

For Discussion
Chashma Right Bank Irrigation Project III
Loan 1146-PAK (SF)

Terms of Reference
For A Grievance Redress and Settlement Committee

1. Rationale

1. The Chashma Right Bank Irrigation Project State III (the Project) in Pakistan is a major irrigation Project, with a 274 km main canal drawing water from the Indus River, 72 distribution canals, 68 cross drainage structures, and 91 bridges.
2. The Project predates the approval of ADB's Policies on Involuntary Resettlement (1995) and Indigenous Peoples (1998). Whilst the Government is responsible for land acquisition, the country's policy and legal framework for land acquisition, through the Land Acquisition Act (1894), does not match fully ADB's policy in all respects. ADB's Policy on Involuntary Resettlement includes a requirement that "if an individual or community must lose their land, livelihood, social support system or way of life in order that a Project might proceed, then they have a right to be compensated in such a way that their economic and social future will be at least as favourable with the Project as without it".
3. Since the year 2000, NGOs have raised various concerns about the Project, both in the command area and on the West Bank. ADB financed an independent social assessment in 2001 as requested by NGOs. A Multi-stakeholder Workshop was held in arch 2002 and a framework action plan was agreed. An ADB Review Mission, fielded in May 2002, recommended and agreed with the Government on the preparation and implementation of a time bound action plan on land acquisition and resettlement within about 3 months, in order to address and fill any gaps with ADB Policy. A high level meeting with MOF and WAPDA, together with other high government officials supported the proposed actions and agreed in principle with use of \$2-3 million of Project funds to resolve the outstanding issues. It is now proposed that a special Grievance Redress and Settlement Committee be constituted, with representation from all key stakeholders including the Executing Agencies (EAs) (WAPDA, and the provincial governments of NWFP and Punjab) and the people affected, in

order to address and resolve expeditiously all pending claims for compensation and other assistance which may result from the Project.

II. Status of Land Acquisition and Compensation in the Command Area

4. WAPDA has reported that the total land gazetted for the Project for acquisition under the Land Acquisition Act (LAA) was 19,503 acres (6,061 acres in 62 villages for Northwest Frontier Province (NWFP); 13,442 in 123 villages for Punjab Province) mostly under provision for emergency acquisition Section 17 of the LLA, which allows possession in advance of payment. Of this , 5,671 acres (94%) has been possessed in NWFP and 12,238 acres (91%) in Punjab. To date PRs 248.2 million has been allocated in land compensation funds in NWFP. Some PRs 16,917 (7%) has been paid to landowners for 836 acres. In Punjab PRs 485 million is available with a further 102 million required, with no payments having yet been made to landowners.

III. Status of the Villages on the West-side of Main Canal

5. This land has not so far been acquired formally. However, as a consequence of the increased flood risk caused by the Project, housing is deemed to be at risk for 22 villages (3 in NWFP and 19 in Punjab), and these villages are also at risk of other flood damages to land and assets, including crops and livestock. So far, NWFP villages have been protected by a bund built by WAPDA. WAPDA offered a choice between a similar bund and compensation for housing to the affected villages in Punjab, Eight of these villages opted for a bund; the remaining villages have been compensated for housing based on market, price, with depreciation, and salvage deducted, plus 15 percent involuntary displacement supplement and 6 percent shifting allowances.

IV. Proposes to resolve the outstanding issues

6. ADB proposes to resolve the outstanding issues as follows. A Grievance Redress and Settlement Committee (the 'Committee') would be appointed, with representation from all key stakeholders, including WAPDA and provincial governments, local government and the people affected, and mobilized to work among Project-affected people as soon as possible. The Committee would be chaired by an independent legal expert from

Pakistan of high standing, and include an international resettlement specialist.

Composition of the Committee

7. Members of the Committee would include one member each of the following:

National Legal Expert,
WAPDA,
Punjab Provincial Government,
NWFP Provincial Government
International Resettlement Specialist,
Nazim from each District, and
Two representatives of the people affected.

Working of the Committee

8. The Committee Chairperson will be National Legal Expert. The Committee would establish its own working method that will follow the principles of participation, transparency, majority decision-making, documentation of all deliberations, hearings and decisions.

Powers of the Committee

9. The Committee would have the powers to
- (a) record its findings and recommend compensations due or remedial actions due;
 - (b) monitor implementation of the recommendations; and
 - (c) hold public consultations, interviews and visit affected sites and villages to ensure effective participation of the communities and confirm data on population, villages, topography, and any damages which are alleged to have resulted from the Project.

Functions of the Committee

10. The Committee's principal task is to reach a solution to all the outstanding problems that have been raised on account of land acquisition, resettlement, compensation and rehabilitation accruing to claimants because of the Project. The basis for the Committee's recommendations will be Pakistan's policy and legal framework and ADB's relevant policies, including ADB's Policy on Involuntary Resettlement (IR) (1995) and ADB's Policy on Indigenous Peoples (1998), together with relevant guidelines including on the Incorporation of Social Dimensions into Bank Operations.
11. The Committee's functions, therefore, include wide consultations and public hearings/discussions among Project affected people. The Committee will make recommendations on (a) assessment of compensation due to the Project affectees under the applicable laws and policies to which the paragraph above refers; (b) remedial time-bound actions to resolve any outstanding issues in payments for compensation and other assistance; (c) supplemental measures that may be necessary to resote incomes and living standards among Project-affected people, including the mobilization of credit, extension services and social services on both East and West Banks; (d) actions to find appropriate living and livelihood arrangements for the West Bank flood risk affectees; and (e) assessment of claims for wider environmental damage and resulting loss of life, income and property as a result of the Project. WAPDA and Provincial Governments will be responsible for implementing the recommendations.
12. The Committee will publish and disseminate information about the timeframe and process for grievance redress. It will develop and publicize a lost of entitlements for compensation and other assistance that meets the applicable laws and policies as identified above, and will hear grievances according to this list.
13. The Committee will also be responsible to monitor and ensure that actions are taken by WAPDA and Provincial Governments to implement its findings promptly.

Support to the Committee

14. The Committee would be supported by local consultants and counterpart staff from the relevant government authorities such as the WAPDA, provincial governments of NWFP and Punjab, revenue authorities, etc.

V. Detailed Terms of Reference for the Committee

15. The Committee will be responsible for these follow-up actions, with specific tasks to be delegated as it will deem appropriate to consultants supporting it:
 - a) Assess all Project related documents as necessary, and the Complaint, together with any related papers and studies;
 - b) Prepare, in consultation with WAPDA and the Land Acquisition Collectors for Punjab and NWFP, a population record of the total population affected by land acquisition and land conversion, and other Project affects, including West Bank affectees. The Committee may, if required, further confirm these data based on its findings in the Project affected areas. The Committee will be responsible to disaggregate the population record according to different categories of impact;
 - c) Review the applicability in each case of entitlement: of Pakistan national laws including the Land Acquisition Act, 1894 (LLA) and any other applicable laws and regulations; ADB's Policy on Involuntary Resettlement (IR) (1995) and ADB's Policy on Indigenous Peoples (1998), and related guidelines including Incorporation of Social Dimensions in Bank Operations, for this Project situation;
 - d) Develop a list of those eligible for entitlements according to category of loss, to provide rehabilitation to those deemed eligible under the policy and legal framework. The list will take account of the current processing of compensation payments and any other assistance under the LAA. The Committee will assess the extent to which such arrangements may need to be supplemented in order to provide for full economic and social rehabilitation of Project-affected

persons so as to restore their economic and social base and ensure no one is disadvantaged;

- e) Liaise with the PIME study and NDC consultants, government and other sources as relevant to obtain all available data on the population parameters and socio-economic conditions of the command area population, including land acquisition affectees, and of the West Bank affectees, as a base for planning. Collect additional data through focused survey and Participatory Rapid Appraisal (PRA) work as necessary to consult with those affected and to develop recommendations;
- f) Develop, in consultations as required with the Land Acquisition Collectors, WAPDA, the provincial and district governments, as proposal to provide land for land for persons affected severely or through severance or fragmentation of their land as a result of acquisition, if they so choose, in lieu of cash payments to replace assets or income lost;
- g) Liaise with providers of land development assistance, credit, extension services and social services, for example Kashali Bank and agricultural/forestry/social service departments. The Committee will, through these means activate all possible opportunities for credit (including micro credit for those without land collateral), training, extension advice and support for land development, agriculture, forestry, and social services, plus any other assistance possible, for those affected in the command area, for the flood risk affectees, and other Project-affected persons;
- h) Liaise with Environmental Planning Agency to mobilize any possible actions that may be taken to address environmental impacts; and
- i) Prepare a participation strategy for two-way communication with those affected, and people in the Project area generally. This would include:
 - Review actions taken to achieve effective community participation into multi-tier irrigation Co-ordination Committees, at canal, province and other levels

- Interview representatives as representatives from WAPDA, Provincial Agriculture and Irrigation departments, On Farm Water Management, Rodh Kohi officials and local representatives
- Conduct PRA among Irrigation committees and communities on both banks affected to diagnose key outstanding issues and constraints

On this basis prepare recommendations for enhanced community participation in planning and decision making of the multi-tier Irrigation Co-ordination Committees.

16. The participation strategy would include, inter alia, a leaflet for distribution to all affected tehsils, unions and villages and other key information points for public posting, which sets out information on:

- Grievance Redress process as set by the Committee
 - All applicable entitlements as determined by the Committee
 - Actions which may be taken to address environmental issues
 - All opportunities for access to Project benefits more broadly, including credit (including micro credit for those without land collateral), extension advance, land development support, and social services, etc.
- j) The committee will document carefully all consultations; issues raised and remedial measures proposed that would be considered by it in arriving at its recommendations and decisions. The decisions and recommendations of the Committee will be disclosed to persons affected in a form and language (s) they can access, and to the wider public.
- k) The Committee would recommend the following:
- Compensation and rehabilitation remedial measures due to the affected; actions and measures (with specific time frames indicated), required to implement these findings and decisions.
 - Timeframe to complete the work, with clearly defined milestones to completion that should be accomplished within the prescribed time from the date the Committee provides its findings.
 - Time bound responsibilities as the Committee may deem necessary to be listed for WAPDA; Land Acquisition Collectors;

provincial, district, tehsil, union and village officials; related agency providers; affected persons and their representatives; members of the water user associations; and independent monitoring and evaluation agency, etc.

- Budget and sources of financing, including designation of any costs, which may be financed as eligible costs of resettlement with loan savings.
- l) Monitor and enforce implementation of the Committee's decisions, provide support to WAPDA, the provincial governments and people affected for the implementation of the recommendations.
- Prepare a plan for monitoring and evaluation of the key milestones, utilizing the PIME study where possible, including an independent monitoring and evaluation agency and review upon completion to ensure that all remaining issues have been addressed by 31 December 2002. Provide a budget for the monitoring and evaluation plan.
- m) Report to ADB upon the Committee's inception after 5 days, after two months of progress and upon completion.

VI. Resources and Timeframe

17. The Committee will work over a three-month period, with the Plan to be prepared within two months, with an additional 1 month designed to monitor and support implementation of the findings of the Committee.

Committee Composition

- One national legal specialist, who will be a retired federal judge, will serve on the Committee as its Chairperson. He/She will be selected by WAPDA in consultation with Provincial Governments subject to clearance of ADB.
- One international resettlement specialist is required with resettlement experience in Pakistan to sit on the Committee (3 months total, 2 months in preparation and one month in implementation support). He/she will be selected by ADB.
- Two representatives of communities affected (that may be nominated by the communities).

- One representatives each of WAPDA, Punjab Provincial Governments, NWFP Provincial Government, Nazim from Dera Ismail Khan and Dera Ghazi Khan District; who shall be authorized by the respective agencies to carry out and implement the powers and functions of the Committee.

Consultant Support to the Committee

18. Twelve person months of local consultant assistance are provided as may be deemed necessary by the Committee by the Committee. This will provide for at least 3 domestic consultants with local language skills and shared experience in compensation and resettlement planning/implementation, environmental assessments and community-based assessments (one will be female) (3 months each), who will be required to conduct participatory consultations, record assessment, survey work and report preparation and other tasks as assigned by the Committee.

Independent Monitoring and Evaluation

19. Cost of Independent Monitoring and Evaluation is not included in this Plan. If deemed necessary by the Committee, this would be the subject of a separate plan and budget prepared as part of a separate Action Plan.

Timeframe

20. The Committee will carry out its tasks in the following time frame:
 - Finalization of Committee detailed working method and plan with brief report to ADB for approval --- within 5 days from the date of its constitution;
 - Preparation of entitlement matrix --- within 15 days from date of its constitutions;
 - Preparation of population census and categories of loss --- within 21 days from date of its constitution;
 - Participative and consultative meetings with affected people; site visits etc. ongoing from day 1 onwards;
 - Decisions on compensations due and remedial measures ---- within 2 months from date of its constitution, with report to ADB;
 - Implementation of findings of Committee; certified as completed by the Committee, with report to ADB --- within 3 months from date of its constitution.

