC 2012a, 2012b). It comprises the local knowledge, capabilities/capacities, assets/capitals, material and social resources and the activities necessary to make a living (Scoones 1998). People engage in a wide range of livelihood activities to support themselves and their families, including land or water-based activities (e.g. agriculture, subsistence or market gardening, fishing), enterprise-based activities (e.g. sale of goods or services), and wage-based work. People may also have one or more supplementary sources of support, such as savings, access to credit, rental income, remittances or pensions (Smyth & Vanclay 2017a). Informal or illegal activities can play a part in the mix. People's access to social support networks is an integral part of their livelihood strategies. Having access to childcare, for example, can enable people to undertake their livelihood activities (Faas et al. 2015). These networks can be damaged by resettlement, especially when the community is not resettled as a whole community.

Projects and their associated land access and resettlement activities typically have a profound impact on people's livelihood practices. While livelihood restoration has been a stated goal of resettlement practice in the past, the discussion has increasingly turned towards livelihood enhancement and assisting people to adapt their lives and livelihoods to suit new circumstances (Cernea 1999a, 1999b; de Wet 2006; van der Ploeg et al. 2017). Thus, rather than 'restoring' people to situations similar to their previous contexts and potentially condemning them to ongoing poverty, contemporary thinking has become more focused on improving their livelihoods and enabling them to transition to new circumstances, either by enhancing existing livelihood activities or identifying alternative activities that are compatible with their new situation. This is thought to be more consistent with human rights enjoyment (van der Ploeg & Vanclay 2017a) and in achieving the Sustainable Development Goals (du Plessis 2005). Improving the living conditions

of vulnerable people is one of the objectives of the new World Bank Environmental and Social Standards (World Bank 2016). There has been a questioning of whether certain livelihood strategies (e.g. transhumance, hunter-gathering activities, swidden agriculture) are sustainable into the future, especially in the new environments into which people are being resettled (Cernea & Schmidt-Soltau 2006).

Eminent domain (or compulsory acquisition) refers to the legal right of states to compulsorily acquire land and other possessions of individuals or companies, even against their will (FAO 2008). Expropriation refers to the actions by which the state acquires land and assets, i.e. the process of implementing eminent domain. The power of eminent domain is frequently invoked by states to enable large projects to proceed. In most jurisdictions, for this to be lawful, the project must be deemed to be in the national interest or public good, fair compensation must be provided, and there must be due process (van der Ploeg & Vanclay 2017a). Because many large projects are public–private partnerships – i.e. the government is a partner in the project or a major beneficiary – the government may use its powers to ensure that the project succeeds, even when it is a commercial project like a mine or an industrial park (Hoops et al. 2015).

Expropriation with respect to Indigenous or tribal peoples should never be implemented without their consent (see the IFC Performance Standard 7 on Indigenous Peoples, IFC 2012c). Article 10 of the *United Nations Declaration on the Rights of Indigenous Peoples* (United Nations 2007b), which the majority of the countries of the world have endorsed, states that:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent [FPIC] of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

While there is some discussion about what FPIC actually means in practice and how it might be obtained, the strong attachment of Indigenous and tribal peoples to land and territory makes land especially important to them, and therefore they are particularly at risk of poor outcomes when they are involuntarily resettled (Hanna & Vanclay 2013; Greenspan 2014; Owen & Kemp 2014; Rodhouse & Vanclay 2016; Hanna et al. 2016a).

The IFC (2012a) considers that ‘voluntary resettlement’ only occurs in situations where project proponents have no recourse to government expropriation or other enforcement mechanisms and where people cannot be compelled to surrender their land – in short, where there is truly a ‘willing buyer, willing seller’ arrangement. Resettlement is considered to be involuntary when it occurs without the genuine consent of the affected persons or in cases where people do not have the power to refuse resettlement, whether or not they approve of being resettled (IFC 2012a, 2012b). Because

most large-scale projects are usually considered to be in the national interest, the potential for expropriation to be enacted is typically available, thus the procedures and policies pertaining to involuntary resettlement would normally apply to most projects.

A key concept in the implementation of resettlement actions is the notion of a ‘cut-off date’. This is a date set by the developer that is communicated to the affected people that announces that a census or inventory of people and dwellings has been done (or is about to be done). The intention of the cut-off date is to put a ‘stay’ on any further development or investment in the affected community. A cut-off date is a mechanism intended to exonerate the developer from compensation claims for any improvements undertaken after this date. While it is a practical necessity to expedite resettlement processes, it is quite controversial. Firstly, to have legal force, there must be appropriate law that enables a developer to implement a cut-off date. Secondly, there must be adequate and effective attempts by the developer to communicate the cut-off date, else it would not be valid. There are varying views about what comprises an appropriate period of notification. Advance notice tends to provoke a flurry of building activity as people opportunistically construct makeshift dwellings in an attempt to increase the compensation they receive. Retrospective announcements of the cut-off date are considered to be unfair, as people may have inadvertently continued to invest in their places of living. Conversely, since a cut-off date has the effect of freezing all further development, a lengthy delay between the cut-off date and implementation of the project and any resettlement can have a stultifying effect on people’s lives and negatively impact on their well-being (Koirala et al. 2017). From a developer perspective, clear and effective rules around how to implement a cut-off date are needed. From a community perspective, the implementation, practice and workings of a cut-off date must not unfairly impact on their legitimate activities as they go about their daily lives. There must also be a grievance mechanism with commitment by all parties to address issues in a prompt and reasonable way.

Stages in the resettlement process

Various attempts have been made to outline the resettlement process and/or its effects on the people being resettled (including Scudder 1981; Scudder & Colson 1982; Scudder 1993; Downing 2002). They vary according to the positioning of the author of the model in question. Some start from a project or funder perspective, others from a consultant perspective, and others from the perspective of the people slated for resettlement. To be consistent with international standards, a first consideration should be an exhaustive process of considering project alternatives to reduce the number of people who need to be resettled.

Smyth and Vanclay (2017b) outline the process from the perspective of a resettlement consultant. With participation and negotiation taking place throughout the whole resettlement process, they consider the key stages to be overlapping and even iterative:

- (1) Scoping and initial planning – gaining a preliminary understanding of local expectations and desires; establishing the resettlement project team; reviewing the proposed project footprint and negotiating with project developers to minimize resettlement and livelihood impacts; and developing a preliminary resettlement plan to discuss with all stakeholders.
- (2) Profiling and baseline data collection – collecting reliable data about: the number and types of people to be resettled; the number and types of buildings and other assets that will be affected; community infrastructure and common property resources; the socio-economic situation of the affected community (including their health, education, skills, etc.); their community and political structures; land tenure arrangements and land entitlements; the basis of people's livelihoods; and their key issues of concern.
- (3) Development of the Resettlement Action Plan (RAP) – the RAP is an official but also a working document that records: the legal basis for land acquisition and resettlement and standards to be applied; details of the project, especially footprint, schedule and budget; outcomes of all participatory planning processes, consultations and negotiations; and discusses all risk management issues, project impacts, resettlement impacts, proposed compensation arrangements, valuation methodologies, site selection issues and decisions, the design of the proposed resettlement housing, planned livelihood restoration activities, anticipated arrangements for vulnerable people, and monitoring and evaluation arrangements.
- (4) Implementation & handover – including construction of resettlement housing and related infrastructure; sign-off and payment of all compensation; and the process of moving people and settling-in. A handover process completes the resettlement.
- (5) Livelihood restoration and enhancement – this involves all the activities around restoring people's livelihoods and income earning activities and/or assisting them to transform into other activities that enhance their wellbeing.
- (6) Monitoring and evaluation – includes ongoing performance (process) monitoring, impact monitoring and a completion audit.

Planning and executing a resettlement is a major process, and a time frame of many years may be required before it can be considered complete. Depending on the number of people to be resettled and the context, the cost of the resettlement can be many millions of dollars. Errors and/or delays in planning can significantly increase the costs associated with resettlement and thus to the project. Poor planning of the primary project (i.e. the dam or mine) can significantly impact on the resettlement process, increasing the risks for all parties, and causing delays, frustrations and annoyance (Reddy et al. 2015). In some cases, resettlement is planned too late in the project development process. Some scholars (e.g. Owen & Kemp 2016) question whether planning can address the complexity and uncertainty associated with project-induced displacement.

Being displaced, even if the resettlement is conducted according to world's best practice, is likely to create some degree of stress and anxiety in the people being relocated (Bisht 2009). Inevitably, it is an unsettling experience (Downing & Garcia-Downing 2009; McDonald-Wilmsen & Webber 2010). Scudder and Colson (1982) highlighted how people being resettled experience multidimensional stress, i.e. stress in physiological, psychological and sociocultural terms. There is arguably an inverse relationship between the extent of involvement of the affected people in resettlement decision-making and the level of stress they experience (Patel et al. 2002; Reddy et al. 2015; Wilmsen & Webber 2015). The disruption to people's lives and livelihoods by being uprooted also creates harm, sometimes on a long-term basis, especially when there is not adequate restoration of the livelihoods and/or income-earning activities of the resettled people.

Scudder (2005), modifying an earlier framework of Scudder and Colson (1982), presented a four phase model, the Stress and Settlement Process, that focussed on the experiences of the people being resettled. In phase 1, planning and recruitment, communities are stressed by the preparations for the resettlement and uncertainty about the future. In phase 2, coping and adjustment, which occurs after resettlement takes place, individuals attempt to learn to adjust and cope with their new circumstances. In phase 3, community (re)formation and economic development occurs, and individuals re-establish normal community life. Finally, in phase 4, handing over and incorporation, which occurs many years later, individuals and communities seek to take full control of their lives and the new community becomes fully established and integrated (incorporated) into the regional economy. Each of the phases is associated with its own forms and causes of stress and other social impacts. Where resettlement planning is done well and the stress experienced by people minimised, these stages would arguably occur. However, when resettlement is done poorly, and especially when the impoverishment of people occurs, the phases do not

play out like this – people do not cope well and fail to adjust; economic development and community reform do not occur; and instead of an independent, resilient community taking full control, the community remains dependent on the project and/or government and struggles to cope with inadequate service provision (FAO 2008; Human Rights Watch 2013; Lillywhite et al. 2015; van der Ploeg et al. 2017).

Following extensive research of World Bank projects and realising that, in almost all projects, people who were resettled were made worse off, Michael Cernea (1997, 2000) developed the Impoverishment Risks and (livelihood) Reconstruction (IRR) model. This model identified the key risks of resettlement as being: (1) landlessness; (2) joblessness; (3) homelessness; (4) marginalisation; (5) food insecurity; (6) loss of access to common property resources; (7) increased morbidity and mortality (i.e. declining health); and (8) community disarticulation. Sometimes a ninth risk, interruption to education, is included (Cernea 2003; World Bank 2004). His IRR model has become very influential, is widely cited, and was used as the basis of the World Bank safeguard policy on resettlement and the IFC Performance Standard 5 (World Bank 2004; Price 2009; IFC 2012b).

Rules, regulations, standards and guidance that govern resettlement

Resettlement takes place in a multi-level regulatory context, often with competing and conflicting requirements. Resettlement is usually subject to requirements specified in national legislation, which vary by jurisdiction. National law will always be applicable whenever expropriation is applied. National law also tends to apply in situations where the government is a partner in the development project. This section describes the dominant mechanisms that regulate resettlement practice, from international through to more specific instruments.

A growing awareness of human rights issues has arisen following the passing of the *United Nations Guiding Principles on Business and Human Rights* (United Nations 2011). This document specifies the human rights responsibilities of companies in all situations (Kemp & Vanclay 2013; Götzmann et al. 2016). The United Nations (2007a) *Basic Principles and Guidelines on Development-Based Evictions and Displacement* outlines the human rights principles that specifically apply to resettlement. van der Ploeg and Vanclay (2017a) outline a human rights-based approach to resettlement. The expectations on resettlement practice from a human rights perspective may exceed the requirements of national law. Thus, to avoid allegations by human rights groups (e.g. Human Rights Watch 2013) of human rights abuse by projects and companies and/or actual infringements, projects may need to do more than meet the minimum requirements specified in local law. Furthermore, there

are increasing expectations relating to the ethical practice of all practitioners, especially in relation to informed consent (Vanclay et al. 2013), that will influence future resettlement practice.

The Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD-DAC) (website: <http://www.oecd.org/dac/>) has been producing guidelines on development-related topics over several decades. Around the 1992 World Conference on Environment and Development (Earth Summit) in Rio de Janeiro, the OECD-DAC produced a series of guidelines on aid and the environment. The third guideline in that series, *Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects* (OECD-DAC 1992), intended to assist project developers to ensure that the population displaced by a project received benefits and were properly re-established. This guideline is largely consistent with the standards that apply today, e.g. the World Bank and IFC Performance Standards, and therefore it was somewhat percipient. However, there is little reference in the resettlement literature to these OECD-DAC guidelines, and it is surprising that after 25 years they have not been updated.

The *OECD Guidelines for Multinational Enterprises* (original 1976, current 2011) provides recommendations on responsible business conduct and voluntary principles on topics such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition and taxation (OECD 2011). However, they are silent on matters such as land acquisition, resettlement, expropriation and fair compensation.

The *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security* (FAO 2012) was developed by the Food and Agriculture Organisation of the United Nations following an extensive consultative process (Seufert 2013; Paoloni & Onorati 2014). These guidelines are subject to interpretation in each context and are subordinate to national legislation. Despite applying to situations where expropriation will be applied, the entitlement/human rights obligation to be properly resettled is only fleetingly mentioned, and what is stated is inconsistent with most international standards. It makes no mention of, and is not consistent with, the United Nations (2007a) *Basic Principles and Guidelines on Development-Based Evictions and Displacement*.

The international financial institutions – notably the World Bank, the IFC and the larger multilateral and bilateral development banks and export credit agencies – are increasingly developing resettlement policies, procedures, guidelines and handbooks to address public and private sector projects. Key documents include: the World Bank's *Operational Policy on Involuntary Resettlement*

(OP 4.12) (World Bank 2001) and accompanying handbook (World Bank 2004), which were replaced in 2016 with the new Environmental and Social Framework (World Bank 2016) to come into effect in 2018; and the IFC Performance Standard 5 on *Land Acquisition and Involuntary Resettlement* (PS5) (IFC 2012a), guidance notes (IFC 2012b) and handbook (IFC 2002; with a new version currently being developed). The European Bank for Reconstruction and Development published a new Handbook in 2016 (EBRD 2016).

The new World Bank (2016) Environmental and Social Framework is largely similar to the IFC Performance Standards and was modelled on it (World Bank Independent Evaluation Group 2010). Given the convergence in the expectations and requirements of the various financial institutions (Price 2015; Smyth et al. 2015), the IFC Performance Standards can be regarded as typical of the general approach taken by the international financial institutions. The IFC Performance Standards (sometimes together with the Equator Principles) have been widely accepted by industry as being the 'gold standard' (i.e. the definitive benchmark) for social and environmental performance (Reddy et al. 2015; Lambert Lazarus 2015). The IFC's eight Performance Standards aim to achieve positive development outcomes. PS5 relates to Land Acquisition and Involuntary Resettlement. The objectives of PS5 are given in Box 1. Although not identical, the objectives of the new World Bank ESS5 on 'Land Acquisition, Restrictions on Land Use and Involuntary Resettlement' are largely similar. As van der Ploeg and Vanclay (2017a) argue, the IFC Performance Standards (and by inference, the World Bank's Environmental and Social Standards) are

Box 1. The key objectives of best practice resettlement (IFC 2012a, PS5)

- To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.
- To avoid forced eviction.
- To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- To improve, or restore, the livelihoods and standards of living of displaced persons.
- To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

reasonably aligned with human rights expectations, but to be human rights compliant, they would always need to be regarded as the basic minimum requirement.

Because large projects often have multiple lenders, determining which requirements apply can be challenging. Negotiating the differences between national law and the requirements of the financial institutions can also be complex. There are often considerable variances between the national law and international best practice. Legislation in some countries can be dated and inadequate. One of the tasks of the resettlement practitioner is to conduct a gap analysis to identify the differences between local law and international best practice (and between the various international standards that potentially apply), and develop a negotiation plan with the project developer and sponsors to address the gaps.

Key issues facing resettlement practice

Despite established procedures for how to do resettlement (e.g. IFC 2002), governance and guidance about what is expected (e.g. World Bank 2004; IFC 2012a, 2012b; EBRD 2016), scholarship about the impacts of displacement (e.g. Gutman 1994; Cernea & McDowell 2000; Picciotto et al. 2001; Downing 2002; de Wet 2006; Oliver-Smith 2009; Bennett & McDowell 2012) and reflection (Bartolome et al. 2000; WCD 2000; ICMM 2015; Reddy et al. 2015), the actual practice of resettlement has generally been poor (Mathur 2006; World Bank 2012, 2014; Smyth et al. 2015). The problematic aspects of resettlement practice include:

- unrealistic timeframes and inadequate budgets for undertaking the resettlement;
- inadequate compensation arrangements and the payment of compensation in cash rather than land-based resettlement;
- inadequate composition of resettlement teams (too few members, lack of capacity and experience, inappropriate gender balance, etc.);
- poor assessment of the project's land requirements, complicated by changing project plans;
- inadequate baseline data and poor assessment of the number of people and structures affected;
- poor management of the cut-off date;
- poor engagement with impacted communities;
- poor awareness and addressing of the legacy issues arising from past projects and the local social-political history; and
- a failure to manage land speculation and the opportunistic behaviour of various actors, including the affected communities.

From the perspective of project proponents, these issues ultimately contribute to cost blow-outs and project delays. Protest actions by the affected communities, or

by various local, regional and national groups and/or by national and international watchdog NGOs also lead to delays (Hanna et al. 2016b). Inadequately costed resettlement and livelihood restoration activities can lead to communities becoming worse off and intended project outcomes not being achieved. This may result in the project having to make restitution in the future. Some of the key ongoing issues which continue to plague resettlement projects are discussed below, and have been documented elsewhere (e.g. Bartolome et al. 2000; ICMM 2015; Owen & Kemp 2015; Smyth et al. 2015).

There is increasing competition for land

Perhaps the most critical issue facing resettlement is the lack of availability of adequate land to relocate people. In more densely populated areas, unutilised land is scarce – thus the acquisition of land for the resettlement site itself causes displacement and/or creates social impacts on the host communities. In less populated areas, vacant land might be available, but is not necessarily adequate or equal to the land that is being taken for the project in terms of key attributes (e.g. agronomic quality, availability of water, distance of markets and provision of public services) (van der Ploeg et al. 2017).

Land dispossession is a significant issue for project-affected people (Anaya 2004; Rodhouse & Vanclay 2016). For people who have livelihoods that depend on land, the loss of land usually also results in the loss of their livelihoods. If land of equivalent or superior quality can be found, then the restoration or improvement of their livelihoods may be possible. However, to the extent that the displaced people had unique local knowledge or farming practices that were particularly adapted to the specific characteristics of their existing environment, their livelihood strategies and land management practices may not be effective in the new situation, and therefore training to assist them to adapt their strategies may be needed to ensure adequate livelihood restoration.

Indigenous people typically have strong cultural and spiritual attachments to their territories and to specific sacred sites (CBD 2004). Relocation inherently disconnects them from their land and sacred sites, which can create profound anomie (placelessness, loss of identity and loss of purpose) (King et al. 2009). This is partly why free, prior and informed consent is essential in situations of displacement and resettlement (Hanna & Vanclay 2013).

For people who can claim traditional ownership over land, being relocated may lead to a loss of their traditional rights. While it is good practice everywhere, in situations where traditional ownership will be extinguished, it is especially imperative that relocated people be given secure legal tenure over the land to which they are being resettled.

Recognising the importance of land, practitioners commonly use the phrases, 'land-for-land', 'like-for-like'

or 'asset-for-asset'. Although 'land-for-land' is not specifically mentioned in the World Bank's operational policies or in the IFC Performance Standards, Paragraph 11 of OP 4.12 clearly says that 'preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based'. The *Involuntary Resettlement Sourcebook* (World Bank 2004) uses 'land-for-land' as a shorthand expression for this expectation. The expression is used in the IFC's (2002) *Handbook for Preparing a Resettlement Action Plan*, and is mentioned in the Guidance Note for PS5. In PS5, the phrase 'land-based resettlement strategies' is frequently used. For land-based resettlement, the IFC Handbook (IFC 2002, p. 30–31) recommends that:

- New land should be equivalent or superior in productive potential to the land from which people will be displaced;
- New land should be located in reasonable proximity to land from which people will be displaced;
- New land should be provided free of any 'transaction costs' such as registration fees, transfer taxes, or customary tributes;
- New land should be prepared (cleared, leveled, and made accessible) for productive levels similar to those of the land from which people will be displaced (preferably, affected people should be paid by the project to do this work).

Given the difficulty of finding land that is equivalent or superior in quality and in reasonable proximity to the original location of people to be resettled, it can be challenging to uphold the principle of like-for-like in relation to land. There are additional issues too, for example, land-for-land may limit the choices available to displaced households. Alternative means of compensation might allow people to make other choices about their own future; whereas land-for-land potentially locks people into past or even new poverty traps. Other scholars suggest that the opposite line should be taken – that if the project cannot find land that meets the necessary minimum conditions, it should be questioned whether the project should actually proceed.

There is widespread lack of capacity and inadequate attention is given to social issues

One of the biggest issues for resettlement practice is an all-round lack of capacity. Few truly experienced resettlement practitioners exist, certainly nowhere near the number currently required or that will be required for the likely development projects needed to achieve the Sustainable Development Goals and/or address other development pressures. There is little capacity to manage resettlement within companies, and even less in governments (Reddy et al. 2015; Terminski 2015). In some contexts, there is complete neglect of the social

risks associated with resettlement, with expropriation and fixed compensation schedules being used as the project is pushed forward. Sometimes, even though it is a violation of human rights, excessive force is used to remove people in the way of the project.

The lack of capacity is also manifested in inadequate legislation governing expropriation and resettlement, and in the lack of requirement and ability to provide adequate oversight and monitoring (Alden Wily 2011, 2014). This increases the potential for corruption and elite capture. Monitoring and evaluation and completion audits are sometimes seen by developers and some governments as being unnecessary or a waste of resources. Even where there is adequate regulation, the inequalities in power between those for and those affected by the project may mean that the interests of those affected are seldom properly considered. As an attempt to remedy this, a human rights-based approach to resettlement requires that affected communities must have adequate access to legal support (van der Ploeg & Vanclay 2017a).

The lack of capacity is being addressed by training courses. In addition to endorsing the University of Groningen's summer/winter schools on *Land Acquisition, Resettlement and Social Sustainability*, the World Bank Group has established a 'Centers of Excellence' programme on the management of land acquisition, resettlement and rehabilitation, and short courses have been run in Asian and African nations. A Spanish language course is being taught in Latin America. The International Association for Impact Assessment (IAIA) has held symposia focussing on resettlement. As a major impact of projects, resettlement will be an ongoing topic of concern for IAIA. The Centre for Social Responsibility in Mining at the University of Queensland has established a knowledge hub/e-library on mining-induced displacement and resettlement (<http://www.miningresettlement.org/elibrary>).

Corruption is a major problem

Related to the lack of capacity is that, in some situations, corruption has had a considerable influence over project development and land acquisition (Padel & Das 2011). In some countries, the shared interests of companies and governments have led to situations where the government is keen to facilitate the project and may neglect its important duty-bearer role as protector of human rights (Cernea 2003; van der Voort & Vanclay 2015). Unfortunately, there have been cases where payments have been made by developers to ensure the government does not set rigorous requirements. In some situations, politicians and/or senior government officials have been amongst the main land speculators, using their advance knowledge of the project to make transactions from which they have been able to extract windfall profits. In the process, they have severely increased the harm

and diminished the potential benefits for local people. Although a project operator (whether government or private) has a responsibility to respect human rights that must be implemented across the whole supply chain (United Nations 2011), companies and governments are typically not sufficiently aware of their obligations and often fail to hold their suppliers and contractors to account. Thus, a critical issue for the future will be to ensure that companies know their human rights responsibilities and have the mechanisms in place to ensure that their suppliers – including of land acquisition services – also abide by human rights requirements (van der Ploeg & Vanclay 2017a, 2017b).

Elite capture refers to situations where 'resources that were intended for the benefit of the larger population are usurped (captured) by a small wealthy, powerful group within society, an economic, political, educational, or ethnic elite' (Vanclay et al. 2015, p. 80). Project land acquisition activities, resettlement and the livelihood restoration and enhancement programmes that accompany them provide many opportunities where clever and sometimes conniving individuals, internal and external to the impacted community, can gain a disproportionate benefit. In economics terms, this is called 'rent seeking', meaning that they extract a benefit by their ownership or control of an asset. Elite capture is problematic for resettlement because it typically results in the benefits accruing to a small group of relatively rich people, and not to the deserving people and vulnerable groups.

Although usually advocated as a good principle, the granting of formal legal title over land to resettled people can lead to perverse outcomes, especially if they are deceived into on-selling the land to unscrupulous third parties. Customary land title is usually impossible to sell, and is typically not extinguished when leased to third parties. However, when people are moved to new locations where they have formal title in their own name, they may then be free to sell their new land, and can become prey to a range of land speculators. There are also many issues created in terms of whether the area of new land is adequate to cater for population increases for the group into the future. Traditional inheritance and kinship systems may not be compatible with the cultural assumptions embed in contemporary land title systems.

Compensation arrangements are inadequate and a reliance on cash compensation poses major risks

A major failing of resettlement planning has been the inadequacy of compensation arrangements (Cernea 1996, 2003, 2008). In general, the total amount of funding available has been grossly insufficient. This has been because: the amount scheduled to be paid per resettled household was too low; a vast underestimation of the number of people needing to be resettled or compensated (because of economic displacement); and because of an underestimation of the extent of effort necessary

to implement the resettlement process and support livelihood restoration activities.

Often, compensation has been paid to resettled people far too late. A delay in the payment of compensation creates considerable stress and inconvenience, and generally leads to the affected people incurring additional costs. Where payments are delayed, especially for lengthy periods, when they are finally made they are likely to be inadequate because of the inflation that has taken place in the interim. Therefore, an important principle of resettlement is that compensation payments should be made before the land is taken and people need to be resettled. Paragraph 9 of IFC PS5 states that: 'The client will take possession of acquired land and related assets only after compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.'

Developers often prefer to provide compensation in monetary terms because this delimits their financial commitment and, at least as they perceive it, minimises their risk. However, in most if not all situations where compensation has been paid only in monetary terms, the developers have under-assessed the total amount of compensation that should have been paid. This can contribute to adverse social and human rights impacts, thus potentially exposing the company to reputational risk and possible legal challenges in the future. This monetarisation or financialisation of risk has the effect of transferring risk to people who may not have the capacity to manage that risk.

While some displaced people might welcome being paid compensation in cash, others will not. In general, the payment of compensation as cash-in-hand or into a bank account is not best practice, even though in most jurisdictions people have a legal right to receive compensation this way. There are cases where payment as cash-in-hand has precipitated corruption amongst staff involved in administering the payments, and opportunistic behaviour amongst affected people. It also increases the risk of extortion of various kinds, perpetrated by a range of actors, leading to detrimental outcomes for the affected people. There is a high security risk in relation to the handling and storage of large amounts of cash. Whether cash-in-hand or as payments into a bank account, receiving a windfall creates many issues for people not used to dealing with large amounts of money. Thinking they are rich, they often spend the money on consumer goods, excessive consumption, gifts to relatives, or lavish functions (weddings, funerals, parties). Consequently, the money that was intended to re-establish them on land, in replacement houses, and/or to ensure they have ongoing livelihoods and a viable future becomes squandered, leaving them impoverished and sometimes destitute. The expression, 'land like diamonds, money like ice' (Mariella 1990), is apt.

It is important to realise that the true full cost of resettlement is usually very high and frequently far exceeds anticipated costs. The total cost includes not only the direct costs associated with replacement housing and compensation for disruption, but also includes all the indirect costs incurred by the people being resettled and the host communities, and any other externalities that are created. Unfortunately, many governments and companies do not accept that they are liable for these indirect costs. Paragraph 9 of IFC PS5 requires that any loss of asset is compensated at full replacement cost, and that assistance to help displaced persons to become re-established is provided.

9. When displacement cannot be avoided, the client will offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods, as provided in this Performance Standard. Compensation standards will be transparent and applied consistently to all communities and persons affected by the displacement. Where livelihoods of displaced persons are land-based, or where land is collectively owned, the client will, where feasible, offer the displaced land-based compensation. The client will take possession of acquired land and related assets only after compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation. The client will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.

Replacement cost is defined in PS5 as being the market value of the asset plus transaction costs, without depreciation being applied. Because of the distortion of markets that occurs in locations where projects take place and the fact that there is no real market when expropriation is applied, 'Market value is defined as the value required to allow Affected Communities and persons to replace lost assets with assets of similar value' (IFC 2012a, PS5, footnote 4) in the context of their new location.

Generally speaking, a project should ensure that (see also Reddy et al. 2015; Smyth & Vanclay 2017a):

- there is an effective process of negotiation with affected people and they are presented with a range of options to consider and that are feasible to deliver;
- housing superior to that previously owned or occupied by the displaced people is provided, or that the affected people have the capacity and means to organise this themselves;
- if people's livelihoods were land-based, they have been given replacement land of a satisfactory nature and appropriate compensation for any difference in value, or that there is a fair and mutually-acceptable alternative arrangement;
- all livestock is transferred to the new location, or if sold prior to the relocation that an allowance be

- paid for any loss associated with the sale not being at a time of their own choosing (i.e. if sold below normal market value);
- compensation is provided for the value of any productive agricultural activity such as crops and trees (fruit, nuts, fuel, timber);
- that all common property resources at the original location have been properly assessed and that they are either restored at the new location, or appropriate compensation or alternatives provided;
- that people have security of tenure over their new residence and land;
- adequate support is provided to re-establish livelihoods;
- all transaction costs (stamp duty, legal fees, etc.) associated with the change are paid;
- all transfer costs, including removal costs and re-establishment costs, and compensation for any down-time, lost production, lost business or foregone opportunities;
- there is an ex gratia payment for inconvenience and distress (pain and suffering, or in legal terminology, *solatium*);
- any medical expenses associated with the relocation are covered and that medical and psychological care (counselling support) is available before, during and after the move;
- appropriate arrangements have been made for the replacement of all community infrastructure and there is adequate access to essential public services;
- consideration has been given to preserving and relocating cultural heritage; and
- special support has been provided for any vulnerable people.

One of the problems of resettlement practice is that compensation has tended to be based on an inventory of losses, not on what is needed to re-establish people into viable livelihoods at their new location. Invariably, this lack of consideration of what was needed to get resettled people re-established has led to their being made worse off and, in the worst cases, to their impoverishment (Cernea 2003). An approach based around an inventory of losses and a determination of entitlements to compensation typically fails to consider all the elements that comprise people's lives at their original location, especially the significance of common property resources (Alden Wily 2008, 2011).

People have social and cultural lives that are incredibly intricate. Being resettled, or having livelihoods disrupted by a project, can create a major upheaval to people, their lives, and to the effective functioning of culture and society. Even where genuine attempts are made to re-establish people's lives and livelihoods, this can be very difficult, with many inadvertent consequences arising (Gonzalez-Parra 2008; Hanna et al. 2016a).

It is important to realise that not everything is fungible. While trade-offs (opportunities for a better life) can sometimes be considered, some objects or places can have such high personal and/or community value (at least for some people) that they are literally irreplaceable and invaluable. Indigenous people typically have sacred sites of such deep significance that disturbance to these sites is desecration or sacrilege (Vanclay 2002). People in all cultures are likely to have places of special significance (Vanclay 2008). A sense of place and personal memories are part of what makes us human, and therefore to lose places of meaning is to diminish us as humans. While some objects, even for example whole cemeteries, can be relocated, it is not always technically possible to move all significant cultural heritage sites or objects. However, preserving heritage as tiny islands in the middle of a sea of project activity is not a good outcome either.

More attention needs to be given to restoring and improving livelihoods and well-being

As discussed above, compensation alone does not ensure that people can re-establish their lives and livelihoods in their new location. This is why resettlement has generally resulted in suboptimal outcomes. To safeguard against the possibility of negative outcomes, it is imperative that sufficient attention is given to ensuring that people have participated throughout the process and have been able to properly establish themselves in their new location with ongoing viable livelihoods. However, it is not necessarily possible, or desirable, that people be re-established with the same livelihood activities as before the move. In any situation where a change of livelihood activities is planned, it is imperative that the affected people have sufficient capacity to be able to manage the transition. In the case of land-based livelihoods, for example, if there are agronomic differences between the old farmland and the new environment, assistance may be needed to adapt farming strategies. It is not adequate merely to restore people's livelihoods. Given the trauma involved with the resettlement process and the huge disruption to people's lives, to be compliant with human rights expectations, it is necessary to improve people's well-being (van der Ploeg & Vanclay 2017a).

Resettlement needs to be a negotiated process

Although projects requiring resettlement projects do not generally offer people an opportunity to choose whether to move or not, except in true 'willing buyer, willing seller' arrangements, project-affected people can still have considerable influence over a project. If their input is not sought, affected people are likely to engage in various forms of resistance or protest to ensure their voice is heard (Hanna, Langdon & Vanclay 2016; Hanna et al. 2016b). Thus, the active participation of displaced

people in the resettlement process is essential if there is to be any possibility of risk management and livelihood restoration. There is evidence to suggest that the more people are involved in decisions in relation to how, where, and when they move, the more likely they are able to adapt to the situation and recover from the stress associated with being resettled (Reddy et al. 2015).

Some resettlement practitioners (e.g. Reddy et al. 2015) advocate that the whole resettlement process should be approached as a negotiation process, with the people to be resettled being treated as equal parties to a negotiation that is conducted fairly and in a spirit of good faith, informed participation, openness, mutual respect, with the intention to deliver mutual benefits. Participatory processes need to be sensitive to the local cultural context and underpinned by a gender analysis to ensure that women are able to participate in and influence resettlement, and contribute to the decision-making process (Eftimie et al. 2009). Negotiation can be problematic, however. In some countries, where expropriation is being implemented there are fixed compensation schedules and no possibility of negotiation. This invariability results in people being resentful and distrustful. Negotiation is a much better process.

There is a failure to adequately consider the issues experienced by host communities

Resettlement processes tend to be focussed, almost exclusively, on the issues associated with moving the project-affected households. There is typically a lack of consideration given to the concerns of the host community who can be seriously impacted by the project and/or the resettlement. For example, the arrival of the resettled people increases demand for goods and services. While this increases the trade of small business operators (which is usually positive), it also increases demand on public services, which may not be able to cope with the additional demand. There may be increased congestion or delays in being able to access services. Depending on the context, there may even be shortages of key requirements, water, electricity, fuel and even food. The increased demand in the economy will inevitably lead to local inflation. Thus, the well-being of the host community is directly impacted by the relocated population.

There can be resentment between the host community and the resettled households, especially if the host community perceives that the resettled people are being given special treatment, like modern houses, preferential access to jobs or other benefits that are not available to them. The host community, who may have their own unaddressed complaints about the project, may feel that their concerns are not being considered, and/or that they have been displaced by the resettled people. When the concerns of the host community are not adequately considered, this is likely to result in resentment. In some cases, this resentment may result in a degree of

unpleasantness displayed towards the resettled people, with these people being made to feel that they are not welcome. In severe cases, there can be acts of hostility or violence perpetrated against the resettled people. Tension between the host community and resettled people can disrupt or delay the process by which those being resettled come to feel established in their new home.

People without legal title have rights and are entitled to compensation

Some people resident in an area needed for a project may not have legal or customary tenure over the houses or land they inhabit or utilise. Nevertheless, international standards highlight that these people still have rights and must be considered in any resettlement process. While they may not necessarily be entitled to full compensation for the value of the dwelling or land, they must not be rendered homeless as a result of the project's land acquisition needs and must be assisted in relocating and in re-establishing their livelihoods.

The World Bank Resettlement Sourcebook (2004) described 'squatters' as people who, without full legal title, occupy land for residential or commercial purposes, and 'encroachers' as people who engage in farming, logging, grazing or other use of land over which they have no formal right of use. Encroachers are typically legitimate owners/users of the land adjacent to the land in question, but have extended their land use activities into areas over which they may have no legal use rights. The World Bank (2004) considers that there are different categories of squatters and encroachers, basically relating to the period of time they have had use of the land in question. The first category is people who have been claiming customary title over land for some time, perhaps generations, but their claims are not accepted by the state. In a project resettlement situation, it is recommended that this category be treated as if their claims were accepted and thus they are entitled to full compensation and resettlement benefits. There is also the category of people who have opportunistically occupied land after the announced cut-off date. They are not entitled to any compensation or assistance. The more problematic category is people who have made use of land, perhaps for some years, prior to the cut-off date although without having rights over the land. The World Bank OP 4.12 (Paragraphs 15 and 16), although not using squatters and encroachers as terms, expects that these people are assisted and compensated for the value of their improvements (i.e. buildings and crops). IFC PS5 and its accompanying Guidance Note likewise do not use these terms. Nevertheless, PS5 (Footnote 8 and Paragraph 22) requires that, where people occupy land without formal, traditional or recognisable use rights, their non-land assets must be retained, replaced or compensated for; relocation is to be provided with security of tenure over new land and housing; and lost livelihoods are restored.

In most developing countries, temporary informal settlements are likely to exist in places where projects are planned. Sometimes this is because of the honey-pot effect, where people are acting opportunistically and moving to places where there are likely to be projects (e.g. dams or mines). Where it can be established that these people moved in after the cut-off date, there is usually no requirement to pay compensation other than for any lost assets. However, in other cases, projects are often planned in places precisely because informal settlements are there. Such slum areas may be targets for urban renewal programmes, as sites for industrial estates, as transportation corridors or for electricity transmission corridors.

Some governments take the view that, because the occupation of these lands by the people in the informal settlements is illegal, the government does not have a responsibility towards these people and no compensation needs to be paid. This is compounded by the fact that most legal frameworks around the world do not specifically recognise rights for squatters/encroachers, and public officials may fear they will be punished if they approve compensation payments for them. However, in some countries there are procedures to formalise the land use and/or occupation of informal users as a first step in resettlement and prior to expropriation so that these people will be compensated as regular owners/occupiers. In all cases of informal land use and occupation, it is necessary that project developers and resettlement consultants insist that international standards require that appropriate compensation be paid and that the human rights of these people be respected.

Can resettlement be an opportunity for development?

The idea that resettlement can and should be an opportunity for development has been explicitly stated for over a decade (Cernea 1999a, 2003, 2007; World Bank 2004; Perera 2014). Expressed as 'resettlement with development', it is law in China (McDonald et al. 2008). While there will always be some harm or hurt experienced by people, at least in emotional terms and inconvenience, resettlement potentially provides opportunities for change for the better, at least when there is an effective process of resettlement and when benefit sharing mechanisms are implemented. For resettlement to be an opportunity for development, project developers have to change their attitude away from their current efforts to minimise the immediate cost of the resettlement to the project, towards a greater awareness and commitment to shared value (Porter & Kramer 2011; Wilson & Kuszewski 2011; Hidalgo et al. 2014). Establishing the social licence to operate for the project and its associated resettlement actions will reduce risks to the project, minimise harm and hurt to the impacted community and improve outcomes for all (Vanclay et al. 2015).

As argued by Jijelava and Vanclay (2017) and Franks et al. (2014), a lack of social licence is likely to lead to a range of protest actions against the project (Hanna et al. 2016b) that could result in:

- physical damage to project property;
- project delays and lost production;
- legal actions by NGOs, incurring costs to the project to defend;
- court or other regulatory actions including fines and/or additional conditions on operation being imposed, claims for compensation being awarded against the company, and/or the revoking of legal licences or permits;
- loss of reputation locally and internationally, leading to stockmarket reaction and reduced demand for products;
- extra costs being incurred in the form of additional staff and increased security, higher insurance premiums and increased cost of finance;
- the costs and consequences of the diverted attention of key staff and the board; and
- loss of access to new sites and markets.

The lack of social licence can have financial and political implications for a project. There is a very strong justification or business case for a project to give serious attention to ensuring that there is public acceptance of the project and of any associated resettlement. Gaining a social licence requires both process and outcome components. The project developer must ensure that (Esteves & Vanclay 2009; Vanclay et al. 2015): the project is economically, environmentally and socially sound; alternatives to avoid resettlement have been considered; the affected community is treated with respect; there is a fair and transparent process about how the project was approved; the rights and entitlements of affected people are outlined and publicised; the views of all interested and affected peoples are properly considered; there is an equitable sharing of benefits; there is mitigation of all social and environmental impacts; there is a process for the ongoing monitoring of potential social and environmental impacts; and there is provision for and an effective process to guide sustainable social investment.

In general terms, contributing to shared value essentially entails the project having a commitment to sharing the benefits that arise from a project with the impacted people. Ideally, however, it means more than this – it means that the project should be proactive in thinking about the ways in which benefits to local communities can be enhanced by the way the project is implemented (João et al. 2011; Wang 2012; Vanclay et al. 2015). There is a wide range of potential benefit sharing mechanisms, which are typically categorised into two types: those that relate to financial benefits; and those that relate to the non-financial benefits than can arise from a project.

The non-financial benefits a project can provide include (Cernea 2008; IFC 2010; Brereton et al. 2011; Wall & Pelon 2011; IPIECA 2016):

- providing jobs for impacted people;
- a genuine commitment and implementation of appropriate strategies to maximise opportunities for local content (i.e. not only jobs but also local procurement) by removing barriers to entry and employing other strategies to make it possible for local enterprises to supply goods and services to the project;
- the provision of training, mentoring and other support programs for local people and businesses;
- modifying project infrastructure and facilities to ensure that they can also service local community needs and/or allowing public use of these facilities (sometimes called shared infrastructure);
- making project equipment (heavy lift cranes, bulldozers, etc.) available to local authorities to assist in public works;
- various good neighbour, good corporate citizen initiatives, such as encouraging community volunteer work by staff;
- area development – ensuring that the whole local population benefits from things like the upgrading of roads, flood protection, public services and community facilities including, for example, reliable access to water, electricity, internet, etc.;
- Improved public services (health care, education).

Some of the possible financial mechanisms are:

- (1) (for an income-generating project) the allocation of a percentage share of project revenue streams to finance post-resettlement development programmes;
- (2) the establishment of a community development fund (social investment fund) through one or more tranche payments from the project funding (perhaps related to project milestones), typically in which the principal is preserved while generating interest to be used for ongoing post-resettlement development programs;
- (3) equity sharing in any project-created enterprises that can be conceived;
- (4) special taxes/levies paid to regional and/or local governments, which are in addition to any normal taxes and charges paid, specifically to support local development programmes;
- (5) in the case of electricity generation projects (like hydropower dams), transmission lines or gas pipelines, etc., the provision of free electricity (or gas) or the granting of discounted rates to impacted peoples, and/or the provision of other forms of access to in-kind benefits;

- (6) allocation of an ownership share in the project to the impacted community (either collectively or individually), thus creating co-ownership in the project.

Each of these financial and non-financial benefits has its own advantages and disadvantages, depending on how they are implemented and managed. There are many issues about the sustainability and governance of such schemes. If they are managed badly, these schemes can have detrimental outcomes and can foster division within the community. However, managed well, these schemes can help to ensure that resettled and host communities benefit from the project.

While there will always be some level of residual nostalgia amongst resettled people, it is theoretically possible for the opportunities created by the project to increase the individual and collective well-being of resettled communities. However, the tragic reality of past project-induced resettlement is that it has made people worse off. This empirical fact casts doubt about the veracity of concepts like shared value, benefit sharing and gaining a social licence to operate – and leads to much scepticism by affected peoples, critical academics, and NGOs about the idea that resettlement can be an opportunity for development. If this argument is to be at all convincing, the resettlement industry needs to perform much better, and there needs to be real-life examples demonstrating that the statement is more than just a cliché, greenwashing or mere aspiration.

Conclusion

No matter how well intentioned and planned a resettlement may be, being resettled has a huge impact on people and communities. The magnitude of the social impacts and the enormity of it all are such that the resettlement process typically dominates the life of the people and their community for many years. Therefore, it is not surprising that the first principle of resettlement is to avoid if possible. While it can be argued that resettlement has the potential to be an opportunity for development, the empirical evidence for this is lacking. Typically, there has not been enough attention given to resettlement within projects; project developers have not given the social issues associated with resettlement enough consideration; and inadequate resources and time have been allocated for the resettlement process. It is imperative that the discourse within projects moves away from the current focus on compliance with minimum requirements and minimising immediate cost towards a strong commitment to effectively managing the social risks experienced by communities.

To decrease the potential for harm and hurt, and to maximise the possibility of better outcomes from resettlement, the people being resettled should not be

treated as pawns to be manipulated or as passive victims – rather they should be resourced and enabled to be effective actors who can negotiate to protect their own interests. It is in the long-term interests of the project that the people being resettled feel that they have negotiated a fair deal. A negotiated process provides a basis upon which they share responsibility and ownership for ensuring the resettlement proceeds effectively.

Although project staff can do much to improve the outcomes of resettlement, there is always a pre-existing social and political context in which projects occur. This is frequently overlooked by project teams. The experience of the local community with past projects (i.e. their impact history), and the legacy of colonialisation, ethnic and political tension, as well as recent events, all influence how projects are received by communities and how the resettlement process unfolds. The process of resettlement is not just a technical task of implementing a RAP, it is an inherently social activity that needs the input of experienced social specialists who have a good understanding of the social issues in the affected community. Social impact assessment has a key role to play.

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