

# A Plethora of Standards, Guidelines and Frameworks: Making Sense of it All

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Ted Pollett



## **WHAT PLETHORA OF STANDARDS, GUIDELINES AND FRAMEWORKS?**

- **GOVERNMENT POLICIES, LEGISLATION AND REGULATIONS (NATIONAL, REGIONAL, LOCAL)**
- **INTERNATIONAL FINANCIAL INSTITUTION (IFI) REQUIREMENTS /STANDARDS, PROCEDURES AND GUIDELINES**
- **COMPANY POLICIES AND PROCEDURES**
- **BEST PRACTICE GUIDELINES AND HANDBOOKS**
  - e.g., WB, IFC, ICMM, IPIECA
- **SOME OTHER PRINCIPLES AND GUIDELINES:**
  - **Ruggie Report and the UN’s “ Guiding Principles on Business and Human Rights”**
  - **Ethical Globalization Initiative: Realizing Rights**
  - **Voluntary Principles on Security and Human Rights**
  - **Global Reporting Initiative**



## **SOME KEY IFI RESETTLEMENT AND LIVELIHOODS RESTORATION STANDARDS AND REQUIREMENTS**

- **World Bank (WB) OP/BP4.12: Involuntary Resettlement**
- **International Finance Corporation (IFC) Performance Standard (PS) 5: Land Acquisition and Involuntary Resettlement**
- **European Bank for Reconstruction and Development (EBRD) Performance Requirement (PR) 5: Land Acquisition, Involuntary Resettlement and Economic Displacement**
- **African Development Bank (Integrated Safeguards System): Operational Safeguard 2: Involuntary Resettlement-Land Acquisition, Population Displacement and Compensation.**



**SOME KEY IFI RESETTLEMENT AND LIVELIHOODS  
RESTORATION STANDARDS (cont.)**

- **Asian Development Bank (ADB): Safeguard Requirements 2: Involuntary Resettlement**
- **Japan Bank for International Co-operation (JBIC): Guidelines for Confirmation of E&S Considerations: Involuntary Resettlement**
- **Inter-American Development Bank: Operational Policy-710: Involuntary Resettlement**
- **European Investment Bank (EIB): Handbook-E&S Standards: Involuntary Resettlement**



**EQUATOR PRINCIPLES: “A credit risk management framework for determining, assessing & managing Environmental and Social Risk in project finance transactions globally”**

- EQUATOR PRINCIPLES (EPs)
- A voluntary private-sector initiative launched in 2003 based on IFC’s then E&S Safeguard Policies and WB EHS Guidelines.
- Initially adopted by ten International Finance Institutions (IFIs).
- Currently 79 global IFIs are members (18 from emerging markets).
- Provide 70% of global Project Finance in emerging market countries.
- EPs revised (EPII) in 2006, based on IFC’s then new Performance Standards (PS).
- Second revision (EPIII) in June 2013 based on IFC’s 2012 PS.

## Convergence of IFI Standards

- Current on-going convergence of environmental and social standards used by IFIs, particularly based on the Equator Principles and the IFC's Performance Standards.
- Occurring amongst the following organizations:
  - Equator Principles Financial Institutions (79).
  - IFC's Financial Intermediary Clients (70+).
  - OECD Export Credit Agencies (34).
  - European Development Financial Institutions (15).
  - MIGA and IDA (World Bank Group).
  - European Bank for Reconstruction and Development (EBRD).
  - Other Development Banks (African, Asian, etc).



## **An On-going Process of Convergence and Improvements to IFI Resettlement and Livelihood Restoration Standards and Requirements**

- **WB (1980): Policy on Involuntary Resettlement**
- **WB OD 4:30 (1990): Involuntary Resettlement**
- **WB OP/BP4.12 (2001): Involuntary Resettlement**
- **IFC PS 5 (2006, updated 2012): Land Acquisition and Involuntary Resettlement**
- **EBRD PR 5 (updated 2012): Land Acquisition, Involuntary Resettlement and Economic Displacement**
- **WB Draft E&S Framework: ES Standard 5 (30 July 2014): Land Acquisition, Restrictions on Land Use and Involuntary Resettlement**



## Improvements to IFI Resettlement and Livelihoods Standards and Requirements have included:

- Extending the scope of application to restrictions on land use
- Strengthening requirements for livelihood restoration planning
- Strengthening requirements regarding consultation and participation (including participatory monitoring)
- Stakeholder engagement beyond directly affected communities
- Addressing Human Rights Issues (including participation, transparency, non-discrimination, explicit requirements for grievance mechanisms)
- Free, Prior and Informed Consent (FPIC) for Indigenous Peoples under certain circumstances
- Gender Issues: more targeted measures to ensure women's interests, land and property rights are addressed, in particular compensation benefits
- Requirements for completion audits under certain circumstances





## **Increasing Legal and Regulatory Requirements of National Governments Globally**

- Generally more comprehensive and rigorous government attention being given to land acquisition, physical and economic displacement, stakeholder engagement and other social issues.
- Taking cognizance of resettlement and livelihood restoration issues, including standards and requirements of WB and other IFIs
- Increasingly being incorporated into the legal and regulatory requirements of national governments globally.

# **MAKING SENSE OF IT ALL**

## **SO WHAT ARE THE KEY COMMONALITIES?**

- **RESETTLEMENT**
  - Applies to physical displacement
  - Can also be caused by restrictions on land use
- **MITIGATION HIERARCHY- UNDERLYING PRINCIPLE:**
  - Anticipate and avoid displacement
  - Where avoidance is not possible minimize adverse impacts
  - Compensate for loss of assets
- **CONSULTATION**
  - Affected households
  - Other stakeholders-host communities
- **COMPENSATION-REPLACEMENT COST:**
  - Compensation of lost physical assets (land, built structures) at replacement cost
  - Plus compensation of transaction costs
- **GRIEVANCE MECHANISMS**
  - Establish grievance/ conflict resolution mechanisms outside the formal judicial/court system
- **VULNERABLE GROUPS**
  - Identify and address needs of vulnerable groups

# MAKING SENSE OF IT ALL

## SO WHAT ARE SOME KEY ISSUES THAT ARE ADDRESSED DIFFERENTLY?

- **TRIGGERS**
- **Involuntary Resettlement**
  - Land rights or land use rights acquired through expropriation or other legal compulsory procedures
  - IFC PS 5 is most clear that it **does not apply to**: “ market transactions in which the seller is not obliged to sell, and the buyer cannot resort to expropriation”
  - So called “**willing buyer/willing seller**” negotiated settlements are still regarded as “Involuntary Resettlement” if the buyer can resort to compulsory legal procedures if negotiations fail.
- **Legal Rights to land and Assets**
  - Those with formal rights to land (compensation)
  - Those who do not have formal rights, but have a claim to such land (compensation)
  - Those who have no recognizable legal right or claim to land (compensation not necessarily required by governments, but is a requirement of some other standards) e.g.
    - OP/BP 4.12 requires resettlement assistance, but not compensation for land
    - IFC PS 5 requires compensation for assets other than land, and options for adequate housing with security of tenure.

**MAKING SENSE OF IT ALL**  
**SO WHAT ARE SOME KEY ISSUES THAT ARE NOT SO**  
**CLEAR/ADDRESSED DIFFERENTLY?**

- **ECONOMIC DISPLACEMENT**

- Standards and guidelines are not so clear with regard to economic displacement and livelihood restoration

- **COMPENSATION**

- Compensation for common property resources (not always covered by government legislation and requirements)
- Compensation rates (government authorities tend to oppose over generous compensation rates since it sets a precedent. Conversely civil society organizations tend to lobby for higher rates).
- Cash compensation v. land -for-land replacement (companies often prefer cash compensation because it is easier-but a risk if households spend the cash unwisely and become impoverished and potentially dependent on the company)



## **MAKING SENSE OF IT ALL PLANS, PROCEDURES or FRAMEWORKS?**

- **RESETTLEMENT ACTION PLAN (RAP):** In cases where land acquisition or restrictions on land use cause **physical displacement**
- **ABBREVIATED RAP:** In cases where there are **fewer than 200 displaced** people (OP/BP.4.12)
- **LIVELIHOOD RESTORATION PLAN (LRP):** In cases where land acquisition or restrictions on land use do not cause physical displacement, but have adverse impacts on incomes and/ or livelihoods (**economic displacement**)
- **COMPENSATION PROCEDURES:** In cases where land acquisition or restrictions on land use **only cause loss of assets**, but not physical or economic displacement
- **FRAMEWORKS:** In cases where the exact nature or magnitude of land acquisition or restrictions on land use **are unknown due the stage of project development.**



## **MAKING SENSE OF IT ALL** **GUIDE/ HANDBOOKS AND SOURCE BOOKS, BEST PRACTICE**

- **KEY GUIDE/ HAND BOOKS AND SOURCEBOOKS :**

- **IFC HANDBOOK FOR PREPARING A RESETTLEMENT ACTION PLAN (2002).**  
Based on OD 4.30 Involuntary Resettlement
- **WB INVOLUNTARY RESETTLEMENT SOURCEBOOK: Planning and Implementation in Development Projects (2004).** Based on OP/BP4.12 Involuntary Resettlement

- **BEST PRACTICE APPROACH:**

- **GUIDE TO LAND ACQUISITION AND COMPENSATION (GLAC): Approach first used on the Baku-Tbilisi-Ceyhan (BTC) Pipeline.**
  - Specifically aimed at directly affected communities and households
  - Concise summary of project impacts, land acquisition compensation measures, compensation rates, grievance mechanism, etc.
  - Now used on many large scale complex projects affecting large numbers of land right holders.

## **MAKING SENSE OF IT ALL** **WHAT ARE SOME KEY ISSUES?**

- **PRINCIPLES AND OUTCOMES BASED APPROACH v. STEP-BY-STEP PROCEDURES**
  - An outcomes based approach allows more flexibility and ways to achieve the end goal; step-by-step procedures tend to have less flexibility (tick-box approach)
  - Implementing a RAP/LRP is a process which requires flexibility
  - A RAP/LRP is a 'living document' (out-of-date the day after it is produced)
- **MANAGEMENT SYSTEMS v. FRAMEWORKS**
  - Management systems (as required by IFC PS) provide a means of overall implementation of management plans, including RAPs/ LRPs
- **CLOSE-OUT / COMPLETION AUDITS**
  - Relatively easy to assess and confirm if replacement of lost land and assets has been achieved, but much more difficult or impossible to confirm livelihood restoration

## **MAKING SENSE OF IT ALL** **SOME DISCUSSION POINTS**

- **WHAT ARE SOME OTHER KEY POINTS TO MAKE SENSE OF IT ALL?**
- **ARTISANAL SMALL SCALE MINERS**
  - Are issues concerning the displacement of artisanal miners adequately addressed in policies and standards?
- **NEED FOR AN UPDATED GUIDE TO LAND ACQUISITION AND LIVELIHOOD RESTORATION?**
  - IFC Handbook (2002) and WB Sourcebook (2004) on Involuntary Resettlement are becoming out-of-date
- **NEED FOR A 'LINE-BY-LINE' GUIDE THAT HIGHLIGHTS DIFFERENCES IN STANDARDS AND GUIDELINES?**
  - This could be especially useful for consultants who work on a variety of projects in various countries, with different sponsors and standards.

**THANK YOU**