

Safeguard Implementation of by Regional Development Banks – On Involuntary Resettlement –

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1. Introduction

For avoiding or minimizing adverse environmental and social impacts, and enhancing or at least restoring their livelihoods, regional development banks (RDBs) established, implement, and update “safeguard policy.” Despite their efforts, there are several cases where policy non-compliance occurs.

We identified common issues that hindered projects from safeguard policy compliance, focusing on involuntary resettlement (IR). While there are a number of studies on adverse IR impacts of development projects¹, there are few comparative studies on compliance review cases of RDBs².

2. Methodologies

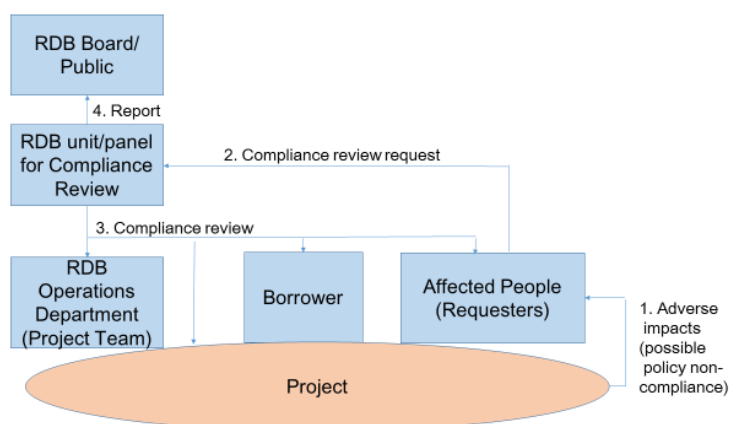
Every RDB has a compliance review unit/panel that enables affected people to directly complain on compliance with safeguard policies (Figure). When they are adversely affected by a project (as shown No. 1 in the figure), they can submit a request for compliance review (No.2). If the request is judged eligible for the review, the unit/panel will carry out document review, site visit, and meetings with staff in the operations department, borrower, requesters, etc (No. 3). Then it prepares a compliance review report to be submitted to the Board of the RDB, and disclosed to the public (No.4). View of the operations department and that of the requesters are sometimes different from that of the unit/panel. We conducted this study by mainly analyzing the report of the unit/panel to keep consistency of judgment among cases.

In this paper, we reviewed compliance review report of RDB projects, focusing on IR. RDBs are: African Development Bank (AfDB), Asian Development Bank (AsDB), European Bank for Reconstruction and Development (EBRD), and Inter-American Development Bank (IDB). Thirteen projects were identified for the study (Africa: two power projects; Asia: one irrigation, one power, two water management and three transport projects; Europe: one transport and two power projects; and Inter-America: one power project). Project names are abbreviated in the Table.

¹ Scudder undertook site survey for many dam projects, classified IR into 4 processes, and made recommendations on how IR should be (Scudder 2005, Scudder 2012). Cernea made a model on the risks for project affected people to fall into poverty caused by IR (Cernea 1993, Cernea 2000, Cernea 2003). Fujikura and Nakayama (2015) prepared a compilation of research studies on long-term post-evaluation of IR impacts caused by dam development.

² Tsuji and Fujikura (2016) analyzed issues of IR policy implementation of Asian Development Bank by reviewing its compliance review reports.

Figure. RDB compliance review mechanism and projects



(Source: Authors based on information of IFIs)

3. Results and Discussion

We identified issues and classified them into two large categories: those at planning stage and those at implementation stage (Table). Issues found in more than 5 projects are: insufficient public consultation and information disclosure (10 projects), changes in project design and others (7 projects), insufficient compensation (6 projects), and inadequate treatment on entitlement (6 projects).

Table. Summary of IR issues observed commonly in projects

| Project Name | Bujagali Hydropower | Medupi Power | Chashma Right Bank | Southern Transport | Fuzhou Environment ^{1,3} | CAREC Transport | Citaum Water Resources | Railway in Cambodia | Mundra Ultra Mega Power | Tbilisi Railway Bypass | Paravani HPP ⁴ | EPS Power II ⁵ | Pando-Monte Lijo Hydro ⁶ |
|---|---------------------|--------------|--------------------|--------------------|-----------------------------------|-----------------|------------------------|---------------------|-------------------------|------------------------|---------------------------|---------------------------|-------------------------------------|
| Issues | | | | | | | | | | | | | |
| 1 Planning stage | | | | | | | | | | | | | |
| 1) Inadequate baseline data | x | x | | | | | | x | x | | | | |
| 2) No identification of IR | | | x | | | x | | | | | | | |
| 3) Limited public consultation and information disclosure | x | x | x | x | x | x | x | x | x | x | | | |
| 4) Limitation of RP – Coverage | | | x | | | | | | x | | | | |
| 5) Limitation of RP – Relocation | | | x | | | | | x | | | | | |
| 6) Limitation of RP – Livelihood program | | | | | | | x | x | | | | | |
| 7) Late preparation of RP | | | x | | | x | | | | | | | |

| | | | | | | | | | | | | | |
|--|---|--|---|---|---|---|---|---|---|---|--|---|---|
| 8) Continuation of pending situation | x | | x | | | | | | | | | | |
| 2 Implementation stage | | | | | | | | | | | | | |
| 1) Changes in project | x | | x | x | x | x | | | x | x | | | |
| 2) Insufficient compensation | x | | x | | x | x | x | x | | | | | |
| 3) Relation with other projects | | | | | x | | x | | | x | | | |
| 4) Inadequate treatment on entitlement | x | | | | x | x | x | x | | x | | | |
| 5) Actions by implementing agency for IR | | | x | | x | | x | | | x | | | |
| 6) Displacement before compensation | | | | x | | x | x | | | | | | |
| 7) Late compensation or livelihood program | x | | x | x | | | | x | | | | | |
| 8) Relocation site condition | x | | | x | | | | x | | | | | |
| 9) Insufficient livelihood program | | | | x | | | x | x | x | | | | |
| 10) Difficulties in external monitoring | x | | | x | x | | | x | | | | | |
| 11) Others | | | | | | | | | | | | x | x |

(Source: Authors based on information of AfDB, AsDB, EBRD, and IDB)

Notes:

1) RP: Resettlement Plan

2) No tick means either: (i) it is not an issue for the project, or (ii) no clear information is available on that issue.

3) Issues are those raised in the compliance review report without conclusion.

4) Project Complaint Mechanism (PCM) regarded EBRD not in breach of, or compliant with, its policy on the IR-related issues raised by the requesters.

5) PCM regarded EBRD compliant with provisions of the policy while it noted a few issues.

6) Compliance Review Panel classified the impact on IR as an issue that would be more efficiently and more effectively reviewed elsewhere in the report or had only a low priority of being attributable to non-compliance by IDB.

3.1 Public Consultation and Information Disclosure

Consultation and participation are central to the achievement of safeguard policy objectives. All four RDBs have a statement on “meaningful consultation” in their policies. It is understandable that all of the requesters raise insufficient public consultation and/or information disclosure. Other than general non-compliance, there are specific issues of non-compliance: (i) communication not in a culturally and socially appropriate way (limited information in local language, and use of newspaper, where illiteracy rate

is high) (Medupi), (ii) not timely translation of RP into local language (Southern Transport), (iii) insufficient and late consultation with seasonal fisherfolks (Mundra), and (iv) initial disclosure only in English (Tbilisi). Regarding the way of communications, all four RDBs have a statement on language. Specific statement on seasonal resource users are found in AfDB and EBRD policies.

3.2 Changes in Project Design and Others

Changes in project scope and/or other arrangements likely cause new demand for IR and delayed actions. Those found in the cases are: (i) the project company was changed (Bujagali), (ii) the project design for flood protection changed (Chasma), (iii) highway alignment changed in order to protect wetlands based on conditions issued by the Central Environmental Authority (Southern Transport), (iv) a rerouting of a creek to avoid the resettlement in discussion was done (Fuzhou), (v) a change in design for accommodating sidewalks was made (CAREC), (vi) location of the outfall channel for cooling water changed (Mundra), and (vii) a change of project funding source occurred (Tbilisi Rail)..

AsDB and EBRD have a clear statement on changes to projects in their policy or procedure. AfDB policy refers to changes in the conceptual design of the project. Thus it is important to be keen on actual occurrence of such changes, and take subsequent actions timely.

3.3 Insufficient Compensation

Insufficient compensation occurs either as the national/local standards prevailed rather than RDB's, or price escalation during the delayed compensation. More specifically, (i) under-compensation occurred by the change of the project company (Bujagali), (ii) for land acquisition, provincial government used "average transaction prices" instead of market value based on revenue record, sale transactions and price trends (Chasma), (iii) the lump sum compensation that the municipality proposed was too small for new housing (Fuzhou), (iv) the requesters alleged that they had been told that their shops would have to be demolished, trees cut down, and fences moved without compensation (CAREC), (v) sufficiency of in-kind compensation to make up for the difference between the cash payment and the assessed value of the assets was unclear (Citarum), and (vi) the resettlement plan was with a lack of provisions for inflation-indexed compensation (Cambodia Rail).

To avoid the kind of situation, those who are responsible for compensation, sometimes contracted by the borrower, should: (i) have clear understanding of RDB policy requirements, and (ii) carry out compensation in that line. Their actions should be closely monitored. Since most of RDBs have clear instructions on this aspect, proper implementation is the challenge.

3.4 Entitlement

There are cases where inadequate treatment of eligibility was found: (i) inability to obtain secure land titles was one of the legacy issues by the change of project company (Bujagali), (ii) the requesters

were not legally registered in the project area and therefore did not have legal titles to the land on which they resided (Fuzhou), (iii) a compensation agreement was not initially compliant with AsDB's IR Policy (CAREC), (iv) none of the affected households held title to the land they occupied (Citarum), (v) as none of the affected persons have legal documents, the Government initially regarded them as illegal settlers or squatters and they couldn't be compensated for the land (Cambodia Rail), and (vi) the requester did not have clear title to the land, and was not entitled to compensation for his lost land under national law (Tbilisi).

Since this aspect, which is compensation to those who do not have legal land title, is one of the significant gaps between RDB requirements and national laws/regulations, getting understanding of those who implement compensation, and their proper implementation are challenges.

3.5 Other Issues

In addition to the issues mentioned above, there are remarkable issues such as: (i) different level of compensation package compared with that for other linked or overlapped projects not financed by the RDB, and (ii) difficulties of retaining independent external monitoring agencies. The former is caused by a gap between RDB policy requirements and national/local regulations. The latter is caused by difficulties to find good expert institutions on IR locally.

4. Conclusions

It was clarified that there are points for improvement in safeguard system. Some should be improved by amending RDB safeguard policies, such as actions to be taken when changes in project arrangements have occurred, and consideration for seasonal resource users. There are some other points that need better enforcement of policy requirements, such as meaningful consultation, timely and appropriate compensation with clear understanding of gaps between RDB policy and national laws/regulations. While actions to comply with higher requirements among laws/regulations and RDB policies, it is more important to converge those at the higher level. Current efforts to strengthen and use country safeguard system by RDBs and other multilateral financing institutions such as the World Bank should support borrower countries in this regard. Further, there are other issues such as difficulties to retain good external monitoring agencies. There should be discussion involving RDBs, borrower countries and others to seek solution.

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Documents available on the website of respective RDBs (exact title varies)

Safeguard policy

Compliance review policy

Compliance review reports for the studied projects