

WORLD BANK-FINANCED RESETTLEMENT IN CHINA
THE INFLUENCE OF PROPERTY RIGHTS IN RESETTLEMENT
PRACTICES AND OUTCOMES

Master of Arts in Law and Diplomacy Thesis

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Chapter One: Introduction

In 1996, a World Bank study of population dislocation concluded, “*Population displacement by development programs is now a worldwide problem, of a magnitude previously unsuspected* [original italics].”¹ The causes of such displacement were wide-ranging. From restructuring the water supply to the development of urban transportation and energy sources, these development projects were usually carried out on a large-scale intended to bring widespread national benefits.² At that time, the World Bank’s statement constituted a growing recognition among international financial institutions (IFIs) that the development projects they funded influenced not only national development, but also significantly impacted local communities. As IFIs became aware of the local impact, they found that people relocated by development projects faced “assetlessness, unemployment, debt-bondage, hunger and cultural disintegration.”³

Knowledge of these effects led the World Bank to revisit its own policies and practices toward resettlement. The driving concern for this shift was the realization that, in some cases, large-scale resettlements were devised as “salvage and welfare operations” that imposed tremendous economic and social costs on local communities.⁴ Marginalized and

¹ Michael M. Cernea, “Bridging the Research Divide: Studying Refugees and Development Oustees,” World Bank Reprint Series Number 481, Reprinted with permission from *In Search of Cool Ground: War, Flight & Homecoming in Northeast Africa*. (United Nations Research Institute for Social Development: 1996), 300.

² W. Courtland Robinson, “Risks and Rights: The Causes, Consequences, and Challenges of Development-Induced Displacement,” The Brookings Institution-SAIS Project on Internal Displacement, May 2003. Accessed January 29, 2006. Available online at <http://www.brookings.edu/fp/projects/idp/articles/didreport.pdf>: 10.

³ Robinson, 3.

⁴ Michael M. Cernea “Involuntary Resettlement: Project Guidelines for World Bank-Financed Projects.” World Bank Technical Paper Number 80, (Washington, DC: World Bank, 1988): v.

vulnerable populations, especially indigenous populations, bore the greatest social and economic risks and losses.⁵ Through this examination, the Bank determined that its projects had a responsibility to “minimize and reverse the negative effects of compulsory relocation on individuals and the economy, and to help people become re-established on a productive, self-sustainable basis.”⁶ This led to the establishment of Operational Policies for Involuntary Resettlement, revised from the preexisting guidelines from the 1980s, requiring that all projects funded by the World Bank implement well-designed resettlement programs that aim at mitigating the costs of resettlement to affected people and communities. In 2004, the Bank introduced the latest revision of the Involuntary Resettlement Policy, identified as OP 4.12. With these policies, the World Bank defines how the resettlement projects identify affected people and how compensation is measured. The resettlement project includes accommodating losses through replacement of lost property, compensating for the act of relocation, and raising the living standards of relocated communities. Borrowing countries must include the costs of resettlement as a part of an overall development project proposal, and the countries are considered legally responsible (bound by their contract with the World Bank) for completely implementing the resettlement plan.⁷

According to this policy, the physical resettlement of a local population and distribution of compensation must be completed prior to the initiation of the development

⁵ Robinson, 3.

⁶ Cernea, “Involuntary Resettlement: Project Guidelines for World Bank-Financed Projects,” v.

⁷ “Involuntary Resettlement,” The World Bank Operational Manual: Operational Policies. December 2001.

Accessed January 23, 2006. Available online at

<http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/whatnewvirt/227908E400B88C4585256E8B00026E4E?OpenDocument>.

project.⁸ The Bank's policy measures success by weighing the new socio-economic condition of relocated persons against the baseline measurement, taken prior to resettlement. As the Involuntary Resettlement Policy states, resettlement projects should assist people to "improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher."⁹ A successful project will improve both the socio-economic status and economic opportunity for a community.

These principles and practices attempt to address the social, economic, and political needs of relocated persons by planning for their displacement in conjunction with the conception of a development project. Thus, persons removed by their own government for the purpose of supporting public development fall into a newly recognized category of internally displaced persons, termed "development-induced displacement." Yan Tan, Hugo Graeme and Lesley Potter, in "Government-organized Distant Resettlement and the Three Gorges Project, China," capture this new perspective on the special characteristics of resettlement. They write,

Resettlement is a social, economic, and demographic process. It results in the spatial transmission and redistribution of regional productivity. It affects the distribution of the population and the labour force. It impacts on the restructuring of the regional economy and the reconstruction of societal networks.¹⁰

In line with the UN Guiding Principles on Internal Displacement, development-induced displacement requires compelling public interest to justify the movement of

⁸ Ibid.

⁹ Ibid.

¹⁰ Yan Tan, Graeme Hugo, and Lesley Potter, "Government-organized Distant Resettlement and the Three Gorges Project, China," *Asia-Pacific Population Journal* (September 2003): 22-23.

people.¹¹ Although defining the term “compelling public interest” still falls under the purview of an individual state, international standards generally accept this as prohibiting arbitrary displacement. This point of view focuses on the recognition of property rights as a fundamental means for protecting income and restoring livelihoods. It recognizes the government’s right of eminent domain but it also attempts to enforce the practice of just compensation by defining standards for measuring lost property and for acknowledging the personal impact of relocation. In other words, this view equates the loss felt by those who resettle with the monetary value of the assets requiring replacement. This reflects a primary understanding of economic assets and the potential for reinstating lost economic and social opportunities. Correspondingly, the World Bank has altered its approach for executing all phases of resettlement policy in order to embrace this 1-for-1 principle of measurement and replacement. Their guidelines are intended to translate into the practices of the field, and to be adopted by countries receiving World Bank assistance for development projects.

One such country historically engaged in development-induced displacement is the People’s Republic of China. With development projects initially following the founding of modern China in 1949, the government relocated an estimated total of 10.2 million, and large-scale relocation has not slowed in recent decades. The National Research Center for Resettlement estimates that since 1990 at least 13.6 million people have been displaced because of infrastructure projects.¹² With World Bank coaxing in the mid-1980s, Chinese officials began to emphasize a more holistic “development-oriented” approach for

¹¹ Robinson, 3; Bjorn Pettersson, “Development-induced displacement: internal affair or international human rights issue?” *Forced Migration Review*, no. 12 (January 2002): 17.

¹² Robinson, 3.

resettlement that combined longer-term initiatives for participation, economic growth, and compensation.¹³ “Development-oriented” approaches perceived resettlement as an opportunity to improve the living conditions of those displaced, especially if they lived in poverty. Elisabeth J. Croll, in “Involuntary Resettlement in Rural China: The Local View,” writes that the Chinese government has attempted to create resettlement programs that produce more secure economic and social outcomes for relocatees. Local administrative offices have increased their capability and professionalization in designing resettlement programs. Unfortunately, as Croll writes, resettlement in China is still viewed as a technical rather than a “social phenomenon” because the projects rarely consult social scientists during any phase.¹⁴

In addition to this technical approach to resettlement, relocation in China is complicated by several more economic and legal factors. First, nearly two-thirds of the population reside in rural areas and are employed in traditional industries, such as agriculture. In 2004, agriculture accounted for 15% of the overall GDP. Although this share has declined over time due to higher productivity gains of industry, agriculture and agricultural-related industries have remained the economic foundation of rural China.¹⁵ The resettlement of rural communities thus has the potential to disrupt agricultural production and weaken the economic base of the country. Second, when land is taken from farmers for the purpose of development projects, the replacement of such land is difficult due to the

¹³ Elisabeth J. Croll, “Involuntary Resettlement in Rural China: The Local View,” *The China Quarterly* no. 158 (June 1999): 469.

¹⁴ *Ibid.*, 469-470.

¹⁵ “China at a glance.” World Bank, 9/8/05. Available online at http://www.worldbank.org/data/countrydata/aag/chn_aag.pdf.

declining availability of arable land. As a result of unfettered urbanization and development, farmland that was previously unthreatened is now endangered by deforestation, desertification, industrial construction and the development of the real estate market.¹⁶ In China, arable land per capita is less than 0.08 hectare, one of the lowest amounts in the world.¹⁷ Thus, with the decline of available farmland, the resettlement of farmers using land-based alternatives (i.e. offering reclaimed land or land of the same quality as the land that was taken) has become more challenging and more unlikely. This change in land use not only requires increases in agricultural productivity to maintain the same level of production, but it also necessitates the transition of farmers into the non-agricultural workforce. If farmers lack the skills needed to work in industry or service, and if the government does not plan for this emerging need, then the transition to non-agricultural work may not produce greater economic opportunities.

In addition, the community into which relocated persons move must be able to accommodate the increase population. In many cases, this change requires additional support for infrastructure, social services, economic development, and the fostering of community relations.¹⁸

Within the legal system, unclarified and unenforced property rights further complicate resettlement. The government allows private ownership of personal property

¹⁶ Sheng Han Sun and Xing He Chun, "Diminishing farmland and urban development in China: 1993-1996," *GeoJournal* vol. 49 (1999): 257.

¹⁷ Xiaobo Zhang, Timothy D. Mount, Richard N. Boisvert, "Industrialization, Urbanization and Land Use in China," *Journal of Chinese Economic and Business Studies* 2, no. 3 (September 2004): 208.

¹⁸ *Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects*, (Washington, D.C.: The World Bank, 2004), 88.

and some residential property, but there is no private ownership of land.¹⁹ Farmers are granted an extended right to use the land, but public officials have the power to revoke that right for development purposes. China lacks a standardized, universal system or practice of land registration, and thus proving ownership of use rights creates difficult problems because of the bureaucratic hurdles found in local governments. This aspect affects the development of clarified property rights because the existing property ownership system lacks formal records and standardized procedures for transaction.

Furthermore, distribution of compensation is not enforced. By law, officials must provide compensation when a use right has been revoked.²⁰ The law stipulates standards based on annual production gained from use of the land as the required compensation amount, but in practice this figure rarely reflects the market value of the land.²¹ A study on land takings by the Rural Development Institute found that the county or township absorbed 60-70% of the compensation amount paid, and 25-30% of the funds were kept by the village.²² By law, the township or village is allowed to retain a portion of funds for community use.²³ However, as this practice occurs, only 5-10% of the sale price of the land remains for individual farmers. This problem has been an incentives problem, whereby local officials have few compelling incentives to follow national policy because they can

¹⁹ "'Apparent Text' of PRC Draft Property Rights Law Published by Xinhua First Corrected Version: adding article 229 which was omitted in original version: "The Law on Property Rights of the People's Republic of China," *Xinhua Domestic Service*, July 19, 2005. FBIS Translated Text. Accessed December 10, 2005. Available online through World News Connection.

²⁰ "China: PRC Land Administration Law," *Xinhua Domestic Service*, November 17, 1998. Accessed December 5, 2005. Available online through World News Connection.

²¹ Ibid.

²² Roy L. Prosterman, "Presentation on Rural Land Tangs in China (and the Broader Context of Farmer's Tenure Security) Made Before the Congressional-Executive Commission on China," Accessed December 5, 2005. Available at <http://www.cecc.gov/pages/roundtables/062104/statement.pdf>: 7-8.

²³ "China: PRC Land Administration Law."

gain from siphoning consumption funds for either community or personal use. Nevertheless, when compensation does not reach the resettled people, then households are left with inadequate capital to rebuild their lost income activities.

These aspects reflect the weakness of law enforcement in China and also indicate an incomplete understanding or acknowledgment of the social and economic consequences of land acquisition and relocation. Inadequate support for projects that require land acquisition and household relocation poses significant long-term problems for the growth of the Chinese economy, especially among rural areas. Economically, households and communities may see their living standards drop if compensation is not high enough to replace the means for production or if land is not replaced for agriculture. Additionally, a one-time payment of compensation may not promote a long-term perspective among the recipients of compensation, and they may not invest it toward income-earning activities. Socially, the World Bank assumes that relocation threatens community networks. This disruption of social networks affects healthcare and education standards, as well as affecting the local economy by changing informal business relationships that thrive by social construct. The Bank considers these social consequences even more detrimental if households from the same community are not relocated together.²⁴ This assumption implies that “community” can be recreated by simply aggregating the same households into a new location.

Furthermore, the implementation of resettlement often requires multiple levels of government to interact and coordinate effects, but cooperation proves problematic when

²⁴ Michael M. Cernea “Involuntary Resettlement: Project Guidelines for World Bank-Financed Projects,” 28.

local officials are disconnected from each other and the central government. For example, when national regulations are promulgated, cities create “implementing regulations.” City officials have the authority to decide how the national initiative will be implemented, and these local regulations do not always result in uniform standards and performance. If there is asymmetry between national or provincial planning and local implementation, then this reinforces a gap between national and local policy and weakens the rule of law. This is especially a concern for development projects, which forecast long-term benefits to a community in exchange for short-term damages.

Collectively, the economic, social, and legal problems of resettlement create political consequences that may promote political instability. For this very reason, a development-oriented approach that assumes responsibility for raising living standards and economic opportunity might offer political benefits to the Chinese government in terms of rural stability, economic development, and public support. Yet, one key difference between Chinese resettlement practices and those of the World Bank’s remains in the World Bank’s explicit incorporation of property rights into all phases of the resettlement policy. The responsibility for translating that policy into practice lays with the local agency that contracts with the World Bank to receive funding.

Thus, given the current state of unclarified, unenforceable property rights in China and the presence of World Bank-financed resettlement projects, this paper questions how the World Bank’s procedure—that asserts protection of economic and property rights—might influence the outcome of a resettlement project as it is implemented by Chinese officials. Essentially, how can clarified and enforced property rights positively influence

resettlement outcomes, and how has this influence affected the World Bank-financed resettlement in China?

Central issues for answering these questions are the connection between property rights and resettlement; the impact of the domestic property rights system in China on past resettlement projects; and the components of World Bank policy and a resettlement program. This initial analysis lays the context for analyzing current World Bank-financed projects by preparing a background understanding of both property rights and resettlement projects.

Subsequently, the paper employs two resettlement programs—considered typical projects—as case studies to analyze World Bank-funded practices in China. The first case study is a rural “reservoir” resettlement. The Hubei Hydropower Development Project involves constructing hydroelectric dams to facilitate the production of electricity for Hubei Province, a centrally located province that contains a portion of the Yangtze River. The second example falls into the category of an urban “linear” resettlement. This category relates to resettlement along highways and pipelines, where the development affects a strip of land that potentially crosses several communities. The Guangdong Pearl River Delta Urban Environment Project, located in southeastern China, focuses on the reconstruction of pipelines to facilitate the treatment of waste in and around the city of Guangzhou.

In examining the cases, this paper will observe how the World Bank incorporates principles of property rights into the design and implementation of its financed resettlement programs. The analysis will attempt to determine the features of property rights that protect people during resettlement and the strengths and weaknesses of World Bank

resettlement policy implementation. Finally, after presenting the two case studies, this paper closes by addressing policy considerations for future resettlement programs in China. Namely, how can clarified and enforceable property rights improve the social and economic consequences of resettlement, and does the World Bank's 1-for-1 approach to resettlement accomplish the objectives it sets for mitigating the costs of resettlement and improving living standards? Overall this analysis attempts to address one aspect of the wide-ranging issue of land security and property rights in China; hopefully, it will also contribute to the broader discussions of human rights, property rights, and the accountability of governments and IFIs to protect the economic livelihoods and social well-being of displaced communities by comprehensively and successfully implementing resettlements.

Chapter Two: The Link Between Property Rights and Resettlement

Recognition of property rights is fundamental to the design and implementation of a resettlement program, and characteristics of property rights play different roles with respect to each phase. Within the design of a program, the clarification of property rights strongly relate to identifying affected persons and structures; determining the value of those structures; and establishing ownership of new property in the relocation settlement. A registration system simplifies the identification of persons and structures by maintaining a survey of all registered property whose ownership can be legally defended. Absent a registration system, ownership is difficult to prove. Moreover, clarified property rights support the existence of markets by allowing the comparison of property to determine worth and by regularizing the transfer of property. In a resettlement program, the transfer of property from the individual to the state is more easily carried out if these two characteristics are functioning. The clarification of property rights helps resettled persons claim property in their new location by providing a clear measurement of what property was lost and what property the owners are now entitled to own.

The success and cost of enforcement are closely linked to clarification, and this in turn affects the implementation of resettlement.²⁵ Elements of implementation include the enforcement of title ownership; distribution of compensation for land and property acquisition; and access to credit as a part of resettlement assistance. Without the obligation to enforce property rights, ownership can be more easily revoked with less of a burden on

²⁵ Klaus Deininger, *Land Policies for Growth and Poverty Reduction*, (World Bank: Washington, D.C., 2003), 25.

public officials to demonstrate the need for such transfer. Enforcement is necessary to ensure proper distribution of compensation and to impose punishment upon officials who defraud compensation schemes. Essentially, broad enforcement of property rights changes the incentive structures for individuals to comply with the law and respect property rights. The ability to enforce these rights relies upon access to enforcement institutions, the obtainment of “legally binding decisions,” and local acceptance of those decisions.²⁶ The enforcement of property rights is also closely linked to the replacement of economic opportunities by providing access to credit. Respect for property rights facilitates the lawful transaction of property and promotes the functioning of lending markets by making land or other property easily employed as collateral for loans.

The execution of clarified and enforceable property rights through a resettlement program underscores the economic importance attributed to property rights. Hernando de Soto, in *The Mystery of Capital*, states, “Property is the realm where we identify and explore assets, combine them, and link them to other assets. The formal property system is capital’s hydroelectric plan. This is the place where capital is born.”²⁷ Clearly defined property rights offer individuals economic freedom by allowing them to maximize the use and exchange of their resources, and well-enforced property rights increase institutional trust in the market’s and government’s respect for individual ownership. Ownership of property thus facilitates the exercise of one’s livelihood, and if disruption of that ownership through the acquisition or destruction of assets by the government occurs, then an individual’s

²⁶ Ibid., 33.

²⁷ Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York: Basic Books, 2000), 47.

economic viability will be affected. Moreover, if those assets are not replaced or compensated for, the individual's trust will be tested.

This hypothetical situation underscores a longstanding principle in property rights theory known as "eminent domain." Eminent domain, as defined by *Black's Law Dictionary*, is "The inherent power of a governmental entity to take privately owned property, esp. [sic] land, and convert it to public use, subject to reasonable compensation for the taking."²⁸ Central to this definition are two criteria that must be met in order for the taking of property to be justified. One, the property must be transferred into public use, and, two, the owner must receive reasonable compensation. Following the same basic reasoning, the UN Guiding Principles on Internal Displacement argue that large-scale development projects must be justified by compelling and overriding public interests.²⁹ Property is acquired under the justification that its new use serves a public purpose toward greater local or national development, and the compensation and resettlement assistance provided by the IFI or country government fulfills the second criteria of a justified taking. Bjorn Petterson, in the *Forced Migration Review*, argues that without this qualification, resettlement could be considered a human rights violation.³⁰ However, the definition of "public interest" is also problematic when those affected by resettlement are found to be marginalized portions of the national population, such as women, children, rural poor, and indigenous groups.³¹ This calculation can be affected by the "proportionality" of the project, based on the number

²⁸ Bryan A. Garner, ed. *Black's Law Dictionary*, Second Pocket Ed. (St. Paul: West Group, 2001), 233.

²⁹ Principle 6, "Guiding Principles on Internal Displacement," United Nations Office of the High Commissioner for Human Rights. Accessed January 26, 2006. Available online at <http://www.unhchr.ch/html/menu2/7/b/principles.htm>.

³⁰ Petterson, 17.

³¹ Petterson, 17; Robinson, 10.

of people displaced versus the benefits received from the development project.³² Nevertheless, proportionality is difficult to quantify.

Without a system of property registration and open property markets, the value for reasonable compensation is also difficult to measure. Within principles of international law, in 1940 US Secretary of State Cordell Hull coined the phrase “adequate, effective, and prompt compensation,” also known as the Hull formula, that was used to quantify how much the state owned individual companies when those assets were expropriated or nationalized.³³ Under this theory, governments were obliged either by a Kantian categorical imperative of moral governance or they were obliged by the idea of distributive justice to provide a just outcome by redistributing assets (in the form of monetary compensation) that were physically taken into state ownership. Derivation of the amounts came primarily from land markets and property markets to ascertain the sale value, which allows the government to understand the monetary cost of lost property.

Another more recent conception of reasonable compensation is the notion of “replacement value.” The difference between “full compensation: and “replacement value” is that the latter equals the market cost plus the transaction costs; it calculates the loss of tangible assets while also including the costs imposed by having to replace the property or do without the property, in many considered intangible costs, such as time.³⁴ By including transaction costs into its calculation, the replacement value intends to facilitate obtaining

³² Petterson, 17.

³³ Qtd. in Alan Story, “Property in International Law: Need Cuba Compensate US Titleholders for Nationalising their Property?” *Journal of Political Philosophy* 6, no. 3 (1998): 306.

³⁴ *Involuntary Resettlement Handbook*, 52.

assets equivalent to the original property.³⁵ In an agricultural system, where land is the primary economic asset, acquisition completely disrupts the investment that the farmer has placed in the land and in standing crops. Replacement of land does not replace the investment in that particular growing season. Therefore, to accommodate for the lost investment, compensation usually encompasses crops or permanent structures affixed to the land.³⁶

Not only is compensation for lost property expected by international development agencies and by international norms, but persons affected by developments projects are also expected to receive relocation assistance and placement in a community. Relocation assistance expands the definition of a state's responsibility in exercising eminent domain, and it also attempts to accommodate for some of the intangible assets lost to relocated persons. This assistance includes replacement of lost economic opportunities.³⁷ Michael Cernea, author of "Involuntary Resettlement in Development Projects," describes this action as the "development package" intended for "reconstructing the production base of those relocated."³⁸ Cernea promotes two basic strategies for reestablishing economic and social networks—land based strategies and non-land-based strategies. The decision in choosing between strategies often relates to the location of the resettlement, whether is it within an urban area or rural area.

³⁵ Ibid..

³⁶ "Involuntary Resettlement."

³⁷ Cernea, "Involuntary Resettlement in Development Projects: Policy Guidelines for World Bank-Financed Projects," 22.

³⁸ Ibid.

For agricultural workers, land-based compensation strategies are essential to reconstructing agricultural production systems.³⁹ Land-based compensation entails replacing taken land with new land. Important considerations with this type of strategy include the location of the land, the supporting environment resources (i.e. water, soil quality, etc.), and the suitability of the land to producing certain types of crops. All of these factors impact how effective the replacement of land can restore agricultural production systems. The amount of available, uncultivated land affects how a relocated community can distribute these resources. If the land amount does not match the expropriated land, then farming communities will have to adjust to a lower land holding per capita. In urban areas, the replacement of land may not be feasible, given space constraints. Thus, in exchange for a title, people may receive cash compensation or other types of compensation.

In essence, the link between property rights and resettlement figures into the design and implementation of a program by respecting the rights of the resettled; addressing the value of lost tangible assets; and linking economic development with new lending and investment. The state, or the World Bank, is respected for its right to acquisition property, but that possession incurs responsibilities. The act must serve a greater interest than that of the individual's interest and the individual must be adequately compensated for what is lost. In this sense, the principles of eminent domain not only promote political and economic justice, but they require the state to conform its actions to internationally accepted norms and meet a burden of proof. Therefore, it is hoped that persons will not be forced heedlessly to resettle or be exposed to significant economic and social risk.

³⁹ Ibid., 23.

Eminent Domain and Resettlement in China

The link between property and resettlement exists in the World Bank system, but China also has preexisting domestic eminent domain laws. The following laws form the basis of eminent domain in China, especially as they address standards of resettlement and compensation:

- The Land Administration Law, 1998
- Regulations on the Implementation of the Land Administration Law of the People's Republic of China, 1998
- The Decision of the State Council on In-depth Reform Concerning the Strict Land Management, No. 28, 2004
- Rural Land Contracting Law, 2002
- Grassland Law of the People's Republic of China, 1985

Collectively, these laws and a plethora of local administrative regulations demonstrate that even though the government holds the absolute right of eminent domain, the legal consequence of expropriation should be compensation provided to the property owners or users. This relationship reflects the international standards described in the previous section, and also demonstrates that the Chinese state accepts an obligation to compensate for taken property.

Given that China does not allow public ownership of land, the country does not have a market for land, and it also does not yet have a uniform land titling system. Instead, farmers—as rural residents—receive rights to cultivated land and a contract bestowing “use rights” to land. Essentially, this implies that the farmer has the ability to use the land for

any type of cultivation for that period time, without intervention by the government. This notion of “use rights” assumes that property ownership is a bundle of rights that can be disaggregated. While the government retains ownership of the land, the farmer owns the use rights and has legal recourse to prevent the government from interfering in his or her cultivation. One such legal recourse is found in Article 45 of the Land Administration Law, which states that the requisition of cultivate land requires central government approval.⁴⁰ This restraint prevents local governments from acquisitioning land for their own private benefit or for local development.⁴¹ Moreover, the land-use rights system serves as a social and economic security net by ensuring a workplace, occupation and opportunity to provide for the basic food needs of their families.⁴²

For this reason, the government recognizes in the law the importance of compensating farmers with the provision of new land, in many places, this may not be feasible because of the extreme lack of new arable land. In China, most arable land available in the country already functions under some use. Regardless of the availability of replacement land, the Land Administration Law, requires cash compensation in the amount of six to ten times of average annual output for the previous three years of production.⁴³ Debate centers on whether this standard meets either the market value or replacement value of the lost land and crops. Another area of criticism with compensation practices in China is

⁴⁰ “PRC Land Administration Law.”

⁴¹ The government identifies food security, especially grain security, as an imperative reason for protecting agricultural production and the availability of agricultural land. Tan, et.al., 16.

⁴² Klaus Deininger and Songqing Jin. “Land rental markets as an alternative to government reallocation? Equity and efficiency considerations in the Chinese land tenure system.” *World Bank Policy Research Working Paper 2930*. Washington, D.C.: World Bank, November 2002. Accessed November 21, 2004. Available from http://econ.worldbank.org/files/22113_wps2930.pdf, 2

⁴³ “PRC Land Administration Law.”

the level of corruption among local officials in embezzling land use funds or for simply using them for inappropriate public activities. In other words, compensation funds do not always reach the individuals affected by displacement.

Historically, resettlement practices in China have not produced favorable outcomes, given weaknesses in the law and practice. Prior to the 1970s, China lacked a legal framework with which to address resettlement protections, but with the law reform and economic development of the 1980s and 1990s, China developed a principle of “resettlement with development” that attempted to promote community improvement with national development strategies.⁴⁴ Elisabeth Croll identifies three phases of this approach:

...mobilization or education and persuasion aimed at winning the cooperation of relocatees; relocation or the payment of compensation for old houses and land prior to the allocation of new land, the construction of new houses and new site infrastructure; and production development or providing the means of production to generate improved incomes.⁴⁵

Therefore, the official policy goes beyond the technical aspects of displacing and relocating communities, and the government publicly recognizes the multi-faceted needs of people who lose their property.

One of the most famous resettlement projects in China is the Three Gorges Dam Project, which expects to resettle over 1.3 million people over 17 years until completion in 2009.⁴⁶ This enormous project notably lacks World Bank assistance because the Bank

⁴⁴ Michael Cernea, “Population resettlement and development (includes related articles),” *Finance and Development*, 31:3 (Sept. 1994). Accessed October 2, 2005. Available online through Infotrac.

⁴⁵ Croll, 469.

⁴⁶ Tan, et.al., 6.

declined to fund the project; the Bank found the resettlement plans unsatisfactory.⁴⁷ Despite this rejection, the Chinese government proceeded with its plans.

Studies of past resettlement projects in China focus on domestic programs—not those financed by the World Bank, and they provide a platform upon which to evaluate the relevance of World Bank resettlement programs in China. In practice, China's resettlement policies have not manifested into practices that produce favorable results. Problems identified in the studies included a lack of consultation with relocated populations to address local concerns, a misrepresentation of the number of affected people, secretive distribution of compensation, discrepancies between rural and urban compensation, and insufficient land on which to relocate communities.⁴⁸ On an individual level, people expressed dissatisfaction with their declining living standards, the uncertainty of income, and of the uneven benefits given to local officials.⁴⁹ Thus, World Bank resettlement projects in China might face uncertainty and skepticism from the people affected by development, given that the past resettlement practices in China did not always produce positive outcomes. How well the World Bank addresses the problems in China that have occurred through domestically-funded projects will test the Bank's ability to improve resettlement work.

⁴⁷ Robinson, 16.

⁴⁸ Jun Jing, "Rural resettlement: Past Lessons for the Three Gorges Project," *The China Journal*, no. 38 (July 1997), 68, 74, 80, 82; Tan, et.al.,20.

⁴⁹ Croll, 482-483.

Chapter Three: Property Rights in World Bank Resettlement Policy

In analyzing the World Bank's resettlement policy, the planning and implementation phases of a project utilize property rights in the identification of people, the classification of property, and the distribution of compensation. This chapter addresses how the World Bank incorporates property rights into its resettlement policy in order to create a framework that can be used to assess current Bank-financed projects.

As mentioned in Chapter 1, the first resettlement policy was issued by the World Bank in 1980 and constituted official recognition of the social and economic effects on communities induced by development projects. The policy adopted the goal of "income restoration" for resettlement programs; income restoration implies that the Bank would not only compensate people for lost property but would also create opportunities to improve beyond simple restoration the ability of people to earn income.⁵⁰ Thus, the resettlement program became a vehicle for additional development endeavors. The World Bank hoped that this policy would diffuse into other institutions and countries that engaged in resettlement and improve the general practice.⁵¹ In the early 1990s the World Bank began an official review of its practices in a study of resettlement implementation from 1986 to 1993. During the time of this study, World Bank-financed projects displaced 2.5 million people, and this figure does not include other affected persons who were affected but not relocated

⁵⁰ Cernea, "Population resettlement and development (includes related articles)."

⁵¹ Ibid.

as a result of the project.⁵² The scope and depth of such relocation reflected the increasing scale of development displacement. As developing countries increased investment in infrastructure, the displacement of communities and the expansion of stakeholders were inevitable in many ways; the question of accountability in World Bank resettlement programs grew more and more important.⁵³

Based on this study, Michael Cernea writes, in “Population resettlement and development,” that although the World Bank improved its practice in minimizing the economic effects of resettlement, the overall projected performance of projects was lower than expected.⁵⁴ The Bank noted improvement in resettlement projects that followed World Bank guidelines over those that did not. However, in restoring income, the review analyzed regional World Bank documents and found that incomplete data prevented the Bank from accurately determining income changes. In places with consistent data, the study found that incomes fell after resettlement, indicating losses up to 40% of the original income level.⁵⁵ Moreover, inadequate surveys of affected people underestimated the impact of resettlement projects, and the Bank found that in some cases the number of affected people doubled with a revised estimate.⁵⁶ Thus, within the World Bank, this study indicated that while the

⁵² Erin K. MacDonald, “Playing by the rules: The World Bank’s Failure to Adhere to Policy in the Funding of Large-Scale Hydropower Projects,” *Environmental Law* 31 (Fall 2001). Accessed through Lexis Nexis.

⁵³ Ngairé Woods, “Making the IMF and the World Bank more accountable.” *International Affairs* 77, no. 1 (2001), 84.

⁵⁴ Cernea does not cite specific evidence to support his claim. Cernea, “Population resettlement and development (includes related articles).”

⁵⁵ This World Bank report summarizes the data from its review of resettlement projects, and only presents a limited amount of statistics to illustrate the Bank’s conclusions. *Resettlement and Development: The Bankwide Review of Projects Involving Involuntary Resettlement: 1986-1993*. Environment Department, Paper No. 032, Washington, D.C.: World Bank, March 1996. http://www-wds.worldbank.org/servlet/WDSContentServer/WDS/IB/1996/03/01/000009265_3980728143956/Rendered/PDF/multi_page.pdf, 109.

⁵⁶ *Ibid.*, 132.

policy's intent and standards generally could be accepted as good practices of resettlement, the practice of that policy and resettlement implementation prompted concern. This realization led to a revision of the guidelines, which in final form became the Operational Policies for Involuntary Resettlement, O.P.4.12. The most recent version of the Operational Policies for Involuntary Resettlement (hereafter, Involuntary Resettlement Policy) emerged in 2004, and they continue to serve as the requirements for resettlement programs implemented today. The rules address not only the obligations of the borrower to the World Bank but also the obligations of the resettlement program to the affected persons.

The following analysis uses the most recent version of the Involuntary Resettlement Policy and the *Involuntary Resettlement Sourcebook* to provide a deeper understanding of the World Bank's conceptualization of resettlement objectives.⁵⁷ The guidelines are organized into the following sections:⁵⁸

- Policy Objectives: Identifies the goals for World Bank resettlement.⁵⁹
- Impacts Covered: Outlines the economic and social impacts recognized by resettlement, and the measures required for addressing those consequences.
- Eligibility for Benefits: Indicates how the borrower will identify affected persons, and the criteria for eligibility.
- Resettlement Planning, Implementation, and Monitoring: Summarizes the procedural issues of resettlement, financing, and obligations of the borrower to the World Bank.

⁵⁷ The *Involuntary Resettlement Sourcebook* elaborates on the initial Involuntary Resettlement Policy, using case studies from Bank projects to illustrate how to plan and implement projects.

⁵⁸ "Involuntary Resettlement."

⁵⁹ The resettlement program should be completed prior to the development project's implementation.

- Resettlement Instruments: Illustrates the documentation required for implementation.
- Assistance to the Borrower: Describes the technical and financial support available to borrowing countries.

The text below will address each section, except the Resettlement Instruments and the Assistance to the Borrower, and will illustrate each section's reliance on the clarification and enforcement of property rights.

To provide some context for the applying policy, this analysis relies upon two types of resettlement projects that are consistent with projects found in China and that are presented as case studies in the following chapters. Hydropower projects that construct dams and fill reservoirs are typical projects used to develop infrastructure and renewable energy. Especially with regard to reservoirs, hydropower projects usually affect a large zone of lower lying area near to the river being dammed. Entire communities can face resettlement if their villages and fields fall in the zone for filling the reservoir. Another category of resettlement projects, termed "linear resettlement," occurs along a highway, pipeline, and canals and they have a long, but narrow range of impact. The *Sourcebook* notes that linear projects are more difficult to administer because they often involve a narrow strip of property acquisition that crosses multiple communities or districts.

Policy Objectives

In the 2004 version of the Involuntary Resettlement Policy, the Bank formally states that the primary objective of resettlement programs should aim to avoid or minimize resettlement. Its principle assumption presupposes that resettlement immediately implies

loss—loss in property, loss in access, and loss in community. The policy compels programs to conduct reviews of the development plans and seek alternative solutions that challenge the initial resettlement assessments.⁶⁰ The design of the development project must be revisited by the domestic implementing agencies and independent monitoring organizations with the purpose of reducing affected land and persons. This review may also help minimize the total cost of the development project, as resettlement costs are factored into the entire project's budget.⁶¹ If this evaluation can minimize resettlement, then the financial and social costs to the development program and surrounding community also can be alleviated. This particular goal is especially relevant for reservoir projects if redesign can prevent the removal of a village or can ensure the survival of hillside fields.

If resettlement cannot be avoided, then the policy states that resettlement should be formulated as a sustainable development program.⁶² The Involuntary Resettlement Policy does not offer a definition of "sustainable development," but the World Bank's public definition of sustainable development combines five concepts from the Millennium Development Goals: financial capital, physical capital, human capital, social capital, and natural capital.⁶³ Thus, sustainable development refers broadly to conducting the project in such a way that minimizes the necessary harm, uses this as an opportunity to improve local living standards, and completes the development project in the interest of providing long-term benefits to the country. Key to achieving this goal is investment, consultation and

⁶⁰ "Involuntary Resettlement."

⁶¹ *Involuntary Resettlement Handbook*, 6.

⁶² "Involuntary Resettlement."

⁶³ "Sustainable Development in the 21st Century." World Bank. Accessed February 7, 2006. Available online at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/EXTESSDNETWORK/0,,contentMDK:20502659~menuPK:1287775~pagePK:64159605~piPK:64157667~theSitePK:481161,00.html>

participation with affected persons, and economic well-being.⁶⁴ Moreover, as described in Chapter 2, property rights play a significant role in a person's ability to invest and maximize the use of their assets. Thus, strong, clear property rights support sustainable development by supporting market transactions and by enforcing individual rights of ownership.

Additionally, the resettlement policy references four additional policies for consideration in designing a resettlement program: "Environmental Assessment," "Natural Habitats," "Indigenous Peoples," and the forthcoming "Management of Cultural Property in Bank-financed Projects." The harmonization of resettlement with these additional policies intends to provide more detailed guidance for creating a resettlement program that maximizes sustainable development priorities. Importantly, the Involuntary Resettlement Policy does not include community preservation or social well-being as a primary objective, although mention of collective attachment and identity can be found in the "Indigenous Peoples" Operational Policy.⁶⁵ This implies that the Bank values indigenous communities at a different standard than non-indigenous or non-minority communities. Whereas the Bank considers preserving traditional lifestyles and community dynamics as a priority of resettlement programs, this assumes that other communities do not share the same type of cohesion or are not considered valuable enough to protect. This policy typically affects rural areas in China where large concentrations of ethnic minorities live and, in some cases, have autonomous rule. Thus, in addressing the needs of indigenous people in China, the

⁶⁴ "Involuntary Resettlement."

⁶⁵ "Indigenous Peoples." The World Bank Operational Manual: Operational Policies. July 2005. Accessed on February 7, 2006. Available online at <http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/0/0F7D6F3F04DD70398525672C007D08ED?OpenDocument>.

Bank's policy may confront not only unique cultural needs but also economic discrimination with Han Chinese.

A measurement of pre-resettlement socio-economic conditions is important for evaluating if the program can meet the objectives described above. The Bank requires resettlement programs to conduct a socio-economic survey of affected communities to understand the current living and economic well-being of the community. Instead of relying upon a universally accepted target for income or other measurements of economic well-being, the Bank looks to local measurements and evaluations of well-being to determine the acceptable level of success. Local officials determine well-being based upon the initial standards of living for relocated persons and whether the program can at a minimum restore the current living conditions.⁶⁶

Courtland Robinson, in "Risks and Rights: The Causes, Consequences, and Challenges of Development-Induced Displacement," expresses concern that this minimum goal of restoration sets the threshold too low, especially when replacing the incomes of people who were previously living in poverty.⁶⁷ In response, the *Involuntary Resettlement Sourcebook* states that when compensation at replacement cost is likely to perpetuate poverty, then "(c)areful project design, targeted compensation, and flexibility in compensation arrangements can often improve the living standards for the poor."⁶⁸ Noticeably, the World Bank does not specifically take on the responsibility of bringing the affected poor above the poverty line; it relies upon the local assessment of economic

⁶⁶ "Involuntary Resettlement."

⁶⁷ Robinson, 30.

⁶⁸ *Involuntary Resettlement Sourcebook*, 59.

security. Its objective simply accepts the restoration of living conditions in comparison to the original socio-economic measurement. The use of this measurement tremendously impacts urban areas, where linear projects may take place. People living in urban poverty face significantly higher living costs than in rural areas. Moreover, being in an urban area, they might not have access to land for subsistence agriculture for their household; thus their food security is greatly affected if income restoration does not improve their living standard, or if they relocate to an area within the city that has higher living costs.

Overall, the Policy Objectives would benefit from more detail and direction. Vaguely identifying “income restoration” and implementation according to “sustainable development objectives” leaves resettlement practices open to interpretation and distortion by political objectives, such as exercising state control over property in China. The Policy Objectives should reference more detailed methods for quantifying socio-economic standards and suggestions for how to evaluate the accomplishment of the policy’s objectives. Notably, the Policy Objectives fail to mention property rights protection as an objective of resettlement. This absence suggests that either respect for property rights implicitly enters Bank policy in other areas, or that it does not constitute an important facet of the Bank’s perspective on resettlement. Regardless, not including respect for property rights as an objective of resettlement weakens the Bank’s policy, as it relates to the legal underpinnings of expropriation of property. In sum, revision of the Policy Objectives would support more uniformity in resettlement planning and it would promote a more consistent understanding of acceptable socio-economic living conditions.

Impacts Covered

This section of the Involuntary Resettlement Policy illustrates how resettlement project assess the expected impact of the development project that induces the need for resettlement.⁶⁹ First, the policy defines what loss qualifies as an “impact.” The first type is “the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) lost [sic] of assets or access to assets; or (iii) loss of income sources or means of livelihoods, whether or not the affected persons must move to another location.”⁷⁰ The second type is the restriction of access to common areas (parks and protected areas) that negatively affect the livelihoods of displaced persons.⁷¹ Note that both of these impacts relate to property ownership and access rights. The first type references a typical expropriation scenario, but the second type of impact alludes to the use of common property. In a community, people have access rights to commonly used property, implying that common property cannot exclude people from use. If the development project’s construction prevents people from using public facilities, such as parks, schools, and markets, then the resettlement project recognizes that closure as an impact requiring some form of restitution. These rights to common property apply both to the displaced community and the community that accepts displaced people, also called the host community.⁷² If the host community loses its ability to access parks because the newly arrived population makes them too crowded, then the Bank and the local implementing agency must accommodate the community for its loss, for example, by

⁶⁹ “Involuntary Resettlement.”

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² The host community is defined as the community into which affected persons are relocated.

creating new parks. Changes in infrastructure needs, access to public spaces, and evolving consumption demands may especially affect host communities.

Depending upon the type of development project that requires resettlement, communities and their land will be affected differently. This affects how people qualify for eligibility and the extent to which a resettlement project must address individual household relocation versus entire community movement. For example, the creation of a reservoir can potentially impact the existence whole communities and all the communities that depend upon the water source for agriculture. The *Involuntary Resettlement Sourcebook* writes, “Poorly planned and implemented dams can devastate local socioeconomic systems, leaving people without comparable and acceptable alternatives.”⁷³ This risk occurs because the building of dams is land-intensive, and when constructed in rural areas, a dam’s presence may challenge the feasibility of continuing traditional agricultural practices. For water dependent communities, this may require a change in crop selection, farming or irrigation methods, and the requirement of new technologies. Moreover, it may require the movement of entire communities and the replacement of agricultural land, which creates significant land-use issues.

People whose land is acquisitioned for a linear project are more likely to be resettled within the original community because these types of projects do not generally disrupt the whole area of a community.⁷⁴ Therefore, resettlement with linear projects can often accommodate relocating displaced residents within the same community. This feature can

⁷³ *Involuntary Resettlement Sourcebook*, 321.

⁷⁴ *Ibid.*, 299.

prevent the loss of community relationships and also the loss of employment if a person is still able to commute to work in the original location.

As required by the policy, each project prepares a resettlement plan detailing the expected number of affected people, the quantity of affected property, and the expected activities for carrying out relocation and compensation. From the case studies presented in the next two chapters, it appears that this responsibility falls to the local government agency overseeing resettlement as well as the Bank's-funded Project Resettlement Office, although the World Bank does not assign this role within the resettlement policy.

With regards to property, the plan must include "prompt and effective compensation at full replacement cost for losses of assets."⁷⁵ This citation of "prompt and effective" relates to the Hull formula, described in Chapter 2, and illustrates the Bank's acknowledgement of international standards for expropriation practices. Replacement costs involve more than simply compensating people for the market value of their property. As defined in the Involuntary Resettlement Policy, the Bank defines replacement as "...the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs."⁷⁶ Thus, the equation for compensation in a resettlement program accounts for the market value of the assets plus the transaction costs, or intangible costs such as time, that account for losing or replacing the property. Additionally, for assets that cannot be easily quantified, "(e.g., access to public services, customers, and suppliers; or to fishing, grazing or forest areas), attempts are made to establish access to equivalent

⁷⁵ The World Bank defines replacement cost as, "market costs plus transaction costs." *Involuntary Resettlement Sourcebook*, 52; "Involuntary Resettlement."

⁷⁶ "Involuntary Resettlement."

and culturally acceptable resources and earning opportunities.” This accommodation for intangible assets implies that the World Bank recognizes the value that assets bring to an individual household and to an individual household that cannot be easily replicated. The emphasis by the World Bank on the economic impact of resettlement is portrayed in the operational guidelines by its recognition of the loss of assets or means of livelihood, regardless of relocation, such as the loss of customers. In this way, the guidelines affirm linkages between ownership of economic assets and economic performance.

The notion of compensation also includes relocation assistance, and for this the policy suggests moving allowances. When undertaking a World Bank-financed development project, the resettlement compensation must meet both the borrowing country’s and World Bank’s standards. For example, China’s Land Administration Law and the Rural Land Contracting Law outline the required minimum compensation for land acquisition and assistance for relocation. If the borrowing country’s compensation standards are less than those recognized by the World Bank, the World Bank’s policy must be enforced domestically. This rights-based approach toward acquisition and compensation is enforced through the contract undertaken by the World Bank and China.⁷⁷ In other words, the domestic standards will be supplemented by additional compensation underwritten by the World Bank.

The compensation type and amount depends upon the type of acquisition and severity of the loss, and compensation may be given in cash or the physical replacement of assets, such as land and housing. For example, a project can rate the property according to

⁷⁷ *Involuntary Resettlement Sourcebook*, 51.

its permanent or temporary acquisition, and whether or not the property is partially damaged or wholly damaged. This ranking generally creates a scale of damages, with the worst ranging from permanently and wholly acquisitioned property to temporarily and partially acquisitioned property.

With regard to land, the severity of property acquisition relates to the producing capability of the land. Under Bank guidelines, if land is unable to produce anymore, then farmers can receive replacement land; cash compensation; assistance to rehabilitate old land or prepare new land; and the option to sell any remaining land attached to the plot that was acquisitioned. If the land is still viable, then the amount of land acquisitioned affects what the farmer can receive. For example, if less than 20% of the land was acquisitioned, then the farmer can only receive cash compensation and the rehabilitation assistance described above. The farmer in this position does not have the option under World Bank policy to sell the remaining amount of land. If more than 80% of the land was acquisitioned, then the farmer can receive replacement land, cash compensation, rehabilitation assistance and the option to sell residual land. In order to determine which category land falls into, the project employs land surveys to determine the amount of land taken from each household.⁷⁸ The available assistance and compensation decreases according to the percentage of land acquired. Moreover, crops or permanent structures affixed to the land are included in the World Bank's definition of "land" and are therefore covered by compensation.⁷⁹

⁷⁸ Ibid., 39.

⁷⁹ "Involuntary Resettlement."

Nevertheless, the *Involuntary Resettlement Sourcebook* accepts that in rural areas where farming is the primary source of income, land loss of 10% is considered severe.⁸⁰ This provides an exception to the ranking system above as it assumes that use of land in rural areas has a fundamental role in the local economy, and can play a significant role for farmers affected by reservoir projects.. The Bank sets this estimate at 10% because of the insecurity created in rural areas by the expropriation of land. If farmers do not have access to new land, their current income will fall, and their future earnings will face uncertainty unless the farmer has an employable skill and an employment opportunity. For agricultural land in and around urban zones, a loss of 20% due to expropriation is deemed severe; this standard is higher than in rural regions because urban areas generally provide more opportunities for finding non-agricultural income sources.⁸¹ While there are usually more jobs around urban areas, this loss estimate fails to account for the increased cost of living that could impose an even higher burden on affected farmers if their land around urban areas is taken. Rural farmers may be able to smooth their transition from farming to non-agricultural work because they can rely on village resources and a lower cost of living. The policy and method for distributing compensation is not explicitly described in the Involuntary Resettlement Policy or in the *Involuntary Resettlement Sourcebook* but implicitly relies on the enforcement of property rights.

In the case studies presented in the subsequent chapters, procedures for receiving compensation generally depend upon the presentation of a contract, drawn up prior to resettlement that illustrates the financial arrangement between the project and the

⁸⁰ *Involuntary Resettlement Sourcebook*, 40.

⁸¹ *Ibid.*, 41.

individual. The use of a contract between the project and the individual legalizes the transfer of property and it also establishes a type of guarantee for either party that if the conditions are not met, formal recourse may be sought. Thus, the enforcement of compensation employs contractual agreements to hold the resettlement projects accountable.

For the replacement of lost property (including land, houses, and other structures), the Involuntary Resettlement Policy requires local implementing agencies to provide housing or agricultural sites “at least equivalent to the advantages of the old site.” This constraint significantly affects land-based resettlement practices, which are the 1-for-1 replacement of agricultural land to protect farming lifestyles and income.⁸² Section 9 of the Involuntary Resettlement Policy underscores the World Bank’s recognition of land-based resettlement. It refers to indigenous peoples with “land-based modes of production” (i.e., agriculture) and states that land-based resettlement is preferable for these people because it protects their culture and traditional lifestyles. Section 11 broadens this scope to include land replacement for all persons whose livelihoods are land-based. Farmers must receive land that has the same “productive potential” as their original land. Land of inferior resource quality, such as less water for irrigation or poor topsoil, would not meet the standards of this policy.⁸³ The resettlement policy also allows compensation for land preparation, which could involve the clearing of trees, the purchase of fertilizers or seeds, and the preparation of irrigation channels.⁸⁴

⁸² “Involuntary Resettlement.”

⁸³ Ibid.

⁸⁴ Ibid.

Within China, the *Involuntary Resettlement Sourcebook* favors the readjustment of land holdings within a farming collective organization in order to provide a land-based option for resettlement. This policy distinguishes between the different types of property ownership in China, namely, individual land use rights and collective ownership of agricultural land. Collective or village organizations manage the distribution of land and monitor its cultivation. The collective is responsible for signing land-use rights contracts with individual farming households. Therefore, if a household within a collective loses its land to the acquisition of a Bank project, the World Bank advocates that the collective redistribute the remaining land within the collective as a means of giving displaced farmers access to land within their own community. The World Bank supports this community-wide readjustment as reducing the impact of land acquisition for affected households. The *Sourcebook* writes,

In rural China, for example, farmers own land collectively, and the farmer group (the production team under the commune system) is the unit of land ownership. When the state acquires land within a village, the remaining area is reallocated to all the community members....Such collective sharing of the loss of land reduces the loss any one family must bear and means that the severity of impact needs to be measured at the level of the collectivity.⁸⁵

However, this policy for the replacement of land does not correspond directly to domestic Chinese law. Under the Rural Land Contracting Law (2002), readjustment of land in a collective is strictly prohibited in Article 27, except in the event of a natural disaster or other “exceptional circumstances.” Any changes must be approved by two-thirds of the village assembly or village representatives.⁸⁶ If the World Bank advocates readjustment of land

⁸⁵ *Involuntary Resettlement Sourcebook*, 39.

⁸⁶ *Ibid.*

holdings, the loss of land is spread among a group of households larger than those initially affected by relocation. The World Bank's approach toward land readjustment and collective management raises questions as to the efficacy of protecting farming communities as well as individual households. The readjustment could reduce the productive capacity of all households in a collective, thereby negatively affecting income throughout the entire community.

Compensation must be adequate to compensate for the extent of property and economic losses. Erin MacDonald, in "Playing by the rules: The World Bank's Failure to Adhere to Policy in the Funding of Large-Scale Hydropower Projects," writes that 70% of past hydropower projects provided only cash compensation without replacing land or assets.⁸⁷ This type of compensation can present a problem especially for poorer people who may consume more with the cash, but may not invest it into a longer-term income generating activity. If a person does not have a marketable skill or an entrepreneurial venture, then cash compensation provides little the way of long-term security, especially because in China the rural banking system does not support savings and investment. Especially for agricultural workers, land is an asset and the foundation for economic activity. The replacement of land offers options to people. They can farm it themselves; they can lease it to others; or they can revoke their rights in exchange for cash compensation. Moreover, because the construction of a dam often entails complete destruction of household or agricultural property, the amount of cash may be insufficient to replace lost assets and unable to replace the emotional connections to land or other property. Thus,

⁸⁷ MacDonald.

replacement of land for people with agricultural livelihoods is key to providing resettled persons with economic security and the means to benefit from project construction.⁸⁸

The Involuntary Resettlement Policy also suggests that displaced persons with land ownership should receive a choice offering land-based resettlement (replacement of the land) or non-land-based resettlement, such as relocation in an urban area or job assistance. This section of the policy states that assistance should be provided in addition to compensation and relocation funds for the development of credit facilities and job opportunities.⁸⁹ Property rights play a significant role in facilitating use of credit because titling is necessary to be able to leverage property for loans. With this access, relocated persons are presented with incentives to seek new income opportunities or to invest in rebuilding agricultural production.⁹⁰ Credit facilitates the development of entrepreneurship by providing access to start-up capital. For agriculture, access to credit for agricultural inputs may be dependent upon the ability to mortgage property or land. Especially if farmers are rebuilding on a new parcel of land, access to credit is essential for purchasing the necessary inputs to prepare the land for cultivation. If farmers choose to not accept replacement land, or if the land is not available, then the policy requires non-land-based alternatives for employment or self-employment that must be provided in addition to replacement compensation.⁹¹ The provision of job opportunities assists resettled persons in transitioning smoothly and efficiently into different economic activities. Because the

⁸⁸ Deininger, xvii.

⁸⁹ "Involuntary Resettlement."

⁹⁰ *Involuntary Resettlement Sourcebook*, 167.

⁹¹ "Involuntary Resettlement." The lack of land must be demonstrated and documented for the World Bank's approval.

resettlement project can provide assistance in the development of non-agricultural skills as well as direct employment, displaced persons may receive protection from the economic impacts of displacement and may improve their range of choices. For farmers located around urban centers, this option may provide the best alternative to the replacement of land, if the farmer has skills marketable in that area or if the project can provide training.

With this practice, the World Bank underscores the importance of economic rehabilitation of resettled persons as integral to the work of the World Bank and the success of a sustainable development project. The foundation for this argument is grounded on two reasons—one is economic, and the other is ethical. The economic argument concentrates on the monetary costs imposed on the development project by inadequate resettlement practices. Namely, poorly implemented resettlement practices not only lead to negative consequences for affected persons but can also lead to an increase in local resistance, project delays, and the postponement of project benefits.⁹²

Any delay of the development project implementation imposes a financial cost and can hinder a project's success. Cernea reports that a one-year delay in resettlement will reduce the net value of a development project's benefits by almost one-third. A two-year delay can reduce the benefits by more than one-half. To place a delay in context, consider the construction of a large hydropower project that is expected to provide electricity for a large urban area. The construction of the dam requires the filling of a reservoir, and the resettlement of 3,000 people. However, because resettlement must be completed before construction of the development project begins, a delay in resettlement will delay the overall

⁹² Cernea, "Population resettlement and development (includes related articles)."

project. The financial costs imposed on the general population who would benefit from the electricity produced by this dam would be significantly greater than the added cost of a well-implemented resettlement program for a targeted group of affected people that lowers local resistance. Importantly, this line of reasoning does not address directly the economic and social well-being of project-affected persons, but rather concerns the economic well-being of the World Bank's own objectives. Thereby, it relegates resettlement as an obstacle that must be overcome in order to successfully, and cost-effectively execute development initiatives.

The ethical reason relies upon the eminent domain argument.⁹³ Essentially, if the state takes away property without compensation, then the state acts in the interests of its own wealth maximization, rather than in the interests of justice. This perspective is essentially utilitarianism. Yet, Harold Demsetz, an economist whose research focuses on the link between property rights and economics, states, "One is entitled to an explanation of why these assignments of property rights are ethically superior to their alternatives."⁹⁴ Using the right of eminent domain, governments face a loss of trust and power if they expropriate property simply to maximize that property's utility, without an explanation of why that property's use will be ethically superior to its current use. Thus, compensation provides an alternative for property owners, by providing them with the replacement of lost assets and by establishing predictability and trust in the state's use or expropriation of property. If the state takes away property, it is obliged to compensate the previous owners

⁹³ Ibid.

⁹⁴ Quoted in Walter Block, "Ethics, Efficiency, Coasian Property Rights and Psychic Income: A Reply to Desmetz," *The Review of Austrian Economics* 8, no. 2 (1995). Accessed April 22, 2006. Available online at http://www.mises.org/journals/rae/pdf/rae8_2_4.pdf, 78.

for its loss. It would be considered an unethical act if the state—supported by the World Bank—took away land and other property without providing reparations. The Operational Policy specifically requires payments to equal the full replacement cost.⁹⁵ Thus, by providing compensation the World Bank fulfills its ethical obligation to the persons affected by the development project. Furthermore, the World Bank asserts that it goes beyond the traditional eminent domain requirement of providing compensation by incorporating an additional objective of income restoration.⁹⁶

Although the World Bank approaches resettlement with two objectives—compensation for lost property and restoration of livelihoods—the crux of a resettlement program relies on the recognition and enforcement of property rights. Without a fundamental basis in property rights, neither objective can be achieved. For example, without identification of the property acquisition for a development project, the resettlement program cannot isolate who receives compensation and how much should be allocated. In addition, the restoration of livelihoods often relies on acquisition of new capital to reestablish businesses or invest in agriculture. Without the ability to mortgage property titles, credit access is limited and new capital is hard to obtain. Therefore, a resettlement program with a weak foundation in property rights clarification and enforcement will face significant problems throughout implementation.

Overall, the Impacts Covered in the Operational Policy attempt to guide a resettlement program with measurable goals for mitigating the economic and social impacts of relocation. Central to this policy section is the measurement of affected persons and

⁹⁵ *Involuntary Resettlement Sourcebook*, 52.

⁹⁶ Cernea, “Population resettlement and development (includes related articles).”

distribution of compensation, as well as the provision of economic opportunities. Property rights play the most significant role in this aspect of the program by allowing for the assessment of affected property, the calculation and distribution of compensation, and access to credit.

Eligibility for Benefits

The World Bank uses a combination of the following three categories to determine who is affected by a development project: “(i) relocation or loss of shelter, (ii) loss of assets or access to assets, (iii) loss of income sources or means of livelihood, whether or not the persons must move to another location.”⁹⁷ These categories ascertain who is eligible for relocation assistance and compensation by first determining who will be affected.⁹⁸ The borrowing country is required to carry out a preliminary census of affected property and the socio-economic status of the community, and property registers may provide documentation for ownership of land, houses, businesses and other structures, which can help in identification. If property is permanently or temporarily acquisitioned, then the owners of such property are eligible for compensation and coverage by the project. Permanent acquisition requires involuntary resettlement.

In a country without clear titling, identifying ownership may become complicated and time intensive and relies more on the results of the initial survey. This feature especially applies to linear projects if the impact only affects a portion of a building or a corner of a field. Without being able to identify title ownership and clear lines demarcating

⁹⁷ “Involuntary Resettlement.”

⁹⁸ A deadline to qualify for assistance is used to prevent people from claiming eligibility after the resettlement project begins.

property boundaries, then the process of compensating owners grows increasingly complicated and creates the possibility that projects will overlook eligible people or sign up ineligible people. Therefore, titling plays an important role in clarifying eligibility for the resettlement program.

Affected persons who can prove legal ownership of land are eligible for compensation and resettlement assistance whereas those people without a legal right to property but who occupy a parcel of land (otherwise called squatters) can only receive resettlement assistance.⁹⁹ This category of persons is relevant especially for urban projects in China, when working migrants in cities cannot legally rent houses or afford to rent houses. Thus, the policy acknowledges that regardless of formal property ownership, people can be negatively affected by a development project and they have a right to receive help. Yet, those who have lawful ownership of property will have more access to project benefits. With the property rights system in China, farmers who hold a use rights contract on the land are considered as having a legally recognized domestic right and are entitled to both compensation and resettlement assistance.

The “unit of entitlement,” or the person/group entitled to receive the compensation, varies according to the type of land tenure system. For China, the *Involuntary Resettlement Sourcebook* identifies the collective as the unit of entitlement, but also recommends paying attention to the individuals within the collective who are affected.¹⁰⁰ Presumably, the collective organization will use the compensation to benefit the whole collective. However, this policy does not completely reflect the modern land tenure system within the China.

⁹⁹ “Involuntary Resettlement.”

¹⁰⁰ *Involuntary Resettlement Sourcebook*, 48.

The Land Administration Law of 1998 and Rural Land Contracting Law of 2002 both grant land use contracts to individual households for thirty years.¹⁰¹ The households are economically organized into collective organizations, which serve as the local administrative body for households, but ownership of the land use rights resides with the household. The household is allowed discretion in making production choices and methods and the nature of present day agriculture in China is based upon the individual household.

¹⁰²

While the collective organization plays a role in distributing and administering contracts, under the Rural Land Contracting Law individual farmers are entitled to receive compensation when land is acquisitioned.¹⁰³ They are granted compensation for loss of their use contract as well as for resettlement subsidies. Article 49 charges the collective organization to publish the revenue and expenditure of the compensation from the requisitioned land, implying that the collective organization has some measure of control over the use of compensation funds.¹⁰⁴ Most recently, the State Council, the highest executive body in China, issued document No. 28 in 2004, a decision regarding land management which stated, "People's governments of provinces, autonomous regions and municipalities directly under the central government should set down the distribution methods of land compensation fees inside rural collective economy organizations in the

¹⁰¹ "China: PRC Land Administration Law;" "Apparent Full Text of New Law of the PRC Governing Land Contracting in Rural Areas." *Xinhua Domestic Service*, August 29, 2002. Accessed February 16, 2006. Available from World News Connection.

¹⁰² "Apparent Full Text of New Law of the PRC Governing Land Contracting in Rural Areas."

¹⁰³ Article 16, "Apparent Full Text of New Law of the PRC Governing Land Contracting in Rural Areas."

¹⁰⁴ Article 49, *Ibid*.

principle that land compensation fee is mainly used for land-lost farmers.”¹⁰⁵ Regardless of Bank policy, individual farmers are entitled to receive compensation and resettlement funds directly under domestic law, and the Bank’s encouragement of distribution to collectives, instead of to individual households, undermines the Bank’s own objectives: it simply reflects a less-than-accurate understanding of the current land tenure policies in China.¹⁰⁶

In conclusion, property ownership enables the identification of those who are affected, thereby determining their eligibility. Moreover, property ownership has an impact on how affected persons are aggregated according to the “unit of entitlement,” and this can also affect the receipt of compensation.

Resettlement Planning, Implementation, and Monitoring

This section of the World Bank’s policy focuses on the activities required to design a resettlement program, implement resettlement, and monitor its success. The design process incorporates property rights with the evaluation of the property, identification of affected persons and calculation of project costs, including compensation. Borrowing countries must prepare a Resettlement Plan that contains all of this information and lays out the approach for completing resettlement.¹⁰⁷

The implementation of a resettlement program begins with the identification of property affected by a development project, and the owners that correspond to that property. Once the project identifies the impact and the pre-resettlement socio-economic

¹⁰⁵ State Council, People’s Republic of China. “The Decision of the State Council on In-depth Reform Concerning the Strict Land Management: Issue of the State Council (2004) No. 28.” Translated by Li Yan. Attachment through personal email communication, February 26, 2006.

¹⁰⁶ *Involuntary Resettlement Sourcebook*, 48.

¹⁰⁷ “Involuntary Resettlement.”

conditions, then local project officials undertake selection of resettlement sites where people or communities may be relocated. The Village Committee, Township Resettlement Office, and Project Resettlement Office all have roles in publicizing the resettlement policies and in notifying affected people and businesses of their need to relocate; a cut-off date for eligibility is assigned to prevent people from illegally obtaining access to the program's assistance. Resettlement programs use contractual agreements between individuals and the project, mirroring the relationship between the domestic offices and the World Bank. Affected people sign contracts with the Project Management Office detailing the amount of property requisitioned and the compensation amounts owed by the project, and this contract serves as the legal document claims against the project if the resettlement implementation does not follow the contracted agreement or if people refuse to move. Essentially, these contracts institutionalize weak property rights in China because it uses another source of law to protect property rights, without strengthening property law and enforcement. However, the protection afforded by the contracts to affected people helps promote predictability and trust in the entire resettlement system.

Finally, after the project distributes financial compensation, the people and businesses move to the resettlement site and construction on the development project begins. For people in reservoir projects, relocation may entail moving to a completely new location that can hold a large group of displaced people. In some cases, this requires traveling a considerable distance to a host community or having communities break up into smaller groups to enter new communities. For people in linear projects, households may be

able to move down the street or across town, thereby not always disruption their way of life or community dynamics.

Remarkably, throughout this process, interaction with the World Bank occurs primarily through consultation and reporting mechanisms; Bank officials are not involved in the day-to-day operations of resettlement implementation. Given this distance between the Bank and the resettlement program, the borrowing country and local offices are responsible for “adequate monitoring and evaluation of the activities set forth in the resettlement instrument.”¹⁰⁸ Internal and external monitoring occurs to ensure that implementation takes place according to the Resettlement Plan. The *Involuntary Resettlement Sourcebook* writes that evaluation during the implementation of resettlement is often too late to correct for project shortcomings, and therefore, a review during the initial stages of resettlement is required.¹⁰⁹ If the initial objectives of the resettlement plan were not achieved, then the World Bank requires the borrowing country to recommend additional action.¹¹⁰

These requirements relate to the conditionality of World Bank-financing. In other words, the Bank relies upon its loan agreements to enforce compliance with World Bank policies. Borrowing countries are obliged to follow through on the intentions proposed in the Resettlement Plan, by ensuring that the Project Implementation Plan is “fully consistent” with the Resettlement Plan, otherwise facing a revocation of funding.¹¹¹ This compliance entails abiding by the protection of property rights through the proper identification of

¹⁰⁸ Ibid.

¹⁰⁹ *Involuntary Resettlement Sourcebook*, 225.

¹¹⁰ “Involuntary Resettlement.”

¹¹¹ Ibid.

affected persons and property; the complete distribution of compensation; and the successful relocation of households and reestablishment of economy activities.

Although the Operational Policy does not specifically mention appellate options, affected persons can use the Inspection Panel to appeal to have their project independently reviewed. The Inspection Panel was created in 1993 to address the concerns of transparency and status of developing countries in formulating World Bank policy.¹¹² The World Bank writes that the purpose of the Inspection Panel is “to ensure that the Bank adheres to its operational policies and procedures during the design, preparation, and implementation phases of projects.”¹¹³ The Inspection Panel is the ultimate judiciary for determining if the resettlement program has violated the rights of the affected persons, and it serves as a direct link between the Board of Executive Directors (the governing body of the World Bank) and the people affected by projects.¹¹⁴ However, its jurisdiction is limited to “cases when ‘its rights or interests have been or are likely to be directly affected by an action or omission of the Bank as a result of a failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal, and/or implementation of a project financed by the Bank...’”¹¹⁵ Thus, the Panel concerns itself with whether or not the Bank carries out its responsibilities during each phase of the project.¹¹⁶

¹¹² Woods, 84.

¹¹³ “Inspection Panel: About Us.” World Bank: Washington, D.C. Accessed February 26, 2006. Available online at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,menuPK:64129249~pagePK:64132081~piPK:64132052~theSitePK:380794,00.html>.

¹¹⁴ *Accountability at the World Bank: The Inspection Panel 10 Years On*. (The International Bank for Reconstruction and Development, The World Bank: Washington, D.C., 2003), 3.

¹¹⁵ Ibrahim F.I. Shihata, *The World Bank Inspection Panel: In Practice*, (Oxford: Oxford UP, 2000), 29.

¹¹⁶ *Ibid.*, 36.

Procedurally, individuals who live in the project area or those who are likely to be affected will bring a charge to the Inspection Panel.¹¹⁷ The Panel then considers its jurisdiction over the request. If found, it requests a response by Bank Management to the allegations of the petitioners. The Board reviews a preliminary finding by the Panel, and if it finds that the claims should be investigated, the Board authorizes the Panel to conduct the investigation.¹¹⁸ The Panel carries out the investigations and submits its findings to the Board and Bank Management, and then the Bank Management submits recommendations for actions that should be taken in response to the findings. Ultimately, using the findings and the recommendations, the Board makes a final determination of course of action to remedy the problem.¹¹⁹ To qualify, this review remains within the purview of Bank Management and the Boards within the World Bank (namely the International Bank for Reconstruction and Development and International Development Association).

Since the founding of the Inspection Panel, the only case regarding a project in China occurred in 1999 with the Western Poverty Reduction Project in Qinghai. The Qinghai project endeavored to improve poor economic conditions in the area by *voluntarily* resettling 57,775 farmers into a new irrigation project. Additionally, the project planned to restore an existing dam, which would create *involuntary* resettlement. As the project plans were in their final stages of approval, they faced considerable criticism from a complaint presented

¹¹⁷ "Inspection Panel: Panel Process." World Bank: Washington, D.C. Accessed February 26, 2006. Available online at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:20173251-menuPK:64129467-pagePK:64129751-piPK:64128378-theSitePK:380794,00.html>.

¹¹⁸ The Boards of the International Bank for Reconstruction and Development and the International Development Association are composed of representatives from borrower and non-borrower countries, with weighted power according to their contributions. "Inspection Panel: Panel Process."

¹¹⁹ "Inspection Panel: Panel Process."

to the Inspection Panel. The complaint involved charges that the Bank had not observed its own policies in the implementation of project; the charges included disclosure of information, treatment of indigenous peoples, and resettlement.¹²⁰ Specifically, the International Campaign for Tibet, a US-based NGO, filed the claim on behalf of the affected indigenous minorities who would be affected by the project stating that “the proposed migration of 60,000 poor people from 6 counties in eastern Qinghai Province to Dulan County would adversely affect the lives and livelihoods of 4,000 Tibetan and Mongolian ethnic peoples.”¹²¹ Although the World Bank Board approved funding for the project, it qualified the funding by saying, “*that no work be done and no funds disbursed for the \$40 million Qinghai component of the project until the Board decides on the results of any review by the independent Inspection Panel (original italics).*”¹²² The Inspection Panel conducted an investigation from September 1999 until January 2000, and the additional inspection and added program cost equaled more than 10% of the initial project’s total loan.¹²³

In its findings, the Inspection Panel found the following problems with the project and especially the resettlement. Among the technical problems, the Panel noted that inadequate surveying methods failed to provide an initial comprehensive picture of socio-

¹²⁰ Woods, 93; “Panel to visit Qinghai in October,” Press Release, World Bank, September 21, 1999. Accessed April 22, 2006. Available online at

[http://wbIn0018.worldbank.org/IPN/ipnweb.nsf/\(siteweb\)/80CF4EB4BECA29DF852568790000576D](http://wbIn0018.worldbank.org/IPN/ipnweb.nsf/(siteweb)/80CF4EB4BECA29DF852568790000576D).

¹²¹Pieter Bottelier, World Bank Chief of Mission in Beijing from 1993-1997, argues that The International Campaign for Tibet’s report included several factual errors about the project. Nevertheless, it stemmed the Inspection Panel’s investigation, and for that purpose led to the judgments against Bank practices in Qinghai. *Accountability at the World Bank: The Inspection Panel 10 Years On*, 71; “Inspection Panel Returns from China,” Press Release, World Bank, October 28, 1999. Accessed April 22, 2006. Available online at

[http://wbIn0018.worldbank.org/ipn/ipnweb.nsf/\(siteweb\)/26CD7AABA7D30030852568780083A2A0](http://wbIn0018.worldbank.org/ipn/ipnweb.nsf/(siteweb)/26CD7AABA7D30030852568780083A2A0).

¹²² “Inspection Panel’s Report and Findings on the Qinghai Project: Executive Summary.” World Bank. Accessed April 23, 2006. Available online at

[http://wbIn0018.worldbank.org/IPN/ipnweb.nsf/8bf6411b0a159e428525687b00693e27/6a2ffc8963e4813885256915005dd512/\\$FILE/Executive%20Summary52300.pdf](http://wbIn0018.worldbank.org/IPN/ipnweb.nsf/8bf6411b0a159e428525687b00693e27/6a2ffc8963e4813885256915005dd512/$FILE/Executive%20Summary52300.pdf), xiii.

¹²³ Woods, 94; “Inspection Panel’s Report and Findings on the Qinghai Project: Executive Summary,” xiv.

economic conditions and the amount of impacted land, which affects the project's ability to calculate the appropriate levels of compensation.¹²⁴ The panel also discovered from an investigation of the original copies of the questionnaires that the surveys were not confidential, thereby possibly affecting their results, and that the individual respondents did not physically record their own answers to the questions. Another concern related to a clear distinction between the voluntary resettlement of the farmers to irrigated lands and the involuntary resettlement of people due to the dam construction. The Involuntary Resettlement Policy only applies to those people under the involuntary resettlement category; thus, the 57,775 farmers are not entitled under Bank policy to receive the same protections as the 4,000 individuals listed as involuntary resettlers.¹²⁵ Given this interpretation of the Involuntary Resettlement Policy and methods for identifying groups of affected people, the project documents distorted the number of people expecting displacement by the project.¹²⁶

More importantly, the Inspection Panel found a willingness among Bank officials to accept flexible levels of compliance to Bank operational policies, i.e., the Involuntary Resettlement Policy. Instead, the Panel ruled, "...that the directives cannot possible be taken to authorize a level of "interpretation" and "flexibility" that would permit those who follow these directives to simply override the portions of the directives that are clearly binding."¹²⁷ Significantly, the reasons provided for such flexibility played the card of "that's the cost of doing business in China." The project management's response to the Panel's

¹²⁴ "Inspection Panel's Report and Findings on the Qinghai Project: Executive Summary," xxix.

¹²⁵ *Ibid.*, xxviii.

¹²⁶ *Ibid.*, xxvii.

¹²⁷ *Ibid.*, xiv-xv.

inspection wrote, *“The level and quality of preparation and analysis for this Project were very much in line with Bank practice in applying social and environmental policies to projects in China in the context of its political and social systems (original italics).”*¹²⁸ Given this perspective, the Bank officials working in China appeared to only comply with the policies that did not present political risks to the project, at the expense of the people affected by their work.

In response to these findings, the Board suggested that the China should resubmit the project plans for a new round of approvals after additional studies and assessments. According to Pieter Bottelier, the World Bank Chief of Mission in Beijing from 1993-1997, “China refused to accept this condition on the grounds that: (a) the Board had already approved the project in June 1999, before Panel investigation; and (b) Bank management had officially certified...that, contrary to allegations that had been made, Bank policies and procedures had been properly observed in the preparation of this project.”¹²⁹ Chinese Prime Minister Zhu Rongji personally decided to withdraw the Qinghai project from World Bank financing and oversight.¹³⁰

Overall, the purpose of monitoring and supervision is to prevent such action needed by the Inspection Panel. The World Bank argues that internal reporting, external review and adaptive responses to the findings will create a successful resettlement program and the restoration of livelihoods. The involvement of NGOs in external reviews supports this approach by promoting the rules of Bank procedure and serving as organizations with a

¹²⁸ Ibid., xv.

¹²⁹ Pieter Bottelier, “Was World Bank Support for the Qinghai Anti-Poverty Project in China Ill-Considered?” *Harvard Asia Quarterly*, 5, no. 1 (Winter 2001). Accessed April 23, 2006. Available online at <http://www.asiaquarterly.com/content/view/96/40/>.

¹³⁰ Bottelier; Robinson, 31.

greater measure of independence for monitoring, reporting, and assessing the impacts of resettlement. Yet, at the end of this process, if the Bank's practices have not followed its policy, the Inspection Panel serves as the final arbiter. Essentially, the Inspection Panel offers a final measure of property rights protection and protection of individuals from harm. In this capacity, the Panel can strengthen the Bank's commitment to carry out its own policies and prevent internal violations of policies.

Conclusion

In conclusion, throughout the World Bank's Operational Policy for Involuntary Resettlement, property rights play an important role in design and implementation. Clarified property rights affect who is considered eligible, what property is considered affected and by how much. Enforceable property rights relate to forced removal of people from their property, the compensation they are owed, and the distribution of that compensation. Without clarification and enforcement, the World Bank's objective of replacing lost assets would be unfeasible, and the people affected by involuntary resettlement would face significant social and economic challenges without the hope of effective assistance.

An analysis of specific projects will illustrate in real terms how the World Bank's current involuntary resettlement affects people facing property acquisition and relocation, as well as how the Bank interacts with the local implementing agencies. The first case study demonstrates the impact of a rural reservoir resettlement project, and the second case study, presented in the next chapter, presents an urban linear resettlement through the construction of a pipeline. The case studies intend to convey the complexity of objectives,

goals, and practices that surround the competing stakeholders in resettlement programs, and they are presented in the same format as discussed in Chapter 3, namely in the categories of policy objectives; impacts covered; eligibility; and resettlement planning, implementation and monitoring.

Chapter Four: The Hubei Hydropower Development Project

The Context of Reservoir Resettlement

The construction of hydropower dam systems supports energy production, flood control, irrigation for food production, and the development of income activities on the reservoir.¹³¹ Dams provide cheap, renewable energy and create opportunities for fishing and tourism. However, dam construction also entails significant costs for the communities located in and around the location of the reservoir and dam given the reconfiguration of water resources, physical construction of the dam, and flooding of the reservoir. The *Involuntary Resettlement Sourcebook* states, "Reservoirs can inundate entire narrow river valleys, forcing people to move out of the area and completely reconstruct their lives....Dams are often built in remote areas. These areas tend to lack dynamic economies able to readily absorb people displaced from their traditional means of livelihood."¹³² Thus, the World Bank supports hydropower projects because they provide tremendous benefits to a country's energy self-sufficiency and development of infrastructure. Yet, the Bank also realizes the potential of these projects to adversely affect large numbers of people if they are implemented without precautions and planning.

Hydropower projects typically affect three groups of people: relocatees moving from the reservoir construction; host communities accepting relocated persons; and other affected

¹³¹ Andrew Gray, "Indigenous Resistance to Involuntary Relocation," in *Understanding Impoverishment: The Consequences of Development-Induced Displacement*. Christopher McDowell, ed. (Oxford: Berghahn Books, 1996), 104. *Involuntary Resettlement Sourcebook*, 321.

¹³² *Involuntary Resettlement Sourcebook*, 321.

persons relying upon the water source.¹³³ The land located behind a dam (in the reservoir area) may support distinct cultures and customs related to use of the land and community space.¹³⁴ In other words, indigenous cultures located away from urban centers often retain traditional practices toward the use of common space and in traditional agricultural practices. The World Bank identifies these groups as particularly vulnerable to dam construction because they offer a unique cultural heritage that may be destroyed or altered if the people are forced to move. Complete requisition of the land for building the reservoir may harm not only physical objects, but also psychological connections to the land. Especially if indigenous groups have built their histories around the lands on which they have been living, ties to ancestry and tradition create intangible bonds with land and space that cannot be easily replicated. However, in its policy, the Bank does not recognize that even for non-indigenous people the land that one owns represents investment, work, family, and status. By taking that away, or by altering it, a resettlement project can fundamentally alter self-identity and the emotional ties that one has with a community.

Within this context, resettlement must occur on a level that recognizes original community organization, local customs, and possibly the need for traditional livelihoods. The World Bank's position toward dams argues that their construction is often inevitable. Thus, the best way to mitigate the costs for the local communities is to manage resettlement through careful planning.¹³⁵ Design of the dam and resettlement planning must also

¹³³ MacDonald.

¹³⁴ Gray, 101; *Involuntary Resettlement Sourcebook*, 322.

¹³⁵ Gray, 109.

account for project delays, changes in local population and lengthy reconstruction because of the extent of the loss.¹³⁶

Additional concerns about reservoir displacement and resettlement relate to provision of information to affected persons and the amount and type of participation allowed. Moreover, Erin MacDonald in her article linked the inability of the World Bank to successfully implement resettlement because of the absence of regular monitoring requirements.¹³⁷ Thus, key issues for dam-based resettlement projects include strong administrative capacity of local government agencies; adequate assessment of project impact and original living standards; consultation for selecting and preparing resettlement sites; distribution of dam construction benefits (such as the promotion of aquaculture in the reservoir) to affected persons; meaningful participation from affected persons; and careful monitoring of all resettlement activities and use of funds.

The purpose of this case study relates to the enforceability of property rights, especially as they apply to the Bank's standards of compensations, i.e., using the replacement cost as a minimum. Enforcing property ownership by gaining compensation relies upon the ability of the project to quantify its worth adequately, and this project's standards raise questions about their ability to offer replacement cost compensation. Another key feature of this project simply demonstrates the sheer magnitude of creating a reservoir project that affects agricultural land, homes, and government buildings. The clarification and enforceability of property rights play a role in determining the economic losses produced by this development project, important for understanding the levels of

¹³⁶ *Involuntary Resettlement Sourcebook*, 321.

¹³⁷ MacDonald.

income and security that the Bank must provide if it is to follow its own objectives and guidelines.

Project Background

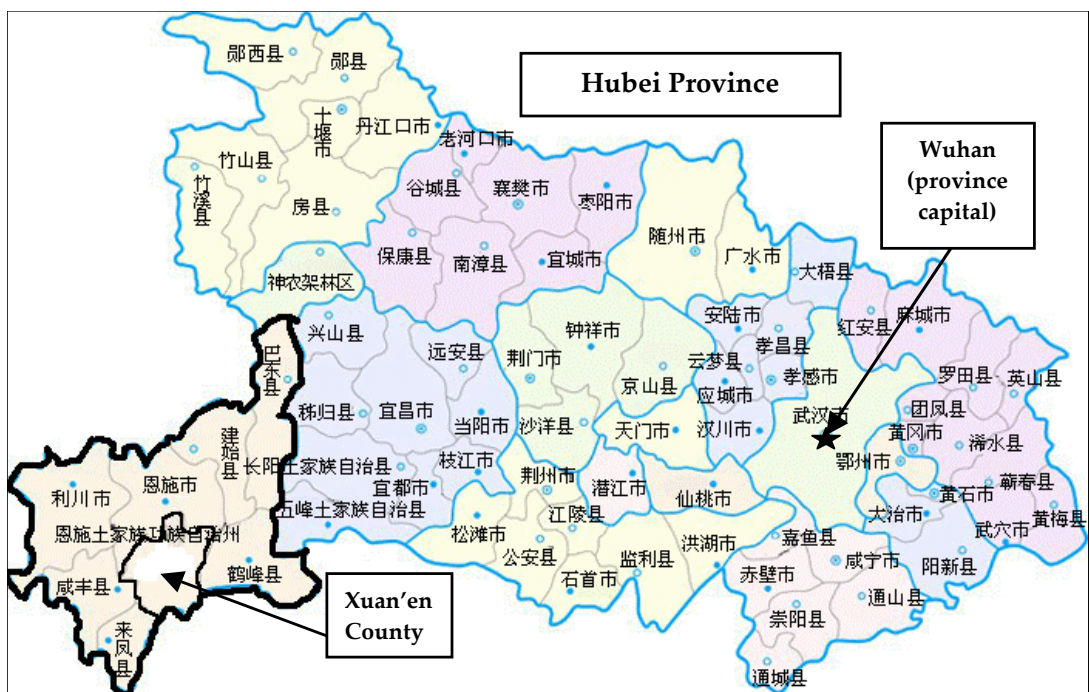
Hubei province in central China holds one of the most controversial hydropower dams in the world, the Three Gorges Dam, located along the Yangtze River. In four areas of Hubei province, The Hubei Hydropower Development Project intends to utilize the other water resources of the area to restructure the country's energy sector and to increase the province's dependence on renewable hydropower energy resources.¹³⁸ According to the World Bank's project description, the construction of dams will facilitate the ability of the province to self-sufficiently generate power, the privatization of county-level power generation companies, and general efforts in poor communities to alleviate poverty.¹³⁹

The Hubei Hydropower Development Project consists of four components, otherwise termed sub-projects, which occur in different locations around the province. Each component involves the construction of a hydropower dam and the filling of a reservoir. Collectively, the four sub-projects expect a resettlement of a total of 7,120 people. To narrow the analysis and to provide a clearer picture of a resettlement project, this case study focuses on only one of the four component projects—the Dongping Hydroelectric Power Station sub-project (hereafter, the Dongping project). Located in the Enshi Tujia and Miao Autonomous Prefecture, the Dongping projects affected the most people, primarily in

¹³⁸ "China-Hubei Hydropower Development in Poor Areas Project Information Document," Accessed March 15, 2006. Available online at http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2000/08/18/000094946_00081806174413/Rendered/PDF/multi0page.pdf, 2, 3.

¹³⁹ Ibid., 5.

Xuan'en County and for that reason was chosen by the author. As depicted in the map below, the Enshi Tujia and Miao Autonomous Prefecture creates the southwestern border of the province with Xuan'en County occupying the center of the region. Importantly, Xuan'en County is home to the Tujia, Miao, and Tong ethnic nationalities, which comprise 39.2%, 12% and 13.1% respectively of the total population of the county.



Source: http://www.ginhoo.com/ginhoo_dwe/dwe/area/images/hubei_map.gif.
 Additional lines and text created by the author for emphasis and illustration.

The Dongping project began in July 2001 with an estimated finish date of December 2006. Since resettlement must occur before the dam and reservoir construction, the resettlement program began in March 2001 and finished in June 2003.¹⁴⁰ Overall, the

¹⁴⁰ "Hubei Small Hydropower Development Project: Dongping Hydropower Project in Xuan'en County: Resettlement Action Plan," Xuan'en County Zhongjian River Valley Development Company, Xuan'en County People's Government, East China Investigation and Design Institute (July 2000) Accessed March 15, 2006. Available online at http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2001/02/16/000094946_01012507281550/Rendered/PDF/multi_page.pdf, 6.

Dongping project affects 3,047 people from 38 village groups in 17 administration villages, and 7 townships.¹⁴¹ At a basic level, project affected persons (PAPs) come under the control of three different government administrative systems, and throughout the process of project design and implementation, each level must coordinate with the systems above it and below it. The majority of people affected by the project live in or around Zhongjianhe Town, as development plans require the complete removal of that town to another location. Therefore, this project, while located in a rural area, affects both farmers and town residents.¹⁴²

Notably, the Dongping project began before 2004 under the guidelines of the previous version of the Involuntary Resettlement Policy, OP 4.30. However, the essence of the policy remains the same, and therefore, allows for an analysis on the compliance of the Hubei local implementing groups and the World Bank in protecting property rights and mitigating the impacts of resettlement.

Project Objectives

As described in the previous chapter, the objectives of a resettlement program aim to provide living standards equal to the original level and hopefully to improve those conditions.¹⁴³ Another objective intends to provide land for the resettlement of rural households, and the Resettlement Action Plan¹⁴⁴ for the Dongping project describes in concrete terms what this objective aims to provide to affected people: 1 *mu* farmland per

¹⁴¹ Ibid., 4.

¹⁴² Ibid.

¹⁴³ Ibid., 74.

¹⁴⁴ The Resettlement Action Plan primarily describes the resettlement design and the measures that the project implements; it is the required document (instrument) for World Bank approval of the project.

capita, no less than 0.5 *mu* paddy land per capita, 350kg per capita of grain, 1 *mu* forest for fuel supply, and a household net income of 1,432RMB.¹⁴⁵ Presumably, with these targets, people's needs will be provided for and they can enjoy economic and food security.

Given that the project occurs in an ethnic minority's prefecture, the presence of minority groups affects the objectives of the project. The Involuntary Resettlement Policy states, "Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival."¹⁴⁶ This aspect relates to the special status given by the Bank to indigenous peoples when they are affected by a project and the Bank's assumption that the harm done to their culture through resettlement results in worse consequences than in what happens to other resettled people. With this perceived risk to cultural identity and survival, the Bank requires the Dongping project to explore alternative designs to prevent displacement of these groups, and when it is unavoidable, to consult with the groups to provide resettlement options that satisfy their cultural needs and preferences.¹⁴⁷ Therefore, under this policy the Dongping project should take significant precautions to avoid displacement of these ethnic minorities. If resettlement is required, the project must conduct the resettlement in line with each group's cultural requirements.

Project Impact

Socio-Economic Conditions

¹⁴⁵ Ibid., 15, 74. According to the socio-economic survey, the net income of village people in the county was 1,513 RMB per year.

¹⁴⁶ "Involuntary Resettlement."

¹⁴⁷ Ibid.

Two surveys determine the scale of project impact: the socio-economic survey and the project impact survey. The socio-economic survey investigates the original socio-economic conditions of affected persons and their surrounding community, thereby providing the minimum standards for the project in reproducing the same conditions after resettlement. The project's impact survey identifies which property is affected and the extent of the damages. Using the impact survey, the project identifies individuals in the way of the project's construction and also defines how much property must be replaced or compensated.

Using the socio-economic survey data available in the project's Resettlement Action Plan, the description below highlights the reported socio-economic condition of people in Xuan'en County. In 1999, the year of initial measurements, Xuan'en County had a population of 336,000.¹⁴⁸ The project predicted the resettlement of 3047 people, which represents less than 1% of the total county's population. The survey also indicated a significant difference in living standards between Han Chinese people and the ethnic minorities living in Xuan'en. Although the number of Han Chinese outnumbers the affected minorities, Han people mostly lived around Zhongjianhe Town and in Zhongjianhe Village. The Dongping project's Resettlement Action Plan does not describe the characteristics of Zhongjianhe Town, except to say that it is a market town. Presumably, Zhongjianhe serves a local hub for agricultural produce, transportation, and access to public services. This description supports the fact that town residents, the majority being Han

¹⁴⁸ "Hubei Small Hydropower Development Project," 15.

Chinese, have a higher living standard than rural ethnic minorities because of the infrastructure and diversity of economic opportunities that the town provides.

The chart below compares the initial socio-economic conditions of Han and ethnic minority households.

Initial Socio-Economic Conditions of Han National and Ethnic Minority Households¹⁴⁹

<i>Sample Item</i>	Han Nationality	Ethnic Minority
Number of households surveyed	23	24
Cultivated land per capita	1.50 <i>mu</i> ¹⁵⁰	1.54 <i>mu</i>
Household grain output	74.26 tons	70.12 tons
Grain possession per capita	721kg	668kg
Income & sources of income		
Planting	141953RMB	123525RMB
Industry	11500RMB	1000RMB
Architecture	12000RMB	
Service industry	6500RMB	16400RMB
Exported labor force	16700RMB	28800RMB
Percentage of income from agriculture	82.02%	75.44%
Annual net income per household	1425RMB	1279RMB

Evidenced by several factors, Han Chinese participants in the survey have more income and more economic opportunity compared to ethnic minority participants. First, the grain output per minority household is lower even though they have more cultivated land

¹⁴⁹ The chart reflects a chart illustrated in the project documents but only includes a simplified version of the sample items presented in the original chart. Ibid., 32-35.

¹⁵⁰ 15 *mu* = 1 hectare.

per capita than Han Chinese people. This situation suggests that even though minority people in the county have more access to land, they are not able to achieve the same amount of productivity. Several reasons may account for this difference, including access to inputs, distance from market centers, available technology and labor. Ethnic minorities must seek other options to boost income. For example, the exported labor force for minority households brings a total of 28,800 RMB to the households in the survey.¹⁵¹ This figure is higher than the Han Chinese households, suggesting that perhaps minority households rely more on exporting labor to outside locations. Therefore, while household income benefits, the available local labor supply for these households simultaneously decreases, which might affect their ability to produce agriculture locally.

Additionally, the chart demonstrates that Han Chinese in the community have more options in occupations outside of agriculture to diversify their income sources with higher skill positions. Han Chinese households earn significantly more than minority households in industry and architecture. Moreover, Han Chinese employment in industry and architecture implies that they will have transferable skills that may benefit from the dam project construction or maintenance activities. In contrast, minority households primarily earn non-agricultural income from the service and exported labor categories, which suggests that minority households may have fewer skills that apply to industrial or architectural jobs or they have less access to them.

In relation to the Project Objectives described in the section above, the socio-economic survey quantifies the per capita grain possession at levels of 721kg/person for Han

¹⁵¹ Ibid., 33,

Chinese and 668kg/person for ethnic minority households. The Resettlement Action Plan posits that 350kg of grain should be guaranteed as a resettlement objective for affected households.¹⁵² This objective is half of the existing amount of Han Chinese grain per capita and 52% of the amount for ethnic households. In other words, the resettlement objective does not accurately reflect the existing household need, and this deficiency may challenge resettled households' food security.

In addition to the 350kg of grain per capita, the resettlement objectives also list 1 *mu* of cultivated land per capita, no less than 0.5 *mu* of paddy land per capita,¹⁵³ 1 *mu* of forest fuel, and a per capita income of 1,432 RMB per household.¹⁵⁴ Compared to the initial living standards, the land per capita is 2/3 of the original level, but the projected per capita income is above both Han Chinese and ethnic minority earnings. These figures imply that to reach the projected goals, households will benefit from either a diversification of income sources to include more lucrative economic activities, or will require an increase in agricultural productivity from improved land quality, inputs, and technology.

Moreover, the methods with which the survey was conducted raise significant questions about its accuracy and relevancy. The socio-economic survey only questioned 47 out of 3,047 households, and this small sample size casts doubt upon the sample's ability to reflect the comprehensive living standards of affected people. Additionally, the Zhongjianhe River Valley Development Company—the main agency responsible for project implementation—completed the socio-economic survey for the Dongping project. Although

¹⁵² Ibid., 74.

¹⁵³ Paddy land will be used for rice cultivation.

¹⁵⁴ Ibid., 74.

the project documents underscore this group's qualifications in resettlement, its involvement in this initial surveying activity raises a significant concern because this survey sets the minimum level of achievement required by the Bank's policy. As the project "owner," the Zhongjianhe River Valley Development Company operates as a for-profit company without receiving budget allocations from the Chinese government; this is part of the government's attempt to restructure the energy sector by privatizing energy resources. This relationship to the project and requirement for success qualifies as a conflict of interest in their ability to independently monitor the living standards of the people. One must also question the extent to which a company qualifies for conducting a survey of socio-economic conditions without the involvement of social scientists or statistical experts.

Impacted People & Property

The project impact survey for the Dongping project illustrates the various effects on land due to the dam's construction and the filling of the reservoir. The Zhongjianhe River Valley Development Company in conjunction with the East China Investigation and Design Institute (ECIDI)—the project's independent monitoring organization—conducted the project impact survey and found that the project requires a total land requisition of 9,643.2 *mu*.¹⁵⁵ Agricultural land comprises the bulk of that amount. In a hydropower project, the reservoir affects the greatest amount of land, and in this case, the reservoir will affect existing houses, cultivated land, rural businesses, and town enterprises, and it will actually submerge the existing town of Zhongjianhe. In Zhongjianhe, twenty-six people face losing their houses and two hundred seventy-nine people will lose their land to acquisition. In

¹⁵⁵Ibid., 9.

the rural areas, 1,059 people will lose their houses and 1,988 will lose their land. Ethnic minorities account for 44.9% of the total people affected by land requisition and 48% of those facing housing requisition.¹⁵⁶ The reservoir also impinges upon common property (property for public use) by preventing access or use of existing highways, bridges, television transmission lines and a small hydropower station. These losses influence resettlement implementation because the project must not only replace the private assets of individuals but also ensure that everyone has access to these public amenities. Another aspect of the Dongping project's impact survey measures the economic impact of resettlement.¹⁵⁷ The survey predicts no more than a 10% reduction of agricultural income and no more than 8.5% of total income from resettlement; in real terms, the total income lost per rural household should equal no more than 108.7 RMB.¹⁵⁸ However, given the impact on Zhongjianhe town, the project documents predict that residents will face a reduction of 35.39% in agricultural income and 32.12% in total income.¹⁵⁹ These figures represent a decline by 1/3 of the total income, and such a loss threatens the continued economic viability of Zhongjianhe's agriculture and enterprises. By any proportionality measurement, this results in severe economic losses for individual households.

Compensation Standards

The significance of the project impact survey directly relates to the amount of compensation required by Bank policies; in order to understand how much money or assets

¹⁵⁶ Ibid., 29.

¹⁵⁷ The Guangdong Pearl River Delta Urban Environment Project, presented as the following case study, does not predict the income losses of affected people.

¹⁵⁸ Ibid., 50.

¹⁵⁹ Ibid.

the project must provide as compensation, it must first know what it needs to replace. Using the property index, a listing of all the affected structures and their quality, the project can determine the amount of compensation and resettlement allowances needed. In addition, the property index distinguishes between the qualities of property structures. For example, houses fall into categories describing the materials used in their construction, such as “frame,” “brick-concrete,” “brick (stone)-wood),” “wood plate,” “earth-wood,” “simple house,” and “shed.”¹⁶⁰ Each category receives a base rate per square meter to calculate compensation, with the highest amount for “frame” structures and the lowest amount for “shed.” People can also receive compensation for household “appendages,” such as outdoor toilets, gas tanks, telephones, and a pig or cowpen.¹⁶¹

Another distinction made in the property survey relates to privately and publicly owned property. Publicly owned property has a base rate higher than privately owned property, even if the house or building is constructed with the same type of material. This distinction represents a political position that the value of publicly owned property is worth more than privately owned property. Although reflective of the Socialist view of property ownership found within China, this view also underscores the power of the local elite.¹⁶² If local government officials receive compensation for lost public assets, their power and efficacy increase through the funding. Regardless if they use the funds for public or private purposes, access to compensation funds strengthens their local commitment to supporting the development project. On the other hand, for the World Bank, this distinction between

¹⁶⁰ Please see the Appendix 1 for the chart of compensation standards for House and Appendage Relocation.

¹⁶¹ “Hubei Small Hydropower Development Project,” 142.

¹⁶² The Socialist perspective of property ownership advocates state ownership of all assets used in production.

public and private property, and especially the higher valuation of public property, creates a hierarchy of property values at which the private individual suffers. The government has access to resources that the private individual cannot reach. For this reason, the Involuntary Resettlement Policy supports restoring access to public services *for individuals*, but it does not state as an objective the restoration of government property. Certainly, affected public buildings should be compensated or replaced, but because the state itself is exercising its right of eminent domain in its destruction of that property, then the state should pay for that repair not the World Bank. Most importantly, the Bank's approval of this plan that uses a higher rate of compensation for state property does not support the Bank's objective of assisting individuals harmed by development.

For the Zhongjianhe town resettlement, compensation includes preparing the new site for relocation, compensation for houses and auxiliary structures, transportation fees, leveling the land, rebuilding civic public facilities, and preparing new roads. Additional funds will repair affected roads, bridges, power equipment, telecommunications and the small hydropower plant. Moreover, the project will undertake "production resettlement" to resettle affected individuals in productive economic activities and to mitigate for the impact on household income. Production resettlement does not require physical relocation, but rather the replacement or restoration of economic activity.

The Resettlement Action Plan states that *production resettlement* occurs in two methods: giving priority to PAPs in hiring labor for the dam construction and related activities, and by readjusting individually contracted land so that every household in the resettled location has access to land. Readjusting contracted land transpires out of concerns

for community equity in land holdings, but it also lowers farmland per capita in resettled communities without providing employment alternatives for those people who prefer to improve their skills and transition to non-agricultural employment in the community. Under the Land Administration Law, any adjustment to contracted land requires two-thirds approval by the village, either by village meeting or by village representatives.¹⁶³ Project documents do not indicate that project officials sought the approval of the village for readjustment of the land. In this respect, without the approval of the village representatives, the project is violating the principle of the Land Administration Law by enforcing land readjustment in all resettled communities.

Compensation available to people in rural areas differs from the compensation available to town residents, and includes payments for land and house acquisition, temporary land occupation, rural enterprises and manufacturing facilities, and trees. In addition, people can receive subsidies for moving, transportation fees, and living subsidies during the transition period.¹⁶⁴

Specifically, the project documents state that land compensation policies for the Dongping project subscribe to the domestic Chinese legal requirement for compensation, found in Article 47 of the Land Administration Law of 1998. This relates to permanent land acquisition, and for this the law states, "Compensation for requisition of cultivated land shall be six to ten times the average annual output value of the requisitioned land for three years preceding such requisition."¹⁶⁵

¹⁶³ "China: PRC Land Administration Law."

¹⁶⁴ "Hubei Small Hydropower Development Project," 143.

¹⁶⁵ *Ibid.*, 58.

Using this standard—relating compensation to previous output levels—does not reflect the more theoretical suggestion of eminent domain that promotes the payment of market value, or even better than market value, to give people an incentive to comply and to compensate them for their immediate loss, their past investment, and the future potential of the land. Under Chinese standards, the principle behind this compensation system rewards compensation proportional to the existing lost assets. However, it does not demonstrate the worth of the property in the state's eyes. For example, this land is more valuable to the state when it is submerged by a reservoir, than when it is used for agriculture. Instead, the Chinese standard allows the state to compensate people according to their agricultural output, which economically discriminates against poorer people who may suffer from a lack of access or capital to purchase agricultural inputs and new technology or who may have lower quality land and environmental resources, such as water availability. This policy keeps them at a lower level in the economy without recognizing the opportunity to improve the initial productivity and economic potential. For example, the ethnic minorities surveyed in the socio-economic survey held more land per capita, but produced less. They will receive less compensation for their land, in contrast to Han Chinese, and this may reinforce economic or social differences between the groups.

Moreover, the data fails to state the monetary output value per *mu*, which is required to calculate compensation, and this prevents an accurate understanding of agricultural production in the area. Several reasons could account for lower output per capita, including choice of crops, quality of the soil, available water resources, and access to machinery or labor. Thus, while following the Chinese domestic standard, the Dongping project does not

sufficiently explore alternative compensation standards that support the development of all affected people, including the ethnic minorities in the area. This failure brings the project out of accord with World Bank sustainable development objectives for resettlement.

For resettlement compensation (i.e., the compensation paid for the costs of relocation), the project also abides by the domestic standard also found in Article 47. The law states,

‘Resettlement subsidies for requisition of cultivated land shall be calculated according to the agricultural population needing to be resettled. The agricultural population needing to be resettled shall be calculated by dividing the amount of requisitioned cultivated land by the average amount of the original cultivated land per capita to the unit the land of which is requisitioned. The standard resettlement subsidies to be divided among members of the agricultural population needing resettlement shall be four to six times the average annual output value of the requisitioned cultivated land for three years preceding such requisition.’¹⁶⁶

Note that the resettlement subsidy in the law requires that the affected people divide the subsidy, but the village organization will manage use of the funds. According to the project documents, the village has a two-fold responsibility in administering both the resettlement subsidies and the compensation for taking land; the Bank encourages the village to use this compensation in reclaiming land, improving low-yield land, or investing in rural water projects.¹⁶⁷

While this compensation plan for permanent land takings and the resulting resettlement reflects the World Bank’s recommendations for China in the *Involuntary Resettlement Sourcebook*, as mentioned in the previous chapter, this practice does not accurately reflect the individual land contracting system that currently exists in China. This

¹⁶⁶ Ibid. The Land Administration Law as quoted in the Resettlement Action Plan.

¹⁶⁷ Ibid., 114.

arrangement between the project and the village decreases the importance of the consequences felt by the individual by aggregating the resettlement experience so that it applies only to the community. Some households may lose more property than others during resettlement, but there is no proportionality requirement for the distribution of resettlement subsidies within the community. Conversely, some households that produce less will receive less compensation, even though their need for economic development and additional support during this transition may be greater.

The greatest failure of the compensation plan for rural residents is that it removes individual choice from the process, and especially leaves farmers at the discretion of the village decisions. No options exist for converting agricultural land to other use, for relinquishing land use rights in return for cash compensation, or even for individual decisions about investing in agricultural productivity. Additionally, this arrangement places a significant burden on the village administrative committee to administer the compensation and community rebuilding in a responsible manner. It creates a situation ripe for corruption of local officials and extortion of community funds.

For temporarily acquisitioned land, the project provides 300RMB per year that the project uses the land. Article 57 of the Land Administration Law limits temporary acquisition to two years during project construction. However, the Resettlement Action Plan writes that because this project addresses water conservancy and requires a longer construction period (an expected five years), the ownership of temporary land occupation will change. Thus, it appears that for the duration of the project, owners of temporarily acquisitioned land must transfer ownership of that land to avoid a conflict in the law of

having more than 2 years of temporary acquisition. While this solves the conflict with the domestic law, it achieves this by denying ownership rights to those people who happen to own land needed by the project and contravenes World Bank principles. Rather than following the legal statute and limiting use to 2 years, the project abuses its ability to exercise eminent domain rather than finding alternative solutions to the temporary acquisition of property.

Following the project, the Resettlement Action Plan states that the temporarily acquisitioned land will be re-cultivated, and it is assumed that ownership will return to the original owners. Cultivated land receives re-cultivation fees of 4,500RMB per *mu* and 500RMB per *mu* of woodland.

In addition to payment for taking land permanently or temporarily, the project's plans also include compensation for standing crops and fruit trees. These two provisions represent the investment that farmers make in the production of their land. Standing crops compensation amounts to 300RMB per *mu*, and farmers will also receive 500RMB per *mu* for orange trees and 400RMB per *mu* for peach and plum trees.¹⁶⁸ This compensation amount for trees is too low to compensate for the amount of time and investment that farmers give toward fruit production. Peach tree farming requires 1-2 years of soil preparation, yearly pruning of planted trees, and application of fertilizers; they mature in about 4 years.¹⁶⁹ Plum trees bear fruit 3-5 years after planting.¹⁷⁰ These facts not only illustrate the past

¹⁶⁸ Ibid., 139.

¹⁶⁹ Gary Gao, "Growing Peaches and Nectarines in the Home Landscape," Accessed March 13, 2006. Available online at <http://ohioline.osu.edu/hyg-fact/1000/1406.html>.

¹⁷⁰ Richard C. Funt, "Plums: A Guide to Selection and Use," Accessed March 13, 2006. Available online at <http://ohioline.osu.edu/hyg-fact/1000/1404.html>.

investment that farmers have made in cultivating orchards, but also demonstrate that for a period after planting, there is no marketable benefit received from the trees. Fruit production is time intensive. Thus, payment of 500RMB and 400RMB respectively for fruit trees is not equivalent to just compensation, in comparison to the initial investment and present loss. The consequence of such a payment practice may discourage people from investing in fruit production if they live near rivers that being developed for hydropower stations.

The Zhongjianhe River Development Company and the East China Investigation and Design Institute cooperated in conducting the project impact survey used in the analysis above. Similarly to the socio-economic survey, their involvement provokes questions as to their ability to conduct the survey as well as their independence and objectivity. As noted before, the Zhongjianhe River Development Company has a primary stake in the success of the hydropower project, and thus economically speaking, resettlement represents a huge cost to the construction of the dam and reservoir. The East China Investigation and Design Institute (ECIDI) in fact works as the external, independent monitoring organization for the Dongping project.¹⁷¹ Its conducting of the survey suggests that the independence of external monitoring mechanisms may be compromised; if ECIDI carries out the initial impact survey, how can it monitor the accuracy of its own actions? Given that the World Bank approved these plans and these organizations' involvement, the role for the World Bank as overseers should question the methods, the accuracy, and the intentions in collecting data that assesses the impact of the hydropower project and verifies

¹⁷¹ Refer to the section "Resettlement Planning, Implementation and Monitoring" for more information about ECIDI.

the design of the resettlement program. From the project documents, it appears that the Bank accepts this work as complete, despite incomplete data, discriminatory compensation practices, and illegal extensions of temporarily acquisitioned land. However, this type of situation calls for an independent review of land and property value, and the World Bank should support such a call for impartial monitoring.

Eligibility

The Resettlement Action Plan defines “affected persons” as “persons who on account of the execution of the project had or who have their: a) standard of living affected, or b) right, title or interest in any house, land...or any other fixed or movable asset acquired or possessed, temporarily or permanently, or c) business, occupation, work or place of residence or habitat adversely affected.”¹⁷² Notably, the document maintains that persons, regardless of legal title may obtain assistance. It also states that persons without a residential permit may qualify for eligibility.¹⁷³ This particular provision relates to the Chinese *hukou* (household registration system), in which households receive authorization to live in an area and receive access to all public services, including education. Persons found living outside of this designated area technically break the law and are ineligible to receive public services outside of their officially registered area. Therefore, this recognition of persons living without a residential permit positively supports the recognition of adverse effects of resettlement, regardless of legal status or formal ownership of assets.

Although the Resettlement Action Plan establishes this principle, no related information in the project documents demonstrates the resettlement assistance or

¹⁷² “Hubei Small Hydropower Development Project,” 1.

¹⁷³ *Ibid.*, 1.

compensation granted to people without legal rights. All property and compensation indexes relate to legally contracted land and existing housing. Thus, it is not certain whether there were no people under this category or whether they did not receive documentation or assistance.

In the Dongping project, the “unit of entitlement” in quantifying the impact of the project is the household. No clear definition exists explaining what constitutes a household. Despite this designation, the village acts as the unit of entitlement for receiving compensation. This contradiction underscores the theoretical inconsistency of not providing compensation directly to the individuals who are independently affected by different variables and circumstances of resettlement.

Resettlement Planning, Implementation, and Monitoring

Planning & Implementation

Resettlement plans for the Dongping project divide plans according to the location of displaced people. Thus, people in the countryside have different measures for resettlement than people from Zhongjianhe town, and this difference also represents the needs for land-based resettlement and non-land-based alternatives. From the rural areas, the project moves 1,059 people through house acquisition and resettlement. Of that number, 681 people will move to another community and the rest will relocate within the original community. This split implies that the original villages affected by the reservoir cannot absorb all of the displaced people, and other villages, at a distance from the reservoir, have the land, public infrastructure, and space to accommodate new people. Additionally, in the rural areas 1,715 people qualify for production resettlement, or in other words, the replacement of lost

production opportunities.¹⁷⁴ The number of people qualifying for production resettlement relates to the loss in work as laborers in agriculture or in other rural enterprises.

According to the Involuntary Resettlement Policy, land compensation and housing compensation must be paid prior to requisition.¹⁷⁵ The Dongping resettlement plans charge the villages hosting the arrival of displaced people to offer land for agriculture, and in all of these communities, the village holds the responsibility for carrying out land readjustment, readjusting the amount of land that each person contracts, to support the arrival of new farmers. As mentioned in Chapter 3, the Chinese government actually prohibits land readjustment, but this example demonstrates how its practice has continued. Though, it is worrying that the World Bank supports this work because readjustment can lower land productivity by making plots too small or by making agriculture too dense, and thus depleting topsoil or water resources.

To prepare for this change, each village accepting new residents has a target, presented in the Resettlement Action Plan, to reclaim unproductive or wasteland to increase the amount of land in the village in order to maintain the resettlement objective of providing 1 *mu* of cultivated land per person. Of the nine villages undertaking this effort, Sanhegou village, Lianhuaba village, and the Nursery Grown Plant Center only guarantee 0.8 *mu* of land per capita, but the Resettlement Action Plan does not address that this is below the project objective expectation of 1 *mu*.¹⁷⁶ In comparing the outcome to the original land

¹⁷⁴ *Ibid.*, 101.

¹⁷⁵ *Ibid.*, 174.

¹⁷⁶ *Ibid.*, 84.

holdings, out of 38 affected village groups, only 7 maintain or increase land per capita after land reclamation and readjustment.

As seen in the chart below, the following five groups experience the largest decline in land per capita.

Village Groups With the Largest Decline in Land Per Capita

Administrative Village & Village Group	Land per capita before resettlement	Land per capita after resettlement and land adjustment	Percentage decrease
Luluba; Group 1	2.19 <i>mu</i>	1.00 <i>mu</i>	54.33%
Luluba: Group 8	2.23 <i>mu</i>	1.16 <i>mu</i>	47.98%
Luluba: Group 3	2.02 <i>mu</i>	1.09 <i>mu</i>	46.03%
Zhongjianhe: Group 4	2.94 <i>mu</i>	1.64 <i>mu</i>	44.22%
Maocunzi: Group 2	2.34 <i>mu</i>	1.39 <i>mu</i>	40.60%

Three village groups from Luluba village suffer the largest decrease in land per capita. The large number of people moving into Luluba (637 people) for agricultural jobs and resettlement can explain this loss. While all of the groups persist in allocating at least 1 *mu* per person in the community, the dramatic decline in land per capita should significantly affect household organization of agricultural activities for all members in the community, regardless if they were resettled or not. Land readjustment and 1 *mu* or 0.8 *mu* represent decreases in land per capita for the overwhelming majority of village residents in Xuan'en County, and this change may affect the long-term agricultural productivity and household income. Moreover, working on reclaimed land may not provide good quality land, especially if the farmland is recovered from wasteland. Without the proper environmental

clean up and precautions, reclaimed land may result in less productivity and harmful products.

The Dongping project also provides *resettlement compensation* to assist with the relocation in the form of a living subsidy of 300 RMB per person for the first five years after resettlement. The entire village will share the subsidy, but the Resettlement Action Plan does not mention how the subsidy will be distributed or administered.¹⁷⁷ This lack of detail presents another disturbingly vague description of how the village administration controls subsidies and compensation, but without a clear mandate as to spending the money, reporting the spending, and defining the interests of the community.

Zhongjianhe town has a complicated plan for resettlement because of the sheer scale of relocating a town. This aspect of resettlement involves plans for those people located in villages in the surrounding countryside, and those who reside within the town limits. For people in the countryside, the projected number of persons for resettlement is 1775 people. 637 of that number move to Luluba village, and 65 people move to Maocunzi village. The remaining 1073 must resettle in the original vicinity. For those people currently residing in Zhongjianhe town, 314 people of the town and 104 agricultural people of the town are resettling.¹⁷⁸ Because the reservoir will inundate the town, the project gives land in the new site chosen for the rebuilding of the market town.¹⁷⁹ The town's relocation occurs over a period of four years, and will result in the construction of 117 houses and public works with

¹⁷⁷ Ibid., 114.

¹⁷⁸ Ibid., 95.

¹⁷⁹ Ibid.

the aspects of vertical planning, or building up the mountainside.¹⁸⁰ Moreover, the government supports some residents to change from agricultural to non-agricultural activities, in order to rebuild the industrial and service base of the town.¹⁸¹

Interestingly, for both the rural resettlement sites and the Zhongjianhe town relocation site, the importance of ethnic minorities does not appear to factor into site selection. The project documents make no mention about the host community culture, ethnic customs, or ethnic composition and instead chose the site based on its geographic features. Although the Resettlement Action Plan placed so much importance in documenting the culture of the affected persons, and the relating the impact to both Han Chinese and ethnic minorities, ethnic minorities and indigenous culture seems to play no role in the actual implementation of the project. This represents another gap between policy and practice with the World Bank. Moreover, this fails in achieving precautions against harming ethnic cultures and societies, as expressed in the Project Objectives.

Finally, the last aspect of resettlement implementation addresses the resolution of disputes that may arise throughout the process of relocation. When someone is unsatisfied and has a claim to make against the project or against the Bank, what recourse is available? The resettlement plans divide the appeals process according to rural residents and ethnic minorities. Rural residents have three stages of appeal: first, to the village committee; second, to the Project Resettlement Office; and third, to the civil division of the People's Court. In moving through all of these stages, the resident must express "dissatisfaction"

¹⁸⁰ Ibid., 123, 124, 129.

¹⁸¹ Ibid., 94.

with the decision made by the lower level.¹⁸² While this process reflects the administrative system of China and the involvement of the village in resolving disputes for farmers, this structure raises some concerns about the enforceability of property rights claims. For example, if the village expropriates compensation funds, but the farmer must first go to the village committee to make a complaint, then to what degree can the farmer have his claim reasonably and fairly decided upon? Second, these procedures do not explain how decisions will be enforced. If the Project Resettlement Office decides in favor of the farmer in his appeal, then who has the responsibility to ensure that the PRO decision is carried out? Does that responsibility shift back to the village, and how will that implementation be monitored? The resettlement plans do not provide the answers to these questions.

For ethnic minorities, their first step in appeal can go directly to the Project Resettlement Office or to the Ethnic Minority Affair Committee of Xuan'en County. The second level of recourse is the People's Court.¹⁸³ This procedure once again suggests a different status for ethnic minorities, supportive of the Bank's indigenous people's policy.

Although this procedure supports the formality of claims and dispute resolution within the resettlement project, the plans make no mention of informal or community based mechanisms for dispute resolution, which are commonly used in China. Moreover, it does not suggest how to approach conflicts between an individual and the offices charged with deciding upon the individual's complaint, and the policy does not mention the right of the person to appeal to the World Bank Inspection Panel. The lack of clarity and planning in dispute resolution suggests one of two things: either, the project mostly relies upon unstated

¹⁸² Ibid., 187.

¹⁸³ Ibid.

informal dispute resolution and thus formal measures are undeveloped, or the project ignorantly presupposes that the formal procedures are sufficient for handling claims that may arise.

Evaluation & Monitoring

Resettlement implementation follows top-down management and distribution of responsibility. The following government organizations implement the resettlement project (in order of their authority):

- Hubei Provincial Small Hydropower Development Project Office
- Resettlement Leading Group of Dongping Hydropower Project in Xuan'en County
- Dongping Hydropower Project Office
- Project Resettlement Office
- Township Resettlement Office
- Village Committee and Villager Group
- Project Design Unit
- External Monitoring and Evaluation Group

Essentially, all eight groups must coordinate, communicate, and implement the resettlement program. Each group has a separate list of responsibilities, often overlapping—such as the organization of public consultation, responsible for funds management and allocation, and participation in internal monitoring. The Township Resettlement Office supervises land acquisition, and the Village Committee must implement land readjustment and distribution. The Village Committee has the most direct contact with project-affected persons, and this

provokes concern about the administrative capability of the Village Committee to address resettlement issues. Understandably, the Committee has the greatest knowledge of and connection to the local residents of a community. However, in undertaking land requisition, distribution of compensation, conducting socio-economic investigations, and organizing production resettlement activities, the Village Committee may lack the technical expertise required. This lack of expertise presents several problems for the design and implementation, which relies so heavily on village collection of information and mobilization.

The complex organization of administrative structures belies the complexity of implementing resettlement. For this reason, internal and external monitoring activities play an important role for ensuring compliance to domestic Chinese laws and the World Bank resettlement policies. With regard to internal monitoring, the Dongping Hydropower Project Office is responsible for assembling the “Resettlement Progress Report” and reporting to the Hubei Small Hydropower Development Project Office, which is the provincial organization responsible for project review. The Project Resettlement Office assists with the preparation of the progress report. However, this is no separation of duties and responsibilities within the broad topic of internal monitoring Resettlement Action Plan.¹⁸⁴ Perhaps this information is not addressed by publicly available documents, but concern emerges when there is no transparent description of monitoring responsibilities.

External monitoring proceeds with the involvement of the East China Investigation and Design Institute (ECIDI). ECIDI is a direct subordinate to the Ministry of Electric Power

¹⁸⁴ Ibid., 175-176.

in China, and according to the description found in project documents, it has completed more than twenty projects for hydropower development. Since 1990, ECIDI has been working with the World Bank to implement hydropower project design and resettlement implementation.¹⁸⁵ Regardless of the experience and qualifications of the experts and personnel from ECIDI, their involvement in external monitoring raises several questions about their independence. ECIDI's direct connection to the Chinese government elicits concern about the impartiality of the organization as it relates to project success or failure. This situation presents the opportunity for ECIDI leaders to be influenced by government objectives, in this case the need for a greater energy supply and rural development. The *Involuntary Resettlement Sourcebook* highlights several key responsibilities for external monitoring agencies, including reviewing grievances, interviewing affected persons, verifying internal reports, surveying living standards, and advising project management. However, the more interaction that ECIDI undertakes with project management and implementation, the less it may be able to objectively monitor the actions of the project. Without independent evaluation techniques, impartiality may blur leaving affected persons in a disadvantaged situation if problems arise.

Conclusion

In sum, the analysis of the Dongping Hydroelectric Power Station sub-project is not intended to present a story mired in details and numbers. However, it is intended to show the impact of dam resettlement to local culture, economy, property, and space. The construction of a dam affects such a wide range of land, and in China, this also implies that

¹⁸⁵ Ibid., 178.

it will affect a large number of people. Bearing in mind that the Dongping project comprises only one of four hydropower station projects in the Hubei Hydropower Development Project, it is not difficult to multiply this situation's impacts on the affected communities and the local and provincial economy.

Clarification of property rights remains important for this project simply because it identifies property affecting the socio-economic standing of people in the area. Understanding the quantity and quality of property owned relates directly to the project's minimal obligation under the Bank's objectives to replace the same amount of property with the same quality. The importance of enforceable property rights relates most strongly to the ability of people to regain assets destroyed by the reservoir, especially in the ability of farmers to regain adequate amounts of land. Conversely, the enforceability of property rights also relates to farmers whose land contracts are being illegally readjusted by village officials to accommodate the influx of new people.

Chapter 5: The Guangdong Pearl River Delta Urban Environment Project

The Context of Linear Resettlement

Linear projects typically occur with infrastructure development as countries seek to improve transportation, communication, or public facilities networks.¹⁸⁶ The construction of networked infrastructure projects, such as road systems and pipeline networks, typically requires property acquisition along lines and intersections, creating a long, but narrow scope of impact. Unlike the construction of dams, entire communities are rarely affected directly by property takings, and the project may only affect a strip of households and businesses running through the community, or several communities. Thus, while the amount of property loss may be less than other types of resettlement projects, the implementation of linear resettlement involves significant technical challenges because of its urban locations are highly concentrate with people and buildings that requires complicated engineering and design of projects to minimize impact. The *Involuntary Resettlement Sourcebook* illustrates that “the long, narrow project corridor may make administrative coordination difficult if the project passes through many local areas. And coordinating and consulting with relatively small, dispersed groups of displaced persons (DPs) poses similar logistical considerations.”¹⁸⁷ Thus, linear projects necessitate detailed planning for determining the route of the line, identifying the property that falls in its way, and harmonizing with multiple local administrative bodies.

¹⁸⁶ Croll, 468.

¹⁸⁷ *Involuntary Resettlement Sourcebook*, 299.

Particularly in connecting urban area networks or improving access to rural areas, infrastructure projects require a significant public investment, and the government often initiates them as a “public good” regardless of the cost because they have the potential to increase access to markets, electricity and sanitary drinking water.¹⁸⁸ The public can benefit from the development of infrastructure if the construction of a road facilitates workers’ commute to a factory or if households can install indoor bathrooms due to improved water access.

In order to facilitate linear projects, the Bank advocates the preparation of detailed maps and surveys of property in the area hosting the project.¹⁸⁹ This task assumes that careful planning will reduce the overall cost of resettlement for both the Bank and the affected people by presenting opportunities for reevaluating the route of the line and possibly changing its course to reduce the scope of impact. A linear project may only need to requisition a piece of property that falls in the way of the construction line, rather than condemning a whole house or field.¹⁹⁰ This may entail the removal of a room in a house, or a wall in a garden. While not destroying the whole property, it may impair the use, productivity, or level of personal attachment. If the former items are affected by the project, then property owners can apply to receive additional assistance and resettlement, thereby condemning the whole property. Additionally, linear projects may temporarily acquire property during the construction period out of concern for public safety and for providing necessary space to construct a pipeline or road. The length of this acquisition can impair

¹⁸⁸ Croll, 472; Robinson, 18.

¹⁸⁹ *Involuntary Resettlement Sourcebook*, 306.

¹⁹⁰ *Ibid.*, 299.

business, travel, community development, and, in some cases, employment because it renders property unusable and may even cut off portions of the community from other areas. For this reason, linear projects generally identify three types impacted property: wholly affected property, partially affected property, and temporarily affected property.

Therefore, the design of linear projects benefits from an exhaustive survey of people and property. However, in China, this fieldwork may prove difficult if local officials and residents are unwilling to speak with outside evaluators, a circumstance stated in Brooke McDonald's and Michael Webber's article, "Involuntary Resettlement in China: a model of good practice?," and this can affect both the quality and quantity of available data.¹⁹¹ Additionally, linear projects often extend through multiple districts and this necessitates a harmonization of efforts from multiple agencies that may operate differently according to local or district standards. The Bank identifies monitoring and evaluation as the best way to accomplish this coordination, and under their guidelines this supervision should transpire through a reliable, frequent reporting system.¹⁹² Once again, this practice relies upon the provision of reliable, consistent data gathering. Inaccurate and incomplete data presents the greatest challenge to planning a resettlement project because it creates the risk that people may not be identified as adversely affected, and thus lose out in receiving project benefits, such as compensation and resettlement assistance.

For resettled persons, urban areas typically offer more diverse opportunities for economic rehabilitation because of their proximity to business, density of people and places,

¹⁹¹ Brooke McDonald and Michael Webber. "Involuntary Resettlement in China: a model of good practice?" *Forced Migration Review*, no. 14 (July 2002): 38.

¹⁹² *Involuntary Resettlement Sourcebook*, 318.

and preexisting economic infrastructure.¹⁹³ However, one complication emerges when linear resettlement does not affect both the housing and the employment of resettled persons. The person must move to a new home and then commute back to the original community, or vice versa. This inconvenience might occur temporarily during construction or permanently and might require a lengthy commute to and from work. The Bank recognizes this as a new economic hardship and sometimes provides for these transportation costs. Another scenario unique to urban linear projects occurs when construction disrupts transportation routes, especially in the construction of pipelines that follow street routes. Transportation routes facilitate economic development, and when routes are closed or diverted, the livelihoods of people living along these routes, such as shop owners, are jeopardized. The Bank also recognizes this situation as creating economic losses and linear resettlement projects account for the livelihoods of people living along those routes. However, this recognition may also require the acknowledgment of illegal residents, or squatters, who make their living along the highways with entrepreneurial services, such as bike repair, or shacks and carts that sell small items.¹⁹⁴ In sum, the complex impact of linear projects in urban areas creates various situations for people and property affected by construction, and World Bank linear projects respond to this by diversifying their resettlement and compensation policies.

The purpose behind this case study is to illustrate the complexities of property ownership, especially identification of property ownership and demarcation of boundaries. In this case, clarification of property rights through the use of census data become an

¹⁹³ Ibid., 292.

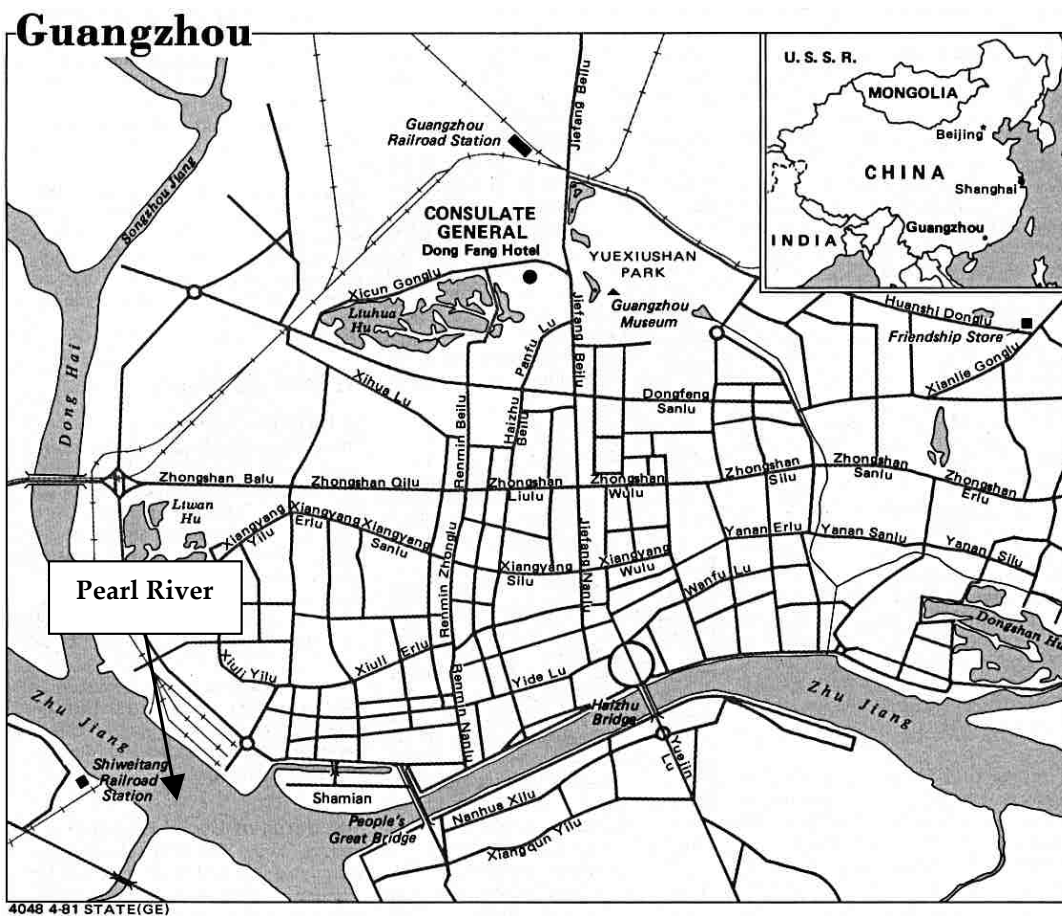
¹⁹⁴ Ibid., 316.

especially important characteristic for illustrating the inadequacies of preexisting data, i.e., data not generated through the project's own surveying. Moreover, this project demonstrates that the administration of urban projects across district lines creates such a dense amount of information that must be processed, at the expense of understanding the experiences, backgrounds and welfare of individual people affected by the project.

Project Background

Guangzhou is located in Guangdong province in southeastern China, and its advantageous position near the Pearl River Delta and along the eastern seacoast has allowed Guangzhou to achieve tremendous economic development from foreign trade and industrial expansion. Given its success and the government's favorable posture toward continued economic growth, Guangzhou's city borders have physically expanded with the arrival of new labor and industries. In contrast to this growth, the city's infrastructure development has not kept pace with economic modernization. For example, the city's inability to accommodate the waste its population produced and inability to treat wastewater resulted in serious concerns about the city's living environment. In 2000, Guangzhou only had the capacity to process 30% of its waste, and this problem created harmful conditions in both soil and water quality.¹⁹⁵ In addition, the city thought that further degradation of the environment might hinder continued economic development and industrial expansion.

¹⁹⁵"Guangzhou Urban Environment Involuntary Resettlement Plan," (November 2003), Accessed March 16, 2006. Available online at http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2004/03/10/000160016_20040310141843/Rendered/PDF/RP2020vol103010paper.pdf, 38.



Source: http://www.lib.utexas.edu/maps/world_cities/guangzho.jpg

In cooperation with Guangzhou Municipal in 2003,¹⁹⁶ the World Bank embarked on the Guangdong Pearl River Delta Urban Environment Project (GPRDUEP) to improve wastewater treatment plans and solid waste treatment facilities. The Guangzhou Municipal Engineering and Gardening Bureau established a subsidiary company called the World Bank Loan Wastewater Treatment Project Company, and charged it with holding the primary responsibility for the construction and management of the project.¹⁹⁷

¹⁹⁶ "Guangzhou Municipal" is the city government of Guangzhou.

¹⁹⁷ "Guangzhou Urban Environment Involuntary Resettlement Plan," 41.

The GPRDUEP develops four wastewater treatment facilities and the pipelines leading into those facilities with an expected completion date of December 2005.¹⁹⁸ GPRDUEP is organized into four components (sub-projects) including the Reconstruction of the Sewage Networks System, Dashadi Wastewater Treatment Project, Guangzhou Liede Waste Water Treatment Project, and the Guangzhou Solid Waste Treatment Center.¹⁹⁹

For the purposes of clarity and detail, this case study examines one of the four sub-projects called the Reconstruction of the Sewage Networks System (abbreviated as Sewage Networks Project), which aims to increase the flow of sewage treatment in already existing treatment plants to over 70%.²⁰⁰ The Sewage Networks Project itself is comprised of four smaller pipeline projects: the Lijiao project, Xilang Project, Datansha project, and Liede project.²⁰¹ Each of the smaller projects constructs the pipelines leading to a plant located in different areas around the city.²⁰² In sum, the project will reconstruct 323.71km of pipe networks, and the Datansha project and the Lijiao project require the most construction. The pipelines themselves stretch through five districts of the city named, Liwan, Baiyun, Tianhe, Fangcun, and Haizhu. Thus, the project must coordinate resettlement resulting from four small projects and stretching through five local district administrations—a huge logistical feat.

¹⁹⁸ Post-implementation evaluation reports are not yet available. The project refers to the World Bank's Involuntary Resettlement Policy, OP. 4.12 as its guide for carrying out resettlement, and also relies upon the Guangdong Pearl River Delta Urban Environment Project Resettlement Implementation Plan for guiding principles unique to the sub-projects.

¹⁹⁹ *Ibid.*, 10.

²⁰⁰ "Resettlement Implementation Plan for Four Major Pipe Networks." (September 2004), Accessed March 16, 2006.. Available online at http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2004/12/01/000112742_20041201094835/Rendered/PDF/RP2020vol.01.pdf, 1.

²⁰¹ See Appendix 2 for a description of the project structure.

²⁰² *Ibid.*, 1.

Project Objectives

According to the Operational Policy, the Sewage Networks Project must protect and restore original living conditions, and if possible improve upon them. Given its urban location, a variety of living standards and types of employments create different levels of risk and needs. The density of the city often means that wealthy individuals live alongside squatters, especially as the city expands horizontally and vertically. Thus, if the project wishes to restore or improve upon original living standards, it must do so with multiple levels of measurement. In light of sustainable development objectives of the Bank, project documents indicate a particular focus on the improvement of livelihoods for people located at the bottom rung of the ladder, i.e. those who have less qualified working skills and less income; the project perceives that they face greater hardship from the effects of the pipeline construction because they may lack economic and social mobility in comparison to wealthier affected people.²⁰³ Along the same line, in its objectives, the project also gives special attention to the protection of small businesses. Thus, the project assumes a differentiation in hardship faced by people of different economic means and, in guiding the project, emphasizes additional measures for whom they perceive as vulnerable people.

Project Impact

Socio-Economic Conditions

The initial socio-economic survey highlights the different socio-economic qualities of affected areas, but focuses less on the economic conditions of individuals; the survey results are organized according to 5 city districts involved in the pipeline construction. The

²⁰³ Ibid., 8.

description below provides an introduction to the different characteristics of each district, and represents the information provided in the socio-economic survey:

- **Liwan district** has several trade streets and tourism based on its location as an “old city zone” in Guangzhou.²⁰⁴ 20% of the population in Liwan is over 60 years old, and this may add to the project’s need for elderly care or adjustments in resettlement planning that accommodate elderly residents.²⁰⁵ The district has no agriculture, only manufacturing, wholesale business, retail, and tourism.
- **Baiyun district** holds several large-scale agricultural enterprises, in addition to the recent development of light manufacturing.²⁰⁶ Most people work in manufacturing, although the agricultural enterprises hire a significant amount of people.²⁰⁷ People in Baiyun district specifically may confront a required change in employment when the project requisitions agricultural land.
- **Tianhe district** is the center of higher education in Guangzhou, consisting of fifty-eight colleges and scientific research institutes.²⁰⁸ Given the large number of students in the area, the service sector is the main sector for economic growth in Tianhe.²⁰⁹ The project recognizes the development of the service sector as an important source of employment for resettled persons, especially in providing low-skill, low-wage positions. Therefore, Tianhe district may provide

²⁰⁴ Ibid., 18.

²⁰⁵ Ibid., 19-20.

²⁰⁶ Ibid., 9-10.

²⁰⁷ Ibid., 14.

²⁰⁸ Ibid., 27.

²⁰⁹ Ibid., 28-29.

opportunities in small business development and addition to service sector employment.

- The project documents describe **Fangcun district** as one of the industrial bases of Guangzhou, with the nearly seventy large or medium-sized enterprises. Moreover, Fangcun is home to the local flower industry with over 600 hectares of flowers planted and 12,126 employees.²¹⁰ Land acquisition in this district affects big business, and requires the project to diversify the types of property needed for resettlement. In other words, property suitable for residential and small-scale commercial activities may not support industrial relocation.
- **Haizhu district** has no agricultural enterprise and only some retail. Incidentally, Haizhu district real estate ranks in the top levels of Guangzhou cit, and this suggests a potential conflict between property values and compensation if the compensation does not reflect market value.²¹¹

These descriptions illustrate the distinctive economic situations and raise questions about the different obstacles each district may confront with a linear resettlement. For example, how will land acquisition in Baiyun district and Fangcun district affect farmers more disproportionately? How will compensation values in Haizhu be different from those in Liwan, given the different real estate prices? Importantly, the Resettlement Action Plan for the Sewage Networks Project fails to present data on the incomes of individual residents or households within each district who are targeted for resettlement. Project documents do not explain the absence of this information, but the lack of data presents an incomplete

²¹⁰ Ibid., 39.

²¹¹ Ibid., 45.

picture of the socio-economic conditions. How can the project truly replace the original living conditions, as promised in the project objectives, when there is no indication of what those living conditions are for individuals? The project begins without a base understanding of each household’s economic needs, the losses incurred by relocation and the receipt of any gains through project assistance.

Impacted People and Property

The project impact survey for the Sewage Networks Project details the features of property in the line of construction and uses these measurements to measure compensation for requisition and resettlement. Property stretches through the five districts described above for the length of 205.55km, and the pipe networks construction requires the permanent land requisition of 484.85*mu* and the temporary land requisition of 1508.96*mu*. The Sewage Networks Project affects 27,270 people in 6789 households, in addition to 1073 agricultural workers who are identified separately due to a local administrative custom.²¹² The figures below show the total project impact, including those people who are only affected temporarily. The project groups people not according to the district in which they live, but rather according to which project affects them regardless of the location. As you can see, the number of people affected by the Datansha and Lijiao projects is significantly greater than the other two projects; this effect corresponds to the amount of property requisitioned.

Summary of Project Impacted People²¹³

Wastewater	No. of people	No. of households	No. of agricultural
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²¹² Because of this status, agricultural workers are identified separately in lists and charts of affected persons. Ibid., 56.

²¹³ Ibid., 56-57.

Treatment Plant	affected	affected	workers affected
Liede	249	60	24
Datansha	10,700	2,216	207
Lijiao	15,513	4,201	768
Xilang	808	312	74
TOTAL	27,270	6,789	1,073

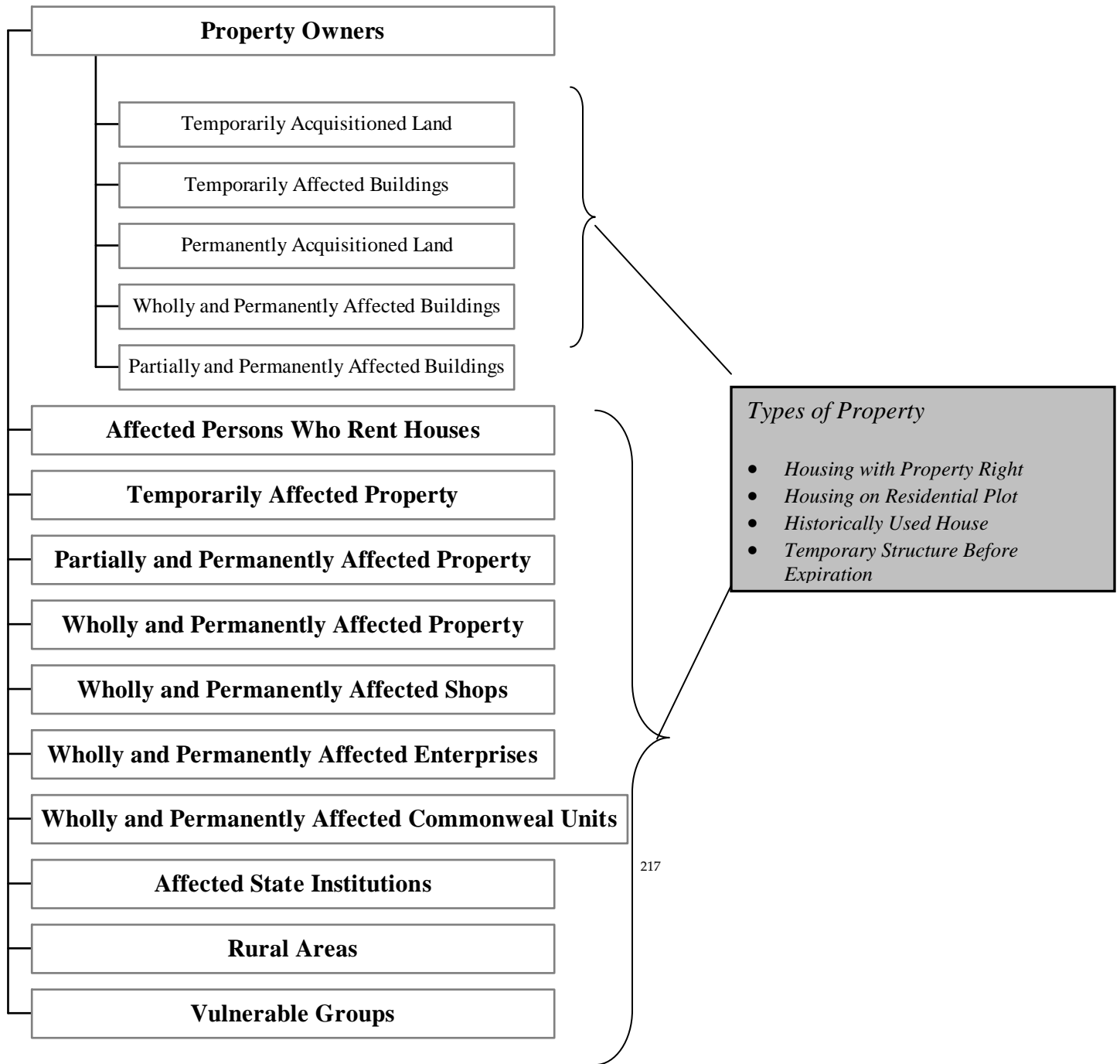
Furthermore, the project impact survey breaks down the number of affected people within projects and defines them according to the type and quality of property they own and the degree of expected damage (i.e. temporarily acquired, wholly and permanently affected). The type of property refers to the type of property ownership, such as “Housing With Property Right.” See Chart 1 below for a full illustration of the different categories of property ownership and classification of property. The ownership of “Property owners” includes land and buildings of people who own the construction rights to a piece of property, reflective of the Chinese property system, which prohibits private ownership of land.²¹⁴ After this category of ownership, the other categories relate to acquisition only of houses or urban buildings (not pertaining to land) or the status of vulnerable persons, including rural workers. To determine the quality of property, project planners use a survey of each district’s real estate market values and to define six classes, or “grades,” to catalog property.²¹⁵ These grades considered the “district environment, surrounding facilities, traffic, economic level, population, social environment and land use.”²¹⁶ With a lower market value, property in these areas receives a lower grade, and this affects the calculation of compensation.

²¹⁴ “Property owners” refers to the owner of the construction right to a parcel of land in China, as private individuals cannot officially own land. “Guangzhou Urban Environment Involuntary Resettlement Plan,” 20.

²¹⁵ “Resettlement Implementation Plan for Four Major Pipe Networks,” 66.

²¹⁶ *Ibid.*, 302.

Chart 1: Categories of Affected Property and Ownership



The extremely detailed nature of the classification of property and its projected impact represents a key feature of linear resettlement projects. In this respect, the property

²¹⁷ Commonweal units refer to public facilities such as police stations, public toilets, airports, hospitals, schools and clinics.

survey plays a particularly important role in assessing the dimensions of affected land, houses, and businesses. Given the high concentration of people and property in this urban setting, collecting accurate information presents an enormous task for project implementers. Yet, in carrying out this task, the data presented fails to link people, places and projects together. It does not focus on the location of the property, i.e. which district, but limits the numbers to the individual pipe project, and it does not indicate how many people fit into each type of property ownership. For example, the Resettlement Action Plan identifies 504 people from businesses in the Lijiao sub-project, but in the property description of affected shops, documents do not illustrate the types of businesses, assets invested into the businesses and how people individually correlate to the lost property. The lack of these specific eligibility measurements makes it difficult to assess the individual impact of the project on the strip affected by construction by relating proportional losses. This creates a gap in the data and obfuscates the true impact felt by individual households losing their property.

With respect to agricultural land located in and around urban areas, Guangzhou municipality follows the policy of “rural village in urban habitat,” which ends the land contracting policy in which individual farmers contract plots of land and places the administration of agricultural land into urban collective or neighborhood oversight. Apparently, in Guangzhou, this is a local policy experimenting in bringing agricultural lands bordering the city limits under the control of urban administrative districts, and bringing farmers out of their contracting relationship with villages. In exchange, farmers receive an urban *hukou* (registration status) and urban residential benefits, although they are

still employed in an agricultural enterprise.²¹⁸ Thus, when agricultural land around Guangzhou faces expropriation, the government only needs to pay land compensation to the collective owners, not to individual contractors. Farmers can still receive relocation assistance, but not expropriation compensation. If other property, such as a house or temporary shed, is included in the acquisition farmers can receive both compensation and resettlement funds. .

Agricultural land acquisition from 27 villages surrounding Guangzhou directly influences agricultural enterprises by requiring them to lay off workers or decrease the productivity of each work in order to retain their employment. Thus the resettlement plans for agricultural workers focus mainly on the economic resettlement of these workers into new positions. Due to the lack of available census data from the villages, the project cannot accurately count the number of affected persons resulting from agricultural land expropriation.²¹⁹ The Resettlement Action Plan writes that because nonagricultural income accounts for 98% of the total income of rural workers, the acquisition of agricultural land should not significantly impact the agricultural population and affected workers can simply be “resettled” into other occupations. This explanation on rural income provides a convenient explanation in support of expropriation and Bank construction, given the acknowledged lack of data about rural living standards,

Another example of insufficient data emerges with the Liede Wastewater Plant sub-project. The documents cite “incomplete” or “unavailable data” in the property survey. The Liede sub-project affects the least amount of people in the Sewage Networks Project,

²¹⁸ Wang Chaogang, “PRD 1 Project Resettlement,” Private email message to the author, 24 February 2006.

²¹⁹ “Resettlement Implementation Plan for Four Major Pipe Networks,” 293.

but without an accurate survey of property, the identification and compensation of Property Owners cannot meet the guidelines required by the Operational Policy.²²⁰ Without complete census data about the number of people, their living standards, and location—how can the project make a justified evaluation that the resettlement program will a) identify all of the people affected, b) understand their situation and resettlement needs, and c) understand prior to acquisition the amount and type of property being taken? In other words, how can the project justify moving forward with this many empty spaces?

In addition to categorizing types of property, the Resettlement Action Plan also distinguishes between affected persons/property from “this project” and those of “relevant projects.” The distinction between this project and relevant projects lays in which projects the Bank funds. Relevant projects are domestically funded and they support the overall implementation of a Bank development program. For the Sewage Networks Project, the World Bank only provides financing funds for the reconstruction of existing pipe networks. Guangzhou Municipal must fund any construction of new pipeline required for the networks, and this work falls under “relevant projects.” The Involuntary Resettlement Policy (OP 4.12) requires the implementation of relevant projects in accordance with World Bank guidelines and objectives. Thus, while these projects are under local control, in theory, they remain liable to the Bank for implementing good practices. In practice, Wang Chaogang, an official from the World Bank states, “In fact, it is not a practice to incorporate the resettlement of relevant projects in the resettlement plan. We do this only for the

²²⁰ See the above chart for the number of people affected by the Liede sub-project. *Ibid.*, 79-80, 98.

projects with linkage issue [sic] as defined in Para. 4 of OP 4.12.”²²¹ It appears that Wang implies a link in name only between World Bank projects and relevant projects, when in practice there is no oversight and evaluation of the outcome of relevant projects.

Comparison of Project Impact on This Project and Relevant Projects²²²

Wastewater Treatment Plant	No. of people affected		No. of households affected		No. of agricultural workers affected	
	This Project	Relevant Projects	This Project	Relevant Projects	This Project	Relevant Projects
Liede	6	243	2	58	3	931
Datansha	286	10,414	118	2,098	4	203
Lijiao	2312	13,201	669	3,531	135	633
Xilang	1	807	1	310	0	74
TOTAL	2,605	24,665	790	5,997	142	1,841

The table above compares the resettlement from each wastewater treatment system, according to these two distinctions of “this project” and “relevant projects.” However, from a simple comparison of the number of affected people, one can assume that the impact reaches a wider population with a potentially deeper effect and the need for strictly enforcing property rights and compensation increases with the incorporation of relevant projects. The number of people affected by relevant projects far outweighs the impact from “this project” funded by the World Bank. In addition to the number of affected people, the affected land is also considerably larger. The total quantity of affected property for the Sewage Networks Project equals 53,725.73 m², and the total quantity for relevant projects is

²²¹ Wang Chaogang, “PRD 1 Project Resettlement.” OP 4.12 (4), “This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank-assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project.”

²²² “Resettlement Implementation Plan for Four Major Pipe Networks,” 57-59.

468,503.34 m²—more than 8 times the amount of property affected by this project. If these relevant projects only follow the World Bank’s policy in name but not in practice, as Wang indicated, affected people face the prospect of huge economic and social losses because there is no guarantee that the domestic government will comply with basic property and economic rights as expressed by the replacement of lost property, adequate compensation, or the ability to appeal their situation to authorities. Yet without monitoring and documentation during the implementation of relevant projects, the true impact of resettlement from relevant projects cannot be assessed fully. Given the collective effect of resettlement from “this project” and “relevant projects,” the level of impact from relevant projects should concern the Bank, if they are to fulfill their own objectives of not harming the population with large-scale development projects. Monitoring of relevant projects should enter into Bank practice, although it implies added administration and implementation costs.

Compensation Standards

Each category of affected persons has a specifically designed compensation and resettlement policy. For *land compensation*, the Sewage Networks Project relies upon Article 47 of the Land Administration Law discussed in the previous chapter, as well as Article 30 of the Implementation Regulations of the Land Administration Law in Guangzhou Province and the “Provisional Regulations on Compensation and Resettlement of Peasant Collective-owned Land Requisitioned for Construction Land in Guangzhou.”²²³ People can receive compensation equal to the average output of land for the previous three years multiplied by

²²³ Ibid., 299. The Resettlement Action Plan does not cite the text within these provisions, and the author was unable to obtain either a Chinese or an English version of the local provisions.

the “compensation multiple,” which is the figure intended to address the value and cost of the loss, not just the market value of the property’s output. The compensation multiple varies depending upon the use of the land and the quality.²²⁴

The Land Administration Law states that the multiple should range from six to ten times the average output for the previous three years.²²⁵ With the Sewage Networks Project, the Resettlement Action Plan explains that because this project belongs to the municipality with lower compensation funds, the compensation multiple will be lower.²²⁶ This policy raises an important point about the relationship between the World Bank funding of the Sewage Networks Project and the implementation of these plans by the municipal government. Given the cost of living in urban areas as well as the overall tax base available to the municipal government of Guangzhou, this reasoning appears flawed; it would seem that because the municipality owns the project, the local government would be more concerned about maintaining the living standards of local residents by paying them higher compensation. A local government might have more ties to the people in the community and they might face the loss of property.

Even though the municipal government retains control over the implementation of the project, the World Bank must examine whether or not this compensation policy complies with the goals of the Bank, namely acquisition and resettlement with sustainable development objective. The derivation of compensation is a key area where use of the

²²⁴ See Appendix 3 for a table describing the compensation multiples.

²²⁵ The overall Guangdong Pearl River Delta Urban Environment Project Resettlement Implementation Project identifies scales for compensation relating to the property type and grade.

²²⁶ *Ibid.*, 299.

World Bank guidelines may affect positive change for project affected persons, and the World Bank should review this Sewage Networks Project's land compensation policy.

For the acquisition of other property—houses, business units, and enterprise or warehouses—compensation varies according to the grade of property within the affected districts and the materials used for construction. For example, property of a lower grade, or quality, constructed from wood will receive lower compensation than property of a higher grade made from brick. In all, the project distinguishes between “frame structures, mixed structures, brick and timber structure, simple structure and shed structure.”²²⁷

In addition, the project factors the age of the property in determining compensation, along the measurements of 5 years, 5-15 years, 15-25 years, 25-35 years and over 35.²²⁸ In fact, accounting for depreciation of the property violates the World Bank's policy for compensation. In the definition of “replacement cost” in the Involuntary Resettlement Policy 4.12, the Bank specifically writes, “...depreciation of structures and assets should not be taken into account.”²²⁹ The consideration of depreciation lowers the amount of compensation and neglects to recognize the investment that people may have made in maintaining their property over the years. It represents a clear breach of World Bank policy and harms the sustainable development objectives put forward in Bank resettlement policy.

*Resettlement compensation*²³⁰ for acquisitioned land also equals a resettlement base number and a multiplier. However, due to a lack of data on agricultural families,

²²⁷ Ibid., 302.

²²⁸ Ibid., 302-305.

²²⁹ “Involuntary Resettlement.”

²³⁰ Resettlement compensation is financial assistance provided to landowners for relocation, and is paid in addition to the compensation for property acquisition.

Resettlement Plan stated that it was impossible to determine resettlement assistance based on property holdings per capita.²³¹ In other words, the project could not uniformly determine the amount of assistance needed for resettlement, based on the average amount of land owned by people in affected villages. Instead, the project relies upon a legal calculation, found in the “Provisional Regulations on Compensation and Resettlement of Peasant Collective-owned Land Requisitioned for Construction Land in Guangzhou.” The Provisional Regulations independently establish guidelines for each district related to the relevant property markets and economic conditions, and Appendix 3 shows the difference between the Provisional Regulations minimums and the multipliers chosen for the project for “Wholly and Permanently Affected Property.”²³² Notably, the project increases the resettlement allowance for Liwan District and Songzhou Jie of Baiyun District because of the proximity of these areas to the urban areas with higher costs of living.²³³

Other than land acquisition, the Resettlement Action Plan does not describe resettlement allowances for additional types of property, and it appears that owners of the other categories of property can only receive expropriation compensation and some additional payment for demolition costs, small structures such as sheds and fences, and the loss of business or services.²³⁴

In conclusion, the compensation policy, relying upon property surveys and classification, and again reflects the complexity of linear resettlement planning. The problems of inaccurate or incomplete data directly affect compensation by limiting its ability

²³¹ “Resettlement Implementation Plan for Four Major Pipe Networks,” 300.

²³² *Ibid.*, 301.

²³³ *Ibid.*

²³⁴ *Ibid.*, 307-308.

to replace property at market value or higher values. Additional problems in the compensation plans for the Sewage Network Projects generate from the unclear policy toward resettlement compensation for property other than land, and the factoring of depreciation. All of these concerns have the potential to significantly lower the initial calculations of needed compensation, and therefore will affect the ability of project-affected persons to receive adequate reparations.

Eligibility

Using the Involuntary Resettlement Policy, the Sewage Networks Project defines project-affected persons according to the “involuntary taking of property which results in relocation, loss of assets, loss of income sources and restriction to publicly protected areas.”²³⁵ Partially and temporarily affected persons qualify for eligibility,²³⁶ even though these categories are not specified in the Involuntary Resettlement Policy.²³⁷ The Resettlement Action Plan does not explicitly recognize the eligibility of people illegally residing the area, without an urban residential permit. The project only mentions this category of people in discussing measures for addressing the needs of vulnerable groups. It also implies that in planning and implementation, these people are not counted and therefore may suffer from a lack of assistance or compensation. Their omission from the list of eligible persons is politically smart, in terms of recognizing the Chinese government’s official stance toward illegal migration. Yet, in defining who qualifies for assistance, the

²³⁵ “Guangzhou Urban Environment Involuntary Resettlement Plan,” 15.

²³⁶ Partially affected persons means those people whose property is not wholly affected, but rather only a portion of the property is affected by the project. Temporarily affected persons are those persons whose property are affected during the project, but then may be restored after project construction finishes.

²³⁷ “Resettlement Implementation Plan for Four Major Pipe Networks,” 16.

exclusion of people residing without a permit may affect a large portion of urban residents, given the phenomenon of illegal rural-urban migration and the economic base that migrant workers form in the provision of urban services and physical labor.

For this project, the unit of entitlement, i.e. the unit of measurement, varies according to the person or enterprise affected by the project. The Resettlement Action Plan distinguishes between 3 types of units: businesses, individuals, and—for agricultural land—the Village Committee. For businesses and individuals, this implies that they are legal recipients of moving assistance and compensation, and the project must negotiate separate contracts with each business or person. For land the project negotiates with the Village Committee regarding acquisition and compensation, and the Resettlement Action Plan conspicuously states that the project cooperates with the committee to avoid the possibility of embezzlement.²³⁸ Locally, this problem of taking land and embezzling compensation funds arguably presents a real problem, as leaders from and around Guangzhou have been investigated and charged for this type of corruption.²³⁹

Resettlement Planning, Implementation and Monitoring

Planning and Implementation

Resettlement plans provide options for different types of people as a reflection of the diverse needs of affected people within the project. These options, termed “Policy Measures” attempt to address the specific challenges that each type of property owner or

²³⁸ “Guangzhou Urban Environment Involuntary Resettlement Plan,”125.

²³⁹ For example, see Lew Sieu Ying, “From village protest to national flashpoint,” *South China Morning Post*, October 19, 2005. Accessed April 1, 2006. Available online through Lexis Nexis.

“vulnerable person” will confront. The table below summarizes the different measures for each group.

Property Owners ²⁴⁰	After signing the contract for compensation resettlement, the project will issue compensation. The project will rehabilitate non-cropland within 6 months, and for cropland will pay the owner a rehabilitation fee to enable the owner to rehabilitate the land himself. Temporary requisition should not exceed six months. The property owner can apply for a resettlement house discount with the group purchase of new property, and partially damaged houses will be restored as soon as possible.
Affected Persons Who Rent Houses ²⁴¹	The project will help renters find houses with the same living environment and rental price. Renters can enjoy a preferential price during the group purchase of resettlement houses. The project will help tenants change their profession if they relocate to an area with unsuitable employment. The project will help negotiate lease agreements, especially if a lease agreement extends beyond the project construction starting date.
Temporarily Affected Property ²⁴²	If temporary relocation exceeds the time in the contract, then the temporary relocation fee will be increased by 100%. If the rehabilitation period exceeds the time specified in the contract, the project will provide additional transportation allowances. If the period exceeds 1 year and requires the transfer of children to other schools, then the project will provide additional funding. Shops will have a 15-day rehabilitation period. The project will provide an additional 100% allowance if the time of rehabilitation exceeds that time specified in the contract. The project will give an additional 50% to temporarily affected enterprises if the rehabilitation period exceeds the time specified in the contract.
Partially and Permanently Affected Property ²⁴³	If part of a house, shop or enterprise must be demolished, then the project will change the structure of the property so that its integral functions are not altered. Persons in this category may apply for permanent resettlement if they find it a hardship to restore and live in the property. Rehabilitation of this houses, shops, and enterprises cannot exceed six months.
Wholly and Permanently Affected Property ²⁴⁴	Persons under this category have the rights of resettlement as well as compensation for losses. Residents will have 60 days

²⁴⁰ “Resettlement Implementation Plan for Four Major Pipe Networks,” 109-110.

²⁴¹ Ibid., 133-134.

²⁴² Ibid., 151-153.

²⁴³ Ibid., 171-174.

	preparation after notice to prepare for relocation. Residents in the same area or building will be considered preferentially to relocate into the same residential area. The project will reorganize neighborhood committees for the purpose of neighborhood safety and welfare. The project will analyze the professions of the affected people and try to relocate in areas that can provide similar jobs. Affected persons can select one of the resettlement sites arranged by the project and receive a preferential price. Or, persons can choose their own site and the project will help negotiate with the realtors to reduce the price.
Wholly and Permanently Affected Shops ²⁴⁵	Shops will have 60 days of preparation before relocation. The project will help shops find new sites, and if a new site cannot be found then the project will help the owner to change the type of business. The project will also provide consultation on the local market. The shop will receive a 15-day rehabilitation period as compensation for the loss of business.
Wholly and Permanently Affected Enterprises ²⁴⁶	The enterprise will be compensated according to its relocation costs. Equipment damaged during relocation will receive compensation or replacement. The project will relocate enterprises in areas with low production and transportation costs.
Wholly and Permanently Affected Commonwealth Units ²⁴⁷	The project will only resettle those facilities that have necessary functions in the community, and the project will make the determination of what has a "necessary function."
Affected State Institutions ²⁴⁸	The project shall, to the best of its ability, change its construction plans to prevent affecting a government organization. Government organizations will be consulted in relocation and reconstruction, and the project will take all measure to shorten the construction period to prevent interference with the services of the government.
Rural Areas ²⁴⁹	Young and middle aged people rural areas are presumably agricultural workers. They can receive preferential hiring with temporary labor for the project. The wastewater plants will give priority to hiring rural people in low technical positions. The project will negotiate with the resettlement site property managers to hire young women and men to serve on the property as house cleaners and guards. Young adults with skills

²⁴⁴ Ibid., 224-226.

²⁴⁵ Ibid., 257-260.

²⁴⁶ Ibid., 283-285.

²⁴⁷ Ibid., 287.

²⁴⁸ Ibid., 291.

²⁴⁹ Ibid., 293-294.

	can receive assistance in transitioning to non-agricultural jobs.
Vulnerable Groups ²⁵⁰	Applies to the elderly, the poor, single women, orphans, transients, and people not protected by national law. Each separate group has a different targeted policy measure, such as resettling elderly people on the lower floors of buildings that are near clinics or hospitals.

These separate policy measures highlight important features about each category of persons, and this case study will highlight the most relevant points. The project creates safeguards to mitigate against overextended temporary acquisition. In practice, this safeguard of a one-time payment are not strong enough to serve as an incentive for changing or regulating project implementation; temporary acquisition can exceed the contracts limits as long as the project agrees to compensate people with a one-time penalty. A better policy for protecting against long temporary acquisition would be a sliding scale of compensation, multiplying as the requisition time increases.

For people under the categories of “Wholly and Permanently Affected Property,” “Shops” and “Enterprises,” the project equates successful resettlement with the selection of a suitable resettlement site. The project chose six new residential sites based on social characteristics, including available public facilities, traffic conditions, community customs, and public security.²⁵¹ These sites are also judged “high-grade,” “mid-grade,” and “low-grade,” according to economic living standards. High-grade properties emphasize a fresh environment, a “quality-based water system,” plentiful cultural activities, open space and natural lighting. Mid-grade units possess “complete” public facilities and a comfortable

²⁵⁰ Ibid., 297.

²⁵¹ Ibid., 191.

work, study, and living environment.²⁵² The low-grade sites have a high density of the population and space and adequate public facilities, and they are located in a “low consumption area” where goods are less expensive.²⁵³

Understandably, resettling poorer people into higher-priced areas may place an unnecessary burden on their living costs. Yet, a person may want to choose a resettlement site that weighs social conditions over financial characteristics. This project should present an opportunity for resettlers to improve their economic opportunities. Resettling into a higher-grade area might provide intangible benefits, such as increased space, cleaner air, and optimism, in addition to the better provision of services and economic or educational prospects. In addition, the plans state that low-grade areas should encourage the opening of shops to provide service job employment. However, this fails to offer long-term sustainable economic options because it does not advance knowledge and skills beyond a rudimentary level. The project loses an important opening in which to facilitate the acquisition of new skills, employment, and diversification of income sources. Instead, the use of this property classification for the resettlement areas acts as a form of economic segregation to maintain original conditions and stifle the improvement of living standards.

For shops and enterprises, the project chose resettlement sites that reflect the market needs of the businesses, primarily located in Liwan district, which the project chose based upon its location and the purchasing power of people within the district.²⁵⁴ Shops and enterprises have different economic needs. For small shops the location and traffic greatly

²⁵² Ibid., 192-193.

²⁵³ Ibid., 193.

²⁵⁴ Ibid., 233.

affects the flow of customers. Shops can select different sites based on the type of businesses around the area, such as furniture retail, tea markets, building materials, shoes and automobiles.²⁵⁵ This creates a traditional market atmosphere, typical in China. For larger shops, the project offers alternative sites in the larger markets of downtown Guangzhou.²⁵⁶ Enterprise sites have lower density, convenient transportation routes, quality public utilities and energy supply to support the more industrial needs of these businesses.²⁵⁷ Access to this information creates choice and freedom with which business owners can relocate into areas that provide the greatest economic and labor benefits. This preparation reflects forethought on the part of the project to accommodate the economic foundation of the relocated communities, and the choices offered reinforce the principles behind “economic resettlement,” or resettling people into productive activities and mitigating for a reduction in income.

For both resettlers and businesses, project staff helps people and businesses negotiate the purchase of their new property at group-based preferential prices; these prices should offer higher quality properties at more affordable rates. Thus, the incentive is for communities and neighborhoods to relocate together to receive the prenegotiated group price. Although the project allows resettlers to choose sites alternative to the options presented and promises to help them negotiate, this plan does not support individual choice, especially they want to seek new housing sites or business sites out of the city. The project may not have the resources to individually negotiate on behalf of people seeking to

²⁵⁵ Ibid., 234-257.

²⁵⁶ Ibid., 233-234.

²⁵⁷ Ibid., 271-272.

move away, and there is no guarantee that the project can negotiate individual outcomes successfully with other residential managers.

With regard to state institutions, as mentioned in the table above, the plans emphatically state that the construction will avoid at all costs disrupting the property and function of these organizations, even to the degree of changing the route of the pipeline. With the same attitude toward all of the other project-affected people, the project could significantly reduce the scope of demolition and reduce the adverse effects of project construction.

Finally, the resettlement plans for rural workers and vulnerable people demonstrate an attempt by the project to address the consequences of resettlement for at-risk people, in addition to the compensation and resettlement required by the Resettlement Policy. Rural workers receive preferential temporary hiring during project construction, and the project encourages property managers at the resettlement sites to hire young people in service positions.²⁵⁸ Although the project plans to transition some young adults from agriculture to other employment, overall, the project misses an opportunity to promote skills training, education, and entrepreneurial development for rural workers.²⁵⁹ Transitioning from agriculture into service jobs may not improve the original economic conditions, nor even prove economically viable. Agriculture creates some measure of food security for the families involved, and removing agricultural workers from their position to low-skill, low-wage jobs in urban settings with higher price indexes ultimately presents a greater hardship for relocated families. In order to truly lower the risks of resettlement, the project should

²⁵⁸ Ibid., 293-294.

²⁵⁹ Ibid., 294.

seek higher-paying, skilled economic opportunities and offer training to help workers become qualified for those positions.

Plans for vulnerable groups (identified as such by the project) aim to facilitate resettlement by accounting for their “disadvantages.” Under this broad category of vulnerable persons, people below the poverty line may receive priority selection of first floor homes in a building so that they might open convenience stores to support their households. Single women will be resettled in living areas with “good public security and sanitary facilities.” Additionally—for the first time in the Sewage Network Project’s plans—the policy measures addresses those people without rights protected by law, i.e. people living illegally without urban registration. Project documents state these people can rent houses equal to their original living standards, without the option to purchase the unit.²⁶⁰ Given the prevalence of rural-urban migration in China, the project displays little concern over protecting migrant workers in the Guangzhou area.

The payment of the compensation and resettlement fees occurs after the notification and preparation for moving. The GPRDUEP Resettlement Implementation Plan itemizes the procedure and documentation required for resettlement.²⁶¹ Each type of property acquisition requires a contract signed with the Project Management Office for compensation and different documentation in order to prepare the contracts. For example, residential houses with a property right must require the following documents:²⁶²

²⁶⁰ Ibid., 296-297.

²⁶¹ “Guangzhou Urban Environment Involuntary Resettlement Plan,” 171-184.

²⁶² Ibid., 171-172.

- Application and approval table of the contract of compensation and resettlement allowances
- Contract of compensation and resettlement
- Property owner questionnaire
- Certificate of property right or legal tenant book, along with a plain diagram of the total floor space of the house
- Registered permanent residence book
- Identify card of the property owner and tenants
- Only son or only daughter certificate
- Documents for amenities, such as telephones and televisions
- Documents for previous decoration and upkeep of the house

Although these documents support the clarification and documentation of ownership, they also create logistical and administrative problems due to China's incomplete property registry and inefficient land administration. Moreover, the project does not identify who will help residents prepare these documents and the timeline for submitting such paperwork. The complicated nature of this process creates the risk that property owners without proper certification may be overlooked or may avoid contacting project officials out of fear that they will be targeted as illegal residents.

The payment of funds can only occur through the construction bureau or the house bureau and not at lower bureaucratic levels. Payment can occur in cash and requires the contract for compensation and resettlement, the invoice of income of the affected person, the receipt of the paying organization, a copy of the person's identification card, and a

notarization letter. In order to move into the new resettlement house, the resettler must again present the contract for compensation and resettlement, a copy of their identification card, and the receipt for the house.²⁶³ The emphasis of the project on signing contracts and presenting them for verification increases the accountability of the World Bank and domestic agencies by giving resettled persons legal options for enforcing the contract if the terms are not fulfilled. However, some affected persons may again be at a disadvantage if they cannot provide the documentation needed for these contracts, especially if they cannot produce a legal identification card.

Despite these technical difficulties, contracts provide documentation that can be helpful in resolving disputes, if either the individual or the project does not follow through on its obligations. The methods for recourse or appeal for affected people includes appealing the terms of the contract to the real estate department of the city government, with an option to appeal to a higher administrative level; alternatively, people can submit their dispute to an arbitration panel or file a claim in the People's Court.²⁶⁴ These options all fall under domestic Chinese law or city law, but the project documents do not explain the details of how the project will resolve internal disputes. Essentially, this problem is opposite of the problem found in the Hubei project, which mainly supported resolution of dispute by the village or by the World Bank offices. Rather, it places the burden on individual people to take their dispute publicly, without providing for informal mechanisms or methods for appealing within the project's office and without offering administrative support for people who file claims. Again, like in Hubei, the project

²⁶³ Ibid., 178-179.

²⁶⁴ Ibid., 99-100.

documents do not suggest the alternative of filing a claim with the World Bank's Inspection Panel.

Evaluation & Monitoring

Given the complexity of the project and the multifaceted needs of affected people, monitoring and evaluation plays more of an important role than other projects. The GPRDUEP Resettlement Implementation Plan describes internal monitoring as,

...a means of internal control by conducting regular examinations of the implementation conditions...providing necessary feedback information, so as to find out existing problems as soon as possible, and adopt [sic] adjustment measures, ensure the project to proceed on as scheduled, and realize resettlement objectives.²⁶⁵

This project pays considerable attention to the structure and content of internal monitoring. Periodic reports must be sent to the World Bank through standardized data collection and reporting procedures, and Appendix 4 illustrates the flow of monitoring as pictured by the GPRDUEP Resettlement Implementation Plan.²⁶⁶ Internal monitoring operates through three stages: "data gathering and preliminary analysis stage, integrative analysis of data stage, reporting and feedback information collection stage, and reorganization and adjustment stage."²⁶⁷

For the Sewage Networks sub-project the Guangzhou Tunnel Development Co. Ltd. (GTD) will conduct internal monitoring. This means that GTD supervises preparation of the resettlement plans and harmonizes coordination among the different sub-projects and districts involved. With this cyclical structure, the flow of information and analysis

²⁶⁵ Ibid., 277.

²⁶⁶ Ibid.

²⁶⁷ Ibid., 278.

throughout resettlement will hopefully prevent serious problems from occurring. For example, GTD reviewed GIS data to amend the original construction line and reduce the amount demolition required.²⁶⁸ From their involvement in this analysis, GTD's skill in evaluating the construction of the pipe network reflects its technical expertise with regard to the construction. However, project documents do not describe this organization's credentials or past experience in resettlement and in social monitoring, namely identifying the well-being of others and monitoring the economic and social consequences of resettlement. This situation raises concern that the technical well-being of the project may be secure, yet the well-being of the people may suffer if monitoring mechanisms fail.

The project chose the Chinese Race Group Study Center of Zhongshan University to conduct external monitoring.²⁶⁹ As the GPRDUEP Resettlement Implementation Plan describes,

The purpose of independent monitoring and evaluation work is to examine resettlement activities via an organ independent of the company liable for the World Bank Waste Water Treatment Project, check the overall implementation conditions of resettlement activities holistically from a wider and longer-standing perspective...and ensure the PAPs to play an active role in the course of their own rehabilitation.²⁷⁰

With this charge, the independence of monitoring and expectation of unfettered evaluation appears strong. Specifically, the project tasks the Chinese Race Group with monitoring the functional operations, the changes in living standards, the suitability of rehabilitation measures and the adaptability of affected persons.²⁷¹ The group completes these charges

²⁶⁸ "Resettlement Implementation Plan for Four Major Pipe Networks," 327.

²⁶⁹ Wang Chaogang, "Re: PRD 1 Project Resettlement," Private email message to the author, March 15, 2006.

²⁷⁰ "Guangzhou Urban Environment Involuntary Resettlement Plan," 286.

²⁷¹ Ibid.

through investigation, consultation with affected persons, and the redress of complaints. Moreover, project documents specifically list indicators for monitoring the well-being of affected persons, and provide document forms that the group can use in conducting an inspection.²⁷² Overall, the preparation and instruction for independent monitoring gives this aspect of the project greater credibility. The Chinese Race Group, although linked to a university, is not directly connected to a government organization and therefore has more freedom in drafting conclusions.

Conclusion

In conclusion, the Sewage Networks Project exemplifies a typical linear resettlement project in a highly concentrated urban area. The extent to which project officials can construct a pipeline that benefits the development of the city while minimizing the impact on local residents in the path of the pipeline presents a huge challenge to the Bank and local officials. Primarily the largest effort involves the enormous task of accurately identifying the dimensions of property, types of property, uses of property, locations of property, values of property and the owners of property. The complexity of the urban environment complicates every aspect of this project and requires project management with meticulous record keeping, diligent surveying and strict monitoring.

Moreover, this complexity highlights the importance of clarified property rights, and this case demonstrates the negative consequences associated with unclarified property ownership especially in not having adequate public documentation of housing ownership in Liede district. With greater local administrative clarity, the identification of property would

²⁷² Ibid., 288, 291-304.

have been much easier and more accurate. Furthermore, these documents could also emphasize the role of the individual owner, a feature lost in the amount of data generated by the project. Finally, the use of contracts between individuals and the project office supports the enforceability of the Bank's policies by first clarifying each parties obligations and, second, by providing a legal instrument that can be used in approaching dispute resolution.

Chapter Six: Conclusions and Questions for Further Research

The limitations of time and research prevent a comparison of the World Bank's resettlement practices in other countries and also prevents a look at other IFIs resettlement programs in China. These shortcomings preclude a strong conclusive statement as to the goodness or badness of World Bank practices in China, and they limit the conclusions only to the case studies presented in the chapters above. However, in looking at the broad picture of resettlement and the World Bank's approach to this in China, the case studies raise important questions.

1) What is the effect of clarified and enforceable property rights on resettlement?

Development-induced displacement enacted through World Bank-financed projects disrupts social, economic, and demographic relationships and challenges the World Bank in its own goal of restoring assets and livelihoods. Granted, the conclusions presented from this analysis are limited due an inability conduct fieldwork in Guangdong and Hubei provinces. However, World Bank officials have acknowledged that these projects represent typical reservoir and linear resettlement projects in China, the case studies demonstrate relevant examples where clarified and enforceable property rights can improve the social and economic consequences of resettlement, and of the effectiveness of World Bank policy in creating a beneficial resettlement program in China.

The Guangdong Pearl River Delta Urban Environment Project Sewage Networks Project illustrates most clearly the need for clarified property ownership. Without clarified property ownership, a project cannot accomplish the accurate identification of property and

documentation of property owners' socio-economic standards. Clarification through the form of publicly available property registries and deeds helps link people to places, and places to project impacts. As the Guangdong project illustrates, the reliance upon incomplete local census data in China often proves insufficient when trying to identify affected structures and people; it demonstrates the importance of a comprehensive survey in the design of a resettlement program. This survey allows project designers to assess the spectrum of impacts along the construction zone. For example, the Sewage Networks Project distinguishes between "partially affected," "temporarily affected," and "wholly and permanently affected" which highlights how the project affects specific individuals and types of property differently.

Central to understanding the diverse impacts of resettlement on people is the link between the socio-economic survey and the accurate identification of property ownership. The socio-economic survey should serve as a barometer for the risks created by losing property. For example, a household living in poverty on agricultural land will face risks to not only to their property, but also to their food security and non-agricultural income sources. In order to restore the original living standards, and in this case, hopefully improve upon their position under poverty (as measured by the original socio-economic survey), a resettlement program must recognize how the socio-economic conditions unique to individual households necessitate a diversified approach to relocation and restoration of assets.

Moreover, as the case studies illustrate, the distribution of compensation in resettlement projects usually requires presentation of ownership certificates and residential

permits. Thus, the clarification of property directly relates to the ability of individual to enforce his or her rights to receive compensation. This link between clarified and enforceable rights further applies when considering how individuals claim eligibility in a resettlement program. Without physical legal documents proving ownership, the World Bank can only offer relocation assistance (helping people move to new places), and not compensation for the taken property. In China, this produces both positive and negative consequences. Certainly, the requirement of ownership documentation encourages the development of local administrative capabilities through the creation and maintenance of a uniform records system, which can be relied upon for legal claims. In some cases, such as in the Guangdong project, local records create an inaccurate, incomplete picture of property ownership, and thus greater clarification through uniform property deeds and titles could improve local land administration. However, as current administrative capabilities stand, with inaccurate land registers and fewer local government resources, the Bank's requirements may place a burden on individual owners if they cannot produce proof due to the individual's difficulty in obtaining personal copies of ownership documents, and if the Bank cannot assist owners in certifying their ownership.

With regard to enforceable rights, the World Bank's use of contractual relationships between the local implementing organizations and individuals (i.e. compensation and resettlement contracts) generates the greatest source of enforceability. The contracts create rights and obligations targeted at an individual level (for each person), which, in turn, reinforce compliance to the resettlement policies. Individuals can use this contract as a guarantee for relocation assistance and compensation, and local organizations can use the

contract as a tool to enforce their right of eminent domain. Moreover, the contract creates a legal status for seeking redress to complaints because it formally records the obligations, and this documentation and agreement supports the establishment of reliable feedback mechanisms to prevent the need for claims and involvement of the courts. Monitoring, as a form of feedback, is especially important in the enforceability of property rights because it creates opportunities to evaluate projects and document the transfer or loss of property. However, participation and consultation may provide the most informative type of feedback if conducted in a way that truly solicits information, opinions, and suggestion from multiple stakeholders in resettlement.

2) How are the World Bank's practices influenced by working in China?

In terms of policy, the Involuntary Resettlement Policy offers very little detail regarding implementation and focuses more on general principles of a resettlement program, and this allows for a significant amount of freedom in interpretation. This vagueness prevents the development of uniform practices, evident in a comparison of the case studies. For example, the policy provides no uniformity in categorizing property. For this reason, the Hubei project and the Guangzhou project have different categorizations of affected property and people eligible for assistance. Although these projects operate in different contexts, the lack of uniformity in the underlying framework of eligibility and property identification prevents meaningful comparison across projects regardless if they share the same broad situation, such as reservoir or linear projects. Having more detail in the Involuntary Resettlement Policy regarding the method for property classification and types of property categories will allow for more meaningful classification within the project

and evaluation of multiple projects. This example presents only a small criticism of the design of resettlement programs, but it relates to a broader criticism that while projects may adapt to the unique environments and situations of resettlement programs, the underlying policy provides no consistent support for executing uniform practices. Thus, the question for this dilemma asks, where does the blame lie? Is the problem a policy problem, in that the World Bank's policy needs more specificity? Or, is the problem a local problem, in that resettlement practices are primarily driven by local concerns for political power, funding, and economic development—and not in the interests of displaced people?

Relating back to the Qinghai case, described in Chapter 3, does this imply that there is a Chinese way of “doing business” with the World Bank? As demonstrated by the Bank's acceptance of local practices toward readjustment of land and compensation payments to the village, the adaptability of practices in fact supports local compromises to Bank policy and undermines the policy's ability to promote basic standards. For example, the distribution of compensation through the village collective organization applies to both projects. For rural residents, the Bank pays compensation through the village collective, without guarantees that the funds will reach affected persons. These practices lower the negotiating and administrative costs for the Bank, but favor the collective organization over the rights of the individual. Furthermore, these practices are antithetical to domestic policy changes by the central government. In the State Council Document No. 28, issued in 2004, the government expresses its support for strict implementation of existing land compensation policies (i.e. a prohibition against readjustment and embezzlement of corruption funds) and improvement of compensation distribution to individual farmers

over the collective or village organizations. Moreover, the document requires restoration of previous living standards when land is taken and charges local governments with finding “relevant working posts” for farmers displaced from agriculture.²⁷³ This Chinese policy emphasizes the obligation of the local government to ensuring the well-being of the individual.

Other illustrations of the Bank compromising its policy in China occur with the acceptance of extended temporary acquisitions and with the treatment of relevant projects. The domestic legal standard states that land can only be temporarily requisitioned for up to two years, yet the projects intend to convert land temporarily for up to five, as with local practices. By not even upholding domestic regulations, the Bank undermines its stance on the rule of law and tacitly supports disregard for central government policies through local, unguarded infringements. With regards to relevant projects, the Involuntary Resettlement Policy states that all projects related to a resettlement program, either directly through World Bank-financing or indirectly through their facilitation of Bank projects, must operate according to the standards found within the resettlement policy. As noted in the Guangdong case study, Bank officials look upon this relationship between “this project” and “relevant projects” as one that only applies to terminology. In practice, no real link or obligation exists for relevant projects to carry out their work in compliance with World Bank policy. This ambiguity creates loopholes with which municipal governments can classify projects expected to create significant harm as “relevant projects,” and those governments will not hold any real obligation under World Bank policy to protect people affected by the

²⁷³ State Council, People’s Republic of China. “The Decision of the State Council on In-depth Reform Concerning the Strict Land Management: Issue of the State Council (2004) No. 28.”

relevant projects. The potential for these unmonitored actions leading to harm raises substantial concern about the impact of this practice, especially when looking at the disparity of impact project in the Guangzhou project between this project and relevant projects.

Furthermore, the Bank's monitoring and reporting mechanisms are strongly influenced by their location in China because the external monitoring organizations for the project are often linked to government oversight, thus questioning the independence of their review. Without evaluation and documentation, claims to enforce property ownership or compensation rights lack independent support and may be recognized too late to mitigate for harmful consequences. In this way, the Hubei Hydropower Development Project-Dongping Hydropower Electric Station raises the most concern about the independence and qualifications of their external monitoring organization. The group, the East China Investigation and Design Institute (ECIDI), has a direct relationship with the Ministry of Electric Power. While the documents record ECIDI's ability to monitor the technical aspects of resettlement and construction, their ability to evaluate socio-economic conditions and changes hinders ECIDI from executing a significant requirement of resettlement policy. Combined with the issue of questionable independence, ECIDI's involvement severely challenges the credibility of the Hubei project's monitoring and evaluation. The Guangdong project instead chose the Chinese Race Group Study Center of Zhongshan University. Primarily, this group provides greater objectivity because their connection to the government through university funding is not linked to the Ministry of Electric Power, as with ECIDI. The selection of an independent monitoring group relates to the quality and

accuracy of program evaluation, and effects how people perceive the accountability of resettlement projects.

Finally, one of the principal concerns about the Bank's practice relates to its plans for improving economic opportunities through job relocation and training, deemed a principal weakness because of the direct impact it produces on people's economic stability and aptitude. It appears from the descriptions of the projects that officials assumed that given the right conditions of the resettlement community, people would fall naturally into their old economic situations or easily transition into new jobs. This perspective fails to count the costs imposed on individuals while seeking new jobs in an unfamiliar community and for the transition costs from one type of employment to another. Moreover, the service opportunities recommended by the project, such as guards for residential areas, provide little social or economic mobility and no opportunity for the acquisition of new marketable skills. Without specific mention in the resettlement policy as to what constitutes "restoration or improvement of livelihoods," local projects have significant leeway in how they accomplish these minimum requirements; unfortunately, as in the case of these two projects, this accomplishment does not produce any tangible, positive outcome for the employment of relocated people.

3) Why have problems with World Bank resettlement in China persisted?

As the case studies illustrate, the policies promoted by the World Bank and the assumptions underlying those practices create technically solvent practices, but do not always produce a positive economic or social experience for people experiencing resettlement. The experience of the Qinghai Western Poverty Project illustrates the extreme

example of resettlement turned sour, but the case studies in this analysis record similar problems as the claims made in the Qinghai case, namely, inadequate survey data, a failure to provide a complete socio-economic picture, a willingness to compromise with local practices, and insufficient compensation standards. Why are these problems repeating themselves? Is it the fault of the Bank's oversight, or is it the fault of improper practices by Chinese local officials? This conclusion cannot be made adequately without future research. However, it raising an important point that Bank-funded resettlement projects face similar issues in design and implementation. Perhaps then, the overall approach taken by the Bank towards resettlement needs adjusting to meet the recurring challenges in China.

Questions for Future Research

With this understanding of the challenges typically facing resettlement in China, does the Bank need to revise its approach to resettlement—at least in China? The current approach focuses on the importance of property rights to protect people's assets and economic potential. Yet, in China with a system lacking in individual rights protection, is this outside reinforcement of property rights an adequate response to the problems created by unprotected rights? Under the Bank's point of view, their policy operates on the assumption that restoration of lost property in a new location accommodates for social and psychological losses faced by displaced people. Theoretically, this perspective assumes that property and ownership in a particular location serves as the catalyst for community-building and personal interaction, and that the process of enforcing property rights will offer better protection for individuals during the process of resettlement. This notion discounts the intangible connections between people and space that they perceive as "their

own” and also ignores the possibility that that individuals may choose to improve the quality of property ownership in favor of losing their original community. Moreover, it assumes that restoration of property facilitates the reinstatement of disrupted economic activities, and that the resettlement site of businesses and enterprises will compensate for the lost economic relationships and networks from the previous community.

Ultimately, this conceptualization of resettlement almost devolves the individual from the project, and identifies the individual only as a function of the property he or she owns. This approach impersonalizes the process of property acquisition and compensation, and it also releases local and Bank officials from the responsibility of creating a social context with which to conduct resettlement in unique community environments. In part, the Bank accepts the difficulty of replacing intangible assets and relationships, and in part, the Bank presumes that the replacement of intangible assets can occur given the right equation of physical ownership and economic success. With the problems in China resulting from a lack of domestic enforcement of private property rights, how can the World Bank’s individually rights-based approach promote effective change without the support of the domestic government?

Perhaps, for this very reason, implementing agencies have adapted the policies of the Bank to the local Chinese administrative practices, in order to do the very best they could—given the domestic legal situation. Understandably, the risk of dramatically supporting an individually rights-based approach, against local government intervention, might understandably complicate the World Bank’s work throughout the country. First, one must question whether or not this feature is intentional in World Bank policy, accepted

as the cost of doing business in China, or a consequence of working in a country of enormous size, complicated bureaucratic structures, insecure property rights, and in the process of a rapid development. Without being privy to the inner workings of the Bank, this question remains open. Regardless of the motivation, the Bank must recognize that it appears willing to accept the noncompliant practices of the Chinese local governments; its approval of the case studies plans and practices indicates that it has.

A deeper question considers if the focus on property rights in resettlement prevents the emergence of a more beneficial, alternative policy? Is the reliance on property rights enough? Certainly, the use of property as a means to quantify the impact of a development project and the respect and protection of property rights during construction has merit. However, the fundamental problem with the Bank's reliance upon property rights is that the Bank then views individuals only as a function of their property. This approach reflects a cost-benefit perspective of international development that assumes harm to some individuals for the purpose of promoting public good. Moreover, this perspective views the preexisting ownership as evidence of a certain living standard, regardless of the satisfaction felt by the person in that situation. Future research might challenge this rights-based approach using other development models, such as Amartya Sen's freedom approach. Such a change in methods might create more incentives for local compliance to the policies and an improvement in the overall practices of resettlement.

In conclusion, for resettlement in China to truly produce secure, successful outcomes for the individuals and for the World Bank, implementation of the programs necessitates stricter domestic observance of Bank objectives and policy, and the search for politically

viable alternatives that improve the social well-being of affected persons. As an international organization, the World Bank has a somewhat greater responsibility for enforcing compliance to their policies if local governments agree to execute them through a contractual relationship simply because the repercussions of bad resettlement practices may reach beyond the individuals harmed directly by the project. All in all, it is hoped that this paper's contribution will encourage people to ask the questions raised above, and promote better resettlement practices in China based upon individual efficacy, improved living standards, project accountability, and greater economic and social choice.

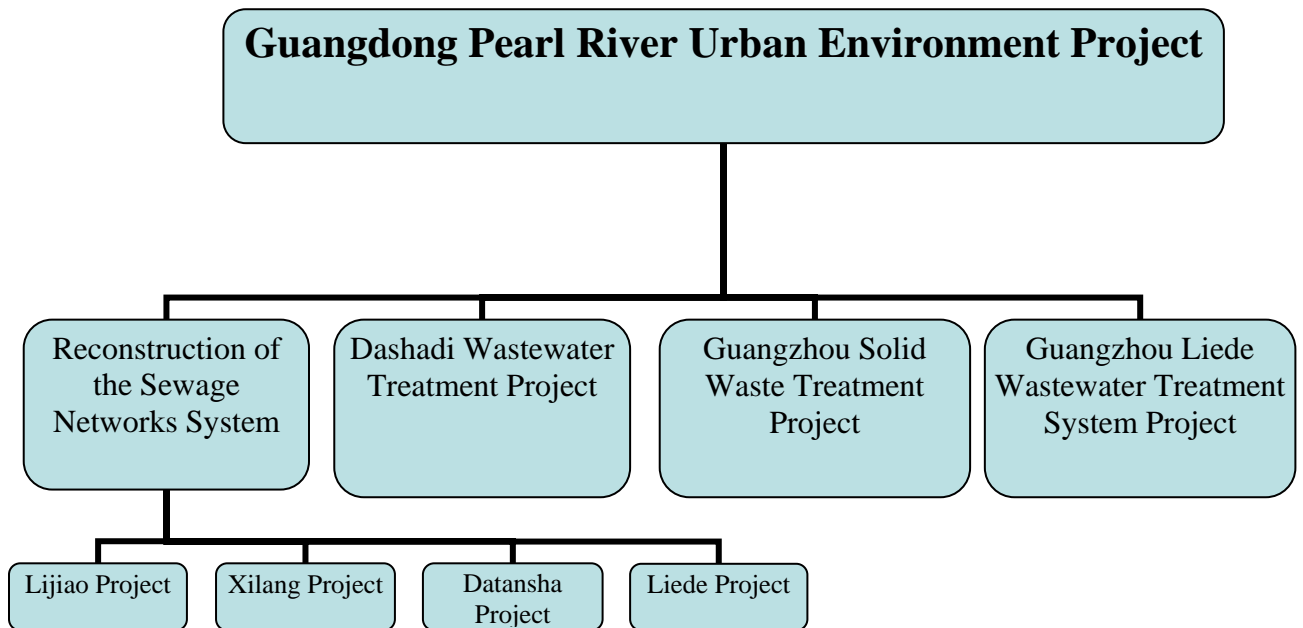
Appendix 1: Compensation Values for Houses and Structures ²⁷⁴

Table 6-5 Compensation of House and Appendage Relocation

Category	description	Unit	Compensation criteria		Remarks
			Private	Public	
House relocation	Frame	Yuan/m ²	350	455	Varied between 300-380 for private house
	Brick-concrete	Yuan/m ²	275	358	Varied between 250-300 for private house
	Brick(stone) - wood	Yuan/m ²	190	247	Varied between 170-200 for private house
	Wood plait	Yuan/m ²	160	208	Varied between 150-180 for private house
	Earth-wood	Yuan/m ²	140	182	Varied between 120-150 for private house
	Simple house	Yuan/m ²	100	130	
	Shed	Yuan/m ²	75	98	
Appendages	Pig/cow pen	Yuan/ea.		200	
	Enclosure wall	Yuan/m ²		30	
	Leveled drying yard	Yuan/m ²		10	
	Leveled concrete drying yard	Yuan/m ²		30	
	Household with tap water	Yuan/household		150	
	Well	Yuan/ea.		100	
	Kitchen range	Yuan/ea.		50	
	Telephone set	Yuan/set		216	
	Cable TV	Yuan/household		300	
	Water pond	Yuan/ea.		100	
	Toilet	Yuan/ea.		100	
	Methane gas tank	Yuan/ea.		1200	
	Cellar	Yuan/ea.		120	
	Tobacco leaf dry house	Yuan/ea.		1200	
Protected slope	Yuan/m ²		50		
Allowance for transportation	Haulage expense	Yuan/person		300	
	Material loss	Yuan/person		100	
	Work loss	Yuan/person		50	
	Medical expense during relocation	Yuan/person		20	
Cost of house plot at host site	Allowance for temporary house during construction	Yuan/person		100	
	Water and power supply and access, land leveling	Yuan/household		2500	

²⁷⁴ "Hubei Small Hydropower Development Project," 142.

Appendix 2: GPRDUEP Project Organization

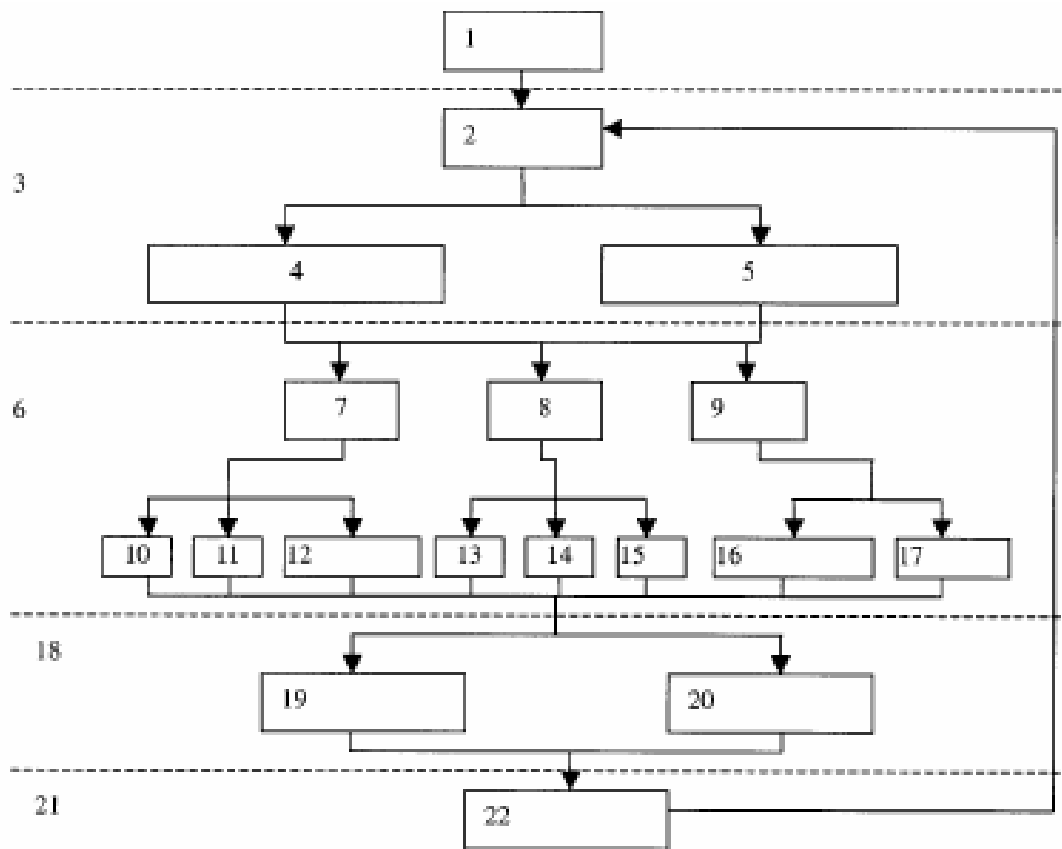


Appendix 3: Compensation Multiples for Land ²⁷⁵

			Compensation times range stipulated in Guangzhou Province	Times adopted in this project
Agricultural land	Plow land	Basic farmland	8~10 times	8 times
		Non-basic farmland	6~8 times	6 times
	Fish pond		8~12 times	8 times
	Garden plot		5~7 time	5 time
	Forest land			
Grassland and feed land				
Rural construction land	Agricultural construction land		6~8 times	5 times
	Non-agricultural construction land			
Other rural land			3~4 times	3 times

²⁷⁵ "Resettlement Implementation Plan for Four Major Pipe Networks," 300.

Appendix 4: Structure for Internal Monitoring²⁷⁶



1. resettlement objectives
2. resettlement measures
3. restructuring and adjustment stage
4. organization, flow setting, restructuring
5. deployment and adjustment of resources
6. data collection and preliminary analysis stage
7. organizations
8. progression
9. quality
10. coordination
11. personnel
12. time analysis
13. plan
14. funds
15. house sources
16. complaint and appeal
17. satisfaction
18. integrative analysis of data stage
19. organizational flow effects
20. effects of resources deployment
21. reporting and feedback information collection stage
22. opinions and suggestions

²⁷⁶ Ibid., 279.

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