

# ASSESSMENT OF THE IMPACTS OF ADB-FUNDED RAILWAY PROJECT ON THE RESETTLED COMMUNITY OF TRAPEANG CHANH, WITH FOCUS ON THE SITUATION LIVED BY PROJECT AFFECTED WOMEN

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## **EXECUTIVE SUMMARY**

The ADB financed large part of the Railway Project in Cambodia. The project has caused the resettlement of hundreds of families in project-sponsored resettlement sites while other thousands of people still living along the tracks continue fighting against involuntary resettlement. This case research focuses on the impacts of the resettlement process in Trapeang Anhchanh (TA), the project-sponsored site of Phnom Penh, and provides specific analysis of the situation lived by women.

The research shows that the implementation of ADB policies has been significantly limited since the project commencement with disastrous consequences on the livelihood of affected households. Rather than being adequately consulted, families have been persuaded to relocate without knowing the real risks associated to moving to the new location and with only few hundreds of dollars as compensation. Urban resident have been facing challenging living conditions in TA, especially in the first years of resettlement. Many families didn't have access to basic needs and the conditions of the facilities in TA were very poorly designed. Since resettlement, many affected households have been hit by high level of indebtedness due widespread loss of jobs which was not coped by an adequate income restoration program.

Following the submission of complaints with the ADB accountability mechanism and issuance of recommendations by the ADB Compliance Review Panel, a Remedial Action Plan was developed. However, the research found that recommendations made to bring the project back in compliance with ADB policies result far from being implemented. Once again, consultations to make affected households aware of their rights under the Remedial Action Plans have been limited and the scheme to provide additional compensation payments has not been conducted transparently. The few actions made to improve the conditions of the facilities at the resettlement site didn't bring the expected results and people are still cut-off from accessible health care services and the secondary school is still inexistent. The plan for restoring people income didn't touch upon the root causes of unemployment and the pilot project to help families to mitigate their debts seems not targeting the most indebted households.

The serious concerns regarding the flawed project implementation and Remedial Action Plan appear to have particularly impacted project affected women. Traditionally, Cambodian women plays a key role in their households because behind their responsibilities for taking care children and housework, they also manage household's resources to meet all family members needs. Before resettlement women also had jobs to support their family income while these responsibilities. The research maintains that the double role of ensuring family needs and income, was possible thanks to the urban network where women used to live, close for example to markets, schools and hospitals.

In contrast with their lives before displacement, the resettlement in TA brought many women to lose their previous jobs while the general impoverishment directly hit their capacity to ensure that members' needs are meet. Apart from security risks faced in TA, one of the consequence of

the economic shock is the feeling of guiltiness for not being able to send their children to school. On top of the stress for not being able to fulfil their traditional roles, serious concerns are also posed by the criminal activities that in TA have been increasing in the last few years. The displacement has made some women in TA particularly active in community advocacy given that the impoverishment caused by the resettlement process has particularly impacted women's livelihood.

### **1. Case work background**

The Greater Mekong Sub-region Rehabilitation of the Railway Project (the Project) was launched in 2006 to restore the country approximately 650 km of railway infrastructure. The Cambodian Railway runs from the border town of Poipet in the North to the coastal province of Sihanouk in the South, through the Cambodia capital, Phnom Penh. The Project's main displacement and resettlement impacts are determined in terms of the Corridor of Impact (COI), and the Project documentation divides between totally affected households (AHs) who had to be resettled, and partially AHs that upon partial loss of their assets could remain in their residences for 5 years period.

The initial Resettlement Plan was drafted by the Government of Cambodia and approved by ADB in October 2006. The plan outlines the relevant legal framework and entitlements. It also provides procedures for: consultation, participation and disclosure of information to AHs; land titles to AHs relocating to resettlement sites; a grievance redress mechanism to address complaints; income restoration measures for poor and vulnerable households; strategies on ethnicity, gender and vulnerability issues.

The ADB's Board approved a loan of \$42 million in December 2006, but the Project did not take effect until 2008 due to delays in fulfilling the conditions for the loan effectiveness. In December 2009, ADB approved a new loan of \$42 million to develop a freight facility. Other financiers of the Project include the Government of Australia, an OPEC Fund and the Government of Malaysia.

The Ministry of Public Works and Transport (MPWT) is the executing agency that, together with the purposely established Inter-Ministerial Resettlement Committee (IRC), prepared four Updated Resettlement Plan for each railway section. These updated Resettlement Plans are based on detailed technical design (DTD) and detailed measurement surveys (DMS), which are an inventory of losses of AHs. The surveys made by the IRC found that 1,448 out of the total 4,174 AHs had to be physically displaced.

In the period between 2010 and 2011, totally AHs whose house were built within the COI were relocated in 5 resettlement sites distributed along the rail tracks, from the northern site of Poipet to the southern city of Sihanoukville, passing through the sites of Pursat, Battambang and the capital city of Phnom Penh.

## 1.1 Rationale of the case work

The research presented in this report analyzes the impacts lived by the resettled community of Trapeang AnhChanh (TA), where household from the urban center of Phnom Penh were relocated in the second half of 2011.

The reasons for focusing the scope of the study to this resettled community are the limited available resources along with the time-bound period to implement field data collection in the view of the tight deadlines for deliverables agreed with the funder organization.

The objective of the research is to assess the impacts of the resettlement process on AHs after more than 5 years since the project commencement. The report evaluate the displacement of families in TA against relevant policies on involuntary resettlement and human right law, with specific considerations on the situation lived by the project-affected women.

The first part of the report provides references to relevant international human rights standards, ADB safeguard policies and Project policies that apply to the case study. It assesses the project implementation in TA in the first years of resettlement against the relevant policies, making use of testimonies from AHs and supported by NGO reports on the Railway case. The second part starts from the complaint filed to the ADB's Compliance Review Panel (CRP) and then evaluates the implementation of the Resettlement Action Plan which was developed to bring the project back into compliance with ADB's safeguard policies.

The case report is not an exhaustive analysis of the impacts caused by the ADB-funded Project because it take in consideration the implementation of the resettlement process only in one of the resettlement sites. Secondly, the analysis is mostly grounded on information collected from AHs and it does not take in consideration the views of developers and executing agencies regarding the project implementation in TA.

## 1.2 Methodology

The case report is based on two: 1) desk reviews of documents related to the Project, including news articles, NGO reports on the case, ADB's policies and project documentation released by different ADB's agencies; 2) surveys conducted with twenty project-affected households out of the 143 families that were relocated in TA,<sup>1</sup> consisting of ten men and ten women; 3) two focus group discussions, one conducted with a mix group of project-affected men and women and one conducted only with project-affected women; 4) Five interviews with project-affected key informants, consisting of one men and four women.

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<sup>1</sup> The Updated Resettlement Plan for the Phnom Penh Section states that out of 169 affected households who needed to relocate elsewhere, 161 were eligible to relocate to a sponsored resettlement site. ADB, *Updated Resettlement Plan for the Phnom Penh Section*, June 2010. However, a report published by SIT found that only 143 households moved after resettlement commenced in September 2013. Tyskerud, Y. and Lindstrom, N. *End of The Line: Impacts of Resettlement Under the Railways Project in Phnom Penh*, Sahmakum Teang Tnaut, 2013

The points 2) to 4) constitute the activities conducted during the field work for data collection, which was implemented by the research team of Equitable Cambodia over a period of 5 days in mid-January.

## **PART I: THE RESETTLEMENT PROCESS IN THE FIRST YEARS OF DISPLACEMENT**

### **2. Consultations before resettlement**

The rights to meaningful consultation and access to information for projects involving resettlement have been stipulated by the UN Committee on Economic, Social and Cultural Rights as due procedural protections that must apply to all project-affected people. The Committee affirms that “genuine consultations with those affected” and “adequate and reasonable notice [...] prior the scheduled date of eviction” are part of the essential aspects to matter such as involuntary resettlement.<sup>2</sup>

The ADB’s 1995 Policy on Involuntary Resettlement endorse these entitlements stating that “affected people should be fully informed and closely consulted on resettlement and compensation options.”<sup>3</sup> The ADB’s Safeguard Policy Statement (SPS) specifies that “Meaningful consultation is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.”<sup>4</sup>

The main forms of communication to share with affected households the relevant information about the resettlement process implied in the ADB-funded Railway project were the dissemination of Public Information Booklets (PIBs), visits by officials to measure their assets and public meetings.<sup>5</sup>

All the surveyed households reported that, if received, they did not remember the contents of the PIBs.<sup>6</sup> The technical language of the booklet along with the number of people living in TA

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<sup>2</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*, 20 May 1997, E/1998/22, para 15.

<sup>3</sup> ADB, *Involuntary Resettlement Policy* (1995), para 34(v).

<sup>4</sup> ADB, *Safeguard Policy Statement* (2009), Appendix 2: Safeguard Requirement 2: Involuntary Resettlement, para. 28

<sup>5</sup> Bugalski, N. and Medallo, J. "DERAILED: A Study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway", *Bridges Across Borders Cambodia*, 2012, p. 15

<sup>6</sup> A copy of the PIB can be found in ADB, *Resettlement Planning Document: Updated Resettlement Plan for Phnom Penh*, Annex 2 (2010)



that did not attend higher levels of education,<sup>7</sup> were key factors attesting that the PIBs distributed before resettlement were not a suitable source of information for most of the affected households.

Seven respondents stated that they knew for the first time about the Project when the IRC officials came to their house to measure their assets. Most of the respondents attended at least 1 public meetings organized by the IRC before resettlement. Asked whether or not authorities explained the potential impacts of the project, all of respondents reported that the meetings were exclusively focused on sharing the benefits of the project. For example, two households (U - AB) stated that people were encouraged to relocate because authorities informed that they would move in a nice environment, where each family would receive a plot of land, electricity and free use of pumping wells every ten households. A female respondent (L) confirmed that authorities promised to make their life better, with a health center at the site and job opportunities for everyone, given that the new residence were close to factories. Moreover, the 70% of the interviewees reported that they were not sure whether or not ADB's staff was present at the public meetings that they attended, implying that a full acknowledgement of the entitlements guaranteed under the ADB's safeguard policies had less chances to be shared with the AHs.

The collected information suggest that the meetings were not consultative or participatory in nature, given that the potential negative impacts were not explained and authorities only presented the resettlement plan as a win-win opportunity. One respondent (M) reported that when households asked questions about the project, authorities did not answer people's concerns in a satisfying way.

## **2.1 Gender Consultation Strategy**

The provision (iv) of the ADB's SPS on gender inclusive consultation reflects the ADB's 2003 Gender and Development Policy (GAD). The GAD constitutes the bank's transition from the previous Women in Development approach. The latter was based on implementing activities within ADB's regular operational program that emphasized women as a special target group.<sup>8</sup> Conversely, the new GAD approach considers gender issues in all aspects of ADB operations, accompanied by efforts to encourage women's participation in the decision-making process.<sup>9</sup> Thereby, the new policy stresses the bank's greater efforts to consult women's groups during strategy and programming missions.

The 2006 Resettlement Plan sets that the gender strategy for the project implementation should; (1) ensure women's participation in all consultation meetings, implementation and monitoring; (2) guarantee separate consultations with the women from the affected households and female-headed households to determine the level of impacts; (3) involve women in the choice and design of the resettlement site and closely consult their views on such sensitive issues such as toilets, sanitation, water and house plan and their needs during relocation and transition.<sup>10</sup> The

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<sup>7</sup> In 2012, a research found that the 75% of the respondents living in TA stated they were able to read and write, the 49% of them had attended schooling and 21% had only received primary schooling. *End of The Line*, op. cit., p. 18

<sup>8</sup> ADB, Gender and Development (2003), para 22.

<sup>9</sup> Ibid, para 78

<sup>10</sup> ADB, Resettlement Planning Document- ADB - TA: 6251 REG, October 2006

provisions break down the ADB's gender mainstream approach at project level, but none of these were integrated in the 2010 Updated Resettlement Plan (URP).<sup>11</sup>

At the ground level, interviewed households affirmed that the participation to community meetings was on a voluntary basis. Attention was not paid to invite women nor vulnerable groups such as female-headed households and widows. They also reported that during the house measurements, local authorities did not made specific questions to assess the situation of women. Moreover, none of the interviewed women participated to separate meetings organized only for them, which, by policy, was necessary to determinate the level of gender impacts. A widow (F) revealed not only that women never participated to the selection of the resettlement site but also that when she asked whether or not their new houses would be located close to her previous residence, authorities calmed her down saying “*don't worry, it's nearby!*”.

Based on the data, the significant flaws of the consultation process and information disclosure undermined people's meaningful understanding of the risks of the resettlement process. The lack of effective consultations with women groups in order to assess the levels of impacts and receive feedback for adequate mitigation strategies involves that women, especially female-headed households and widows, have suffered from increased marginalization and discrimination in household and community's decision-making.

### **3. Impacts in the first years of resettlement**

The ICCPR entitles any persons whose rights and freedoms are violated to have an effective remedy.<sup>12</sup> In the context of involuntary resettlement and forced evictions, the Committee on Economic, Social and Cultural Rights specifies that governments have the obligation to guarantee that people receive adequate compensation for any property, both personal and real, which is affected.<sup>13</sup> It adds that eviction should not result in individuals rendered vulnerable to the violations of other human rights and ensure that adequate alternative housing, resettlement or access to productive land is available.<sup>14</sup>

The 1995 ADB's policy on involuntary resettlement clarifies that “the absence of formal legal title to land by some affected groups should not be a bar to compensation”.<sup>15</sup> It entitles individuals who lose their land, means of livelihood, social support systems, or way of life to be compensated with appropriate land, housing infrastructure, and other compensation. The policy underlines that assistance has to be provided so that *people's economic and social future will generally be at least as favorable with the project as without it*.<sup>16</sup>

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<sup>11</sup> The URP includes a single paragraph on gender strategies. See, *Updated Resettlement Plan*, op. cit., para. 46

<sup>12</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, art. 2 (a)

<sup>13</sup> CESCR, *General Comment 7*, op. cit., para. 13

<sup>14</sup> *Ibid*, para. 16

<sup>15</sup> ADB, *Involuntary Resettlement Policy (1995)*, para 34(vi)

<sup>16</sup> *Ibid*, para 34 (iii). *Emphasis added*.

The ADB's SPS establishes that households with formal or recognized rights must be provided with full replacement costs for their land and structures, while those without formal or recognized legal claims must receive full replacement cost for loss of assets other than land. Full replacement cost has to be calculated based on fair market value, transaction cost, interest accrued, transitional and restorative costs, and any other applicable payments. The safeguard policy also sets that loss of income and livelihood sources must be compensated, and that business owners are entitled to full compensation during the transition period.<sup>17</sup>

Households resettled in TA were entitled to compensations for their structures and other assets, loss of income and related transition period given that they did not have recognized rights on their land before resettlement.

### **3.1 First monetary compensation**

In line with the ADB safeguard policies, the Project documentation sets the compensation and support entitlements for each category of households, structures and assets and include entitlements for loss of income.<sup>18</sup> The Updated Resettlement Plan establishes that compensation for structures had to be calculated at resettlement costs rather than market value, meaning that the amounts would theoretically have been sufficient to replace the loss of housing materials at 2011 prices.<sup>19</sup> Given that displaced people had no entitlement on their land, the categorization process of households' belongings must be accurate to ensure that their 'economic and social future will generally be at least as favorable with the project as without it'.

However, data suggests that omissions were significant not only during the consultation process but also throughout the measurements of people's assets and structures. The comparison between the information recorded on households' compensation contracts and an independent surveys implemented in urban communities before moving to TA, found several flaws, including that: (i) in the 90% of cases, structures classified by the IRC were considered of lower category than the quality recorded by the independent survey; (ii) local authorities calculated compensation only for one floor of multi-floor structures rather than categorizing structures per square meters of all floor area; (iii) the entitlement that each relocated family should receive a plot of land was not accounted in the measurement of multiple family households.<sup>20</sup>

The measurements made by the IRC resulted in mis-categorization of household's structures and assets which resulted in way too low compensations. For example, an interviewed household (F) revealed as follow:

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<sup>17</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. para. 7, 8, 10 and 12

<sup>18</sup> See, *Resettlement Plan* (2006), op. cit., Annex 1; *Updated Resettlement Plan* (2010), op. cit., pp. 6-10

<sup>19</sup> *End of The Line*, op. cit., p. 33

<sup>20</sup> Sahmakum Teang Tnaut, *Rehabilitation of Cambodia's railways: Comparison of field data: A report comparing data collected by the IRC and the independent NGO STT*, (2011), p. 6

“[the money I received] is not a fair compensation because when authorities came to take photos of my former residence, they took photos of the chicken coop instead of my house”.

The collected information from 20 surveys shows that the average of compensation received in the second half of 2011 was less than \$700 USD.

**Table 1: monetary compensation received by AHs in the second half of 2011<sup>21</sup>**

\$ Received	- 600\$	600\$ - 700\$	700\$ - 800\$	800\$ - 900\$	900\$ +
AHs	6	6	2	3	2

The respondents reported that they didn’t have a clear idea of how the compensation rates were calculated by the IRC. Indeed, they didn’t receive detailed explanations nor they exactly knew their entitlements under the project policy to promptly negotiate better compensation amounts.<sup>22</sup>

The average of provided compensations includes the payment of 150\$ that some families received because headed by a vulnerable person, namely a widow, female, elderly, indigenous people or a disable person.<sup>23</sup> The collected information however reveals that not all the families headed by a vulnerable person received the 150\$. A surveyed woman (R) reported that even if her husband is disable since 1985, at the time she did not receive any special assistance. A man (AB) informed that his disability on the left arm started long before 2011, but when he tried to claim the entitlement the IRC rejected his claim on the ground that to be entitled for his disability he had to have a chopped arm.

Another concerning reason for which households received such low compensations is that the formula used for calculations did not reflect the actual resettlement costs. The compensation rates indeed were calculated on costs in 2006, when the original Resettlement plan was prepared. However, people received compensation just before being relocated in TA and evidence show that 2011 prices in both materials and labor costs increased 127% compared to resettlement costs in 2006.<sup>24</sup>

For many households the result of the downsized compensation was to construct inadequate shelters at the resettlement site and so contravening not only the right to adequate housing

<sup>21</sup> The table provides data of 19 out of the 20 individual surveys implemented for this research. One respondent was not able to inform about the compensation his family received at the time.

<sup>22</sup> The field researches conducted by BABC’ team on the Railway case between October 2010 and September 2011 show that documents containing information about household’s entitlements were yellow “post-it note” with handwritten categories and corresponding amounts. BABC, *Derailed*, op. cit., p. 16

<sup>23</sup> The project documentation set that vulnerable group must receive special assistance. *Updated Resettlement Plan*, op. cit., p. 10

<sup>24</sup> BABC, *Derailed*, op. cit., pp. 26-27

under international human rights law,<sup>25</sup> but also the primary objective of the ADB safeguard policy setting that resettlement has to “improve the standards of living of the displaced poor”.<sup>26</sup>

### **3.2 Conditions at the TA resettlement site after resettlement**

Under international human rights law, state are obliged to recognize the right of everyone to an adequate standard of living for himself and his family, including the continuous improvement of living conditions.<sup>27</sup> In the context of involuntary resettlement, states have to guarantee that evictions do not result in individual rendered vulnerable to the violation of other human rights and “take all appropriate measures, to the maximum resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available”.<sup>28</sup>

The 1995 ADB policy establishes that elements of involuntary resettlement include provisions of relocation sites with appropriate facilities' and services, and assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.<sup>29</sup> In addition, it sets that appropriate land, housing, infrastructure, and other compensation, comparable to the without project situation, should be provided to the adversely affected population.<sup>30</sup> The 2009 safeguard policy specifies that displaced people are entitled to better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services, along with transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities.<sup>31</sup>

Under the Project documentation, resettlement sites should be located between three and five kilometers from the current locations, to minimize distance from previous residences and so enable continuation of current livelihood activities. If proximate relocation sites cannot be found, the policy states that careful consideration will be given to how affected people would be assisted to restore their income level.<sup>32</sup>

#### **3.2.1 Location of the TA resettlement site**

One of the most concerning problem faced by people moved from the urban area of Phnom Penh in TA is that the resettlement site is located between 20 and 25 km away from their previous residences.

None of the interviewed households reported that they participated to the selection of the location of the new residences. This implies that the SPS's provision on “alternative relocation

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<sup>25</sup> The Committee on Economic, Social and Cultural Rights defined the right to adequate housing in UN CESCR, *General Comment 4: The Right to Adequate Housing*, UN Doc. E/1992/23 (1991), para. 8

<sup>26</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. para. 3

<sup>27</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, art. 11(1)

<sup>28</sup> CESCR, *General Comment 7*, op. cit., para. 16

<sup>29</sup> ADB, *Involuntary Resettlement Policy* (1995), para 34(vi)

<sup>30</sup> *Ibid*, para 34(iii)

<sup>31</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. para. 11

<sup>32</sup> See, *Resettlement Plan* (2006), op. cit., p. 59

sites considered; community consultation conducted; and justification for selected sites including details about location, environmental assessment of sites, and development needs”<sup>33</sup> was not fully fulfilled.

The selection of the faraway TA site presumably happened “under exceptional circumstances” reasoned by the fact that “no large land (2.5 ha) was available around the affected area and that price of land in Phnom Penh urban area was too high (150 USD/m<sup>2</sup>) around the affected areas and not affordable. Therefore, the RS has to be located in the outskirts of the City”. A peripheral site was therefore selected regardless the fact that displaced people lived faraway. This put at considerable risk household’s ability to continue their livelihood activities, unless attention to restore their income generating activities was carefully implemented.

### 3.2.2 Legal Security of Tenure

The Committee on Economic, Social and Cultural Rights sets that one of the fundamental components of the right to adequate housing is a degree of security of tenure that ensures legal protection against forced eviction and other threats<sup>34</sup>. The ADB safeguard policy states that in case of displaced persons, affected households will be provided with secured tenure,<sup>35</sup> and the Project documentation conforms to this point<sup>36</sup>.

Urban people that used to live along the railway tracks didn’t have formalized land titles. The guarantee of receiving security of tenure during a phase of increased speculation in the housing market, was one of the most advantageous aspects under the Project policies perceived by the affected households. For example, a male respondent (M) confessed:

*“My family faced many problems when we lived in the previous house in the city center. My residence was located on the border area between two administrative centers of the city, causing me a lot of troubles when I tried to obtain personal documentation from local authorities. Officials from one administration used to send me to the other and vice versa, saying that was not their responsibility to process my requests because I belonged to the other center”.*

Similarly to many other displaced families in TA, the ownership of the plot of land provides safety and security over the future.

Despite the allocation of land is one of the main benefits arising from the resettlement process, the research found that none of the interviewed households received land titles yet. Instead, people received what they called “the yellow paper”, a document recognizing the family’s possession of the plot rather than ownership, a form of soft title that does not guarantee property rights.

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<sup>33</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. p. 52

<sup>34</sup> CESCR, *General Comment 4*, op. cit., para. 8(a)

<sup>35</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. p. 52

<sup>36</sup> ADB, *Updated Resettlement Plan*, op. cit., p. 2

Questioned on whether or not instructions to obtain security of land tenure had been provided, only the 35% of the interviewed households reported that they were told they would receive full ownership rights 5 years after resettlement. The remaining households reported that they did not know what the exact plan to receive the land titles was. A key informant (H) informed that the issuance of ownership rights was postponed beyond the 5 years rule and that a new deadline for title issuance was planned in February 2017.<sup>37</sup>

Despite the encouraging plan, for families who moved in TA between September and November 2011 the 5 years rule already passed at time this research was conducted. Moreover, none of the interviewed households reported having received written instructions about the issuance of land titles. Thereby, data suggests that the Project is not in compliance with ADB's safeguard policy establishing that the resettlement plan has to "describe [...] the legal arrangements to regularize tenure and transfer titles to resettled persons".<sup>38</sup>

The promises of allocating land to affected households was one of the main benefits expected by the affected households,<sup>39</sup> although they didn't know the location of the resettlement site before moving in TA. Displaced families therefore were attracted by this benefit without the possibility to properly assess pro and cons of the displacement in a remote location. It seems that the only means to assess the viability of the resettlement plan were the vague explanations provided by local authorities, who presented TA as convenient place where everyone had access to water, electricity, jobs, schools and health care.

### 3.2.3 Conditions of the facilities in TA after resettlement

The Committee on Economic, Social and Cultural Rights establishes that an adequate house must contain sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage refuse disposal, site drainage and emergency services.<sup>40</sup> The ADB safeguard policy maintains that in the context of involuntary resettlement, displaced people should be provided with "civic infrastructure and community services, along with transitional support and development assistance"<sup>41</sup>. The project documentation sets that the sites would be fully developed with all basic infrastructures, including access road, water supply, electricity, drainage and toilets, *before* the affected people have to move onto them.<sup>42</sup>

Once again, the data show that the implementation of the resettlement process did not comply with the relevant Policy provisions. Rather than being fully developed before people were forced to move, the condition of the facilities were significantly problematic and the reassurances made to persuade people to accept resettle were inconsistent.

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<sup>37</sup> EC's research team has the plan to follow-up with project affected communities on whether the new deadline for issuing titles that guarantee effective security of tenure has been fulfilled or not.

<sup>38</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. p. 53

<sup>39</sup> STT, *End of the Line*, op. cit., p. 24

<sup>40</sup> CESCR, *General Comment 4*, op. cit., para. 8(b)

<sup>41</sup> See, note 31

<sup>42</sup> ADB, *Resettlement Plan* (2006), op. cit., p. 54. *Emphasis* added.

The 55% percent of the surveyed households reported that one of the most concerning issues they faced when they first moved in TA was the absence of water supply and 50% of them reported that electricity was not provided. In order to guarantee water for cooking, an interviewed woman (R) said that she had to use the water from the paddy fields for an entire month, while another men (AB) informed that he had to wait 3 months before water and electricity were connected to his house. Despite the announced free connection of water and electricity services, a woman (Z) woman reported that she had to wait 2 years before her family was able to afford the 50\$ necessary to connect her house to these services.

Another commonly reported problem faced by households during the first years were the conditions of the access road to the resettlement site which used to be submerged by flooding for extended periods. Flooding also occurred inside the resettlement site due to the poorly designed drainage system and the 70% of the interviewed households also reported the low compensation received allowed them to build only precarious shelters.

Interviewees reported that the isolation of the resettlement site made very difficult to find nearby transport services such as the commonly used motodops. In addition, when the research of a vehicle was successful, the cost of transportation to access basic services was way more expensive than what people could afford. Indeed, although the project documentation establishes that the resettlement site had to be close to various services, including markets and health care services,<sup>43</sup> the 75% of the households informed that the lack of financial resources combined with the non-walking distance of the closer market made their access to adequate food particularly challenging.

By far, the most pressuring livelihood need encroached by the resettlement process as reported by the 90% of the surveyed households was the access to health care services. Several surveyed people informed that when medical assistance was needed, they often found the nearby health care center closed or, when open, no professional staff worked in the center. Therefore, they had to travel to hospitals and clinics close to the city center and pay expensive costs of transportation. For example, a man (AB) who suffers from a blood pressure disease and need regular medical checks, revealed that the travel cost to the nearby hospital was about 5\$ in day time and 15\$ at night.

The 60% of the households also reported that the resettlement process undermined children's right to education, adding that the lack of nearby adequate infrastructures forced many children to drop from school.

The struggling situation due the provided facilities and services when households relocated in TA could be summarized by the statement of project-affected woman (F) as follows:

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<sup>43</sup> ADB, *Updated Resettlement Plan*, op. cit., para. 36



*“I didn’t know where hospital, school, market were located and then I found out that the hospital had no doctor and equipment, the school had no teachers. I could not even feel confident going to the toilets because they smell so bad”.*

The collected data show that the right to adequate housing, which international law set “be in a location which allows access to employment options, health-care services, schools, childcare centers and other social facilities”,<sup>44</sup> was clearly breached when urban residents were forced to move to TA. Poor households were entitled to the improvement of their standards of living, but instead they found themselves significantly worse off by the resettlement process.

### **3.2.4 Livelihood and income**

The 1995 ADB policy on involuntary resettlement establishes that individuals “should be assisted so that their economic and social future will generally be at least as favorable with the project as without it”<sup>45</sup> and that “Resettlers should be provided sufficient resources and opportunities to reestablish their homes and livelihood as soon as possible”<sup>46</sup>. The safeguard policy adds that displaced persons should be provided “assistance such as credit facilities, training, and employment opportunities so that they can improve, or at least restore, their income-earning capacity, production levels, and standards of living to pre displacement levels”.<sup>47</sup> It specifies that affected people should be guaranteed that “a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help displaced persons improve, or at least restore, their incomes and livelihoods”.<sup>48</sup>

The research shows that after more than 5 years since resettlement, affected households accused a significant drop in their income opportunities with significant repercussion on people’s livelihood. The 95% percent of the interviewed households reported that at least one member of their family lost their job after resettlement. The only respondent (I) who said that he was able to maintain his own business however denounced a sensible decrease of income due to the loss of clients.

When asked the reason why families were hit by high levels of unemployment, the answer provided by most of the affected households was the unbearable distance from the previous income-generating activities. Some households indeed informed that paying 5\$ a day to go to their previous work place was not profitable anymore (for example, construction workers or motor drivers are able to earn less than 5\$ a day).

In addition to the remote location of the resettlement site, the loss of job was exacerbated by the significant flows in the project-sponsored income restoration program (IRP). The Updated Resettlement Plan sets the components of the IRP, including subsistence allowance during the

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<sup>44</sup> CESCR, *General Comment 4*, op. cit., para. 8 (f)

<sup>45</sup> ADB, *Involuntary Resettlement Policy (1995)*, para 34(iii)

<sup>46</sup> *Ibid*, para. (iv)

<sup>47</sup> ADB, SPS (2009), *Involuntary Resettlement*, op. cit. para. 12

<sup>48</sup> *Ibid*, para. 14

transition period, opportunities for temporary employment during construction, and alternative or supplemental livelihood activities, namely skills training and credit support, which should be designed together with affected households.<sup>49</sup> Given the far distance from the original residences, the policy states that “an important income restoration program will have to be implemented *before* the relocation of AHs.”<sup>50</sup>

The policy originally allocated a budget of \$300 per person in the form of skill training,<sup>51</sup> which studies demonstrated to be way too low to restore people’s income.<sup>52</sup> Yet, rather than being implemented before relocation, households confirmed that the IRP started months later they were resettled in TA, when significant levels of impoverishment were already impacting people’s livelihood. In order to fill the budget constrain, AusAID announced an installment of 1 million USD to create an expanded income restoration program (EIRP) to broaden the existing IRP.

However, Project’s policies do not envision an investigation to identify the dynamics of the local labor marker in the surrounding areas, nor a committed engagement with project-affected households to design activities that responded to market-focused strategies and people’s needs.<sup>53</sup> As a result, among the promoted activities were skills training to raise chicken, grow mushrooms or learn mechanic skills to repair vehicles.

The 45% of the respondents reported that they attended one of the promoted training activities, but only 2 of them affirmed that the training on raising chicken was able to generate a sustainable income. Those who were not able to establish income opportunities reported that the main problem of the IRP was that at the end of the training no capital support nor assistance to develop a suitable business plan were provided to put in practice the learned skills.

Considering other types of trainings, a key informant (E) explained that the program covered the transportation costs and paid shop owners for the time they provided learning-by-doing skills to the participants. In her view, the failure of these training relied on the fact that the program allocated budget only for a couple of months and that at the end of the subsidized period, participants had to personally pay the shop owner to continue the learning process. In line with this explanation, two households (X – AA) sent their respective son and daughter to learn motor repairing and hair dressing skills. However, trainings were allowed only 1 hour a day and the courses were way too short to learn the needed professional skills.

### **3.2.5 Indebtedness**

The resettlement plan that affected the community of TA was flawed for several concerning reasons.

The data suggests that the under categorization of property losses and lack of inflation-indexed, the loss of jobs and reduced income, the absence of promised services and infrastructures, the

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<sup>49</sup> ADB, *Updated Resettlement Plan, Annex 6: Term of Reference for IRP*, p. 33

<sup>50</sup> Ibid, para. 44. *Emphasis* added.

<sup>51</sup> Ibid, para. 48

<sup>52</sup> “The experience shows that multi-year commitment is required to generate or identify new livelihood opportunities, train people to take advantage of these opportunities and support initiatives to put new skills into practice” BABC, *Derailed*, op. cit., 51

<sup>53</sup> STT, *End of the Line*, op. cit., p. 26

increased costs of transportation to access basic services, and the lack of adequate income restoration activities are all cumulative factors that led affected household to fall in the struggling spiral of indebtedness.

All the interviewed households reported that they had to borrow large amount of money in order to support their livelihood in the period after resettlement. Most of them resorted to informal lenders to receive sums needed to get by, because banks or microcredit organization did not accept the offered collaterals, which researches found to consist of the land registration receipts.<sup>54</sup>

Although most of interviewed people acknowledged the risk of taking on unaffordable debts (in some cases interest rates were up to 7% per month), they unanimously claimed that they had no choice other than asking for loans. People in TA became indebted in order to meet basic needs, support their livelihood, afford medical treatments and guarantee the continuation of the construction works for the new houses.

The research finds that the poorly designed resettlement plan determined the significant impoverishment of affected households rather than ensuring an 'economic and social future at least as favorable with the project as without it'. The data also suggests that the preoccupation to repay unaffordable debts brought community members to divert funds from essential expenditures such as food, education and business investments. The spiral of indebtedness threatened families to lose their plot of lands, putting at serious risk the only benefit but still pending benefit promised by the project.

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<sup>54</sup> A research conducted in 2012 shows that the 73% of households in TA borrowed money from informal lenders. STT, *End of the Line*, op. cit., p. 43, figure 14

## Part II: The implementation of the Remedial Action Plan

### 4. Complaints to the ADB Accountability Mechanisms

The disaster caused by the resettlement process of the ADB funded Railway Project has attracted the concerned attention of different civil society organizations and considerable media coverage.<sup>55</sup> Equitable Cambodia has been working with affected households since the project commencement and supported community-led advocacy to engage with national agencies and raise concerns with several ADB offices.<sup>56</sup> Following the repeated failures to resolve the grievances through these forms of communication, affected households filed a first complaint to the ADB's Accountability Mechanism of the Office of the Special Project Facilitator (OSPF) in November 2011.

Despite the eligibility of the complaint, complainants were not satisfied by the developed remedial procedures. The OSPF's framework indeed limited its problem-solving strategy only to those individuals who signed the complaint letter, and ignored the plight of other affected household who were not aware of their right to complain.<sup>57</sup> Following this first attempt, a second complaint was submitted to the Compliance Review Panel (CRP) in August 2012 to start an investigation on whether or not the Project was in compliance with ADB policies and operational

#### Timeline of the complaints to the ADB:

**Since May 2010:** written communication, meetings, submission of evidence and report with ADB Cambodia Resident Mission, relevant ADB Operations departments, and the Senior Management of ADB – No significant actions were done to address the concerns

**21 November 2011:** The complaint to the OSPF is submitted

**11 January 2012:** The OSPF finds the complaint eligible – None of the complainants' major suggestions for reforming the consultation process were incorporated into the final course of action

**28 August 2012:** The complaint to the CRP is submitted

**18 September 2012:** The CRP finds the complaint eligible

**9 -24 October 2012:** The ADB Board authorized the review and set the terms of reference for the investigation. The CRP starts investigations soon after, including a field visit between from 19 to 28 October 2013.

**14 January 2014:** The CRP release its final report that confirms the alleged human rights violations, puts direct responsibilities on ADB management and issues recommendations to bring the project back in compliance with ADB policies.

**31 January 2014:** The ADB Board approves the recommendations issued by the CRP and makes suggestion for sudden resolution of affected households' struggles

**April 2014:** The ADB Management issues the Remedial Action Plan which plans to bring the project into compliance with ADB policies by the 4<sup>th</sup> quarter of 2015

<sup>55</sup> A list of news articles and reports on the case is available at: <http://www.inclusivedevelopment.net/campaign/cambodia-adb-and-australia-financed-railway-project/>

<sup>56</sup> A summary of the actions undertaken to seek redress through national complaint mechanisms and communication with the ADB Management can be found in D. Pred, *Request for Compliance Review on GMS: CAM: Rehabilitation of the Railway of Cambodia Project*, IDI, (28 August 2012), para. 74-79

<sup>57</sup> Ibid, para. 85

procedures. The ADB's Board authorized the review in October 2012, and the CRP started an investigation that last over 13 months.<sup>58</sup>

#### 4.1 Findings and Recommendations by the Compliance Review Panel

The final report released by the CRP in January 2014 confirmed most of the alleged human rights violations resulting from the resettlement process. Significantly, the CRP concluded that problems were caused by the failure to implement ADB operation policies and procedure, and attributed responsibilities for actions and omissions to ADB.<sup>59</sup>

In order to bring the project into compliance with the ADB safeguard policies and restore the suffering of the affected households to at least their pre-project situation, the CRP issued key recommendations as follows:

- i. a proposal for the establishment of a compensation deficit payment scheme for onetime additional compensation deficit payments to AHs;
- ii. improved facilities on resettlement sites;
- iii. improve the functioning of the grievance redress mechanism;
- iv. develop an appropriate capacity-building program on resettlement for IRC;
- v. a scheme to help highly indebted families to repay their accumulated debts;
- vi. a sustained implementation of the EIRP.<sup>60</sup>

The ADB's Board approved the recommendations in an almost unaltered way.<sup>61</sup> Considering the recommendations on payments of compensation deficits, the Board specified that the scheme "must be established and the compensation paid to AHs quickly (within 12-18 months of the approval [...]) and efficiently", and that it must "mitigate property, transitional, and income losses suffered by AHs so that they are not made worse off as a consequence of the resettlement".<sup>62</sup> Significantly, the ADB Board endorsed the fifth recommendation on establishing a debt workout scheme with highly subsidized interest rate and long maturity to be disbursed against people' repayment obligations rather to indebted households.<sup>63</sup>

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<sup>58</sup> For the methodology of the CRP's investigation, See, ADB, Compliance Review Panel Request No. 2012/2 on the Greater Mekong Subregion: Rehabilitation of the Railway Project in the Kingdom of Cambodia: Final Report, (14 January 2014), para. 38

<sup>59</sup> Ibid

<sup>60</sup> Ibid, ix.

<sup>61</sup> A seventh recommendation made by the CRP regarding the adoption of safeguards measures for the development of the freight facility in Samrong Estate, was dropped by the ADB's Board following the request of the Cambodian government to remove the development of the facility from the project scope. See, ADB, *Decision of the Board of Directors of the Asian Development Bank*, (31 January 2014), p. 5, available at:

[http://compliance.adb.org/dir0035p.nsf/attachments/Board%20Decision%20on%20CRP%20Final%20Report%20\(R1-14\)\\_31%20January%202014\\_7Feb.pdf/\\$FILE/Board%20Decision%20on%20CRP%20Final%20Report%20\(R1-14\)\\_31%20January%202014\\_7Feb.pdf](http://compliance.adb.org/dir0035p.nsf/attachments/Board%20Decision%20on%20CRP%20Final%20Report%20(R1-14)_31%20January%202014_7Feb.pdf/$FILE/Board%20Decision%20on%20CRP%20Final%20Report%20(R1-14)_31%20January%202014_7Feb.pdf)

<sup>62</sup> Ibid, para 268 & 271

<sup>63</sup> Ibid, para 275. Stephen P. Groff, Vice President (Operations 2) is responsible for the full range of ADB's operation in East Asia, Southeast Asia, and the Pacific and took office in October 2011. See, <https://www.adb.org/about/management/stephen-p-groff>

## **4.2 Establishment of the Remedial Action Plan (RAP)**

Following the Board’s decision, the ADB’s Management released the Remedial Action Plan (RAP) as agreed with the Government of Cambodia in April 2014. The RAP as approved by the ADB’s Management establishes an Oversight Committee headed by the Vice President (Operations 2) to provide advice and guidance in the formulation and implementation of the remedial actions which are intended to bring the project into compliance.<sup>64</sup>

The following parts analyzes the implementation of the RAP in TA and assess whether or not the framework was able to bring the project into compliance with ADB safeguard policies after more than two years and a half since the project commencement. The research assumes that the approval of the RAP puts increased responsibilities on the role of ADB to ensure that the harms suffered by the displaced households are fully and fairly remedied. This assumption is based on the facts that:

- a) The CRP’s findings give a clear standpoint on the project failures claiming that most of the actions and omission had to be attributed to ADB;
- b) The establishment of an Oversight Committee headed by a high rank figure within ADB’ organizational structure bestows ADB on a strong monitoring role to ensure the effective implementation of the RAP so that it results in a fair remedy process.

The views expressed in the analysis rely on the fact that, by policy, the RAP was meant to bring the Project into compliance by the end of 2015.<sup>65</sup> The observation on the policy’s timeline takes in consideration the fact that affected households already went through over three years and a half period of serious impoverishment when the RAP was established and endorse the statement made by the CRP that “there is a need for an urgent, firm, and clear message to ADB Management that resettlement, environmental, and public disclosure and consultation issues should be taken seriously and accorded the priority consideration they deserve”.<sup>66</sup>

## **5. Payment of compensation deficits**

### **5.1 Approach of the RAP for payments of compensation deficits**

The RAP approved by the ADB Management establishes an audit process to review the originally mis-categorized measurement of household’s asset and property losses, adjust the inflation rates and accordingly pay off the compensation deficits. The timeline to complete this remedial action set by the second quarter of 2015. The implementation of this remedial action goes through several procedural steps, including the review of the measurements and original compensation contracts; information dissemination and consultation with AHs; amendment drafts of the

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<sup>64</sup> ADB, Management’s Action Plan to Implement the Board Decision on the Recommendation of the CRP Final Report, (April 2014), p. 1, available at: <https://www.adb.org/sites/default/files/project-document/80596/37269-013-action-plan.pdf>

<sup>65</sup> Ibid, table of the Remedial Actions, p. 6

<sup>66</sup> CRP, *Final Report*, op. cit., para. 260

contracts; time for the households to provide comments on the amended contracts; explanation of the appeal procedures; and final payments.<sup>67</sup>

This paper argues that from a procedural perspective, the scheme agreed by ADB' management presents at least 3 limitations:

- 1) Rather than opting for a “onetime additional compensation deficit payments” in order to provide compensation “quickly and efficiently” as approved by the Board, the ADB's Management agreed for keeping the impoverished households waiting a long audit process based on desk reviews.
- 2) The Management's Plan sets that the agency responsible for undertaking the audit process is the IRC, namely the same agency that was responsible for compensation deficits in the first place.
- 3) The scheme consists in desk-based reviews that compare the compensation contracts with the data contained in the original measurements. This approach underestimates the inaccuracies occurred throughout the measurements themselves.

Nevertheless, for each of the six steps that forms the scheme, the policy sets specific supervisory roles for ADB. For example, it states that ADB “will actively engage with the Government in developing information dissemination documents and conducting consultation with AHs” so that that AHs would become aware of:

- a) Timelines of the house-to-house consultation;
- b) Methodology for computation of compensation deficits;
- c) Appeal Mechanism under the improved Grievance Redress Mechanism regarding the payments of compensation deficits.<sup>68</sup>

The three objectives constitute the core section of the framework because households should receive information of their entitlement under the RAP policy. Moreover, ADB is called for direct supervision of the operations made by the implementing agency to guarantee that affected households acknowledge their entitlements under the remedial policy.

## **5.2 Failure to monitor adequate information sharing**

Collected data shows that most of the affected households in TA do not know the RAP. The 40% of the surveyed individuals reported that they haven't ever heard about the framework. The majority of the remaining households reported that their awareness relied on unexpected circumstances, such as organized protests where local official explained some of the remedial actions they were planning to implement. Only the 15% percent of the surveyed individuals reported that they knew the RAP.

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<sup>67</sup> ADB, *Management's Action Plan to Implement the Board Decision*, op. cit., p. 3-4

<sup>68</sup> ADB, *Management's Action Plan to Implement the Board Decision*, op. cit., p. 3

Evidence also shows that affected households had a limited knowledge of their rights under the remedial policy. Respondents appeared to have little knowledge of the compensation entitlements which constituted the basis for additional payments, especially the computation for property losses due to mis-categorization, inflation-indexed adjustments, transition allowances and income losses.<sup>69</sup>

The lack of knowledge seems to be reasoned by the fact that house-to-house consultations were not systematically implemented. By policy, information dissemination should have happened between October and December 2014 but the 75% percent of the surveyed households reported that nobody came to their house to review the original compensation contract, let alone to explain the methodology to calculate the compensation deficits.

It seems that the ADB Management did not comply with the responsibility to monitor and ensure that consultation with affected households occurred in a meaningful way.

### 5.3 Actual implementation of the additional payments

Interestingly, all the interviewed households, including those unaware of the plan, reported that the most significant actions associated with the RAP was a meeting in the third quarter of 2016 where additional compensation were distributed.

The collected data also shows that the payment of additional compensation did not occur at once. Contrary to what the CRP recommended and the ADB Board approved, payments occurred step by step through successive compensation waves. The 50% of the respondents reported having received additional compensation three times, while the remaining 50% is equally split between those who received additional compensation two and four times. Rather than opting for a quick mitigation of the spiral of impoverishment, the audit process went way over the deadline established to accomplish this remedial action.

From a substantial point of views, data reveal that the total amount of the additional payments to make up for the original downsized compensation is between 455\$ and 2749\$.

**Table 2: total of additional compensation received by AHs throughout the 2 to 4 waves of payments<sup>70</sup>**

Total add. compensation	<500\$	500-1000\$	1000-1500\$	1500-2000\$	2000-2500\$	>2500\$
N. of AHs	2	4	3	3	3	2

<sup>69</sup> ADB, *Management's Action Plan to Implement the Board Decision*, op. cit., p. 3-4. The policy didn't set specific actions regarding the computation and payment of compensation for income losses because the issue was at time considered 'under discussion'. However, respondents reported that compensation for income losses were provided and that some families have challenged the fairness of this offered amount of compensation (see below, Access to Remedy)

<sup>70</sup> The table provides data of 17 out of the 20 individual surveys implemented for this research. 3 respondents were not able to provide exact information about the amount of money that their family received as additional compensation.



The last CRP's annual report reveals an unjustified flaw of the inflation-indexed rates applied to calculate the additional compensation. The ADB management agreed that compensation had to be adjusted for inflation for the period between 2006 and time of resettlement. So far, the inflation for the period between resettlement and the actual payment of additional compensation was not calculated.<sup>71</sup> Moreover, local authorities proposed the application of a 34.5% inflation rate specifically for the resettled community of Phnom Penh but ADB pushed to lower it to 9.72%.<sup>72</sup>

Thereby, not only inflation adjustments for the period between resettlement and the actual payment of additional compensation was not calculated, but it seems that ADB also played an inexcusable role in decreasing the rates for the very high inflation period that occurred in Phnom Penh between 2006 and actual resettlement.

The process for additional compensation did not comply with the recommendation of quick payments as approved by the ADB's Board. The RAP agreed for a long-lasting review process and evidences show that payments were provided even after the term set by the policy and through different waves of payments. The delayed and fragmented payments seem to have unreasonably prolonged the waiting of affected households, rather than providing a responsive mitigation measure to avoid further impoverishment. Furthermore, little efforts have been made to ensure that affected households are aware of the remedial actions that they are entitled to under the RAP. Finally, responsibilities over the scheme flaws appear to be directly attributable to the opportunistic supervision of ADB. Rather than ensuring an effective information sharing strategy, ADB played a key role in decreasing the applicable inflation rates.

## **6. Expanded Income Restoration Program (EIRP)**

The EIRP was established through an installment made by AusAid with the purpose of filling the gaps of the original program. The EIRP had to provide enough funds for the creation and capacity building of self-help groups (SHGs), some funds for investments along with training support. However, during the first years of resettlement also the expanded programs did not address the significant problems faced by affected household in TA.

The CRP's final report recommended follow-up actions, stating that "For the program to be more effective, funds provided to SHGs should be increased and the maturities for loans should be lengthened. For the program to be sustainable, capacity building and financial support should be provided over an extended period, to allow SHGs to develop into sustainable institutions and eventually into savings groups, and SHG systems and financial management processes to mature".<sup>73</sup> As seen in Part I, the low compensation, the isolated location of the resettlement site and the badly designed vocational trainings contributed to the impoverishment. For these

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<sup>71</sup> ADB, Compliance Review Panel: Second Annual Monitoring Report to the Board of Directors on the Implementation of Remedial Actions for the Greater Mekong Subregion: Rehabilitation of the Railway Project in the Kingdom of Cambodia, para. 13(iii)

<sup>72</sup> Ibid, para. 13(iv)

<sup>73</sup> CRP, *Final Report*, op. cit., para. 276

reasons, the CRP also underlined that “support under the EIRP to resettled households should be continued for 5 more years”.<sup>74</sup>

Despite the strong recommendation, the RAP dedicates only few action points to make the program effective, focusing mainly on building the capacities of SHGs. Moreover, rather than establishing sufficient injection of funds over a long-term period in order to make the program sustainable, the RAP envisioned the completion of the program by the 4<sup>th</sup> quarter of 2015.<sup>75</sup>

Respondents informed that SHGs are formed by groups of community members and that few persons within the groups are in charge of managing the funds. Families that are part of the SHGs are requested to contribute to the common saving with 1.000 Riel (0.25\$) per week. After 1 year of contributions households are allowed to borrow up to 450-500\$ for the purpose of establishing and running a business.

The findings show that after more than 5 years from its establishment, the results of the EIRP are substantially split. About half of the interviewed people considered it as total failure and about one third of the respondents informed that they benefitted from its implementation. Three surveyed individuals (15% - Q, U, AA) were satisfied with the functioning of the SHGs because the saving group they are part of provided loans without interests. Other 3 households (15% - O, K, I) reported that they were generally satisfied with the broader program, because the trainings of SHG were able to build useful skills.

However, in contrast with the views expressed by some households, the 45% of the interviewed people reported that they didn't see any tangible benefit from the participation to activities promoted under the EIRP.<sup>76</sup> Among these, three individuals (15% - J, N, P) reported that the SHGs they were part of failed because the leaders of the common funds did not manage it in a transparent way. Two of them added that after having contributed to the SHGs for few months, the leaders dissolved the saving group and kept for themselves the common contributions.

Based on the data, it is assumed that the efficiency of SHGs to support the restoration of households' livelihood in TA varies depending the individual capacities of the members of specific saving groups. Nevertheless, the findings present a scenario where at least half of the established saving groups were not able to deliver the expected results.

Behind the analyzed split situation, the research team expresses significant concerns over a remedial action that is exclusively focused on supporting SHGs while skills training were not delivered anymore. Following the widespread losses of income in TA, it is assumed that well-designed skills trainings, which take in consideration the job market opportunities in the nearby area, upfront analysis of the demands expressed by affected households, and follow-up capital support to apply the acquired skills in employment or business creation, should be a fundamental

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<sup>74</sup> Ibid.

<sup>75</sup> ADB, *Management's Action Plan to Implement the Board Decision*, op. cit., p. 6.

<sup>76</sup> Among the remaining interviewed households, 4 respondents (20% R, V, W, M) did not provide any relevant comment about the functioning of the EIRP, while another household (5% Y) reported that she was not fully satisfied with the program

component of the EIRP. Indeed, the primary objective of the EIRP was to empower resettled household to earn a regular income rather than managing savings from occasional jobs.

Moreover, although the time limit for the supported activities was extended to the end of 2016,<sup>77</sup> it is expected that without continuous allocation of resources for both trainings and saving groups over a sufficient length of time (which the CRP suggested being up to 5 years) the EIRP will further resize the already meager positive results. In this circumstances, the research team embraces the concerns expressed by the CRP, which in its last monitoring report claimed that “support to self-help groups is very important but not sufficient”, adding that “the EIRP needs to be extended for an adequate length of time, at least until there is robust evidence that AHs on resettlement sites have achieved real income levels (which are income levels adjusted for inflation) which AHs had prior to resettlement”.<sup>78</sup>

### 6.1 Restoration of women income

International human rights law establishes that states should guarantee “appropriate measures to eliminate discrimination against women in the field of employment”, including the “right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training right to the same employment opportunities”.<sup>79</sup>

The ADB policy on gender, states that “ADB will endeavor to increase the number of projects with GAD as either a primary or secondary objective, especially projects in health, education, [...] employment and income generation, and financial services (microfinance).”<sup>80</sup> Consistently with the ADB gender mainstream approach, the Project documentation sets that:

- i) “Specific measures to ensure those women, specifically women-headed households, will have access to the income restoration programs”;<sup>81</sup>
- ii) “poor female-headed households and members of vulnerable groups will receive (i) priority in project construction work during implementation and (ii) for railway company jobs during operation”;
- iii) “women interested in vocational training will receive appropriate training for alternative employment opportunities”
- iv) “women will have access to credit, offered by the Project, for setting up small business”.<sup>82</sup>

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<sup>77</sup> Despite the policy timeframe, a communication from the CRP informs that the ADB TA approved the continuation of the EIRP financing until the end of 2016. ADB, CRP: *Second Annual Monitoring Report*, op. cit., para. 37

<sup>78</sup> Ibid, para. 39-40

<sup>79</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, art. 11(c)

<sup>80</sup> ADB, *Gender and Development*, op. cit., para. 87, p. 42

<sup>81</sup> ADB, *Resettlement Plan* (2006), op. cit., pp. 63-64

<sup>82</sup> ADB, *Updated Resettlement Plan*, op. cit., para. 46

The collected data suggest however that the project implementation did not fully comply with the applicable policies and commitments. First of all, the 55% of the households, most of whom women, reported that the sources of income that mostly people lost throughout the resettlement process were family businesses located whether close to their former houses (e.g. grocery shops, street food vendors) or to the closest markets (e.g. fruit and vegetable sellers). It is assumed that these types of income generating activities are profitable only if closely connected with the urban network where people used to leave. Indeed, women that participated to the focus group discussion informed that the most challenging problem to set up a sustainable business in TA was the lack of costumers in such remote location.

Secondly, none of the resettled women reported to have found employment opportunities related to the Railway Project, neither during construction works nor in the company in charge of the operation. Thirdly, data suggest that specific measure to ensure that women had access to the vocational trainings or saving groups were not implemented. Indeed, respondents reported that the participation to income restoration activities was voluntary and without any consistent gender focus. Among the women surveyed who participated to trainings open to both men and women, only one (K) informed that she was able to establish her business on chicken raising after completion of the training.

Women reported that the only activity aimed at restoring the income of women was a training on hair dressing, make-up and nail-making. Similarly to others vocational trainings, the Project covered the costs of the training for a couple of months period and if participants were willing to continue the skills development, women had to personally pay for transportation cost and fees to the shop owner. Out of all the surveyed individuals, only one person (X) reported that a member of his family participated to the skills training on hair dressing. However, the result was not positive at all because the daughter “didn’t learn much and had no follow-up capital support to apply the learned skills”. In support with the conclusion drawn by this respondent, a key informant (F) informed that none of the women that participated to this type of training was able to create job opportunities and that the quality of the taught skills was disappointing.

In terms of activities focused on women’s skill development, the findings suggest that another training delivered by a local NGOs was more successful in order to establish sustainable self-employment opportunities.<sup>83</sup> The observations from the field work, indeed revealed that most of the women occupied in work activities were skillful in knitting small monkey dolls. Questioned about the sustainability of her work, a woman (O) reported that she was able to knit 4 monkey dolls per day from home corresponding to a daily profit of 6\$. A key informant (F) confirmed that the knitting training was efficient in order to guarantee income for women who traditionally have also to take care of the domestic chores.

The data show that out of the 12 individual interviews conducted with women in TA, including 2 key informants, only three respondents (25 %) reported of being satisfied with the activities promoted by the EIRP. Apart from the woman who attended the training on raising chicken, the

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<sup>83</sup> The research team was not able to find whether or not this training was among the activities promoted under the EIRP

other two respondents who expressed appreciation are among the 3 households who benefited from loans provided by the saving groups.

Given the low number of affected women that benefited from the EIRP, it is assumed that the policy commitments were not translated in effective plans aimed at mitigating the loss family business's income and so avoid increased vulnerability of women. The hairdresser training was the first activity designed to meet women's need of new jobs, but it was a failure similarly to the other trainings that were opened to both men and women. However, the skills development provided by a local NGO demonstrates that if well-designed and able to accommodate the specific needs of women (e.g. responsibilities for housework and children care), trainings could potentially provide alternative employment opportunities.



**Case Study 1 Ms. Uy D., 32 y.o. – *failure of the income restoration program***

Ms. Uy D. and her husband moved in TA in 2011 and since then their family members increased with two little sons who still don't go to school.

In the period before resettlement, local authorities convinced her family to resettle because they promised to make their life better, with lots of job opportunities in the nearby factories. She was pregnant and by the time the family had to resettle she had already stopped to work because the delivery of the baby was close to happen.

Shortly after the moving, her husband lost his job and the household had no stable income anymore for a while. The struggles to find a suitable job in TA have been many but none was successful.

Ms. Uy D. remembers when the project developers sponsored a training for affected people to get a driving license. She was very excited by the opportunity and both her and her husband applied for the training. However, when the training was about to be delivered she was told that only one family member could attend it. After talking with her husband, they decided that he had more chances to get a job as a driver, so she dropped her application hoping for a new opportunity.

The chance arrived shortly after, when a training to become a tailor opened. She attended the entire training but she found out that no follow-up support was provided to set up her own business. So, Uy D. and her husband decided to invest \$150 from the few remaining savings to buy a second hand sewing machine. However, in few months period Ms. Uy D. saw her dream to start earning an income from home while continuing to take care of her sons shattered. Without receiving any assistance to develop a sustainable business plan, she couldn't sell her products. Luckily, she was at least able to sell the expensive sewing machine and get back part of the investment.

In 2015, Ms. L and her husband decided to move back in Phnom Penh to look for jobs. They are not permanent residents of TA anymore, but they keep coming from time to time hoping that they will receive land titles over their plot of land. She has not found a stable work as the one she had in a factory before resettlement yet. So far, her husband has not found any job with his driving license.

## 7. Addressing the high levels of households' indebtedness

Part I underlined that the downsized compensation, the distance of the resettlement site from the previous income-generating activities, the delayed and poorly designed income restoration program were interconnected factors leading all the affected households into the spiral of indebtedness. As the CRP final report made clear “the design and implementation of the resettlement program was a contributory factor in the indebtedness of a significant number of AHs”.<sup>84</sup>

In order to address the root of the problem, the CRP made recommendations to establish an effective debt workout scheme. The RAP does not set any action in this regard, given the lack of agreement with the Government, which avoided responsibilities “on the grounds that debt workout is not a compliance issue”.<sup>85</sup>

However, ADB assumed the responsibility to “identify possible resources and develop a support program with the participation of a micro finance institution, non-governmental organization, or other suitable entry, to help address the financial sustainability of AHs”.<sup>86</sup> The CRP’s First Annual Monitoring Report informs that in January 2015 ADB was able to commit Vision Fund, the local microfinance branch of an international organization, to start pilot activities to reduce the burden of debts in the resettlement site of Phnom Penh.<sup>87</sup>

Out of all the surveyed individuals, 12 households (60%) reported that they accessed the microfinance service provided by Vision Fund and received loans between 1,000 and 6,000\$. The majority of households who benefited from this credit line reported that they applied for loans in order to repay the accumulated debts, with a minor percentage of them (3 people – U, M, I) using part of the loans to finish the construction works of their houses.

In terms of supporting people to get relief from debts, these respondents were in the process of repaying the loans with interests between 1.5% and 2.8%. Although the rates are lower compared to the ones applied by private money lenders, at least 3 out of the 12 respondents complained that the interests were not really competitive compared to the service provided by other microfinance organizations.<sup>88</sup> Of those who did not access to the debt workout project, 2 households (S, V) reported that their applications to Vision Fund were rejected on the ground that they did not have enough guarantees of repayments.

The last CRP’s monitoring report informs that a total of 25 contracts were signed by households in TA, and that the eligibility criteria of the debt workout scheme include “adequate income

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<sup>84</sup> CRP, *Final Report*, op. cit., para. 207

<sup>85</sup> ADB, *Management’s Action Plan to Implement the Board Decision*, op. cit., p. 2

<sup>86</sup> Ibid

<sup>87</sup> ADB, *Compliance Review Panel: Second Annual Monitoring Report to the Board of Directors on the Implementation of Remedial Actions for the Greater Mekong Subregion: Rehabilitation of the Railway Project in the Kingdom of Cambodia*, para. 39

<sup>88</sup> Data suggests that also other microfinance organizations operate in TA to provide relief from debts, and even if a comparison between the quality of the service provided by Vision Fund and other institutions falls outside the scope of this research, a respondent (Q) informed that the interests applied by Vision Fund are higher than those of requested by competitors.

earnings to be able to repay the monthly installments, continuous residence in the resettlement site, and indebtedness level which should not be too high so that debt workout can be achieved within the financial envelope provided by Vision Fund”.<sup>89</sup>

The eligibility criteria seem not giving priority to resolve the problems faced by the most indebted families, namely those made more vulnerable by the resettlement process. Concerning is that another reported criteria is “the willingness of informal lenders to sign off the agreement”<sup>90</sup> with Vision Fund. This implies that those more exposed to unaffordable debt repayments against informal lenders are also more exposed to the risk of losing the plot of land that they gave as collaterals once the final land titles will be issued. In addition, the chances that the project will pass its piloting phase and include also the most indebted families are denied by the fact that Vision Fund does not intend to continue its activities once the pilot will finish.<sup>91</sup>

The research team maintains that the lack of support to the most indebted families is particularly problematic, given that any action aimed at restoring people’s living standards must pass through the repayment of debts that families accumulated against the struggles caused by the resettlement process.

## **8. Facilities at the resettlement site nowadays**

The first part analyzed how the poor design of the resettlement site caused a livelihood shock for most of the interviewed households. People reported that basic services such as electricity and water supply were not provided during the first months after resettlement, the conditions of the access road, drainage system, and health center were very bad and that the remote location of the resettlement site involved increased costs to access alternative basic services which were inexistent in TA.

Although the field visit made by the CRP in November 2013 attested slow improvements of the facilities at resettlement sites, it recommended that “ADB Management should present a time-bound action plan that spells out, in some detail, both urgent and longer-term actions to be taken to improve and maintain the facilities”.<sup>92</sup> The RAP agreed for developing time-bound action plan and prioritizing urgent actions for each of the resettlement sites.

However, rather than setting out that facilities should comply with ADB safeguard policies so that involuntary resettlement turns in development opportunities,<sup>93</sup> the framework sets that “these facilities [should] conform to relevant national, provincial, or local authority standards.”<sup>94</sup> On this point the RAP agreed by the ADB Management contravenes the rationality of ADB

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<sup>89</sup> CRP, *Second Annual Monitoring Report*, op. cit., para 34

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> CRP, *Final Report*, op. cit., para. 272

<sup>93</sup> Ibid, para 260

<sup>94</sup> ADB, *Management’s Action Plan to Implement the Board Decision*, op. cit., pp. 4-5



safeguard policy itself, because it scale back the standards that apply to ADB-funded project from those set in its policies to national and even-subnational standards.<sup>95</sup>

The improvements of the facilities as mentioned by the CRP's report could only partially be reflected on the ground. Through the different waves of compensation and borrowings, most of the families were able to build and live in better house conditions, and all the interviewed households had access to water supply and electricity in their dwellings at the time of the field research. The participants to a focus group discussion (C) confirmed that some meager interventions had been done in the last years, such as lifting the level of the access road to fix the flooding problems. Another household (Z) also reported that after repeated complaints, local authorities commissioned the repairing of few sections of the drainage system.

Nevertheless, data suggest that the facilities made available to the resettled community of TA do not comply with relevant policies. Households (C) indeed reported that still nowadays the access road is flooded and become dusty at different seasons given that it was fixed with very poor materials, that whenever it rains the sewage system get stuck because the pipes are too small, that considerable sections of the drainage system are not working, and that the public latrines are so shallow that make impossible their use. A key informant (E) informed that the garbage collection is not regular and only when people mobilize and complaint the company comes to pick up the waste for a limited period of time before it suspends the service once again. Interestingly, another key informant (H) reported that he used to complain with the village chief about the bad conditions of the drainage system in specific areas, but the village chief got rid of him stating that the drainage system in TA was okay if compared to other villages.

Regardless the context of the answer provided by the village chief, the comparison between the ADB-funded resettlement site and other settlements demonstrates the inconsistency of the RAP on this point, given that rather than trying to bring the facilities of the resettlement site in compliance with ABD policies sets compliance with national and subnational standards.

### **8.1 Access to health care services: a gender perspective**

The CRP final report found that the “health center at Phnom Penh site was in an appalling state, with one bed, no medical doctor, and a building badly in need of repair to serve its larger resettled population”.<sup>96</sup> For this reasons, it recommended “that the medical center [...] be refurbished, provided with a better supply of medication, and properly staffed with a medical doctor.”<sup>97</sup> Similarly to the provision on the facility's improvements, the remedial measure featured by the RAP is “to ensure that the medical center at the Phnom Penh relocation site operates as per national standards”.<sup>98</sup>

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<sup>95</sup> The 2009 SPS clearly sets that “ADB's role is to explain policy requirements to borrowers/clients, help borrowers/clients meet those requirements during project processing and implementation through capacity-building programs, ensure due diligence and review, and provide monitoring and supervision. Considerable attention is devoted to the project processing and approval phase of the project cycle, although ADB's role in monitoring safeguard compliance continues during project implementation. ADB's project completion reports and project performance evaluation reports include review of the implementation of safeguards.” ADB, *Safeguard Policy Statement* (2009), op. cit., para. 16

<sup>96</sup> CRP, *Final Report*, op. cit., Executive Summary, p. vii

<sup>97</sup> Ibid, para. 272

<sup>98</sup> ADB, *Management's Action Plan to Implement the Board Decision*, op. cit., p. 5

Evidence suggests that the services provided by the health center in TA is far from restoring people's access to medical services at the pre-resettlement level. If it is true that in the last monitoring report the IRP claimed that the medical facility was upgraded,<sup>99</sup> data demonstrate that the 80% of the interviewed individuals do not rely on this facility when they need a medical treatment. Among the remaining households, the 15% (L, J, Q) reported that they were only partially satisfied with the medical services there provided.

The most common reasons for not using the health care center in TA as reported by surveyed households were that the center does not have specialized equipment and medicines, is understaffed, offers treatments only for general diseases and that people are discouraged to go there because in previous situation of urgent need the center was close. As a result, still nowadays the majority of households prefer to travel to farther hospitals and facilities where they can access to more equipped structures and rely on more qualitative medical services.

The data moreover suggests that women have been particularly affected by the inadequacy of the nearby health care center because, in a country where one third of the population is under 14 year old,<sup>100</sup> women need more regular medical services due to their eventual pregnancies. The 90% (all except U) of the surveyed women indeed reported that the resettlement process has severely affected their access to qualified health care services because the only female staff working in the center is not a qualified doctor. Furthermore, the health center does not provide gynecological assistance nor maternity check services. The focus group discussion conducted with women (D) confirmed that in situations of emergency, women have to travel to the other health care structures and underlined the difficulties due the high cost of transportation and often unavailability of transport vehicle in the moments of need.

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<sup>99</sup> CRP, *Second Annual Monitoring Report, Appendix 4*, op. cit., p. 33

<sup>100</sup> See, The World Bank, Population ages 0-14 (5 of total), available at: <http://data.worldbank.org/indicator/SP.POP.0014.TO.ZS>



**Case Study 2: Ms. Ma S., concern for her daughter forthcoming pregnancy**

Ms. Ma S. is widow and she has to take care of her son and daughter by herself. Shortly after she moved to TA, she was forced to leave her job as cleaner in a factory. Given the 7.5\$ needed to go to work each day, the job that allowed her to meet her own needs and those of her beloved was non-economic anymore. The first victim of the displacement was her daughter, who as a teenager had to stop to go to school and find small jobs to support her mother and younger brother.

Now the daughter is approaching the adult age and in few months she will be eighteen. She is engaged but Ms. Ma S. says she won't leave her households.

Ms. Ma S. is seriously concerned for her daughter health, because once married she will be pregnant. When Ms. Ma S. and her daughter went to the health center in TA they found that the only woman working there is a nurse, who doesn't seem particularly skillful. To be visited by the male doctor makes them particularly uncomfortable. When Ms. Ma S. and her daughter looked for specific medicines, they cannot find them at the health center.

Ms. Ma S. knows that coming pregnancy is her daughter's dream but she cannot be happy albeit all the privations her daughter went through. Ms. Ma S. is worried because it would be compelling to face all the medical expenses and transportation costs to go to the closer hospital. The health center in TA indeed does not have specific equipment to treat pregnancies. Ms. Ma S. says that would be different if they were still living in Phnom Penh, where different clinics were at walking distance from their previous house.

**9. Access to Remedy: the new grievance redress mechanism**

The right to effective remedy for violations of human rights is enriched in several international human rights law instruments. The ICCPR, of which Cambodia is a state party, establishes that any person whose rights and freedoms are violated should have access to effective remedy through competent judicial, administrative or legislative authorities, or by any other competent

authority provided for by the legal system.<sup>101</sup> The Committee on Economic, Social and Cultural Rights also set that in the context of involuntary resettlement, procedural protections include provisions on legal remedies and legal aid to persons who are in need.<sup>102</sup>

The UN Guiding Principles on Business and Human Rights clarifies that in the context of development projects resulting in human rights violations, both states and business have the obligation to ensure that affected people have access to remedial channels. The UNGPs also sets out 8 effectiveness criteria, namely legitimacy, accessibility, predictability, equitability, transparency, rights-compatible, source of continuous learning and based on engagement and dialogue when operational, that apply both to judicial or non-judicial grievance redress mechanisms.<sup>103</sup>

The ADB SPS requires governments to develop “a mechanism to receive and facilitate the resolution of affected persons’ concerns and grievances about physical and economic displacement and other project impacts.” The safeguard policy specifies that the mechanism “should address affected persons’ concerns and complaints promptly, using an understandable and transparent process that is gender responsive, culturally appropriate, and readily accessible to the affected persons at no costs and without retribution. The mechanism should not impede access to the country’s judicial or administrative remedies.”<sup>104</sup>

The weakness of the Cambodian rule of law is attested by political interference and corruption, making the court system an unreliable and biased arbitrator of legal claims.<sup>105</sup> Thereby, the establishment of an alternative accountability mechanism is an essential component to ensure that project-affected people could seek redress over alleged violations of their entitlements. The mechanism was already envisioned in the Project documentation, which set up four stages for complaint handling, including the last resort of bringing the case to Provincial Courts in case the previous negotiation stages does not satisfy the complainant.<sup>106</sup>

The shortcoming of the local Grievance Mechanism under the Project faced by affected households during the first years of resettlement have been documented in the details.<sup>107</sup> The CRP investigation confirmed that the mechanisms were not functioning as expected and recommended the ADB Management to make interventions, including training and capacity building and requested greater up-front role for IRC to provide guidance on complaint handling.<sup>108</sup> Accordingly, the RAP agreed for the IRC to prepare specific and verifiable time-bound action plan, with ADB reviewing and providing feedback on this plan.<sup>109</sup> It is assumed that

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<sup>101</sup> ICCPR, op. cit., art. 2(3)

<sup>102</sup> CESCR, General Comment 7, op. cit., para. 15

<sup>103</sup> UN Guiding Principle on Business and Human Rights, (2011), HR/PUB/11/04, Principle 31

<sup>104</sup> ADB, SPS, *Involuntary Resettlement*, op. cit., para. 29

<sup>105</sup> The Transparency International Corruption Perception Index 2016 places Cambodia 156<sup>th</sup> out of 176 surveyed countries and most corrupted country in the region. See, [http://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](http://www.transparency.org/news/feature/corruption_perceptions_index_2016)

<sup>106</sup> ADB, *Resettlement Plan* (2006), op. cit., p. 51

<sup>107</sup> See, BABC, *Derailed*, op. cit., pp. 57-62

<sup>108</sup> CRP, *Final Report*, op. cit., para 273

<sup>109</sup> ADB, *Management’s Action Plan to Implement the Board Decision*, op. cit., p. 5

the request of IRC's greater *guidance* on complaint handling should not collude with the project policy provision setting that "the IRC does not involve in the *judgment* of the complaints"<sup>110</sup>

On the ground, data show that the interviewed households knew that the grievance redress mechanism was reviewed and re-established in 2015. The main news introduced, was that an elected representative from the community was included in the first stage of the grievance redress mechanism, namely the Commune Resettlement Sub-Committee. A group discussion conducted with a mix group of affected men and women (C) and interviews with two key informants (E, H) disclosed community's experience with the new mechanism.

Respondents informed that 21 families filed a complaint to the Sub-Committee in September 2016 to reject one of the compensation waves, namely the one related to the computation for loss of income. According to a key informant (E) who is among the 21 households that filed the complaint, the reason of the complaint was that 109\$ compensation were way too low to remedy the loss of income faced by most of the families in TA. In her view, lots of families in TA accepted the compensation offer because they didn't exactly know what the compensation was for nor what acceptance would entail.

In terms of results, participants to the group discussion informed that after the complaints was rejected by the commune level, an internal scale-up process started and brought the complaint to the attention of high rank official within the Ministry of Public Works and Transport. Behind that, no actual result was delivered yet and respondents were unaware on whether or not the complaint review was still pending given that deadline or instructions for grievance processing were not provided. So far, this was the only type of complaint filed to the new mechanism and households informed that their plan was to wait for the resolution of the grievance on loss of income and then seek for redress of other problems.

The research team received further information about the complaint procedure from the interview with the community representative who works in the Communal Resettlement Sub-Committee (H). He informed that after preliminary assessment, individual households were invited to negotiate their complaint on loss of income and that out of the 21 families, 3 accepted the original compensation amount.

Given the unresolved situation of 18 families, the Sub-Committee called upon the IRC to resolve the problem. The IRC lawyer was present at the follow-up meeting, where it was claimed that the computation was based on the policy provision establishing that people at risk of impoverishment are entitled to an assistance equivalent to 20 kg of rice per family member per month.<sup>111</sup> In IRC's view the fairness of the compensation relied on the fact that people were entitled to receive the equivalent which was calculated upon the period of 10 months between the actual resettlement and commencement of the vocational trainings and saving groups under the income restoration program.

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<sup>110</sup> ADB, *Resettlement Plan* (2006), op. cit., p. 51. *Emphasis* added.

<sup>111</sup> See, *Ibid*, p. 61

The research team finds that the explanation provided by the IRC as reported is, at least, senseless. Even if grounded on the policy provision, the IRC's position does indeed not take in consideration the total failure of the income restoration program, especially in the first years of its commencement.

Nevertheless, further information about the functioning of the procedure makes even more alarming the power imbalances that undermine the fairness of the process. The key informant stated that the main activities over which the Sub-Committee has autonomous decision-making power are requests of civic documentation (e.g. issuance of ID card, family books, etc.). When grievances regard long-standing unresolved problems, such as entitlements for compensations, the Sub-Committee does not have the capacity and resources to resolve the complaints.

Although several households reported that the IRC told them to engage with the Sub-committee in case of disagreement over compensation, the key informant revealed that people working there do not have a solid knowledge of the case background. As a result, once initial assessment are made by the Sub-Committee (e.g. check if the name of the complainant is in the original lists of project-affected people), follow-up steps rely on the IRC decision-making power. Paraphrasing the key informant:

*“It’s the IRC that makes final decision over the complaint, as Commune officials do not know the project history such as the distribution of responsibilities among stakeholders: this is the main challenge for local officials!”*

According to the collected data, the IRC takes a leading role in deciding the legitimacy of the complaints that, so far, only regarded the request of better compensation offers over the loss of income. The lack of capacity and resources of the Sub-Committee imply that little decision-making power is given to the officials, while the IRC has the authority to dismiss long-standing unresolved problems. Despite the actions undertaken to improve the functioning of the grievance redress mechanism, it seems that power imbalance persist.

Data suggest that ADB is playing a key role to try to improve the mechanism's functioning,<sup>112</sup> and that it is knowledgeable of the results of the complaint handling because the Sub-Committee shares detailed reports with both the IRC and ADB. However, echoing the statement made by a key informant “ADB is not part of the problem-resolution process”. In so saying, it may be assumed that the great efforts correspond to ADB's misconceived attempt to outsource its responsibility to solve the persistent struggles lived by affected households through the design of a grievance redress mechanism the at local level which functioning, however, maintains significant conflict of interests.

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## **10. The different impacts on women's livelihood**

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<sup>112</sup> The CRP monitoring report states that an expert was hired and a manual for the GRM setting out step by step procedures for entertaining hearing and deciding grievances was developed with record keeping requirements. Committee members were also extensively trained in how to conduct proceedings. CRP, *Second Annual Monitoring Report*, op. cit., para. 28

Gender-focused studies show that the Cambodian society is characterized by widespread gender inequality and that, as a result of gender norms, women and men are assigned specific role, responsibilities and value. At household level, Cambodian women tend to manage the family's daily expenses and shoulder the main burden of housework and care-giving duties. This leaves women little time to engage in income-generating activities and gender norms prevent them from working too far from their homes hindering their mobility.<sup>113</sup>

The mix of gender norms and patterns of developments result in women mostly employed in informal sectors, which are defined as income-generating activities without official status, regulation or protection by state institutions. In urban locations such as Phnom Penh, women overwhelmingly own or work as street vendors, domestic workers, restaurants and street-side retailers.<sup>114</sup>

Data collected from the field work shows that the women relocated in TA conform to these characteristic of Cambodian society. The research team was able to identify the pre-resettlement income-generating activities of 14 female members either directly or as reported by interviewed family members. Eight of them (about the 60%) was employed in informal income-generating activities, while the remaining were mostly employed in the garment sector.<sup>115</sup>

Data show that the opportunity of either running an informal business or being employed as factory workers, was strictly related to the proximity of these job opportunities to their previous residences. It seems that the urban network where households used to live before resettlement, allowed women to coordinate their traditional duties, made of domestic work, child care and assistance of elder members of their families, with activities aimed at increasing the income of their families. Although a detailed assessment of women's livelihood before resettlement falls outside the scope of this research, it appears that also the proximity of services such as schools for their children, hospitals for medical care and markets where buying affordable food, were critical aspects of women's livelihood.

The analysis has already highlighted how fundamental aspects of the gender mitigation strategies set by policy have been underestimated or not taken in consideration at all throughout the project implementation. Measures aimed to ensure inclusiveness of women's needs in the resettlement planning stages were significantly flawed and nothing has been done to overcome the gender imbalances during consultations (e.g. ensure their participation during community meetings, separate meeting attended by women only) or to guarantee their inclusion in the selection of resettlement site. Moreover, the widespread loss of jobs that indiscriminately hit men and women, has not been fully remedied with effective vocational trainings that responded to nearby market opportunities. Among the few trainings aimed at restoring women's income,

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<sup>113</sup> S. Ouellet, D. LaRochelle, *The Gender Road Map (GRM) Guidebook: A couple-based gender transformative model to address unequal power relations*, Oxfam & GADC, (2014), p. 1

<sup>114</sup> GADC, *Women and Informal Economy in Cambodia: Opportunities and Challenges for Women's Economic Empowerment*, (2015), pp. 1-2

<sup>115</sup> Women working in informal economic sector were mostly generating income through activities such as fruit vendors at market, small grocery businesses at their home, street-sided food sellers.

only the delayed knitting skills development seems to be able to guarantee sustainable income for women.

The interviews conducted with 10 project-affected women in TA show that their main concerns about resettlement relate to: a) find jobs that allow them to take care of their family members at the same time; b) difficulty to run a family business in TA due the absence of customers; c) guarantee that the scarce available financial resources are able to meet all family needs, especially food; d) the remote location of their houses impinging on their access to basic services due the increased cost of transportation.

By far, the most concerning problem reported by the 90% of surveyed women is the impact of the resettlement process on their access to medical services given that the nearby health center does not provide specialized assistance to maternity nor gynecological checks.

In order to understand the factors leading most of interviewed women (90%) to claim that the resettlement process have impacted them more than men, the group discussion with women and key informants reveal several key information. Beyond the above mentioned problems, women manifested serious concerns regarding the lack of lighting system along the access road and surrounding area. This problem was denounced as a serious threat to women security because when they had to walk out at night time they are scared of thieves.

*“It’s silent and unsafe at night when we come back home. We do concern about our safety” (O)*

The prolonged impoverishment due the decrease of job opportunities linked to the remoteness of the resettlement site from easy access to basic services put at serious risk and stress the everyday life of most women in TA. The double responsibility of chores and management of the little income could be summarized with the following statements made by the interviewed women:

*“Women manage everything in the house while men just work outside, so women are the ones who face a more complicated situation” (Y)*

*“Women have been hit by unemployment differently from men because they have to be responsible for supporting family members, household works, foods, and their children when they get sick. Women have to manage everything in the house while men go to look for jobs and only give them part of the salary. Men do not know how many sort of things women have to take care of and need to spend on to meet households’ needs” (G)*

*“Men are the bread winner, so they don’t know about livelihood issue in the family. Women think much about food, kid and other expenses in the family” (N)*

Key informants knowledgeable of the situation faced by women in their community also revealed that the impoverishment faced by families push some women to take on jobs that are not perceived as respectable in the Cambodian society:



*“A woman even dares to sell her body in order to feed their little children. Some [women face] domestic conflicts with their husbands because of the night time jobs they do. Some women here are forced by the poverty conditions to work at entertainment places such as Karaoke and massage parlors” (G)*

*“There are many women in this village that stop studying and go to work as promotion girl, KTV girl... They do it to support their family but nobody force them” (F)*

The resettlement process has undermined the sustainability of women’s livelihood and their households, given that women maintain a crucial role in the family units. Household’s impoverishment has increased pressure on their traditional role of caring of the housework, managing family’s expenses and, in case of desperate need, they are ready to put aside their social values to do whatever is possible in order to support family’s income.

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### **10.1 Impacts on childhood**

A research conducted in 2012-2013 showed that the 47% of household members in TA were aged 20 or under, of which the 18% was under 5. The research already pointed that the demand for both primary and secondary level of education was a priority of the community.<sup>116</sup> The analysis has shown that during the first period of resettlement, children’s access to education was impeded by the inadequate primary school in the resettlement site. The CRP confirmed that at the time of its investigation the primary school was overcrowded by classrooms accommodating around 60 pupils given that it served the entire site. It observed that the primary school was expanded from 5 to 15 classes in April 2016.<sup>117</sup>

Beyond this infrastructural improvement, the collected information suggests that this is not enough to accommodate the aging of the younger generation in TA. The group discussion with women confirmed that compared to their livelihood before resettlement everything has changed for their kids. Women are indeed concerned that children growing in TA don’t have the same opportunities as those living in Phnom Penh, because now the secondary schools are far from their houses and parents have no time and resources to send them to school.

Furthermore, the increased impoverishment of families stresses also the relationships in the household. A key informant described the situation as follows:

*“A lots of kids stop studying due to the poor conditions of their families. Nobody force them but it’s their commitment to help. When they saw their mum going into debts and that she can’t support the family, they are willing to go to work” (F)*

Thereby the mix of lack of adequate facilities and lack of regular income compel children not to attend superior levels of education in order to support their parents to meet the household’s ends. However, the situation of displaced families in TA puts at risk the well-being and future of children also because impoverishment leads to patterns of criminality and social exclusions:

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<sup>116</sup> STT, *End of the Line*, op. cit., p.17

<sup>117</sup> CRP, *Second Annual Monitoring Report, Appendix 4*, op. cit., p. 33

*“Women are afraid that children become drug addicted, because in the last two years there are drugs users and dealing outbreaks in the community. Women are worried that their children may affiliated with that gangs and become robbers in the future” (G)*

*“We are concerned about our kid’s future. Here there are drug addicted, drug user, drug deliverer and gangsters. Drugs are used in the public toilets and are sold in the market. Police doesn’t care. It is a profitable business for dealers and their families but we are afraid that when our child will grow up they will become like them” (F)*

The information provided by these key informants reveal that in addition to school dropping and child labor, the future of children is undermined by the emerging patterns of criminal activities in TA.

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## **10.2 Women in advocacy**

The resettlement process has left affected households worse-off than before. Women in TA seem paying the higher burden of the badly designed relocation plan and the repeated failures of the activities aimed at restoring people livelihood at least at pre-resettlement levels. Being traditionally responsible of ensuring that the needs of each family member are met and expenses are prioritized, while men are usually away findings job opportunities, women seem more aware and dedicated to resolve the complex struggles faced by the community in the everyday life in TA.

The collected information show indeed that the higher impacts on women’s livelihood have led female to be more active in defending their community interests. The majority of the interviewed households indeed agreed that although most of the representatives in official capacity are men, community meetings see more female attendants than men. In community meetings with authorities, surveyed people reported that women are confident in formulating community concerns and requesting to fix the drainage system, adjust the access road, build a secondary school, improve the services offered by the health center, implement effective program to address root causes of impoverishment, request support in finding job opportunities and demand fairer compensations.

The group discussions confirmed that women are also essential for community mobilization, as the examples of R.B., a community representative who led the community organizing in the view of filing the complaints to the ADB’s accountability mechanism, or those of other women who filed the complaint to the Communal Resettlement Sub-Committee on behalf of the 21 families to reject the compensation offer related to loss of income. As told by participants to the mix group discussion *“women understand the resettlement process better than men”* and *“Men are breadwinners and women do advocacy”*.

The analysis assumes that women’s central role in caring of family’s needs put them in a more struggling situation compared to men. Despite most of the times local authorities and ADB are

non-responsive to community concerns and still much has to be done to bring the project into compliance with ADB safeguard policies, this situation also make women more persistent in pursuing advocacy strategies at the ground level and to demand the resolution of the common problems faced by the entire resettled community.

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### **Ms. B. – woman leader in community advocacy**

Ms. B. acquired the land in Phnom Penh after the IRC made studies and measurements for the Railway Project. Despite Ms. B. had heard about the project, it is only in September 2009 that she knew that she had to leave that land because it was too close to the rail tracks and the planned passage of the trains. However, she was never recognized as a project-affected person because the IRC did not have her name in the list of people's names collected during the first measurements. Despite this, since the resettlement Ms. B. has been a prominent voice of community advocacy.

Shortly after resettlement, displaced people started to organize meetings and Ms. B. was elected as one of the community representatives. Her story of advocacy started with collecting thumbprints from affected families to alert the Ministry of Transport and Public Work and the IRC of the bad situation lived by the community in TA. Given that local authorities were unresponsive, she was on the leaders that organized protests in front of ADB country office.

After months that relevant agencies did not answer to people's concerns, the community decided to scale up the grievance process and to make use of their right to file a complaint to the ADB accountability mechanism. Thanks to the support provided by different local NGOs, Ms. B. was very active in collecting the evidences of the multiple breaches of ADB policies and the complaint to the OSPF was submitted.

After the excitement for knowing that their case was accepted, the meetings with the OSPF revealed that their commitment to resolve the problems were very limited. Ms. B felt cheated once again. Nevertheless she is not the type of person that easily give up and renewed her commitment to find new ways to engage with ADB.

Nowadays, the implementation of the Remedial Action Plan has not led to any significant results and Ms. B says that really little changes have happened so far. She is tireless in calling local authorities for taking actions, but at every meeting they show up with plans that are never followed up. Local authorities don't listen people concerns and every time someone tries to explain them that affected households should be part of the process to find sustainable solutions to problems that people face, authorities shout them down.

In the last 5 years, Ms. B. has lost the count of the meetings she organized to develop advocacy plans, set the dates to make protests and meet with other stakeholders. She is grateful for the support provided by local NGOs and other Phnom Penh's communities who have faced similar forced evictions. Without their help, she could not hold the burden of all the intimidations she received from local authorities, including threats to her life.

She also says that local authorities tried to buy her off with large amounts of money. She knew that other affected community members went through the same situation but Ms. B can't be bothered by such tactics. She made her choice in 2011 when she was moved in TA. She knows that the struggle for seeking justice may be endless, but she says that it is the right thing to do. Justice for herself, her children and her community is what she wants.

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## **11. Conclusion**

Over 5 years have passed since families have been displaced in TA. The resettlement process has created a prolonged impoverishment of household's livelihood which the Remedial Action Plan only limitedly has been able to mitigate.

The payment of additional compensation occurred through different waves of disbursement and households reported not having been adequately informed about the compensation entitlements under the framework. The income restoration program in the last few years has focused mostly on capacity building of saving groups without any consistent injection of capital for skills development. The program for providing relief from the widespread indebtedness seems to focus on family's profiles that meet certain criteria of eligibility, leaving out from its scope those most in need of relief from higher burden of indebtedness.

The interventions to improve facilities at the resettlement site have been partial and still much works have to be done both in infrastructure (paved access roads, lighting system, complete the fixing of the drainage system, regular garbage collection etc.) and facilities (building a secondary school, improving the health care services with specialized assistance). The functioning of the new grievance redress mechanism is undermined by the lack of officials' capacity to resolve contested compensation deficits and conflict of interest in the decision-making of sensitive complaints seem to occur.

The impoverishment of livelihood conditions in TA has particularly affected women. The decrease in level of income has impacted women's capacity to fulfil their responsibilities of taking care of the chores while dedicating time to income generating activities. This increase women's dependency from their husbands.

Infrastructural problems such as the remote location and absence of a lighting system at night cause increased vulnerability to security issues while the lack of adequate medical services particularly impacts pregnant women. Serious concerns for the future of their children are motivated by the high rate of school dropping and the raise of criminal activities in TA.

Despite the struggles, findings show that women maintain a key role not only in their families but also within the enlarged community given their fearless commitment to advocate the resolution of problems caused by the resettlement process.

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