

Japan's Official Development Assistance and Involuntary Resettlement

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1. Introduction

Large-scale infrastructure development projects are a feature of economic development policies around the world. Such projects, however, can have significant negative environmental and social impacts on communities where these projects are carried out. In some cases, residents suffer from increased levels of environmental pollution caused by these projects. In many cases residents are required to move in order to make way for project construction, thereby losing their land and property. Many governments compensate these residents with land and housing in other places, but not all do. Moreover, residents who have been forced to move to new locations (this is called involuntary resettlement) complain that new land and housing are inadequate. Frequently, new communities provided by governments are located far from urban areas, making it difficult for residents to find work. Finally, minority communities are often subjected to involuntary resettlement as development policies connect the country's regions to national urban centers. Minority communities therefore experience cultural and social disruption in addition to economic difficulty after they have moved.

International development agencies and aid donors are often criticized by NGOs and residents' associations for providing aid to promote these large-scale development projects. The World Bank, the Asian Development, and Japan often come in for such criticism because they are the main providers of economic assistance for large-scale infrastructure development projects. The report *Development Disasters* [RWESA et al., 2003] produced by three NGOs and which criticizes four Asian development projects financed by Japan's official development assistance (ODA), is typical of the stance taken by civil society. In response, international development agencies have developed environmental and social guidelines that try to limit the negative impact of large-scale development projects on local residents. These guidelines include recommendations for planning and

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implementing involuntary resettlement.

This research note investigates issues related to involuntary resettlement in the context of Japan's ODA. The project has two parallel objectives: 1) to investigate how Japan's aid agencies have developed and improved social and environmental guidelines for aid projects; and 2) to investigate aid projects in three countries that involved involuntary resettlement. Section 2 surveys the development of environmental and social guidelines for Japanese aid projects. There have been three aid implementing agencies in Japan since the 1980s (the beginning of our project timeline): The Overseas Economic Cooperation Fund (OECF), The Japan Bank for International Cooperation (JBIC), and the Japan International Cooperation Agency (JICA). This section focuses on the following points:

- 1) how the contents of the guidelines have changed and
- 2) what procedures for communicating with relocated residents there are and when they were adopted.

Section 3 investigates in chronological order involuntary resettlement resulting from Japanese aid-funded projects in three countries. The first set of cases occurred in the Philippines in the early phases of the development of the CALABARZON (Cavite, Laguna, Batangas, Rizal, and Quezon provinces) region of Southern Luzon. This regional development project, planned by JICA, included the following three projects, all of which experienced problems related to involuntary settlement: 1) construction of the South Luzon Highway; 2) construction and refurbishment of the CALACA 1 and 2 coal-fired power plants; and 3) expansion of the Port of Batangas. The second case is the Koto Panjang Dam, Sumatra, Republic of Indonesia. This project resulted in a lawsuit filed in Japan against the Government of Japan and the main project contractor. The third case is the construction of Special Economic Zone at Thilawa, Union of Myanmar. This project is ongoing and provides insights into current Japanese government policy on involuntary resettlement.

1.1 Methodology

The research team used environmental and social guidelines produced by JICA, OECF, and JBIC between 1989 and 2015, the dates of the first and most recent guidelines. Attention was paid to the guidelines involving resettlement, including the scope of considerations to be taken into account when designing and implementing aid projects and to responsibilities of respective parties. Reports by government agencies and NGOs, academic articles, newspaper and other media articles were used to investigate the case studies. Research for the case studies included the history and background of the projects; reasons for involuntary resettlement; and resolution of residents' claims related to resettlement.

2. Environmental and Social Guidelines in Japan's Official Development Assistance

Drawing from the sources of OECF, JICA and JBIC, three major periods for involuntary settlement are identified: 1989 to early 1990s, early 2000s, and late 2000s. A project subteam sampled guidelines from each period. In the first period it examined the OECF's first guidelines [1989] and JICA's guidelines

for dam construction [1990].

2.1 OECF 1989, JICA 1990

The 1989 OECF guideline focused on forced relocation and how these public facilities influence the life of local residents and community culture and history. The guideline included environmental checklists for various types of public facilities, including roads/railways, airports, ports, water supply, sewerage, thermal power generation, hydroelectric power generation, transmission and transformation / distribution, general industrial, mine development, oil and gas pipelines, cement plants, fertilizer plants, water outlets, forestry and irrigation. Relocation guidelines were not included for all sectors, however. Concerning forced relocation, the guidelines focused on living conditions of relocated residents and appropriate compensations for them. As for the public facilities mentioned above, if sites had significant historical, cultural, or religious/ritual meaning to the community, the authority should avoid the development of those sites. If the development was unavoidable, construction processes and budgets were to be reviewed [OECF 1989].

The 1990 JICA guideline emphasized environmental concerns on the implementation of Japan ODA projects. 36 possible consequences of reclamation were mentioned, including involuntary resettlement. Resettlement was framed in terms of population (including racial minority) distribution, mention of adequate economic and cultural compensation, and release of information (including prior consultation) [JICA, 1990: 3.21–57]. However, detailed explanations of these items were not included.

2.2 JBIC 2002, JICA 2003

Regarding forced relocation, JBIC (the OECF's successor agency) focused on four points: involuntary resettlement, indigenous peoples, sensitive sector characteristics, and check items by region. Involuntary relocation and loss of livelihoods should be avoided, and if inevitable impacts should be minimized. Sufficient compensation and assistance must be given in a timely manner and efforts should be made to ensure the income and quality of life of relocated residents, if not better, would be no less than before relocation. Expenses due to the resettlement, such as the loss of land and money, costs for sustainable alternatives, costs for new community construction should be compensated by JBIC. In addition, affected residents and communities should participate in the planning, implementation and monitoring of measures. The rights of indigenous people to land and recourses must be respected; and consensus should be made with indigenous people in accordance with international standards. [JBIC, 2002: 13–14]

The 2003 JICA Guidelines for Environmental and Social Considerations were much more regularized compared to the 1990 guidelines. This guideline consists of three parts: basic matters, process of environmental and social consideration and procedures of environmental and social consideration. Involuntary relocation is mentioned in all three parts. The first section, Concerns about Social Environment and Human Rights, states that JICA respects the principles of internationally recognized human rights standards, and gives special attention to the human rights of vulnerable social groups including women, indigenous peoples, persons with disabilities, and minorities when implementing cooperation projects. [JICA, 2003: 10] The second section reinforces the link between

project decision-making and environmental and social considerations, requiring consultation with local stakeholders and stating that when it is agreed that if it is impossible to respond to the guidelines JICA will suspend the cooperation project and recommend that related agencies do the same [10–11, 14]. Regarding resettlement, the guidelines state that when projects may have adverse impacts on indigenous peoples, all of their rights in relation to land and resources must be respected in accordance with the spirit of relevant international declarations and treaties, including the United Nations Declaration on the Rights of Indigenous Peoples. Efforts must be made to obtain the consent of indigenous peoples in a process of free, prior, and informed consultation [22].

2.3 JICA 2010, JBIC 2015

JICA established the Advisory Committee for Environmental and Social Considerations in 2010 as an independent council composed of external experts with the knowledge necessary to provide advice regarding support for and examinations of the environmental and social considerations of cooperation projects. In general, there is further systematization and strengthening of provisions concerning human rights and project decision-making found in the 2003 document. In addition, there was a new requirement that a Resettlement Action Plan (RAP) be prepared and publicized for projects that will result in large-scale involuntary resettlement. For projects affecting indigenous people an Indigenous People Plan (IPP) was also required [JICA, 2010: 14]. Rap preparations were to include consultations with the affected residents and their communities based on sufficient information made available to them in advance in a form and language understandable to the affected people. It is desirable that the resettlement action plan include elements laid out in the World Bank Safeguard Policy, OP 4.12, Annex A [JICA 2010: 19–20].

The 2015 JBIC guidelines are generally consistent with JICA guidelines post-2010, no doubt reflecting the merger of the two agencies in 2008. The 2015 guidelines added the stipulation that “compensation must be made in advance based on replacement price as much as possible” and stated that “a mechanism for handling complaints from affected people and communities must be in place” [JBIC 2015: 17–18]. In addition, the preparation and disclosure of resettlement plans, consultations with affected people, explanations in languages and formats that people can understand, the fact that resettlement plans have international financial institution standards [18].

Compared to the 2000s, then, JICA and JBIC in the latter half of the 2000s initiated hearings and agreements with residents and indigenous peoples, published projects, and the enhanced possibilities for project change and compensation.

3. Case Studies

3.1 Involuntary resettlement issues in three loan aid projects in the Philippines

3.1.1 CALABARZON

The CALABARZON project was conceived in the 1970s as a means to decentralize industrial in central Luzon, the main island of the Philippines. National economic activity in the Philippines, especially

industrial production, was heavily concentrated in the Metro Manila region. In the 1970s the first economic development strategy outside of Metro Manila was formulated. The initial plans included the provinces of Cavite, Laguna, and Batangas, in the Southern Tagalog region facing toward the Philippine Sea. The region's development was promoted by Imelda Marcos then became a priority in the government of Corazon Aquino after 1986 [Canlas 1991].

The National Economic Development Authority (NEDA) made a request to JICA for a master plan, which was completed in 1991. The master plan first used the current regional formulation for CALABARZON: Cavite, Laguna, and Batangas in the west, Rizal and Quezon provinces in the east. The master plan attempted to be comprehensive, aiming for poverty reduction, employment generation, social equity, and sustainable growth. It envisioned the region as a receiver of "spill-over" from Metro Manila, including the population of "informal settlers" and industrial capacity. The plan was divided into three phases: to 1995, 1996–2000, and 2001–2010 [JICA 1991].

Japan provided loan aid for four major infrastructure development projects: three loans for refurbishment and upgrading of the Calaca 1 and Calaca 2 coal-fired power plants in Cavite; port development at Batangas; construction of a portion of the South Luzon Expressway linking Metro Manila the western provinces; and refurbishment of the Makiling-Banahaw geothermal power plant in Laguna. The first three encountered resettlement problems.

3.1.2 Calaca 1 Coal-fired Power Plant

Japan provided JPY 27,384 million (US\$250 million) for a 300 megawatt coal-fired thermal power plant Calaca coal-fired power plant No.1. And JPY 5,513 million for the Calaca coal-fired power plant No.2. Calaca 1 went into operation in 1984 [JICA, 1999: 73].

The Calaca coal-fired power plant resulted in two primary problems. First, airborne coal dust and small-scale spontaneous combustion caused the residents nearby much inconvenience and also some disease. The other problem was involuntary resettlement. The residents were resettled three times between 1980 and 1994. The first resettlement took place in 1980 when the whole of the village (approximately 350 households) were resettled so that the land could be acquired. The National Power Corporation suggested a site away from the power plant as the resettlement site, but the residents wanted a place where they could make a living from fishing. Therefore, a place nearby the power plant that close to the sea was selected. When Calaca No.1 went into operation, the coal dust problem began. The resettlement site was exactly downwind from the power plant. Accordingly, the San Rafael residents asked NPC in December 1986 for another resettlement and NPC began considering measures. An agreement was later reached between NPC and the San Rafael residents over resettlement compensation. From the end of 1989, 316 households were gradually moved to other barangays in Calaca in the second resettlement. However, 19 households, including the village head, refused resettlement in a bid to preserve San Rafael. In February 1993 NPC bought a resettlement site of 5,000m² adjacent to the power plant, and the third resettlement of the remaining barangays to this site was completed in 1994 [JICA1999: 86–87].

3.1.3 South Luzon Expressway

The South Luzon Expressway project was a centerpiece of the CALABARZON scheme because it would link Metro Manila to Batangas and improve transportation efficiency in the three western provinces as an inducement to investment. In fact, as the expressway was extended to Laguna and Batangas there was a shift in industrial estate development from Cavite to the other two provinces. The extension, however, was divided between two separate Philippines government agencies working with private contractors, and in the end the Japanese government financed only one section of the expressway, from Santo Tomas to Lipa, Batangas. The loan agreement was signed in 1990 and that portion of the expressway completed in 2000.

A project evaluation study found the project had been completed according to plan, albeit at higher cost than estimated. Total project costs were planned at JPY 6,050 million, but actually reached JPY 8,884 million, of which the yen loan comprised JPY 3,669 million [JICA, 2003: 2]. The impact of the project was significantly reduced, however, because the Philippines National Construction Corporation, given the franchise rights to the section from Calamba (Laguna Province) to Santo Tomas, had to delay implementation of its project due to inability to raise counterpart funding and local resistance to its land acquisition efforts [JICA 2003].

Costs and implementation were both affected by involuntary resettlement. Implementation was planned for five years from 1990 to 1995, but the project took 10 years and was completed approximately five years behind schedule. The primary reason for the delay was that land acquisition procedures required seven years to complete. Residents of 12 households were relocated. There are three reasons that land acquisition was delayed.

- (1) There was opposition from residents and landowners who considered the compensation were too low;
- (2) A number of cases led to litigation;
- (3) The transfer of utilities (water/electricity) in the areas targeted for land acquisition was time-consuming.

After the court had decided the final amount, there were landowners who refused to agree to the land transfer. And the executing agency chose to settle the eviction negotiations through peaceful discussions. Thus, the land acquisition process was extremely slow. Nevertheless, the residents finally acquiesced to the final acquisition price handed down by the courts, thus the issues were resolved. Hold-ups in land acquisition, however, delayed bidding procedures and the implementation of both construction work and consulting services, the outcome of which was a total of three extensions to the final disbursement date [JICA 2003: 10–11].

3.1.4 Batangas Port

JICA carried out a feasibility study for the Batangas Port project in 1984. The study recommended short-term renovation followed by a long-term plan to upgrade port facilities to promote international export and to relieve congestion at the Port of Manila. Negotiations for a yen loan for the first phase was signed in 1991. Total cost was planned to JPY 7,717 million and ODA loan portion was scheduled to JPY 5,788 million. In fact, however, it cost JPY 7,308 million, including ODA loan with JPY 5,497

million [JBIC, 2000: 59-61]. In March 1999 the development project was completed, three years and seven months later than the original schedules due to the issues of resettlement and temporary suspension of Japanese assistance.

The first plan for resettlements was decided in June 1986 by Batangas City, the Philippine Ports Authority (PPA), and the Department of Social Welfare and Development (DPWD). Caedo (10ha, 2km from the port) was recommended as a relocation site, but affected residents refused the proposal because Caedo was vulnerable to flooding. Finally, Balete (7km from the port, 6.5ha) and Sico (15km from the port, 4.5ha) were selected as relocation sites. [Kato and Diaz 2010: 3-8].

The deadline for voluntary relocation was set at 15 March 1993, while a strong opposition group emerged from among the affected residents. The official committee continued consultation with the residents until end of 1993, with negotiations centered on terms of financial assistance. Negotiations between government and residents, however, were not conveyed to JBIC in spite of receiving Japanese financial help. Though JBIC tried to contact the PPA, the Committee concluded the agreement in term of resettlement without notification to Japanese side. In fact, forcible destruction of some residents' dwellings in 1994 induced the government of Japan to delay loan implementation until the end of that year while it urged the Philippines government to negotiate with those residents opposed to relocation [JBIC 2001]. Then, the Japanese government resumed the loan implementation. At that time the Philippine government promised to continue the efforts to persuade those residents, and improve the standard of assistance.

This loan is also of interest because it included partial financing of construction of residences at some distance from the port area for informal settlers whose dwellings were scheduled for destruction in order to refurbish the port. Through this action, Japanese official assistance supported relocation to Balete and Sico.

3.2 Resettlement in Koto Pangjang Dam development

The Koto Pangjang Dam was constructed about 10 kilometers from the confluence of Kampar Kanan and Mahat Rivers in West Sumatra, Indonesia. [RWESA et al, 2003: 2]. The main purpose of this project was to use the water of Kampar Kanan River by building a hydropower station with 114 megawatts output and associated transmission lines on West Sumatra and Riau to meet the demand for electricity in West Sumatra and Riau, helping to ensure stable power supplies and an upturn in local electricity rates. The feasibility study for the project was funded by the Japan International Cooperation Agency [JICA 1984] and carried out by the Tokyo Electric Power Services CO., Ltd (TEPSCO). The Japan Bank for International Cooperation (JBIC) provided 1.52 billion yen for the engineering service and 30 billion yen for the construction of the dam, a total of 31.7 billion yen. Construction of the dam was began in October 1992, and was completed in February 1997. In December of the same year, construction of the associated power transmission line was completed. [参議院政府開発援助調査派遣団第2班, 2006: 98] The commercial operation began in 1997.

In September 1991, five representatives from Riau Province presented a petition with 700 signatures to the Indonesian parliament and Japanese Embassy. They demanded that no threats be used to coerce them to consent to resettlement and compensation, and that negotiations should take place not

only with the village leaders, but directly with the villagers. In addition, one village representative and one member of a supporting NGO went to Japan to meet government officials, with Japanese parliamentarians observing. During those meetings they stated that if the resettlement problems could not be resolved, dam construction should not proceed. The Japanese government's response was that resettlement and compensation were issues that should be left to the Indonesian government to address. Subsequently, the Indonesian government deemed the resettlement issue to have been resolved, ignoring the contrary views of the villagers, and started the construction work on the dam in 1992 [RWESA et al 2003: 3].

Local residents demanded a halt to construction and Japanese funding when the work started on the dam in 1992, but their pleas were ignored and the project was completed in 1997. At least 4886 households, between 17000 and 23000 people, were relocated in the early 1990s to make way for the dam. Their traditional lifestyle and culture was destroyed and their living standards declined considerably [RWESA et al, 2003: 1-2].

On September 5, 2002, 3,861 people from the project area filed a lawsuit in the Tokyo District Court suing the Japanese government, JBIC, JICA, and TEPCO. Furthermore, in the second complaint, the number of plaintiffs reached 8,396 residents on March 28, 2003, and the Indonesian Forum for Environment (Wahana Lingkungan Hidup Indonesia, WALHI) joined the plaintiffs on behalf of the natural ecosystem plaintiffs. The plaintiff residents requested the defendants to take measures to restore the damages of the rivers and make a dam removal/recovery recommendation to the Indonesian government and the Indonesian National Power Corporation. Furthermore, they demanded damage compensation of 5 million yen per person [コトパンジャン・ダム被害者住民を支援する会 2019: 48-49].

In 2009 the Tokyo District Court rejected both the victims' and plaintiff's allegations. Therefore, the plaintiffs decided to appeal to Tokyo High Court. On December 26, 2012, the Tokyo High Court confirm the ruling of Tokyo District Court on 2009 and dismissed the appeal. The plaintiffs appealed to the Supreme Court in January 2013, due to the difficulties to pay a lawsuit cost of approximately 68 million yen, the amount of damage compensation was reduced to 10,000 yen per person.

On March 4, 2015, the Supreme Court upheld the 2009 and 2012 lower court rulings, rejecting demands for compensation by around 6,000 Indonesian residents who claimed that they were displaced by a dam construction project. According to the rulings, the Japanese government contributed about 31 billion yen under its ODA scheme to the construction of the Koto Panjang Dam project in central Sumatra. The court's Second Petty Bench supported the District Court's finding that the Indonesian government was responding to the relocation of the residents while the Japanese government did not have a legal duty to the residents [コトパンジャン・ダム被害者住民を支援する会, 2019: 241]

3.3 Resettlement in Thilawa SEZ development

3.3.1 Background

Since the return of international community after long-standing international isolation from March 2011, the Republic of the Union of Myanmar has been under rapid democratization and transition to a

market economy. To realize economic growth leading to a higher income level of citizens, the Myanmar government has been emphasized on the importance of promoting foreign direct investment and has been implemented the development of Special Economic Zones (SEZ) to attract foreign companies. In December 2012, the Japanese and Myanmar governments signed a Memorandum of Cooperation to develop the Thilawa SEZ as a national project. About 80% of the investment Myanmar Japan Thilawa Development is held by consortia of Japanese and Myanmar companies, but the Myanmar government and JICA each hold a 10% stake. [MJTD]. Situated near Thilawa Port south of Yangon, the country's largest city, the SEZ comprises 2400 hectares of farmland to be developed into factory sites. Development began in November 2013, but the development area is too large to develop at once, so the zone is planned for development in stages.

As of 2019, 159 households have been relocated. There are concerns, however, about treatment and compensation in the remaining 1000 households (approximately 4,000 people) living in the planned 2000ha area. The reason is that the common land provided by the Myanmar government for farm gardens cannot be used due to conflict with the former farmer who is the original owner [Yangon Region Government 2019].

The project is of interest here for three reasons. First, the Yangon Region Government formulated at Regional Work Plan, a variation of the RAP introduced above, in 2013 (Yangon Region Government 2013). Second, formal petition procedures and third-party evaluation of relocated residents' claims, introduced between 2005 and 2010 (and included in JICA and JBIC guidelines post-2010) are found in the communications between JICA and residents [Opinions 2014].

Third, JICA and the Myanmar government provided assistance to affected households by establishing the Income Restoration Program (IRP). IRP is planned to restore and stabilize livelihood of displaced Project Affected Households at least to pre-project level after relocation and resettlement as "in-kind assistance" taking advantage of economic activities being developed in and around the Thilawa SEZ area. Assistance includes job training, household account management training, job matching support, factory visits to Thilawa SEZ, micro finance program, and infrastructure improvement [Yangon Region Government 2019].

Conclusion

Since 1989 Japan's aid implementing agencies have formulated successive environmental and social guidelines governing the implementation of development projects. Over time guidelines concerning involuntary resettlement have changed from general statements to more elaborate understandings of effects and remedies related to resettlement. Since 2003 JICA has introduced and refined procedures for systematic communication between Japanese aid agencies and affected residents. The three cases presented here demonstrate these changes. Japan's policies regarding resettlement in the CALABARZON and Koto Panjang cases were ad hoc and driven by local government actions. Temporally, Koto Panjang is a pivotal case in terms of the severity of the response of resettled residents. Thereafter, guidelines and procedures for orderly response to resettlement improved. In

the Thilawa SEZ case formal procedures for responding to complaints as well as positive measures to ensure resettled residents' livelihoods were in place.

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Japan's Official Development Assistance and Involuntary Resettlement

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Abstract

Large-scale infrastructure development projects are a feature of economic development policies around the world. Such projects, however, can have significant negative environmental and social impacts on communities where these projects are carried out. This research note investigates issues related to involuntary resettlement in the context of Japan's ODA. The research investigated how Japan's aid agencies have developed and improved social and environmental guidelines for aid projects and examined aid projects in three countries that involved involuntary resettlement: three CALABARZON projects in the Philippines in the 1990s, construction of the Koto Panjang Dam in Indonesia in the 1990s, and development of the Thilawa Special Economic Zone after 2013 in Myanmar. The research found that elaboration of social and environmental guidelines by Japan's aid implementing agencies is reflected in the responses those agencies took in dealing with the effects of involuntary resettlement on residents.